

MINUTES
Pacific Fishery Management Council
199th Session
Doubletree Hotel Spokane City Center
322 North Spokane Falls Court
Spokane, WA 99201

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A. Call to Order

A.1 Opening Remarks and Introductions (06/13/09; 9:05 a.m.)

Mr. Don Hansen, Chair, called the 199th meeting of the Pacific Fishery Management Council (Council) to order on Saturday, June 13, 2009 at 9 a.m.

A closed session was held on June 13, 2009 from 8 a.m. to 9 a.m. and again on June 18 from 2 p.m. to 2:30 p.m. to discuss personnel and litigation matters.

A.2 Roll Call

Dr. John Coon, Council Deputy Director, called the roll. The following Council members were present:

Mr. Mark Cedergreen (Washington Obligatory)
Mr. Brian Corrigan (US Coast Guard, non-voting, designee)
Ms. Michele Culver (Washington State Official, designee)
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/Mr. Mark Helvey (National Marine Fisheries Service, Northwest and Southwest Regions)
Mr. Jerry Mallet (State of Idaho 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. Steve Williams (State of Oregon Official)
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 Report of the Executive Director

Dr. John Coon, Deputy Director, provided the Executive Director's report. He briefly identified the five Informational Reports within the briefing book.

A.4 Proposed June Council Meeting Agenda

A.4.a Council Action: Approve Agenda

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

B. Open Comment Period

B.1 Comments on Non-Agenda Items

B.1.a Management Entity and Advisory Body Comments

Dr. James Balsiger, Acting Assistant Administrator for Fisheries, addressed the Council at this time. He spoke about actions at the recent Council Coordination Committee (CCC) meeting in Boston and briefed the Council on the Catch Share Task Force which Dr. Jane Lubchenko has established. He referred the Council to the letter (Supplemental Open Comment Period 4) requesting nominations from the regional councils for positions on the task force.

B.1.b Public Comments

None made at the meeting. There were four items in the briefing book.

B.1.c Council Discussion of Comments as Appropriate

The Council thanked Dr. Balsiger for his assistance in achieving important Council management objectives and discussed the importance of the catch share program and the regional councils' role in that effort.

C. Habitat

C.1 Current Habitat Issues (06/13/09; 9:42 a.m.)

C.1.a Agenda Item Overview

Mr. Chuck Tracy provided the agenda item overview.

C.1.b Report of the Habitat Committee

Mr. Stuart Ellis provided Agenda Item C.1.b, Supplemental HC Report.

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

None.

C.1.d Public Comment

None.

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

No action was requested in the Habitat Committee report to the Council. Council members asked questions or provided brief comments concerning funding for the National Oceanic and Atmospheric Administration (NOAA) Coral Reef Conservation Program, the availability of reports from the symposium on developing ecosystem management plans, and the difficulties and importance of controlling invasive species.

D. Pacific Halibut Management

D.1 Proposed Procedures for Estimating Pacific Halibut Bycatch in the Groundfish Setline Fisheries (06/13/09; 10:01 a.m.)

D.1.a Agenda Item Overview

Mr. Chuck Tracy presented the agenda item overview.

D.1.b Northwest Fisheries Science Center Report

Dr. Jim Hastie presented Agenda Item D.1.b, Supplemental NWFSC PowerPoint. He noted that the change from an estimated 25 percent discard mortality rate on Pacific halibut in sablefish setline fisheries to 16 percent was based on the change in the fishery from a derby fishery to a tiered fishery. The 16 percent rate is the same as used in Alaska individual quota fisheries. The anomalous high level of discards in 2006 remained unexplained.

Mr. Steve Williams asked how legal and sublegal mortality estimates would be partitioned from the setline total mortality estimates. Ms. Majewski replied that halibut length measurements were seldom taken by observers because most bycatch was not taken aboard.

Ms. Culver asked how the weight of halibut bycatch was estimated if they were neither weighed nor measured. Ms. Majewski replied the observers made a visual estimate of length, which was then converted to weight using a standard relationship. The length estimates were recorded on paper but not input into the electronic database.

Mr. Steve Williams asked what methods other than reviewing the paper forms were available to estimate individual halibut lengths. Ms. Majewski replied that in the future the database could be modified to accept individual lengths. Dr. Hastie replied it may be possible to look at observed sets with only one halibut recorded and use that data to estimate halibut individual lengths or weights.

Ms. Culver asked if the Northwest Fisheries Science Center (NWFSC) was planning on including fixed gear mortality estimates in the total mortality report or providing separate estimates for fixed gear fisheries. Dr. Hastie replied that for 2009, the former, due to data and analytical limitations.

D.1.c Reports and Comments of Management Entities and Advisory Bodies (06/13/09; 10:50 a.m.)

Mr. Gregg Williams International Pacific Halibut Commission (IPHC) reported Area 2A set line bycatch mortality has been accounted for in the halibut stock assessment and in the constant exploitation yield calculations for about 15 years using a fixed value of 25,000 pounds based on a 25 percent discard mortality rate for unobserved derby type fisheries. A difference in mortality rate related to length was not anticipated.

Ms. Culver asked if mortalities estimated for the 2008 trawl fishery and the 2007 setline fishery, provided in late September, would be satisfactory for the IPHC to use in their 2009 management process. Mr. Williams replied yes, that their deadline for data to be incorporated was October 15.

Mr. Moore asked if the proportion of legal and sublegal halibut in the bycatch mortality would affect the assessment and yield determination process. Mr. Williams replied probably not, since it was a relatively small amount.

Mr. Tracy asked if the assumed 25,000 pounds was legal size only. Mr. Williams replied no, the 25,000 pounds was all sizes, but 16,000 pounds of legal size halibut was used in the yield determination process.

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

Mr. Bob Alverson presented Agenda Item D.1.c, Supplemental GAP Report.

D.1.d Public Comment

Ms. Leesa Cobb, Port Orford Resource Team, Port Orford (POORT), OR

Ms. Culver asked if the POORT proposal was to use directed commercial halibut quota to provide incidental retention in the sablefish setline fishery. Ms. Cobb replied yes.

Ms. Culver asked if the POORT proposal was focused on a specific geographic area. Ms. Cobb replied not until discussions with the State of Oregon were advanced.

D.1.e Council Action: Review and Provide Guidance on Appropriate Bycatch Estimation Procedures

Mr. Steve Williams supported use of the 16 percent halibut discard mortality rate for Area 2A setline fisheries based on the change in the way fisheries were conducted. He recommended the anomalous 2006 encounter rate should be investigated to determine the cause and prevent such occurrences in the future, and that length data be incorporated into the observer database in the future to facilitate analysis of proposed fishery modifications such as the POORT proposal.

Ms. Culver moved (Motion 2) that the Council adopt an annual process to submit Pacific halibut bycatch and bycatch mortality estimates for Area 2A fixed-gear and trawl fisheries to the IPHC prior to mid-October, with the understanding that trawl estimates would be based on data from one year previous and fixed gear estimates would be based on data from two years previous. The Council would review the methods and results of the estimates for approval at the September Council meeting. Mr. Dale Myer seconded the motion.

Motion 2 passed unanimously.

E. Groundfish Management

E.1 Groundfish Essential Fish Habitat Modifications (06/13/09; 1:02 p.m.)

E.1.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

Ms. Culver asked if the proposals were included in the 2011-2012 biennial groundfish specification process and if adopted, would they still be subject to review under the periodic 5-year review process beginning in 2011. Mr. Tracy replied yes.

E.1.b Report of the EFH Review Committee

Mr. Brad Pettinger presented Agenda Item E.1.b, EFHRC Report.

Ms. Culver asked if the requested additional information for the Olympic-2 and Grays Canyon proposals was available but not included, or if the information would have to be developed during the process. Mr. Pettinger replied some of the information was available such as trawl track information, other, such as economic information would require additional development.

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

Mr. Stuart Ellis presented Agenda Item E.1.c, Supplemental HC Report.

Mr. Chuck Tracy read Agenda Item E.1.c, Supplemental SSC Report into the record.

Mr. David Sones presented Agenda Item E.1.c, Supplemental Tribal Comments and referred the Council to Agenda Item E.1.d, Supplemental Public Comment 3 (comments of the Quileute Tribe).

Mr. John Holloway presented Agenda Item E.1.c, Supplemental GAP Report.

Mr. Moore asked why the GAP felt the Eel Canyon merited the interim review process while the Olympic-2/Grays Canyon proposal should be delayed until the periodic 5-year review process. Mr. Holloway replied the Eel Canyon did not appear to affect any sensitive habitat and would result in positive economic impacts.

E.1.d Public Comment

Mr. Bob Alverson, Fishing Vessel Owners Association, Seattle, WA

Mr. Ben Enticknap, Oceana, Portland, OR (PowerPoint)

Mr. Moore asked why the Grays Canyon proposal included so much area outside the rockfish conservation area (RCA) compared to the Olympic-2 proposal. Mr. Enticknap replied the trawl track information indicated the area was not heavily trawled, and the area potentially held sensitive sponge habitat. In addition, the configuration avoided a doughnut hole around 700 fm.

Ms. Culver asked how the proposal would meet the purpose and needs if it was intended to affect only non-tribal trawl vessels when it appeared there was no non-tribal activity in the areas specified. Mr. Enticknap replied Oceana felt any proposal affecting tribal trawlers should be developed in government to government negotiations between the tribes and the Federal government, not in the Council process.

Ms. Culver asked if Oceana had discussions with non-tribal fishers regarding the proposals. Mr. Enticknap replied Oceana's intent was to have those conversations if the proposal was judged to have sufficient merit to be advanced in the interim review process.

Mr. Lockhart asked how the Oceana proposals would integrate with the Council's objectives for ecosystem management. Mr. Enticknap replied the Grays Canyon proposal addressed an ecosystem that may have been previously unknown. The approach would address specific relationships within the proposal area as opposed to the larger ecosystem view of the California Current large ecosystem. Both approaches should be addressed.

Mr. Steve Williams asked what the urgency was for the Oceana proposals to be included in the interim review process. Mr. Enticknap replied that some habitats in the proposal were currently protected by RCAs, however, the habitats were in need of longer-term protection not provided by the RCA, which could be altered in the biennial specification process. Some areas in the Oceana proposal are currently open to fixed gear bottom contact fishing gear.

E.1.e Council Action: Consider Adoption of Proposed Changes to EFH for Public Review

Ms. Vojkovich asked how the proposals would fit in with the biennial specification process and what environmental analysis would accompany the proposals. Dr. Coon replied that if the proposals were accepted at the November 2009 Council meeting, the biennial specifications would include alternatives that included the proposed boundary modifications, along with status quo alternatives. Whatever environmental analysis used for the biennial specifications would then cover the essential fish habitat (EFH) proposals.

Mr. Moore asked if the proposals could be considered at the periodic 5-year EFH review process to allow time for additional socio-economic analysis. Dr. Coon replied that is a possible outcome of this process.

Ms. Culver asked if the additional information and analysis identified in the Essential Fish Habitat Review Committee (EFHRC) and Habitat Committee (HC) reports was beyond the scope of information available to the applicants. Mr. Tracy replied the EFHRC noted the need for additional information and analyses, but also recognized that much of the detailed analyses would have to occur during the biennial specification process, although some information may be available to help inform the Council. The EFHRC also requested clarification on the role of NMFS and Council staff in the economic analysis process.

Mr. Lockhart stated the proposals do have merit for further consideration; although a delay may be warranted. A delay would allow the applicants time to gather data, and because fisheries have proceeded for many years without loss of the sensitive habitats identified, the risk was unlikely to be imminent. He recommended the Northwest Region open a dialogue with the Northwest and Southwest Science Centers to acquire the needed data.

Dr. Coon noted the workload associated with the biennial specifications, annual catch limits, and Amendments 21 and 22 were significant and would have to be resolved at the November 2009 Council meeting, when the EFH process was scheduled for final action. Mr. Lockhart noted that the EFH process did not have to be integrated with the biennial specifications process.

Mr. Wolford was interested in seeing the proposal advanced; however, additional justification on the urgency was necessary for including them in the interim review process.

Ms. Culver recommended the proposals not be included in the biennial specification process because of the additional complexity of the analysis. The EFH proposals should be analyzed separately to prevent confusion. Dialogue with the fishing industry was lacking in the current proposals, and should be included as part of the process when they come forward at a later time.

Mr. Lockhart asked if the Council could act to delay a decision until November on what process was appropriate for the proposals. Mr. Tracy replied the current process was structured to make that decision at the November Council meeting while allowing an opportunity for the applicants to provide the requested information in the interim.

Ms. Culver asked what work and information National Marine Fisheries Service (NMFS) would expect to have by November 2009. Mr. Lockhart replied the applicants would have additional time to address the needs identified by the advisory bodies, and NMFS could assist by providing access to existing reports and information that the applicants were not necessarily aware of, but no new analysis was contemplated.

Ms. Culver noted that any additional information for Olympic-2 and Grays Canyon areas would likely be unavailable to the applicants, and would have to come from Council advisory bodies or agencies. Applicant-provided data may not be informative or appropriate, and it would be unfair to make that request of the applicants.

Mr. Moore asked if there was a time frame associated with a motion to table an agenda item. Dr. Hanson replied that it would expire after the next Council meeting, but a motion to postpone could be made with a certain time specified.

Mr. Steve Williams stated that while the proposals had merit, the urgent need to include them in the interim process was not sufficiently established and the Council would not be prepared to deal with the additional information requested by the November 2009 Council meeting. Dr. Coon replied that if the proposals did not accompany the biennial specification process, the next opportunity would be the periodic 5-year review process.

Mr. Moore moved (Motion 3) to postpone this agenda item until no earlier than the September 2010 Council meeting. Mr. Cedergreen seconded the motion.

Mr. Moore noted that delaying the issue would provide the Council time to deal with higher priority items, such as the biennial specifications and trawl individual quotas, before devoting the resources to the EFH issues necessary to make an informed decision.

Mr. Wolford was concerned that Motion 3 would not allow the applicants to respond to the issue of urgency in November 2009. Dr. Hanson replied Motion 3 could be amended to allow a report at the November 2009 meeting. Mr. Moore noted any agenda item could be reconsidered if new information became available.

Ms. Vojkovich was convinced that the urgency to move the proposals forward did not exist, and the Council needed to approach workload issues strategically.

Mr. Sones requested additional time to discuss the issues with Oceana before the proposals were moved forward.

Motion 3 passed unanimously.

Mr. Moore recommended the comments from the advisory bodies be addressed by the applicants prior to the proposals being reconsidered.

At this time Ms. Margaret Spring made comments about her new job. Ms. Ericka Feller will be taking her place.

E.2 Proposed Process and Schedule for Developing 2011-2012 Biennial Harvest Specifications and Management Measures (06/13/09; 4:54 p.m.)

E.2.a Agenda Item Overview

Dr. Kit Dahl provided the agenda item overview.

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

None.

E.2.c Public Comment

Ms. Karen Garrison, NRDC, San Francisco, CA

E.2.d Council Action: Adopt a Process and Schedule

Ms. Vojkovich said she was concerned about the workload involved in preparing the harvest specifications and management measures analyses. The schedule (Agenda Item E.2.a, Attachment 1) did not give a clear indication of workload. She is particularly concerned about workload expectations relative to agency staff other than the Council and NMFS. She needs this information in order to have an informed conversation on workload planning under Agenda Item G.5. Dr. Dahl said that from the state perspective the major workload is through the Groundfish Management Team (GMT) since they do a lot of the work on developing and evaluating management measures. However, he didn't foresee more workload under this cycle in comparison to past cycles. He said that at the staff level there will likely be some discussion of what will be required, but didn't foresee this producing any new tasks for the GMT compared to what they have done in the past.

Ms. Vojkovich said her reading of the situation summary suggests a different scenario, given the need to address National Standard 1 guidelines and the risk that the trawl rationalization program will not be implemented on January 1, 2011. She wondered what the resulting workload increase will be. Dr. Coon said it is premature to get into the specifics of workload at this meeting, but he did not expect a lot more products from the GMT. There may be some new issues, but at this meeting we cannot tell you precisely

what changes in workload there may be. In addition, Council and NMFS staff will be looking at possible efficiencies in the process.

Ms. Vojkovich asked if the schedule shown in Attachment 1 is different than what we have been operating under in the past few cycles. Dr. Dahl said it is almost identical to the past schedule except for changing the dates. Referring to Ms. Vojkovich's previous comments, even if trawl rationalization is not implemented in time, the workload would be similar to past cycles; if it is implemented it could reduce the number of management measures that have to be developed for the trawl fishery. Complying with National Standard 1 guidelines (ACLs) is an increased workload issue, but much of that work is addressed under a decision-making process for Amendment 23 rather than biennial harvest specifications.

Ms. Culver agreed with Ms. Vojkovich on needing to assess workload, and additionally state government workload related to the trawl rationalization implementation. Ms. Culver asked what would happen if trawl rationalization was not implemented on January 1, 2011; would we default to the 2010 management measures and adjust them inseason in March 2011? Mr. Lockhart said that unless the Council develops a contingency that is what would occur. Ms. Cooney noted that in 2010 the Council should have a better idea of when trawl rationalization will be implemented and in time to address the issue in the harvest specifications process.

Mr. Sones asked about the workload differences between preparing an Environmental Assessment (EA) versus an Environmental Impact Statement (EIS). Dr. Dahl described the decision process for deciding which type of document to prepare under the Northwest Region's (NWR) Quality Assurance Plan. Mr. Lockhart said the courts generally do not consider workload as a consideration in this decision. Mr. Sones said the Council needs to plan adequate time if an EIS gets triggered.

Dr. Coon said that after adopting the process and schedule in Attachment 1, the Council can make subsequent amendments to it if needed.

Mr. Moore moved (Motion 5) to adopt Agenda Item E.2.a, Attachment 1, "Pacific Fishery Management Council and National Marine Fisheries Service Schedule and Process for Developing 2011-2012 Groundfish Harvest Specifications and Management Measures." Mr. Warrens seconded the motion.

Motion 5 passed unanimously.

Ms. Vojkovich asked if the Council needed to provide guidance on a contingency plan if the trawl rationalization plan is not implemented at the beginning of 2011. Dr. Dahl said, as mentioned in the situation summary and by Ms. Cooney, the Council can make that decision early in 2010 when more is known about trawl rationalization implementation.

Ms. Vojkovich noted a GMT meeting scheduled for October and voiced her concern about having a plan in place in a timely fashion. Mr. Lockhart said he will discuss it further under the trawl rationalization agenda items, but NMFS believes they can get the work done necessary to get the trawl rationalization program implemented by January 1, 2011. He said NMFS will provide more information for Council guidance at the September 2009 meeting.

Ms. Culver said we could decide in September 2010 to fall back to the 2010 management measures for 2011 in the event the trawl rationalization program is not implemented by that time.

E.3 Fishery Management Plan (FMP) Amendment 22—Open Access Fishery Limitation

E.3.a Agenda Item Overview (06/13/09; 3:10 p.m.)

Mr. LB Boydston provided the agenda item overview regarding consideration of withdrawing the March 2009 Council decision affecting the open access (OA) groundfish fishery and briefed the Council on the four attachments. In response to questions, Mr. Boydston stated that regarding its March decision, the Council could affirm the action, give notice of rescinding it, or do nothing.

Ms. Culver sought clarification about how the registration requirement applies to vessels that only have incidental harvest and only fish in state waters. She did not see where registration of vessels with only incidental harvest was required. Mr. Moore noted that there was a lengthy discussion of that topic in March, but that discussion is not reflected in Attachment 1 (draft March Minutes). [It was later determined that the referenced discussion took place after the motion and was overlooked in providing the minutes in Attachment 1.] In response, Mr. Lockhart stated that their reading of the EA is that registration would be required of all OA vessels that fish for B species groundfish in the Exclusive Economic Zone (EEZ) and would apply the same as the vessel monitoring system (VMS) requirement. The states could choose to apply the regulation to state waters. The overall effect of the proposed regulation would give very little additional information over VMS. It would give preseason information, which could be accomplished in another manner. Alternative 2 was developed before VMS was required so that may explain why it is in the package.

Mr. Moore asked if it is NMFS' opinion that a shrimp vessel operating outside 3 miles would have to be registered to take B species? Same for salmon vessels? Mr. Lockhart responded in the affirmative.

Ms. Culver asked if you now collect pink shrimp and salmon vessel information since they do not have VMS? Mr. Dayna Matthews stated there are no exceptions to the VMS requirement to take Federal groundfish in Federal waters (so yes, information is being collected from these vessels).

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

Mr. Gerry Richter read Agenda Item E.3.b, Supplemental GAP Report.

E.3.c Public Comment

Mr. Bill Blue, Morro Bay Commercial Fishermen's Association, Morro Bay, CA—supported the March decision.

Mr. Larry Collins, San Francisco Crab Boat Owners Association, San Francisco, CA—supported the March decision and stated rescinding the decision would interrupt business decisions.

Ms. Karen Garrison, NRDC, San Francisco, CA—stated the fishery needed to be capped to prevent an effort shift of former limited entry vessels.

Mr. Tom Ghio, Ghio Fish Company, Santa Cruz, CA—supported maintaining the March Decision.

E.3.d Council Action: Review March Council Action on Limiting the Open Access Fishery

Dr. Hanson provided an explanation about rescinding motions (06/13/09; 3:49 p.m.). A motion to rescind is like a motion to reconsider, but can be done at a subsequent meeting. If all members are present, a majority vote is needed to reverse the motion. The alternative is to notice consideration to rescind the

motion, but it must be specific. The latter approach does not require all members to be present but requires a majority vote by the members present.

Ms. Culver asked if we can rescind the motion today. Dr. Hanson replied that was not possible since the public notice does not say the motion is up for withdrawal. Mr. Moore asked if we notice today and rescind in September 2009, do we have the previous alternatives before us for reconsideration? Or, do we need to do another two-meeting process?

Dr. Hanson said if you rescind, you will have everything before you that you had at the time of the motion. Ms. Cooney said from a legal standpoint, you could decide not to send a recommendation in or you could develop a new proposal if there is adequate analysis before you.

Mr. Moore asked if we could use the draft EA and public comments to develop a new recommendation. Ms. Cooney said that would be okay if you determine the new proposal is fair.

Mr. Dale Myer asked if we would need to develop a new control date. Mr. Lockhart said you would need to decide if the existing control date is valid considering what has happened.

Chairman Hansen noted it is highly possible that headquarters will send the recommendation back and tell us to start over.

Ms. Culver, in going over the NMFS report, noted it indicated that there wouldn't be much or any information gathered beyond what is currently gathered. She said it would seem that you would gather information such as who would intend to participate in the OA fishery in a given year and some estimate of effort in any given year. She asked Mr. Lockhart if he could describe any workload concerns he had and how it would differ from the workload you do now. Mr. Lockhart said there would be a significant workload--gearing up with a new permitting program (application, review, send out, appeals, annual appeals process potentially) and other items going on that would involve the same people. Although the number of people that have been fishing in OA is at a low level now, there is reason to believe that it might go to a higher level. As far as the information goes, we have a list of permittees, you would still have the list of people fishing and retaining fish in Federal waters using VMS.

Ms. Culver said it seems that other alternatives in the EA would have even greater workload. What is the potential timing of program implementation? Mr. Lockhart said there was a small window of opportunity to work on this; that small window of opportunity is now closed; so the next time he sees it re-opening is 12 months from now – perhaps 18 months.

Mr. Moore stated that it sounds like NMFS does not believe the program adopted in March passes a cost-benefit test. Mr. Lockhart said that based on what he knows now of the program, nothing has really changed and there is a conservation concern which is not addressed. He said anytime there is an OA fishery you are allowing increased effort to access the fishery. Generally, this is almost a universal lesson from other countries in the past decades. This Council is beginning to potentially consolidate through the trawl individual quota (TIQ) program. Those vessels that won't be participating in the TIQ program might go into the OA fishery. The concern is that the OA fishery will be allowing everybody to enter into the fishery.

Ms. Cooney said there are two issues here: (1) the proposal was put into the document before VMS was implemented and never taken out, and (2) the proposal does not give fishery benefits over those achieved

by the VMS program. Mr. Wolford said today's discussion should be about process. At this time, there are numerous tools to achieve conservation.

Ms. Fosmark said the OA fishery has a separate allocation and all we are doing is counting the participants in the fishery. The allocation will be split among many or among few. She is not comfortable with having the decision be reversed and is concerned about people in the future who don't have the ability to buy a permit who would have to fish a lot harder to buy a permit and she does not see that as allowing conservation.

Ms. Culver, in response to Mr. Lockhart's comments, said we do have management measures in this fishery. What draws people into this OA fishery is the trip limits we set. We see effort change constantly as we change the trip limits. We are also approached at almost every Council meeting to consider changes to the daily trip limit (DTL) sablefish fishery. We are seeing that they are not achieving their allocation because it is not economically viable to go fishing. When we increase the trip limits, the effort does increase. In looking at cost-benefits, status quo and Alternative 2 have relatively low cost and the others do not.

Mr. Myer said he had a hard time believing there will be a significant effort shift of limited entry vessels to the OA fishery. Mr. Lockhart said I believe capping effort will have a conservation benefit over status quo. It is one reason we are doing IQs. Fishermen go fishing for a lot of reasons, in part because they like to fish. It is possible they could shift to OA using different gear at a lower cost. Our review shows that a first step to proper fishery management is to cap the fishery. Open access fishing has a greater conservation concern than capping the fishery.

Mr. Sones said he is concerned about the value of permits going up and being out of reach for young fishermen. If we put expired permits into a lottery, I would be more in favor of capping the fishery.

Ms. Vojkovich asked if we do nothing and NMFS denies the proposal, could they tell us to start over or do it themselves? Mr. Lockhart replied that she was correct on both counts, but he is aware of only one case where NMFS did it alone. Based on that response, Ms. Vojkovich concluded we could let this play out and have 12-18 months to figure out where we go next.

In response to questions about workload, Mr. Boydston said if you affirm the March action, it would require considerable amendment to the existing EA and it would be likely that the document would remain dormant until after the September meeting.

Mr. Steve Williams said he is giving notice that he will be making a motion during the administrative matters, Agenda Item G.5, to place on the September agenda an item to consider rescinding or reaffirming our March Council action. Dr. Hanson noted that it would be better to make the motion now, rather than wait until Thursday under Agenda Item G.5.

In response to questions, it was confirmed that under Mr. Steve Williams' proposed motion that in September the Council could change or make the same decision regarding the March decision on the OA fishery.

Mr. Steve Williams moved and Mr. Warrens seconded a motion (Motion 4) to place an agenda item on the September Council agenda to consider rescinding the Council's March OA action. Mr. Steve Williams said the point of his motion is that we need to take action and get on with it.

Mr. Wolford spoke against the motion. He said we have not made a technical case to rescind it and believes it would set a dangerous precedent. If we had violated some standard then he could see rescinding. The analyses Mr. Boydston put together in the EA were outstanding and we made a difficult decision.

Ms. Culver agreed with Mr. Wolford and was unaware that the Council has ever rescinded any motions in the past and believes we don't want to go down that road. If there is a better option to meet our goals, she would like to hear their approach.

Motion 4 roll call vote. Motion 4 failed.

No: Ortmann, Myer, Sones, Cedergreen, Culver, Fosmark, Wolford, Vojkovich, Mallet (9 no)

Yes: Moore, Warrens, Lockhart, Williams (4 yes)

Mr. Boydston summarized by saying this confirms the March action and he will proceed in finishing the EA.

E.4 Fishery Management Plan Amendment 23 – Implementing Annual Catch Limit Requirements (06/14/09; 11:25 a.m.)

E.4.a Agenda Item Overview

Mr. John DeVore provided the agenda item overview.

Ms. Vojkovich asked whether future considerations for setting harvest specifications would be evaluated on a “species by species” basis or a “fisheries by fisheries” basis. Mr. DeVore stated the evaluations used for deciding harvest specifications will be done on a “species by species” basis.

Ms. Culver asked if the Council could set annual catch targets (ACTs) in consideration of management uncertainty. Mr. DeVore said management uncertainty is more of a consideration for setting annual catch limits (ACLs). The final rule for National Standard 1 (NS1) guidelines states the ACT should be considered for management systems that do not have an adequate inseason catch monitoring and adjustment mechanism. The current inseason catch monitoring and adjustment mechanism in the groundfish FMP appears to be adequate and we may not need to set ACTs. However, if the Council judges the inseason mechanism is not adequate for a particular stock or stock complex, then setting an ACT would be appropriate.

Ms. Culver thought the buffer between the overfishing limit (OFL) and the ACL would incorporate scientific uncertainty and a further buffer between the ACL and the ACT would incorporate management uncertainty. Mr. DeVore explained the NS1 guidelines contemplate a buffer between the OFL and the acceptable biological catch (ABC) to incorporate scientific uncertainty and a further buffer between the ABC and the ACL would incorporate management uncertainty, socioeconomic considerations, and all the other considerations in our FMP for setting optimum yields (i.e., the ACL is analogous to the current OY specification). The ACT is set lower than the ACL in cases where there is not an adequate inseason adjustment mechanism that would protect a stock from overfishing.

Mr. Moore explained the vulnerability evaluation process is, in part, recommended to be used to categorize stocks by their vulnerability. He asked if this might compel us to change our stock complexes. Mr. DeVore said that there may be other reasons for changing our stock complexes in the future, but he

didn't believe this was a top priority in either the Amendment 23 process nor in the upcoming biennial specifications process.

Mr. Moore said the vulnerability evaluation working group paper mentioned there would soon be more specific guidelines for using vulnerability rankings to help decide control rules from a control rule working group. He asked if that control rule working group paper would be available in time for the Council's Amendment 23 decision and Mr. DeVore said he believes so. In the Scientific and Statistical Committee (SSC) discussion on this topic earlier this week, it was explained this guidance might be available this summer. If so, then the control rule working group report would be included in the September briefing book to aid the Council in developing and deciding Amendment 23 provisions.

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

SSC Report

Dr. Martin Dorn provided Agenda Item E.4.b, Supplemental SSC Report.

Mr. Moore said it sounded like a preliminary framework for deciding ABCs will be available in time for deciding these specifications. Dr. Dorn explained that is the goal, but there are some challenges, such as how to decide scientific uncertainty buffers or ABCs for unassessed stocks.

Ms. Vojkovich said she was having difficulty understanding how scientific uncertainty in a stock assessment model might be used to decide an ABC. Dr. Dorn said there would be a larger set of considerations than the amount of scientific uncertainty represented in individual stock assessments. Ms. Vojkovich asked how this would be considered for data-poor stocks. Dr. Dorn said it is not just data-poor stocks, but also unassessed stocks that would be considered. We need to develop a framework for deciding ABC control rules for unassessed stocks. Ms. Vojkovich asked if that approach and methodology would be done in time for finalizing Amendment 23 and Dr. Dorn anticipated this would be needed, but there has been little advancing of thoughts on this approach.

Mr. Lockhart asked about the effectiveness of our current inseason management process and Dr. Dorn said that was discussed some by the SSC and Mr. DeVore. Based on those discussions, it appears that the current mechanisms appear to be working well. However, this needs to be documented and evaluated in this Amendment 23 process.

Ms. Culver asked if we would collectively advance Amendment 23 in time to decide a range of ACLs in November for deciding 2011-12 harvest specifications. Dr. Dorn said that is the expectation but depends on the efficacy and applicability of proposed control rules for deciding ABCs and ACLs.

E.4.c Public Comment

Ms. Karen Garrison, Natural Resources Defense Council, San Francisco, CA
Mr. Ben Enticknap, Oceana, Portland, OR

E.4.d Council Action: Guidance on Developing Preliminary Amendment Alternatives

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 7) to provide three areas of guidance for developing Amendment 23 alternatives: 1) the GMT and Council staff should provide appropriate documentation of the inseason catch monitoring and adjustment process for evaluation; 2) Council staff

should work with the SSC to explain the timeline for getting these control rules developed to synchronize with the biennial specifications process; and 3) advancing ABC control rule considerations for unassessed species needs to be included in this process.

Ms. Culver asked Mr. DeVore what materials and analyses for Amendment 23 considerations might be available for the September and November meetings. Mr. DeVore said he expects that by September we will be able to advance thinking on the scientific uncertainty buffers for both assessed and unassessed species. The SSC Groundfish Subcommittee is proposing a meeting this summer to discuss this issue. Their report and analyses can then be reviewed by the full SSC in September and an SSC report could then be provided to the Council. We can also document the efficacy of our inseason management process and make that available for evaluation. By November, we should be able to evaluate the framework considerations currently in our FMP for deciding optimum yields (OYs) and see if they are applicable for deciding ACLs or whether we might need to enhance those framework provisions. Mr. DeVore said progress will depend on how well the proposed methodologies for deciding ABCs apply. If we cannot get it done by November, we absolutely need to decide these new ABC control rules by April of 2010, since that is when biennial harvest specifications are decided by the Council. It is critical that we synchronize Amendment 23 decision-making with our biennial specifications process.

Ms. Culver said she didn't really hear what we needed for September. Mr. DeVore said there will be some analysis of alternative ABC control rules from the SSC in September. However, he could not commit to providing the evaluation of the inseason adjustment process by September unless the GMT has time to develop that analysis this summer. Ms. Culver asked whether or not we needed to take this up in September or if November would be sufficient. She remarked that annual harvest targets will need to be decided by November to allow state managers time to engage recreational fishery stakeholders.

Ms. Culver moved and Mr. Myer seconded a motion to amend the main motion (Amendment 1 to Motion 7) to prioritize development of ABC control rules (i.e., buffers for scientific uncertainty) for overfished and assessed species so that a range of harvest specifications for these stocks can be decided for public review in November. She also suggested that, rather than the full GMT work on documenting the inseason management process and considerations for management uncertainty, a GMT subcommittee should work with Mr. DeVore and Mr. Burden.

Amendment 1 to Motion 7 carried unanimously.

Mr. Moore recommended staff discuss the September agenda this week before Thursday and recommend how much time would be needed to discuss Amendment 23. Dr. Coon said that would be done. Mr. DeVore said it will be important to plan an Amendment 23 item for the September agenda in order to advance the ABC control rule and decide FMP framework provisions by November.

Mr. Wolford asked where unassessed species might fit in the prioritized tasks contemplated for Amendment 23. He also wondered how we might address ecosystem component species and species that are not in the FMP. Mr. Moore said he was not considering species that are not managed in the FMP under Amendment 23. There are already species that are identified as potential ecosystem component species. Mr. Moore thought determining science-based harvest control rules for species managed in a stock complex may require a "mini assessment" of species that are an important part of the fishery. He thought it wise to prioritize Amendment 23 considerations for overfished and assessed species. Mr. DeVore added Dr. Ralston will be assisting with the analysis and there have been informal discussions about how to address harvest specifications for unassessed species. Mr. DeVore agreed the

priorities in Ms. Culver's motion make a lot of sense, but he still hopes to address ACLs for unassessed species under Amendment 23 in a timely manner.

Motion 7 carried unanimously.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 8) to provide guidance to the SSC to keep the ABC control rules as simple and direct as possible.

Ms. Vojkovich said she wants the SSC to tell us when they deviate from hard data to "assumptions" when developing control rules. She was concerned that the vulnerability evaluation process may add layers of uncertainty into the ABC decision. Mr. Moore explained the vulnerability evaluation working group paper recommends against double counting of vulnerability information and that recommendation is compatible with Ms. Vojkovich's motion. Mr. DeVore said the context of the vulnerability evaluation process is that it may be a useful tool for deciding ABCs and ACLs. The SSC is clear that they want to come up with an easily understandable set of ABC control rules that generally applies scientific uncertainty. One possibility is stocks may be generally classified as "data-rich," "data-moderate," and "data-poor" with separate ABC control rules for each classification. The SSC needs to do a bit of thinking on this.

Motion 8 carried unanimously.

E.5 National Marine Fisheries Service Report (06/14/09; 1:30 p.m.)

E.5.a Regulatory Activities

Mr. Frank Lockhart provided an update on regulatory activities.

E.5.b Fisheries Science Center Activities (06/14/09; 1:51 p.m.)

Dr. Elizabeth Clarke provided an update on science center activities which included: groundfish activities, an update of the economic cost earnings survey of the LE fleet; STAR panel presentation; juvenile midwater trawl survey; initiation of the bottom trawl survey; and the acoustic survey for Pacific whiting.

E.5.c Reports and Comments of Management Entities and Advisory Bodies

Mike Cenci presented Agenda Item E.5.c, Supplemental EC Report.

E.5.d Public Comment

Mr. Bob Alverson, Fishing Vessel Owners Association, Seattle, WA

E.5.e Council Discussion

No further discussion.

E.6 Part I of Stock Assessments for 2011-2012 Groundfish Fisheries (06/14/09; 2:14 p.m.)

E.6.a Agenda Item Overview

Mr. DeVore provided the agenda item overview. He explained the action before the Council is whether to formally adopt the assessments or not. The SSC is recommending all the assessments be adopted except for the petrale sole assessment, which is recommended for further review this summer by the SSC before being considered for formal adoption in September. Mr. DeVore explained the GMT is recommending a “point of concern” be established for petrale sole based on the results of the draft assessment, which may compel inseason fishery adjustments later in the year. Ms. Cooney clarified that this point of concern declaration would simply signal Council intent to consider future inseason action if the final assessment result does not vary dramatically from that in the draft assessment.

E.6.b Presentation of Petrale Sole and Splitnose Rockfish Assessments

Petracle Sole

Mr. Allan Hicks provided a PowerPoint presentation of the petrale sole stock assessment.

Mr. Moore asked about the survey catchability (q) estimate for the NMFS Northwest Fisheries Science Center (NWFSC) survey. Mr. Hicks explained the high catchability estimate of 3.07 for the NWFSC survey is a way to scale the higher estimated biomass in the NWFSC survey to the triennial survey and other data in the assessment. The design of the NWFSC survey trawl net is also considered more efficient for flatfish, including petrale sole. The design of the footrope and the wings of the survey net tend to create more mudding and a higher potential for herding of petrale sole, which would increase catchability as well. Mr. Hicks explained the surveys are relative indices of abundance and the model attempts to match the patterns of abundance rather than using each survey index as an absolute measure of abundance.

Mr. Wolford asked about the equilibrium yield curve and why the distribution is skewed toward lower levels of relative depletion. Past equilibrium yield curves for rockfish typically are skewed to the right with B_{MSY} at higher levels of depletion. Mr. Hicks explained that the general shape of the curve has much to do with the potential productivity of the stock. The estimated B_{MSY} is skewed to lower levels of petrale spawning biomass since this is a highly productive stock, with a different life history (less longevity and higher natural mortality rate) and a greater potential productivity than for most rockfish. Flatfish would, in general, exhibit an equilibrium yield curve like that displayed here for petrale sole.

Mr. Anderson asked why there was a change from the previous petrale sole assessment to go to a coastwide assessment. Mr. Hicks said there was no genetic evidence for two separate stocks on the west coast and the assessment team thought they could better capture potential geographic differences in growth rate, etc. by modeling separate fleets by state. Mr. Anderson asked about the depletion rate from the north to the south and whether there were area differences. Mr. Hicks said there were likely different exploitation rates by fleets in the north and the south but he is not sure what the exact fleet-based results are in the assessment.

Mr. Anderson asked why the age data were removed in the 2005 assessment and what was done to allow its use in this assessment. Mr. Hicks said there were apparently serious data conflicts in the 2005 assessment which compelled the SSC to recommend removing these data. Since then, the age data from

the NWFSC survey have been added to the assessment and much work has been done to evaluate and correct ageing errors and bias. These changes have resulted in much less data conflict in the model.

Mr. Anderson asked about the origin of the B_{MSY} estimate that is 18.9 percent of B_0 . Mr. Hicks said this relates to the high equilibrium yield of petrale sole, which suggests B_{MSY} occurs at lower stock sizes. The modeling platform (SS3) projects equilibrium yields at various levels of stock depletion to determine the equilibrium yield curve highlighted in Mr. Wolford's earlier question. The model is therefore estimating the most surplus production of the stock would occur at relatively lower levels of spawning biomass.

Mr. Anderson asked about the slide that compared results from this assessment and those done previously and to defend the statement that this assessment result does not vary much from the last one done in 2005. Mr. Hicks showed the slide and explained that in 2005, the last survey point showed an uptick in biomass which is supported in the current assessment that estimated recent biomass peaked in 2005. However, the last three years of surveys since 2005 showed a declining biomass leading to the current assessment result.

Mr. Williams asked about the estimated B_{MSY} as a recommended target for petrale sole. Mr. Hicks explained the initial biomass (B_0) and current biomass are more uncertain estimates than biomass estimates in the interim years. This means that proxy thresholds that relate current biomass to initial biomass are more uncertain than the estimates of B_{MSY} . Also the B_{MSY} estimate is robust across widely varying stock-recruitment assumptions lending support for an estimated B_{MSY} threshold. Additionally, the stock has been harvested close to the estimated maximum sustainable yield (MSY) annually for the last 50 or 60 years. If MSY is much lower than estimated, as inferred under the proxy $B_{40\%}$ target, the stock would be driven down and the fishery would have likely collapsed. All of these results support an estimated B_{MSY} target.

Splitnose Rockfish

Dr. Vladlena Gertseva provided a PowerPoint presentation on the splitnose rockfish stock assessment. There were no questions from the Council on the splitnose assessment.

E.6.c Scientific and Statistical Committee Report

Dr. Martin Dorn provided Agenda Item E.6.c, Supplemental SSC Report.

Petrale Sole

Mr. Wolford asked about the equilibrium yield curve with estimated B_{MSY} shifted to the left (i.e., high sustainable yields at low biomass), which seemed extreme. Dr. Dorn explained this is the question raised by the SSC. If steepness were lower, the equilibrium yield curve would shift towards the center, which is more typical. This is why the SSC is recommending further evaluation of steepness and estimates of B_{MSY} .

Ms. Vojkovich asked about the catch history of petrale relative to estimated MSY and how to interpret that result. Dr. Dorn said one also needs to look at the biomass trend, which has been relatively stable in the last fifty years. The stability of historical catches may reflect the market demand for petrale rather than some sort of biological aspect of the stock.

Ms. Vojkovich asked if it makes a difference in how the model estimates biomass if the catch is targeted or incidental. Dr. Dorn deferred to Mr. Hicks who said stratifying the fleets by state and by winter and summer periods is an attempt to allow these fleets to have different selectivities and different rates of discard. Ms. Vojkovich asked if the model interprets incidental catch, such as bycatch in shrimp trawls, as a biomass index. Mr. Hicks said there was not enough data to model each fishing strategy, such as shrimp trawling, separately in the model. However, discards in bottom trawls is modeled independently to landed catch in the model.

Mr. Moore asked why the SSC was not recommending a mop-up stock assessment review (STAR) panel review for petrale. He wanted to know why the SSC is recommending an SSC Groundfish Subcommittee meeting in August and a September SSC review to finalize the assessment and develop a recommendation for a management target for petrale. Dr. Dorn said this was to allow resolution of the assessment in time for a potential rebuilding analysis to be prepared and reviewed at the mop-up panel if it is needed. Mr. Moore was concerned this might be in violation of the well-vetted STAR process we have. Dr. Dorn said this sensitivity should be taken into account in the SSC-recommended review process.

Mr. Lockhart asked about the concerns raised by the SSC regarding NWFSC survey catchability (q) and the model explorations recommended by the SSC. Dr. Dorn explained the recommended analyses that would put a prior on steepness or survey q may help nudge the model into more plausible results and help understand what is affecting the model given that these parameters, including estimated natural mortality (M), are confounded.

Mr. Hansen asked if the SSC-recommended analyses are provided and reviewed by September, will that obviate the need for a mop-up review of petrale. Dr. Dorn said there may still be a need to review a rebuilding analysis for petrale at the mop-up panel, depending on the August and September SSC reviews.

Mr. Moore asked what happens if more plausible estimates of survey catchability cause the model to not converge. Dr. Dorn said this is an unusual situation and we may ultimately decide to recommend an assessment that has some implausible estimates. Mr. Moore asked if the SSC will be prepared to make a recommendation on the use of the petrale assessment in September and Dr. Dorn said there is always the possibility that the SSC will recommend a further review of the assessment at the mop-up STAR panel.

Splitnose Rockfish

Mr. Moore asked about the issue of ageing the splitnose otoliths and noted a similar recommendation for petrale sole ageing was made in that assessment. He wanted to know who reads these otoliths and how ageing tasks are prioritized. Dr. Gertseva said there were old ages that need to be re-read according to modern techniques. These otoliths would be read by personnel from the Newport NWFSC lab.

Mr. Lockhart asked about the SSC caution in using the splitnose assessment for setting harvest specifications. Dr. Dorn explained the model is sensitive to assumptions and the data informing the assessment are limited, which implies caution in setting significantly higher ACLs than used currently for managing the stock.

Canary Rockfish

Mr. Anderson asked about the revised historical California catch estimates and exactly how these catches were revised. Dr. Dorn said there is a draft document that was distributed that explains the methodology used to revise catches. He said that there were many detailed methods used and he was not in the best position to answer the question.

Mr. Anderson asked about the statement that the new updated assessment was not qualitatively different than the full assessment done in 2007. Dr. Dorn said this may have not been the best choice of wording since the revised assessment will affect the rebuilding projections and will probably have a significant effect on the rebuilding plan.

Mr. Anderson said it appeared the most influential change to the assessment was the incorporation of the revised California catch history and Dr. Dorn agreed. The 24 percent less canary caught prior to 1968 revised the estimate of initial biomass and our understanding of the potential productivity of the stock. This resulted in a lower current depletion and a longer projected rebuilding outlook. The catch revisions were intended to have a better estimate of historical catches to be used in all affected assessments. Ms. Vojkovich expressed concerns relating to the catch revision documentation and the lack of review of these methods. Dr. Dorn said there was concern; however, the draft documentation of catch revision methods was distributed and reviewed. Multiple data sets were used and those data were applied to different portions of the California fisheries over time using the best judgment of SWFSC and California Department of Fish and Game (CDFG) scientists who conducted the project. Dr. Dorn said he was not familiar enough with historical California fisheries to explain the details himself, but the concept of a formal catch reconstruction was requested by the SSC and Council and was deemed to be better catch information for assessments by stock assessment teams (STATs) and the SSC.

Mr. Wolford asked if the updated assessments for overfished stocks will also be accompanied with a rebuilding analysis. If so, have these rebuilding analyses been reviewed yet? Dr. Dorn said rebuilding analyses are expected and will be reviewed later in the year during the mop-up panel. The critical aspect of this review is deciding whether we are on track with the rebuilding plan or not. If we are not on track, then there may need to be a re-evaluation and/or revision of the rebuilding plan.

Darkblotched Rockfish

There were no questions on the SSC recommendations for darkblotched rockfish.

Pacific Ocean Perch

There were no questions on the SSC recommendations for Pacific ocean perch.

Cowcod

Ms. Vojkovich asked about the historical catch revisions which lowered the estimated B_0 and partly gave rise to a higher depletion, yet this happened for canary and the current depletion was lower. Dr. Dorn said each assessment is affected differentially by catch revisions despite the effect on estimated B_0 .

Ms. Vojkovich asked what it would take to do a full assessment and what is meant by doing a simple stock projection in lieu of an assessment. Dr. Dorn explained without a survey or any information on stock abundance, a simpler review of catches and projected abundance would suffice.

E.6.d Reports and Comments of Management Entities and Advisory Bodies (06/14/09; 4:29 p.m.)

GMT Report

Mr. DeVore read Agenda Item E.6.d, Supplemental GMT Report.

Mr. Moore asked how the points of concern mechanism recommended for petrale sole differs from the more pessimistic canary assessment result. Mr. DeVore explained we have a mechanism for revising the canary rebuilding plan in the specifications process, and the points of concern framework in our FMP is more appropriate for petrale sole, since the stock is not currently managed under a rebuilding plan.

Mr. Anderson asked if the SSC's recommendation for petrale sole means that using an estimated B_{MSY} target is not recommended or will there be more investigation before an SSC recommendation is made. Dr. Dorn said this is an important consideration and the SSC wants to carefully evaluate the data and assessment result before providing a recommendation. Mr. Anderson asked if that means the SSC intends to do the review and come back to the Council in September with a recommendation on the assessment and a recommendation on whether or not to use an estimated B_{MSY} as a target and Dr. Dorn said yes.

E.6.e Public Comment (06/15/09; 8:05 a.m.)

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

E.6.f Council Action: Approve Stock Assessments

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 9) to adopt the stock assessments for splitnose rockfish, canary rockfish, darkblotched rockfish, Pacific ocean perch, and cowcod for management decision-making.

Mr. Anderson said this motion is consistent with the SSC's recommendations. He noted the need for caution for setting an ACL for splitnose rockfish.

Motion 9 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 10) to delay adoption of the petrale sole assessment pending a further review by the SSC. Further, the motion requests the petrale sole STAT incorporate the SSC's recommendations for assessment improvements and explorations.

Mr. Wolford asked if it was his intent to have the Council consider the petrale sole assessment in September and Mr. Anderson said yes. Mr. Wolford asked what the remedy might be if the assessment is not recommended in September and Mr. Anderson said he was not in a position to speculate.

Mr. Steve Williams asked if the SSC review meeting in August would be open to the public and Mr. DeVore said this was an open public process and would be noticed in the *Federal Register* and in a meeting notice that would be distributed by Council staff.

Motion 10 carried unanimously.

Mr. Moore asked about considerations for deciding a point of concern for any of these stocks and whether that should be taken up now or under the inseason agenda item. Mr. DeVore said that decision should be considered under the inseason agenda item and the GMT was prepared to address that issue then.

E.7 Consideration of Inseason Adjustments (06/15/09; 8:57 a.m.)

E.7.a Agenda Item Overview

Mr. Merrick Burden provided the agenda item overview.

E.7.b Reports and Comments of Management Entities and Advisory Bodies

Mr. Robert Jones provided Agenda Item E.7.b, Supplemental GMT Report. Mr. Gerry Richter provided Agenda Item E.7.b, Supplemental GAP Report.

E.7.c Public Comment

Mr. Jeff Short, Oceana, Portland, OR
Mr. Kevin Dunn, F/V Iron Lady, Astoria, OR

E.7.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2009 Groundfish Fisheries

Council members asked for clarification on the process and timelines regarding the petrale sole point of concern given that the assessment is pending further review and consideration of a new target biomass (see Agenda Item E.6), which will be brought forward at the September Council meeting. Council members were concerned about declaring a point of concern and then later determining such a process was unnecessary given a revised assessment and stock status determination. Ms. Eileen Cooney responded that the Council should provide notice to the public that, based on the information known at this time, a point of concern may be issued for petrale sole. At this meeting, Council should consider the analysis developed by the GMT as the basis for addressing the point of concern. NMFS will use this information to prepare a proposed rule prior to the September Council meeting. At the September meeting, the Council will receive the updated stock assessment and reference points, subsequent GMT analysis, and public input necessary to make a final decision on any point of concern adjustments.

Similar concerns were expressed with regard to the pessimistic canary rockfish stock assessment update, adopted under Agenda Item E.6 and the information presented under Agenda Item E.7.a, Attachment 1: Fishery Management Plan language on inseason adjustments to ABCs and OYs. The canary rockfish rebuilding analysis, which will determine whether the stock is meeting the rebuilding plan goals, will not be reviewed by the Council until September 2009. Ms. Cooney responded that the Council should provide notice to the public that, based on the information known at this time, an adjustment to the OY may be necessary in 2010. If the rebuilding analysis indicates that the stock is on track for rebuilding, no adjustment would be required.

Mr. Anderson moved (Motion 11) to declare a point of concern process for petrale sole and recommends that NMFS develop a proposed rule that reflects the OY adjustments presented in Agenda Item E.7.b, Supplemental GMT report Table 1, Scenario 3 which includes a 400 mt reduction in petrale sole catches for 2009 and a 50 percent reduction in 2010. Mr. Anderson stated that the intent of the action is to avoid overfishing the stock or an overfished declaration in 2011.

Mr. Dale Myer seconded the motion.

Mr. Burden noted that the petrale sole inseason options outlined in Agenda Item E.7.b, Supplemental GMT report only prevent catches from exceeding the currently specified 2009 petrale sole OY. Mr. Burden recommended that the Council consider further adjustments necessary to accomplish the 400 mt reduction as specified in Mr. Anderson's motion. Mr. Anderson instructed the GMT to discuss with industry how to structure the 400 mt reduction for 2009 and return with options under Agenda Item E.9, Final Consideration of Inseason Adjustments.

Motion 11 passed unanimously.

Mr. Rod Moore moved (Motion 12) that NMFS develop a proposed rule which would serve to notice the public that the Council may significantly reduce the 2010 canary rockfish OY in order to meet the rebuilding plan goals, per the Amendment 17 red light process (Agenda Item E.7.a, Attachment 1). The Council will consider additional information from the SSC and GMT at the September and November meetings in order to determine if a reduction is necessary. Mr. Moore requested that during the rebuilding analysis, the SSC explore a range of OY reductions in 2010 that would provide for a less precipitous drop in the OY for 2011.

Mr. Frank Warrens seconded Motion 12.

Motion 12 passed unanimously.

Mr. Phil Anderson recommends that the Council take preliminary action under this agenda item with the expectation that the GMT will return with an updated scorecard and additional analysis under Agenda Item E.9, Final Consideration of Inseason Adjustments.

Mr. Moore moved (Motion 13) to preliminarily adopt the following inseason adjustments outlined in Agenda Item E.7.b, Supplemental GMT Report:

- Adopt Option 2 for the limited entry non-whiting trawl fishery, which includes changes to the petrale sole and sablefish cumulative limits north of 40°10' N. latitude (Table 9), adjustments to the trawl RCA boundary in the north from 75 fm to 100 fm and opening the area North of Cape Alava (Table 10). Also include an increase in the shoreward dover sole cumulative limits north of 40°10' N. latitude, shoreward of the RCA to 60,000 lbs, as outlined in Agenda Item E.7.b, Supplemental GAP Report.
- Adopt GMT Recommendation #4, which increases the limited entry trawl chilipepper rockfish cumulative limit to 12,000 lb/2 months both shoreward and seaward of the RCA in areas south of 40°10' N. latitude for the remainder of the year.
- Adopt GMT Recommendation #5, which changes the seaward non-trawl RCA between the Columbia/Eureka line and Cascade Head from 125 fm to 100 fm for the rest of the year.
- Adopt GMT Recommendation #6, which increases the bimonthly limit for the limited entry sablefish daily trip limit fishery north of 36° N. lat. to 6,000 lb/2 months from July to October.
- Adopt GMT Recommendation #7, which increases the open access sablefish daily trip limit weekly and bimonthly limits to 950 lbs and 2,750 lbs respectively beginning July 1 through the end of the year.
- Adopt GMT Recommendation #8, which increases the California scorpionfish trip limits to 1,200 lb/2 months through the end of the year.

- Adopt GMT Recommendation #9, which modifies the minor nearshore rockfish cumulative limit between 42° N. lat. and 40°10' N. lat. to 7,000 lb/2 months of which no more than 1,200 lb may be species other than black rockfish.

Mr. Warrens seconded Motion 13.

Mr. Burden asked if Mr. Moore was also requesting that the GMT provide revised estimates of the canary rockfish impacts for the recreational fisheries.

In response Mr. Steve Williams offered an amendment (Amendment #1 to Motion 13) to include the inseason recreational estimates, instead of the preseason harvest guidelines, for the canary rockfish impacts listed in the scorecard.

Mr. Warrens seconded the amendment to Motion 13.

Ms. Vojkovich noted that the GMT report said that the GMT was unable to update the projections inseason since the fishery had just started and the majority of the catch was still accruing. Mr. Steve Williams said it was his understanding that we could update the projections at this meeting. Mr. Jones (GMT Chair) clarified that each state has different programs and timelines for gathering data. He suspects that if we were to poll the three states we could get various degrees of updates to those estimates.

Mr. Anderson spoke in opposition to the amendment. He stated that Washington Department of Fish and Wildlife (WDFW) does not have the ability to update the recreational impacts in any meaningful way, given that the season has just begun and that there is a 30 day lag in reporting. Mr. Anderson said he would support adjusting these values based on the projected impacts that were calculated in the 2009-2010 harvest specifications and management measures process (Agenda Item E.7.b, Supplemental GMT Report Table 2), which is lower than the currently specified harvest guidelines. Mr. Anderson stated that this would allow the states to update the scorecard in a meaningful way. Mr. Anderson recommended that we address this issue under Agenda Item E.9, Final Consideration of Inseason Adjustments and requested that the maker and seconder of the amendment withdraw.

Mr. Williams and Mr. Warrens withdrew the Amendment #1 to Motion 13.

Mr. Anderson moved to amend Motion 13 (Amendment #2 to Motion 13) with Option 1 for the limited entry non-whiting trawl fishery, which includes cumulative limit adjustments for sablefish and petrale as well as an adjustment to the trawl RCA from 75 fm to 100 fm, however it does not open the area north of Cape Alava. Mr. Anderson's amendment also removed GMT recommendation #5 from the main motion, which adjusted the non-trawl RCA from 125 fm to 100 fm from the Columbia/Eureka line to Cascade Head.

Mr. Myer seconded the amendment.

Mr. Anderson said that he had concerns about yelloweye rockfish impacts, given that we are in a ramp-down approach. He is not comfortable opening the area north of Cape Alava, given the potential for increased canary and yelloweye rockfish impacts.

Mr. Steve Williams asked Mr. Anderson to further explain his concerns for moving the non-trawl RCA from 125 fm to 100 fm. Mr. Anderson referenced Agenda Item E.7.b, Supplemental GMT report, which

indicates increased yelloweye rockfish impacts of 0.3 mt as a result of the non-trawl RCA adjustment. Mr. Anderson said that we need to rebuild as quickly as possible while taking into consideration the needs of the fishing community. He did not feel that this inseason adjustment passed this test.

Mr. Steve Williams said we have made changes to fisheries that resulted in savings of yelloweye rockfish impacts relative to the OY. Mr. Anderson said he does not view the yelloweye rockfish OY as a target; he views the OY as a ceiling and would like to stay under that ceiling. Mr. Anderson stated that we do not need to access the additional scorecard balance of yelloweye rockfish just because it is available.

Mr. Moore asked Mr. Jones (GMT Chair) to clarify which fisheries and communities would be impacted by adjusting the non-trawl RCA line. Mr. Jones stated that both the limited entry and open access sablefish fisheries would be impacted but he was not entirely sure which communities would be directly impacted.

Amendment #2 to Motion 13 passed unanimously.

Main Motion #13 passed unanimously.

E.8 Preliminary Review of Exempted Fishing Permits (EFPs) for 2010 (06/15/09; 1:02 p.m.)

E.8.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

E.8.b Reports and Comments of Management Entities and Advisory Bodies

GMT Report

Mr. Jones provided Agenda Item E.8.b, Supplemental GMT Report.

Ms. Vojkovich asked if all the EFP applications are addressed in the GMT report and Mr. Jones said yes.

Mr. Moore asked if the GMT addressed the issue of a voluntary observer in the Fosmark EFP and Mr. Jones said no.

Mr. Wolford asked if the EFP bycatch caps were included in a scorecard exercise and Mr. Jones said this will be done in November. Mr. Wolford asked if these caps would be considered for 2010 and Mr. Jones said yes.

Mr. Williams asked for an expansion of the comment that a November review could potentially allow a change of an EFP cap during implementation for those EFPs that run outside a regular calendar year. Mr. Jones said this could be a process used to change an EFP cap if an OY changes enough to compel that consideration.

Mr. Anderson asked about the technical merits of these EFPs and whether the GMT discussed the applicability of EFP results to a fleet-wide opportunity. Mr. Jones said that was discussed for the new EFPs since those discussions had occurred last year for the four repeated EFPs.

Mr. Anderson asked about the Oregon yellowtail EFP and the requested EFP bycatch cap of 2.6 mt of canary and whether that could be translated into a fleet-wide opportunity. Mr. Jones said that was not discussed.

Mr. Wolford noted some of the EFP applications extend beyond the calendar year. He asked whether the projected impacts associated with these EFP activities are for the calendar year or for the duration of the EFP and Mr. Jones said it would be for the duration of the EFP.

Ms. Vojkovich asked if there was a GMT discussion of only having dead yelloweye brought back to the dock under the ODFW-sponsored EFP with live fish discarded and Mr. Jones said that was discussed. There was concern that this could skew the results of the EFP and that a representative sample would not be obtained.

Ms. Fosmark remarked that she would recuse herself from voting on the Fosmark EFP due to a conflict of interest.

GAP Report

Mr. Tom Ancona provided Agenda Item E.8.b, Supplemental GAP Report.

Ms. Vojkovich asked about the GAP priorities for specific research and which EFPs are characterized as research EFPs since testing gears and strategies can be considered research. Mr. Ancona said the GAP made this distinction for collecting biological samples for research (i.e., the ODFW-sponsored yelloweye EFP).

E.8.c Public Comment

Mr. Michael Bell, The Nature Conservancy, San Luis Obispo, CA
Mr. Rick Algert, City of Morro Bay, Morro Bay, CA
Mr. Bill Blue, Morro Bay Commercial Fishermen's Association, Morro Bay, CA
Mr. Steve Schemblauer, City of Monterey, Monterey, CA
Mr. Larry Collins, Crab Boat Owner's Association, San Francisco, CA
Ms. Barbara Emley, San Francisco Fishermen's Cooperative, San Francisco, CA
Mr. John Holloway, Recreational Fishing Alliance, Portland, OR
Mr. Wayne Butler, Prowler Charters, Bandon, OR
Mr. Daniel Platt, STMA, Fort Bragg, CA
Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, CA
Ms. Kathy Fosmark, F/V Seeadler, Pebble Beach, CA

E.8.d Council Action: Adopt Preliminary Recommendations for EFPs

Ms. Vojkovich asked Mr. Lockhart about the EFP permitting process. For the EFP applications that are repeats of those that went through the Council process last year, have they been issued this year? Mr. Lockhart said yes. He will talk with Mr. Ingles to find out why he has not received a permit. Ms. Vojkovich asked what conditions are put on the EFP permit and Mr. Lockhart said all the allowable activities and gear configurations are spelled out in the permit. Ms. Vojkovich asked if the repeated EFPs would get through the NMFS system easier. Mr. Lockhart said that is generally true. However, when there is a change in conditions, such as the change in the canary status, EFP permitting may require more consideration and process. In general, these EFPs should get through more easily. Ms. Vojkovich asked

if there would be any processing of the EFP applications before November and Mr. Lockhart said any of the EFPs preliminarily approved today would get an initial look before November. Actual processing of the EFP application would not occur prior to final approval in November.

Ms. Vojkovich asked Mr. Lockhart about the workload associated with the new EFPs. Mr. Lockhart said the ODFW yelloweye EFP is more straightforward and should be processed more easily since all they are asking for is yelloweye retention. The EFP sponsored by the San Francisco Fishermen's Cooperative would take more work.

Mr. Wolford asked if the change in the EFP sponsored by the Recreational Fishing Alliance and the Golden Gate Fishermen's Association from a 2-hook to a 5-hook configuration would be a big deal and Mr. Lockhart did not think so. Ms. Cooney explained that there is a provision in California state law for a 2-hook configuration, which was the issue in the 2009 EFP. This would have to be worked through.

Ms. Vojkovich explained the premise of the Oregon yelloweye EFP was to retain yelloweye bycatch on charters and asked Mr. Steve Williams if current charter observers could collect that information. Mr. Williams deferred to Ms. Ames who said there are some observers who observe 100 trips per year. It is rare to observe yelloweye and not enough yelloweye are observed to satisfy the collection objective. Ms. Vojkovich said the last yelloweye assessment recommended collection of age and maturity data. The yelloweye STAR report concludes there is sparse data for yelloweye. Would the Oregon catch reconstruction bring to light yelloweye catch patterns? Ms. Ames said they have started the reconstruction with rockfish as the priority. They are attempting to finish this in time for the 2011 assessment cycle. They have not completely mined the historical yelloweye data or uncovered much new data. Ms. Vojkovich asked about the critical data to collect to better inform the yelloweye assessment. There appears to be a need for age and maturity data and wonders how 100 yelloweye caught off Oregon will help the coastwide assessment. Ms. Ames deferred to Dr. Jason Cope but did say ODFW has coordinated this effort with the NWFSC. Dr. Cope said that ageing information is some of the most valuable assessment information to determine recruitment. Also, the Oregon nearshore recreational fleet can be treated as a separate fleet and selectivity of that fishery could be estimated with increased age and length data. Age and length data are some of the top priorities for assessments in general. Ms. Vojkovich asked if all the fleets in Washington, Oregon, and California are modeled and if better information for the Oregon fleet would help the others. Dr. Cope said he will not speak for Dr. Stewart, who is doing the yelloweye assessment; however, this would better inform a coastwide model unless there is evidence of area-specific and differential growth.

Mr. Anderson explained that WDFW has been engaged with the IPHC to collect yelloweye data. An enhanced program in the last three years funded by WDFW has been conducted to bolster yelloweye data. Ms. Ames has also done some of this enhanced work but could not find funds to do this IPHC work this year. This EFP is a low-cost way to get some more data given the need to collect more yelloweye data. The enhanced IPHC survey is targeted on deeper water adult yelloweye and this EFP is targeting younger individuals in shallower water. This may allow an earlier detection of a recruitment signal.

Ms. Vojkovich asked Mr. Lockhart if the Oregon yelloweye EFP could occur in California as well. Could CDFG do the same thing next year despite the lack of an application at this meeting? Mr. Lockhart said this is more of a Council policy call.

Mr. Hansen asked about the EFP process and NMFS workload. Mr. Lockhart said a lot of work went into the 2009 EFPs. The repeat EFPs should go forward more easily and the Oregon yelloweye EFP should be fairly easy. However, addressing the increased yelloweye mortality still needs to be justified.

Dr. Coon responded that Council Operating Procedure (COP) 19 says EFP applications have to come forward in June to be considered in November. Mr. Anderson said this meeting isn't over and maybe a California add-on to collect yelloweye data might be considered. However, all the Council work is time consuming and getting more complicated every year. He recommends caution in adding to staff workload. He is concerned about the canary request in the Oregon yellowtail EFP and the more pessimistic canary outlook needs to be considered before adding to workload to get that EFP implemented in 2010.

Mr. Steve Williams said we should get some data and more information from existing EFPs in November to make a good decision.

Mr. Wolford said three of these proposals (i.e., the EFP sponsored by Mr. Fosmark, the EFP sponsored by the San Francisco Fishermen's Cooperative (SFFC), and the Oregon yellowtail EFP) are similar in that they are attempting to keep gear off the bottom. Additionally, the SFFC proposal is seeking access to the RCA which is more problematic given the canary situation.

Ms. Vojkovich said the NMFS permitting process adds workload and the Council workload going ahead presents conflicts. Providing more fishing opportunities in the future is desirable and the expectation is more EFPs will be coming forward in the future as there are more fishing restrictions. Therefore, we need to prioritize EFPs. Several EFPs are having difficulties getting observers, which causes much process without implementation. She is not sure of the best course at the moment given these conflicts. We may have to think of a different methodology for EFPs.

Mr. Lockhart said the EFP renewals and the Oregon yelloweye EFP may be easy to work through but the San Francisco Fishermen's Cooperative EFP would be very difficult to get through the process.

Mr. Steve Williams moved and Mr. Warrens seconded a motion (Motion 14) to adopt the EFP applications in Attachments 1, 2, 4, 5, and 8 to go forward for consideration in November. This motion would forward all the EFP applications except the one sponsored by the San Francisco Fishermen's Cooperative.

Motion 14 carried (Mr. Anderson voted no, Ms. Fosmark recused).

E.9 Final Consideration of Inseason Adjustments

E.9.a Agenda Item Overview (06/16/09 1:28 p.m.)

Mr. Merrick Burden provided the agenda item overview.

E.9.b Reports and Comments of Management Entities and Advisory Bodies

Mr. Rob Jones provided Agenda Item E.9.b, Supplemental GMT Report.

Mr. Rod Moore asked about the change in canary impacts for the inseason proposal compared to status quo. Prior to inseason action, the impacts for the non-whiting trawl fishery were roughly 16.6 mt. Agenda Item E.9.b, Supplemental GMT Report lists the canary impacts from the preliminarily adopted trawl proposal as 22.1 or 22.6 mt, depending on the action taken for petrale sole. Mr. Moore said he assumes that the additional 6 mt of canary impacts were a result of the change in trawl cumulative limits. Mr.

Jones said that the majority came from the trawl inseason adjustments and model updates. Mr. Burden added that the majority of the impacts were a result of moving the northern trawl RCA from 75 fm to 100 fm.

Mr. Moore asked how the increase in the Dover sole cumulative limits contributed to the canary rockfish impacts. Mr. Burden said that action resulted in a 2 mt increase in canary rockfish. Mr. Moore asked how far the Dover sole cumulative limits would need to be reduced in order to reduce the canary rockfish impacts to 1 mt. Mr. Burden said a 52,500 lb cumulative limit for periods 4, 5, and 6.

Mr. Anderson stated that there were three actions, relative to the non-whiting trawl fishery taken under Agenda Item E.7, Consideration of Inseason Adjustments. The actions were to adjust the trawl RCA boundary from 75 fm to 100 fm, model cumulative limit adjustments for petrale sole, and increase the shoreward Dover sole cumulative limits. Mr. Anderson stated that the Council did not choose the option which opened the area north of Cape Alava due to canary rockfish concerns. He also noted that the Council did not change the non-trawl RCA from the Columbia/Eureka line to Cascade Head from 125 to 100 fm, in large part due to yelloweye and canary rockfish concerns. Mr. Anderson noted that the remaining three actions taken under the non-whiting trawl inseason proposal collectively resulted in a 6 mt increase in canary impacts and asked Mr. Burden to outline the canary impacts by action. Mr. Burden said that the current proposal has a total impact of 22 mt. Two metric tons is a result of the Dover sole cumulative limit increase shoreward of the RCA. The remaining 20 mt impact is 4 mt higher than impacts prior to inseason action. Mr. Burden said that the remaining 4 mt was a result of the RCA adjustment and the increase in the sablefish cumulative limits. Mr. Burden stated that he was unable to separate the RCA adjustment impacts from the sablefish increase at this time.

Mr. Anderson referenced public testimony from Agenda Item E.7.b and other anecdotal information which indicated that there was a graduated pay scale for Dover sole landed above a plant limit. Mr. Anderson asked Mr. Burden if there were a lot of boats achieving the current cumulative limit at 45,000 lbs, given the plant limits. Mr. Burden said that he could not quantify the number of boats or the frequency at which that occurs, but he did know that some boats did attain the limit.

Mr. Moore asked if the adjustments to the petrale sole cumulative limits resulted in fewer canary rockfish impacts. Mr. Burden responded that the change adopted under the routine inseason action to stay within the existing petrale sole OY might have had a slight effect on canary rockfish impacts. However, the adjustments occurred at the time of year when the fishery is operating in deeper waters so the predominant change in overfished species impacts were to darkblotched rockfish and Pacific Ocean Perch.

Ms. Marija Vojkovich noted that the status quo trawl option had yelloweye rockfish impacts of 0.4 mt (Agenda Item E.7.b, Supplemental GMT Report, Attachment 1) and the preliminarily adopted trawl option has impacts of 0.6 mt (Agenda Item E.9.b, Supplemental GMT Report, Table 1). She asked Mr. Burden which component of the trawl proposal resulted in the increased yelloweye rockfish impacts. Mr. Burden said that most of that increase was a result of the increased Dover sole cumulative limits shoreward of the RCA.

Mr. Tommy Ancona provided Agenda Item E.9.b, Supplemental GAP Report.

Mr. Moore asked what type of limits the GAP recommended for petrale in periods 5 and 6. Mr. Ancona said the GMT recommendation was for a 5,000 lb cumulative limit in period 5 and a 2,000 lb limit in period 6. The GAP believes the best time to catch petrale sole is in period 6 and they did not believe there

was sufficient petrale available to catch the cumulative limits proposed for period 5. Mr. Ancona suggested that higher limits in period 6 should be modeled, perhaps flipping the cumulative limits recommended by the team.

Mr. Moore asked if the GAP was recommending a 2,000 lb cumulative limit in period 5 and a 5,000 lb limit in period 6. Mr. Ancona said the GAP is not recommending a specific limit but rather the idea that period 5 levels be set to accommodate incidental catch while period 6 levels should provide for a targeted opportunity.

Mr. Moore asked Mr. Ancona whether the GAP had the opportunity to talk about the petrale sole implications for 2010. Mr. Ancona stated that the GAP is looking at the implications for 2010 but had not had the opportunity to discuss them in any detail; they will have that dialogue in September.

Ms. Kathy Fosmark asked if the GAP had a recommendation on how to balance the canary rockfish numbers in the scorecard relative to the trawl proposal. Mr. Ancona said the GAP did not have a recommendation.

Ms. Vojkovich asked Mr. Ancona to confirm that the GAP is recommending petrale sole reductions for both period 5 and period 6. Mr. Ancona said that is correct.

E.9.c Public Comment

Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Mr. Kevin Dunn, F/V Iron Lady, Astoria, OR

E.9.d Council Action: Adopt or Confirm Final Adjustments to 2009 Groundfish Fisheries

Mr. Moore asked Mr. Burden whether the GAP recommendation to have higher cumulative limits in period 6 compared to period 5 would have the same petrale sole catch reductions as the GMT recommendation. Mr. Burden said that it was not a straightforward question; there were many issues to consider, like whether the modified RCA (petrale cut-outs) would be in place in period 6. If the petrale cut-outs were in place in period 6, then there would be higher petrale sole catches. Those types of issues would need further analysis.

Mr. Moore stated that under initial inseason action the only increases to cumulative limits were for sablefish and Dover sole. We know that the Dover sole increases had canary impacts of 2 mt and the sablefish increases combined with the RCA from 75 fm to 100 fm resulted in a 4 mt impact to canary. Mr. Burden said that was generally correct. However, the Dover sole increase in period 4 also corresponds with the adjustment in the RCA boundary and is included in that 6 mt impact estimate. Mr. Moore stated that there was an increase in yelloweye rockfish impacts of 0.2 mt, as a result of the Dover sole increase. Mr. Burden said that was correct.

Mr. David Sones asked Mr. Burden about historical catches of petrale sole during period 5. Public testimony indicated that the fleet does not typically attain the period 5 limits and Mr. Sones asked if Mr. Burden could speak to this issue. Mr. Burden said the amount of petrale caught in period 5 varies up and down the coast as a result of the RCA structure and the seasonal migration of petrale sole. Generally, in the north the RCA is more restrictive which limits access to petrale sole grounds. Mr. Burden noted that in the south, the RCA becomes less restrictive, providing more available grounds and the ability to access the cumulative limits.

Mr. Anderson discussed the preliminary actions taken under Agenda Item E.7 Consideration of Inseason Adjustments. Mr. Anderson asked Mr. Burden whether the petrale cut-outs were in place under the preliminary inseason action. Mr. Burden indicated that the petrale cut-outs remained open under the preliminary action, however, in Agenda Item E.9.b, Supplemental GMT Report, the GMT recommends closing the modified RCA in order to slow petrale sole catches.

Mr. Anderson moved (Motion 22) to adopt all inseason actions adopted under Motion 13, as amended (Amendment 2) except that the Dover sole trip limits currently specified in the regulations (45,000 pounds/2 months for periods 3-5 and 40,000 pounds/2 months for period 6) would be maintained. Further, adopt the cumulative limits for petrale sole as outlined in Agenda Item E.9.b, Supplemental GMT Report, which provides for 5,000 pounds in period 5 and 2,000 pounds in period 6 (Table 4) and closes the petrale sole RCA cut-outs in period 6 (Table 5). For the recreational fisheries, update the canary rockfish impacts in the scorecard by a total of 1.2 mt by reducing the WA/OR recreational share by half that amount (0.6 mt) and the CA recreational share by half that amount (0.6 mt). This adjustment should result in a balanced scorecard, such that we are using 100 percent of the canary OY.

Seconded by Mr. Dale Myer.

Mr. Anderson said that the fleet has experienced serious restrictions in an effort to protect canary and yelloweye rockfish and rebuild them as quickly as possible. Under the initial inseason item, the Council chose to keep the area north of Cape Alava closed to trawl fishing in order to reduce both canary and yelloweye rockfish impacts. Further, the Council chose to maintain the current non-trawl RCA from the Columbia/Eureka line to Cascade Head in order to reduce both canary and yelloweye rockfish impacts. Mr. Anderson stated that he did not include the proposed increase to the shoreward Dover sole limits because of the additional impacts to canary and yelloweye rockfish. Mr. Anderson noted the attempt to rebuild as quickly as possible, while taking into consideration the needs of the fishing community, especially in light of the pessimistic canary stock assessment which may affect operations in 2010 as well as the next management cycle (2011/2012).

Mr. Anderson stated that he struggled with the GAP recommendation for petrale sole to switch the period 5 and 6 cumulative limit reductions. He noted that based on Council discussions with the GMT, it does not appear to be a straight swap of petrale sole impacts between the two periods. Mr. Anderson stated that given the available analysis, he was not prepared to adopt anything other than the GMT recommendation at this time.

Relative to the limited entry trawl adjustments, Mr. Moore asked Mr. Anderson if the motion included the sablefish cumulative limit increases and the modifications of the trawl RCA from 75 to 100 fm. Mr. Anderson said yes.

Mr. Moore asked Mr. Burden if the cumulative limit structure proposed under Mr. Anderson's motion would accomplish the 400 mt petrale sole reductions for 2009, as recommended by the Council. Mr. Burden said yes.

Mr. Wolford spoke in support of the motion and noted that the adjustments in the scorecard relative to canary rockfish impacts in the recreational sector should not adversely affect future recreational allocations.

Ms. Marija Vojkovich asked if the motion to adopt petrale sole cumulative limits was specific to the 2009 fisheries. Mr. Anderson said yes.

Ms. Cooney stated that the intent of the motion aligns with the point of concern process for petrale sole and reducing catches in both 2009 and 2010. She indicated that NMFS could use the proposed cumulative limits for petrale sole for consideration in developing the proposed rule for 2010. Mr. Anderson agreed that this approach is consistent with his motion.

Motion 22 passed unanimously.

E.10 Fishery Management Plan (FMP) Amendments 20 and 21–Trawl Rationalization and Intersector Allocation – Regulatory Overview and Final Action on Miscellaneous Remaining Issues and FMP Language

E.10.a Agenda Item Overview (06/16/09; 2:40 p.m.)

Mr. Jim Seger provided the agenda item overview (walked the Council through Agenda Item E.10.a, Attachment 1, Calendar of Activities for Groundfish Fishery Management Plan Amendments 20 and 21 and Agenda Item E.10.a, Attachment 4, Miscellaneous Remaining Issues). In response to a question from Mr. Moore, Mr. Seger said that the Attachment 1 calendar indicated that the bulk of the work on CFAs would occur in 2010 but that the Council might take some preliminary steps at its November 2009 meeting. Dr. Dahl summarized Agenda Item E.10.a, Attachment 3 (Staff Recommendation on Amending the Groundfish FMP to Incorporate the Trawl Rationalization Program).

E.10.b Reports and Comments of Management Entities and Advisory Bodies (06/16/09; 3:23 p.m.)

Mr. Frank Lockhart noted that NMFS intends to combine approval and implementation of Amendment 20 and 21. NMFS and Council staff will work together to do that. They intend to implement the trawl rationalization program (Amendment 20) in three or more rulemakings beginning in the fall. The three pieces will be a data collection rule, an FMP Amendment 20 and 21 approval rule (grand framework rule), and a followup rule that includes the nuts and bolts of the program, including the tracking and monitoring components. He stated that NMFS is announcing today that concerns anyone has about the data should be addressed now and those concerns should be directed to the states since they are the owners of the data. NMFS intends to beta test some data tracking and monitoring components during the summer of 2010; and will provide reports to the Council on the progress of that beta testing.

Mr. Lockhart then read Agenda Item E.10.b, NMFS NWR Report on Miscellaneous Clarifications for Amendment 20: Trawl Rationalization. Mr. Lockhart indicated that the flexibility being requested was very limited in nature and any changes will be vetted with the Council. Mr. Moore asked about the release of the estimates of quota shares (QS) that would be allocated to each permit and noted that it was his understanding that the states had authorized the release of these data. His understanding was that NMFS was holding up the release. Mr. Lockhart noted that NMFS does have some concerns. In particular he noted that the information would be released prior to the start of the program but expressed concern about releasing information now that would be based on a different version of the database as compared to what is used when the QS are ultimately issued. Databases are regularly updated. In other parts of the country, differences between databases have led to an increase in the number of appeals.

Mr. Moore asked where we are in terms of getting the observer program funding and infrastructure in place prior to the individual fishing quota (IFQ) program. Dr. Clarke said funding requests have been made; but there is currently nothing provided in the FY 2010 process that she knew of. Funding in FY 2010 is required to provide time for training, development of the electronic system to monitor in real-time, and to get equipment for observers. If we get funds at the beginning of FY 2010, most of the year would be taken up getting everything organized. There will also be costs in outreach to industry on the handling of retained and discarded catch to allow for observation, and on the precision and turn-around time for the data. There will be similar issues for the landed catch monitoring. To date they have no planning money for this. Because of the overlap between the existing and the new trawl observer program, new money is required to develop the new program (the existing program must be maintained while the new program is being developed). The costs during the development year are estimated at \$3 million. The long-term costs will be less.

Mr. Myer asked whether the cameras that are being put on motherships in the coming year will be replaced with 100 percent observer coverage when Amendment 20 goes into place. Mr. Seger said they're for tracking and monitoring and there is a lot of detail for the IFQ program with respect to monitoring of motherships and catcher-processors, but not for the co-op alternatives. He quoted the language on observer coverage and cameras from the co-op section of the program. Mr. Lockhart said that NMFS had not interpreted the current language as implying that both observers and cameras might be required.

Ms. Fosmark asked about the tracking system and how quickly the landings information will be made available to harvesters. Mr. Lockhart said that while details are being worked out the data turn-around will not be "real time" but that folks will probably have a pretty close idea about the amounts of their landing. The official data will probably not be updated until between a few days and a week after landing.

Mr. Steve Williams asked if in response to the funding requests there had been any indications that the needed funding is going to be available. Mr. Lockhart indicated that they had funding on the regulatory side for 2009 and expected it for 2010. He also noted that given Dr. Lubchenco's support for catch shares he felt the chances for funding was very strong. Chairman Hansen concurred. The challenge is knowing what the costs are. Dr. Clarke noted that efforts were underway to ensure that accurate cost estimates are available.

Mr. Anderson expressed concern that (1) the funding request covers the states and he did not know where they would have gotten the numbers from, (2) the states might have to expend substantial effort addressing potential errors in fish ticket database, and (3) there is not much time to make the contemplated improvements in the fish ticket data system and have them implemented by January 2011. With respect to the fish tickets, Mr. Lockhart stated they had been working with Pacific States Marine Fisheries Commission and were counting on that progress continuing. With respect to the workload entailed in reconciling the database and ticket/logbook data, they would have to talk with the states on how NMFS might best help.

Dr. Steve Freese replied that the states' role and need for funding was not clear at this time. While that is being developed, he has some place-holder estimates and would aim to have a better number by September. Dr. Freese went on to provide more detail on the status of development of an electronic fish ticket system. Mr. Steve Williams had concerns that much work might be needed to get from the pilot to the full implementable program. Dr. Freese said they would assess where they are and come back to the Council in September with a report.

Mr. Lockhart said meeting the January 1, 2011 deadline means we will have to hit several targets in a row, and other people do too. NMFS realizes that this is a very ambitious schedule. He also mentioned that the “deeming” process, under which regulations are brought back to the Council for review, will go on well into 2010.

(06/16/09; 4:08 p.m.)

Ms. Heather Brandon read Agenda Item E.10.b, GAC Report on Trawl Rationalization. Mr. Jones read Agenda Item E.10.b, Supplemental GMT Report. Mr. Ancona read Agenda Item E.10.b, Supplemental GAP Report. Deputy Chief Cenci read Agenda Item E.10.b, Supplemental EC Report.

Mr. Anderson spoke to the issue of the allocation of halibut to cover bycatch in the trawl fishery. The WDFW recommendations were developed with the intent of achieving a reduction in the bycatch and bycatch mortality of halibut, similar to what resulted from the halibut individual bycatch quota (IBQ) established for the Canadian trawl fishery. There are a number of ways that individual trawl vessels might achieve these reductions. In April the Council approved the lesser of 15 percent of the constant exploitation yield (CEY) or 130,000 lbs. With respect to the possibility that the CEY might increase, capping the trawl fishery at 130,000 lbs, Mr. Anderson noted that there was very little correlation between the CEY and total bycatch. With respect to the issue of legals and sublegals, because size at age has dramatically decreased over the decade and most males never get to legal size, they felt that looking at legals and sublegals was the appropriate way to assess bycatch. The 130,000 lbs value is about 15 percent of 870,000 lbs. The 2004-2007 average legal size mortality is 154,000 lbs. At 130,000 lbs, you would not make much progress. However, if you look at the total (legals and sublegals) and leave out one outlier, you find that the 130,000 lb cap represents a 55 percent reduction in bycatch mortality of legal size halibut. Mr. Anderson enumerated a number of methods available to trawlers to achieve such a reduction and noted the importance of individual fishermen accountability for this approach. Individual fishers that do a good job of handling fish on deck and avoid high halibut bycatch areas will benefit.

Council adjourned for the day.

06/17/09; 8:13 a.m.

Dr. Clarke provided a report from the NWFSC. At this point they have not developed a comprehensive sampling plan and still need to talk with industry about what might be the best way to do that. She noted that they did not plan to assess the viability of each individual halibut because the time to do so would increase mortality rates. The individual accountability will come in avoiding taking halibut in the tow. Additionally, the time taken to assess halibut would decrease the viability of other discarded catch such as lingcod.

Mr. Anderson commented that what Dr. Clarke describes meets the intent of what he had in mind. He summarized his understanding that when there is a significant number of fish, observers would take a subsample of fish for that vessel and do a viability estimate on the subsample, but that otherwise there would be an assessment of all halibut. The essential piece is that the mortality rate estimates be provided for each vessel and not aggregated across vessels. Dr. Clarke said she thought that something like that could be done but it should be developed as part of a comprehensive sampling strategy.

Mr. Gregg Williams, IPHC, spoke to Agenda Item E.10.c, Supplemental Public Comment (IPHC). He said the IPHC’s experience has been with the Canadian fishery where they have seen a decline in tow

duration, an increase in the number of exploratory tows, and a reduction in the total halibut bycatch. He said the IPHC would be happy to assist in deliberations and design of putting the observer program together.

Mr. Anderson noted the the program is designed to achieve a 50 percent reduction in halibut mortalities. One of the things we have seen is bycatch mortality rates as high as 73 percent (2007) and the previous 3 years it was in the mid fiftieth percentile. He asked if in the bycatch program they were able to achieve higher survival rates and reduced total bycatch mortality? Mr. Gregg Williams identified the causes of halibut mortality and opportunities for reducing bycatch mortality and responded that the Canadian fishery was able to reduce its mortality rate by about 2/3 (down to 40). Total bycatch was reduced from around 1.7 million lbs down to 250,000-400,000 lbs in each year since the program was implemented.

E.10.c Public Comment

Mr. Brent Paine, United Catcher Boats, Seattle, WA
Mr. Steve Hughes, United Catcher Boats, Seattle, WA
Mr. Joe Bersch, Supreme Alaska Seafoods, Seattle, WA
Ms. Dorothy Lowman, Environmental Defense Fund, Portland, OR
Mr. David Jincks, Midwater Trawlers Cooperative, Newport, OR
Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR
Mr. Mike Story, F/V Pegasus, Warrenton, OR
Mr. Jim Seavers, F/V Excalibur, Newport, OR
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR

E.10.d Council Action: Adopt Final Preferred Alternative for Remaining Issues and Amendment 20 FMP Language

Dr. McIsaac announced that after the Council meeting the Council staff will release the preliminary QS estimates to the fleet. These estimates are subject to change. They will be mailed to each permit holder to the the address on file with NMFS.

Mr. Anderson moved (Motion 23) and Mr. Myer seconded a motion (from Agenda Item E.10.d, Supplemental WDFW Motion in Writing) on the following: “**Eligibility to Own:** No person can acquire quota shares or quota pounds other than 1) a United States citizen, 2) a permanent resident alien, or 3) a corporation, partnership, or other entity established under the laws of the United States or any State, that is eligible to own and control a US fishing vessel with a fishery endorsement pursuant to 46 USC 12113 (general fishery endorsement requirements and 75% citizenship requirement for entities). Any ~~person or~~ entity that owns a mothership that participated in the west coast groundfish fishery during the allocation period and is eligible to own or control that US fishing vessel with a fishery endorsement pursuant to Sections 203(g) and 213(g) of the American Fisheries Act (AFA).”

Speaking to the rationale of the motion, Mr. Anderson noted that this language is consistent with the language developed through our legal counsel. The provision for the mothership and the elimination of the word “person” was vetted through legal counsel and was included in the GAC Report. Motion 23 passed unanimously.

Mr. Anderson moved (Motion 24) the following, seconded by Mr. Myer, again utilizing Agenda Item E.10.d, Supplemental WDFW Motion in Writing, but with an addition: “**Carry-Over Provision:** Each

individual trawl vessel account will be able to carry-over up to 10 percent of the total quota pounds (QP) held in its account during that year. In addition, if the OY goes down substantially carry-over of QP would be reduced by the same percentage as the OY decrease. The 10 percent carryover value may be changed, up or down, through the biennial specifications process.”

Speaking to the motion, Mr. Anderson said this issue is laid out in Agenda Item E.10.a, Attachment 4, page 2 under #1. This feature is important to add to the program for the reasons identified by industry and discussed at the Groundfish Allocation Committee (GAC). There is uncertainty about the appropriate percent that should be used for the carryover and the Council should have the flexibility to change the carryover allowance in the future as experience is gained.

Ms. Vojkovich agreed with Mr. Anderson’s rationale, but was concerned that in the motion the word “substantially” is not defined and, is subject to interpretation. Mr. Lockhart then made an amendment to Motion #24 (Amendment to Motion 24): Add “It is the intent of the Council that the carryover provision, to the extent possible, be implemented consistent with conservation requirements of the Magnuson Stevens Fishery Conservation and Management Act (MSA).” and strike the word “substantially.” Ms. Vojkovich seconded the motion.

Speaking to his motion to amend, Mr. Lockhart identified the potential conflict between the TIQ program and the new requirements of the MSA, in particular with respect to the ACLs. This would clarify that it is the Council’s intent to implement the carryover provision as much as possible up to the 10 percent but still allow NMFS the flexibility to design this. NMFS would come back to the Council under the TIQ program as well as under the harvest specifications process with specific language for review. By striking the word “substantially” it removes uncertainty. Quota pounds (QP) will need to be tracked and making the change for small reductions is as easy as making the change for more substantial reductions. Amendment to Motion 24 passed unanimously.

Main motion 24 passed unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 25), utilizing Agenda Item E.10.d, Supplemental WDFW Motion in Writing to adopt the following: “**Dogfish/Other Fish in the IFQ Program Option 2:** Dogfish be included as Part of the Other Fish complex. Other Fish complex would not be included in the IFQ program. If at a future time, Other Fish were added to the IFQ program, QS would be determined using the same catch history criteria as the other IFQ species, unless otherwise specified by a future Council action.”

Mr. Anderson said that since we don’t have a stock assessment for spiny dogfish, including it in the “other fish” category is appropriate. He was concerned that if “other fish” is not part of the IQ program that people would stockpile catch history on those species in order to get a larger quota share if quota shares are granted for that species in the future. To eliminate that worry, we would use the same base period and catch history to make the QS determination of “other fish” if and when they were included as part of the program. Dr. Hanson asked, about the second sentence of the motion, is it the intent that if dogfish was broken out from Other Fish would it be handled differently? Mr. Anderson said that his motion wasn’t specific to whether a species is broken out or whether the whole complex is assigned IFQs. If we want to add another species and/or choose to break it out we could, and this language would apply.

Motion 25 passed unanimously.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 26), using Agenda Item E.10.d, Supplemental WDFW Motion in Writing, to adopt the following: **“Determining Catch History in the Mothership Whiting Cooperatives:** Determine catch history in the mothership whiting co-op alternative using relative pounds.” The rationale is embodied in the text of page 9, of Agenda Item E.10.a, Attachment 4, the relative pounds measure of history puts a heavier emphasis on more recent landings history in the mothership whiting fishery, consistent with the MSA, and better reflects the distribution of capitol and labor that currently exists in the fishery. Mr. Myer said he will be voting on this and believes he will be able to because it only applies to CVs and he does not have a conflict of interest in that regard.

Motion 26 passed unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 27), using Agenda Item E.10.d, Supplemental WDFW Motion in Writing, to adopt the following: **“Trawl Sector Limits for Pacific Halibut and Managing Halibut IBQ in the Trawl Rationalization Program:** The trawl mortality limit for legal and sublegal halibut is set at 15 percent of the Area 2A Total Constant Exploitation Yield not to exceed 130,000 lbs for the first four years of trawl rationalization program, and not to exceed 100,000 lbs beginning in the fifth year of the program. This total bycatch limit may be adjusted through the biennial management process. Halibut IBQ will be based on halibut bycatch mortality, not on total halibut catch.”

Mr. Anderson said this language is consistent with the language in Amendment 21 with two exceptions: Amendment 21 says the change can only be a decrease, this motion takes out the word “decrease”; second the addition that the limit may be adjusted through the biennial management process so we can learn as we go and provide ourselves the flexibility to make modifications if it is necessary to achieve the objectives of the IBQ.

Dr. McIsaac asked if the intent of the last sentence of the motion was that mortality would be on an individual vessel basis? Mr. Anderson concurred. In response to Mr. Lockhart, Mr. Anderson said the trawl mortality limit could be adjusted through any biennial specifications process once the program starts.

Mr. Moore moved and Mr. Warrens seconded an amendment (Amendment #1 to Motion 27) to add, “The intent of the Council is that halibut bycatch mortality would be measured on an individual vessel basis.” This motion was based on discussion with Dr. Clarke and Mr. Williams from earlier in the meeting.

Mr. Lockhart moved to amend Amendment #1 (Amendment #2 to Motion 27) by replacing the word “measure” with the word “estimated.” Ms. Fosmark seconded the amendment.

Amendment #2 passed unanimously. Amendment #1, as amended by Amendment #2 passed unanimously.

Mr. Seger expressed his understanding that if the motion passed that Council staff will make the necessary changes in the language in groundfish FMP Amendment 20 and groundfish FMP Amendment 21 to bring them in line with the motion.

With that, Dr. Hanson moved and Mr. Moore seconded an amendment (Amendment #3 to Motion 27) to revise the following sentence that reads “The trawl mortality limit for legal and sublegal halibut is set at 15% of the Area 2A Total Constant Exploitation Yield not to exceed 130,000 lbs for the first 4 years. . . .” change it to read “The trawl mortality limit for legal and sublegal halibut is set at 15% of the Area 2A

Total Constant Exploitation Yield not to exceed 130,000 lbs **each year for** the first 4 years. . . .". This amendment clarifies that the 130,000 lb amount is an annual amount and does not apply across all four years.

Amendment #3 to Motion 27 passed unanimously. Motion 27 passed unanimously as amended.

Mr. Lockhart moved (Motion 28) that the Council adopt the following sentence from Agenda Item E.10.b, NMFS NW Region Report "It is the Council's intent to provide NMFS sufficient flexibility in the design and implementation of the tracking and monitoring program to achieve the goals and objectives of the trawl rationalization program." Ms. Fosmark seconded the motion. Mr. Lockhart noted that this is referring to the tracking and monitoring program. There are a lot of questions on interactions between the various parts of the program and NMFS will need some flexibility to achieve the goals of the trawl rationalization program. All of these components will come before the Council either informally or formally through the deeming process so the Council will be able to see and comment on any of the components of the tracking and monitoring program.

Mr. Moore stated that as we saw during the development of Amendment 10, sometimes there needs to be discussion before you get to the deeming process because there are operation characteristics of the industry and enforcement and recording needs that need to be sorted out. Therefore he hoped there would be interaction prior to the time of the Council deeming process. Mr. Lockhart said that will be done and they will work closely with the states, industry and the NWFSC.

Motion 28 passed unanimously.

Mr. Moore moved (Motion 29) to adopt the proposed structure of the Fishery Management Plan (FMP) amendment language as shown in Agenda Item E.10.a, Attachment 3, Staff Recommendation on Amending the Groundfish FMP to Incorporate the Trawl Rationalization Program. Mr. Warrens seconded the motion.

A discussion ensued in which there was some uncertainty about the status of the language of Appendix E in relation to the regulations and how Appendix E would be modified with changes in the regulations or Council policy. On that basis, Mr. Moore, withdrew his motion (Motion 29), and suggested that the issue be taken up in the collective wrapup motion at the end of the agenda item on trawl rationalization. The seconder agreed. Motion 29 was withdrawn and not voted on.

E.11 Fishery Management Plan Amendment 20–Trawl Rationalization – Final Action on Accumulation Limits and Divestiture

E.11.a Agenda Item Overview (06/17/09; 11:12 a.m.)

Mr. Seger provided the agenda item overview. (Agenda Item E.11.a, Supplemental Staff PowerPoint).

E.11.b Reports and Comments of Management Entities and Advisory Bodies

Ms. Heather Brandon summarized Agenda Item E.11.b, GAC Report. Mr. Steve Williams summarized Agenda Item E.11.b, Supplemental ODFW Report. Dr. Dorn read Agenda Item E.11.b, Supplemental SSC Report. Mr. Merrick Burden read Agenda Item E.11.b, GMT Report. Mr. Robert Jones read Agenda Item E.11.b, Supplemental GMT Report 2. Mr. Tommy Ancona read Agenda Item E.11.b, Supplemental GAP Report.

E.11.c Public Comment (06/17/09; 3:09 p.m.)

Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR
Mr. Steve Scheiblaue, City of Monterey, Monterey, CA
Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA
Mr. Ben Bowman, Food and Water Watch, San Francisco, CA
Mr. Zeke Grader, PCFFA, San Francisco, CA
Mr. Shems Jud, Environmental Defense Fund, Lake Oswego, OR
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR
Mr. Tom Libby, Point Adams Packing Company (representing WCSPA), Astoria, OR
Mr. Andrew Bornstein, Bornstein Seafoods (representing WCSPA), Bellingham, WA
Mr. Jay Bornstein, Bornstein Seafoods (representing WCSPA), Bellingham, WA
Mr. Tom Ghio, Ghio Fish Company, Santa Cruz, CA
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Ms. Erika Feller, The Nature Conservancy, San Francisco, CA
Mr. Joe Sullivan, The Nature Conservancy, San Francisco, CA

E.11.d Council Action: Adopt Final Preferred Alternative (06/17/09; 5:10 p.m.)

Ms. Vojkovich moved (Motion 30) to adopt, from Agenda item E.11.d, Supplemental Motion in Writing (CDFG):

1. Divestiture of non-overfished species quota shares in excess of adopted control limits will be an element of the PFMC's Trawl Rationalization Program.
2. The date through which permit acquisition will be qualified is November 8, 2008. Permits acquired after that date, and the attending catch history, will not be used in calculating a permit holder's quota share (on a species or aggregate basis). This qualifying date only applies to the amount of quota shares above the control limit.
3. The permit holder will be allowed to utilize all of the quota pounds associated with their permits until divestiture is completed.
4. Quota share holders have full flexibility of divesting excess quota shares as long as they follow quota share transfer rules and procedures developed by NMFS for this Trawl Rationalization Program.
5. Divestiture will not require or limit the transfer of a LE [limited entry] trawl permit.
6. The divestiture period is defined as a 24 month period (two years) immediately following the end of the moratorium on quota share transfer.
7. Full divestiture must be completed, and quota share control limits (on a species or aggregate basis) attained by December 31 of the fourth year after implementation of the program.
8. Any quota shares not fully divested by the above date will be revoked and re-distributed on a pro-rata basis to the rest of the shoreside trawl fleet. No compensation will accrue to the divesting QS holder for any revoked shares.
9. For divestiture purposes, those in excess of control caps are held to the control limits even if those limits happen to change after year one of the program.

Ms. Fosmark seconded the motion.

With respect to inclusion of the divestiture option (Item #1), Ms.Vojkovich noted that the GAP is supporting divestiture, that there are individuals that don't know if they are over any of the accumulation

limits, and that there are differing interpretations as to the meaning of the November 2003 control date. Inclusion of a divestiture option will make this program more like many other successful individual quota programs. The qualifying date provided in Item #2 was chosen based on the completion of action on the major elements of the IFQ program at the end of the day on November 7. November 8 aligns with the time period after the action. The last sentence of Item #2 is intended to make it clear that anyone buying a permit after that date is not affected by the date, as long as the amount of QS they would receive is less than the control limit.

With respect to Item #3, Ms. Vjokovich noted that allowing those with excess QS to receive the QP associated with their permits addresses concerns about community stability and the avoidance of major disruption as well as providing supply to the market. Individuals should be able to receive those QP and use them as they would any other QPs issued for QS.

Item #4 addresses questions that had arisen about how people would divest their excess shares, the kind of formulas that would be used, and so forth. It is much easier to allow those with the excess QS to figure out how they need to divest to meet their fishing strategies and arrange for QS purchasers than to have government do it through regulation. This is more administratively efficient and keeps the provision as simple as possible.

Item #5 is just a clarification that this motion is about QS not the LE permits. Item #6 applies the transfer moratorium to all permit and QS holders in order to allow time for the QS market to develop and for people to make decisions. This allows time for everyone to figure out what they are going to do. It also makes it more likely that the Council will have completed its work on community fishing associations (CFAs) and CFAs will have had a chance to form before divestiture must be completed, providing a total of four years for all of these activities to take place.

Items #6, #7 and #8 go together to make sure that divestiture occurs over the two year period with revocation for any excess QS that has not been divested. Item #8 is worded to reinforce the concept that QS are privileges, not rights, and to ensure there is no assumption on the part of the entity holding excess QS that they might be compensated for shares they have not divested of by the end of the divestiture period. Item #9 is included because it is prudent to state that with the start of this program we have established limits and those limits should stay in place with respect to the requirements that individuals divest down to that level.

Mr. Lockhart moved to amend the motion (Amendment #1 to Motion 30) to include after the first sentence of Item #2, "Any such permit acquisition would have to be on file with the NMFS permit office by the end of November 30, 2008." Mr. Moore seconded the amendment. The purpose was to reduce the opportunity for people to say their permit was transferred before November 8, 2008 and that the transfer had just not been filed until later. Amendment #1 to Motion 30 was withdrawn.

Mr. Lockhart moved to amend the motion (Amendment #2 to Motion 30) to include after the first sentence of Item #2, "Any such permit acquisition would have to be on file with NMFS permit office by the end of November 30, 2008" and in the next sentence replace the words "that date" with "after November 8, 2008." Mr. Moore seconded the amendment. Amendment #2 to Motion 30 passed unanimously.

With respect to Item #9, Mr. Seger asked about the intent of applying the provision in the event that the Council decreased a QS control limit, i.e. would QS holders only have to divest down to the original control limit or down to the decreased limit. Mr. Moore commented that in such situations everyone

would have to divest down to the new lower limit. In response to a question from Dr. Hansen it was clarified that if there is an increase in the control limits, those in excess of the limits would have to divest down to the original limit but then could buy back up to the new, higher control limit. Mr. Moore moved Amendment #3 to Motion 30 to change the wording of Item #9 from “even if those limits happen to change” to “even if those limits increase.” Mr. Warrens seconded the amendment. Ms. Vojkovich agreed with the motion because it was her intent for people to divest and not to speculate that there might be an increase. Amendment # 3 was not voted on (replaced by a substitute amendment).

Mr. Anderson made a substitute amendment (Amendment #4 to Motion 30) to change Item #9 to read “For divestiture purposes, persons or entities that hold QS in excess of the control limits established by the Council on 6/18/2009 must divest such excess shares during the 24 month divesture period identified in item #6 of this motion.” Mr. Cedergreen seconded the amendment.

Mr. Anderson identified that the motion uses consistent terms with respect to the terms “limits and “caps” and “persons” and “entities,” references that persons over limits are held to the limits established at this meeting, and references the 24 month divestiture period provided in the main motion. If we lowered the control limit, it brings another decision point, the required divestitures. That situation can be addressed at the time, if it happens. The June 18, 2009 date references the wrap-up motion that will take in all previous actions by the Council, including the control limits previously adopted by the Council for non-overfished species. Amendment #4 to Motion 30 passed unanimously.

Mr. Lockhart spoke to the fairness and equity of the motion. There are two groups to consider, those that chose to buy permits after 2003 and those that didn't. There is at least some confusion as to what the 2003 control date applies to. He views this as fair to both because those that did buy additional permits after that time are being allowed to partially recapture that investment by being given the QS and QP; and, in fairness to those that did not acquire additional permits because of the control date, those buying additional permits are being required to divest by a time certain. It recognizes the decisions being made by those on both sides of this issue.

Mr. Anderson acknowledged the tough issues and strong feelings about divestiture and use of shares in excess of control limits. He indicated that if things had been static during the long period this program has been under development he might feel differently. However, changes have occurred, not the least of which was the buyback program. The buyback had unintended consequences to certain ports. The business communities of the groundfish industry have tried to mitigate for those consequences, some of those mitigating actions included acquisitions of permits. This is a balance to try to achieve a fair and equitable approach given the things that have occurred over this time period. It gives people the opportunity to divest of investments they made that don't adhere to the limits established by this program and allows them to do it in a way that maintains the stability of fishery dependent communities and fleets.

Mr. Steve Williams supported the motion. There are a number of opinions about other dates that might be better, however, he supports November 8, 2008 as a cut-off date because of the length of time we have worked on this, the changes that have occurred to the program, and November 8, 2008 represents a decision that was made in finality with regard to grandfathering clauses. We don't know exactly why people made their decisions, however, after that date no one would have logically made a decision to purchase permits potentially in excess. With respect to the length of time provided for divestiture, the testimony on what it would take to divest, how difficult that might be, and the amount of work required to divest indicates that the four-year period is appropriate. This is a fair way to allow people to recoup investment in the fishery regardless of why or how they made it.

Mr. Moore moved (Amendment #5 to Motion 30) to change Item #8 from “shoreside trawl fleet” to “shoreside QS holders.” Mr. Warrens seconded the motion. This clarifies that it applies to any QS holder, not just members of the fleet. Amendment #5 to Motion 30 passed unanimously.

Motion 30 passed unanimously as amended.

Mr. Anderson moved and Mr. Steve Williams seconded a motion (Motion 31) to adopt the following for accumulation limits:

1. Confirm the Control and Vessel Limits for all non-overfished species consistent with the preliminary preferred option, as specified in Agenda Item E.11.a, Attachment 1, Table 1 on page 2.
2. Adopt Control Limits for all overfished species consistent with Table F of Agenda Item E.11.b, GMT Report (page 21). Set Vessel Limits equal to the Control Limits. Permit owners may replenish their vessel accounts back to the Control/Vessel Limit, as quota pounds are used. Vessel accounts will be subject to an annual Cumulative Usage Limit set equal to the Vessel Limit percentages identified in Table F (page 21, Agenda Item E.11.b, GMT Report). If widow rockfish is declared rebuilt before initial allocation of QS, set the Vessel Limit equal to 1.5 times the Control Limit.
3. For Pacific halibut, adopt a Control Limit of 5.4 percent and a Vessel Limit equal to the Control Limit. Allow quota pound holders to replenish their vessel accounts up to the vessel limit, as quota pounds are used. Vessel accounts will also be subject to an annual Cumulative Usage Limit of 14 percent.
4. The Council will revisit vessel Cumulative Usage Limits for overfished species and Pacific halibut in the first biennial specifications process after implementation of the trawl rationalization program.

Mr. Anderson said this is a hybrid of the proposals we have heard this week, in particular the proposal by the Groundfish Advisory Subpanel (GAP). He stated his understanding that the control limits set were derived by Mr. Burden’s analysis using our bycatch model and the ratios of target species to overfished species. The vessel limits were derived from looking at the data in Table F of the GMT report and looking at the lightning strikes, tows with substantial numbers of overfished species taken in a single tow. Also, the values proposed for halibut are derived from the same kind of analysis (5.4 percent looking at ratios of target species to halibut); and the 14 percent accumulative usage limit also came from looking at the disaster type tows. In this motion he used a new term: the cumulative usage limits. Vessels would be allowed to replenish their accounts in order to access remaining target species, up to the cumulative usage limit. Under this motion, the vessel limit column on Table F in the GMT report would be relabeled as the cumulative usage limit.

This is different from target species where vessel limits are set above control limits. If vessel limits were set above control limits for overfished species it would give more opportunity for someone to amass QP of overfished species that they did not necessarily need (control limits are based on the ratios needed to access target species). You can only replenish the account if you need it and at the same time it puts an upper limit on the total amount that can be accumulated, consistent with the data we have for the lightning strike situations. The reason the cumulative usage limit is provided, rather than having it open ended as proposed by the GAP, is that if you need to do this more than what is estimated by the model, you are not

being as conservation oriented as you should be. In that situation, you should not be given additional opportunities to replenish your account with overfished species. This keeps a solid conservation message about the expectation that fishers will change their behavior in a way that reduces interactions with overfished species. In response to a question from Mr. Wolford, Mr. Anderson clarified that the Table F values to use would be 8 percent control and 15.4 percent cumulative usage limit for bocaccio and 8 percent control and 11.5 percent cumulative usage limit for cowcod.

Mr. Lockhart appreciated rationale provided by Mr. Anderson on the need to balance flexibility and conservation. He noted that with this approach some fishermen could accumulate up to twice as many overfished species as is required to access the target species control limits. He asked whether there was concern that this might create a target opportunity for overfished species. Mr. Anderson stated he was not concerned that targeting would occur because the values under the control limit were derived looking at the ratio of overfished species needed to take target species. Recognizing that with overfished species the amount of fish is small, while an opportunity is provided to replenish up to that cumulative usage limit, the cost of replenishing the account is very high cost and a big deterrent. It is likely that fishers are not going to want to incur those costs, lowering profits from harvesting the associated target species. There will be substantial incentive for fishers to fish cleanly. Further, there would not be a conservation issue since harvest is controlled through the limited number of pounds available. During further discussion it was clarified that overfished species QP would not be held back at the start of the year.

Mr. Wolford moved Amendment #1 to Motion 31 to adopt for bocaccio a control limit of 13.2 percent and a cumulative usage limit of 15.4 percent; and for cowcod a control limit of 17.7 percent and a cumulative usage limit of 17.7 percent. Ms. Vojkovich seconded Amendment #1 to Motion 31. Mr. Wolford noted that based on previous presentations made to the Council, limits at these levels would not create problems in the functioning of the markets. These values are more consistent with the methods used for other species.

Mr. Lockhart asked Mr. Burden about the nature of the GMT concerns with control limits at the high end of the range for bocaccio and cowcod. Mr. Burden noted that the values were high enough that they were worthy of some pause. The GMT was not unanimous and he could not say with much degree of certainty whether or not those numbers are too high. Mr. Lockhart noted some outliers for darkblotched and asked why truncation was not proposed for that range in a manner similar to what the GMT had proposed for bocaccio and cowcod. Mr. Burden noted that the top of the range of values for darkblotched was not enough to create concern. Mr. Lockhart asked Mr. Wolford if the numbers proposed in his motion gave him any pause with respect to conservation. Mr. Wolford responded that for the control limit the question is what does it take to control the market, and based on previous presentations made to the Council, he did not feel these numbers created a problem in that regard. Ms. Vojkovich noted that for these two species harvest is geographically restricted and taken by only a small number of vessels. Taking a smaller number than what has been required in the past just because we are uncomfortable with the number does not seem like a reasonable approach if we are trying to have people maximize their fishing opportunity. She did not see the justification for using a different method for these southern species just because the method results in a large number, given that the number is below that needed to control the market. Amendment #1 to Motion 31 passed unanimously.

Ms. Vojkovich asked how the end result is different than the approach for target species from a conservation perspective and in relation to the concept of the IQ system and a market-based approach. Mr. Anderson replied there is one fundamental difference between the way this motion deals with overfished species and the way we are dealing with target species. An individual is limited from acquiring additional QP over and above what the analysis suggests they need to access their target species

QS. We are proposing this approach for overfished species so we don't set up a system whereby an individual would acquire overfished species (which are in limited supply) in excess of what they need to prosecute their target species. It prevents banking of unused or unneeded overfished species QP for the purposes of speculating and selling those at premium inseason. There is a ceiling on vessel limits for target species just as there is for overfished species, so, it is not a totally free market system in either case. The reason for those limits is that we want to make sure the fishery doesn't consolidate into a very small number of vessels controlling the entire west coast. However, for overfished species this proposal constrains the potential for individuals to attempt to profit by banking overfished species QP that they do not need but which are going to be needed to prosecute fisheries on targeting species. It doesn't say there isn't opportunity to bank QP even within the limits we have. If someone fishes very cleanly, they will have QP of overfished species they may sell or lease to someone who needs them as the fishery progresses through the year. From a market driven perspective, this is consistent with what we are doing with target species with the exception of limiting the opportunity for banking of QP for a speculative purpose.

Mr. Lockhart said he had been concerned about the lack of an upper limit on the unused QP approach but with that limit in place, those concerns are addressed and in particular his conservation concern about there being "unlimited refills." Specifying that the cumulative limits would be reviewed during the first biennial specifications process after implementation addressed concerns he had about getting it right. This addressed most of his concerns, though not all. This provides some limited flexibility to fishermen without compromising the conservation goals of the program.

Mr. Steve Williams supported the motion. He noted with respect to overfished species the need to balance not being too liberal with having a control limit that will allow people to get their target species. We looked at several control limits and these are about as good as we are going to get. He had been concerned about the open-endedness of the unused QP approach. With the backstop of the cumulative limit, that concern is addressed. This proposal provides a good measure of control up front but at the same time provides flexibility if a problem occurs. The cumulative vessel limit provides a description of what might be needed. It does not automatically allow a fisherymen to jump right to the cumulative annual limit, preventing hoarding. At the same time it allows some acquisition of additional QP that might be needed to access target species. This is as good of a place to start as we are going to find in this process. Item #4 allows us to go back and revisit this as necessary, however, he is hoping that with the unused QP limit and cumulative usage limit we will not have to revisit the issue. The process appears to be fairly straightforward and direct. This is a good hybrid approach that provides the needed conservation.

Ms. Vojkovich noted that as currently specified, the revisitation of this issue was mandatory. She moved to amend (Amendment #2) to change Item #4 to read: "The Council may revisit vessel Cumulative Usage Limits for overfished species and Pacific halibut in the first biennial specifications process after implementation of the trawl rationalization program." Mr. Lockhart seconded Amendment #2 to Motion 31. The amendment changed "will revisit" to "may revisit." Amendment #2 to Motion 31 passed unanimously.

Ms. Vojkovich voiced her support for Motion 31. She has some concerns about bocaccio and cowcod and believes that the limits may have to be reconsidered when we get data in. She understands the need to try to save some people from themselves, and the concern over hoarding, but is hoping that some of the things we think might happen won't happen and eventually we can get into something more simple.

Motion 31 passed unanimously as amended.

Dr. Hanson moved (Motion 32) to adopt the second bolded item contained in Agenda Item in E.11.b GAC Report, dropping “The GAC recommends” so that it states “QP transfers would be allowed only from QS holders to vessels and from one vessel to another.” Mr. Moore seconded the motion. The motion did not include the last bolded sentence. Dr. Hanson noted the rationale provided in the GAC report and the intent to keep QP tied to vessels so there is a maximum likelihood of them being fished. It prevents QP from being held “up on somebody’s shelf.” Because it is transferred to a vessel does not mean it will automatically be used but hopefully it increases the probability. Motion 32 passed unanimously.

Mr. Lockhart asked if it was the Council’s intent to allow risk pools to form; he has heard no one speak against it. He stated it is the General Counsel’s intent that when this program is implemented, to the extent possible, NMFS should allow the formation of these risk pools such that they allow fishermen the flexibility to select strategies that keep them away from overfished species without undermining the effect of accumulation limits. Mr. Moore agreed with the approach and noted that the way these are described, they are voluntary arrangements among QP or QS holders designed to maximize efficiency and the ability to harvest available target stocks without going over accumulation limits and hopefully minimizing the take of overfished species and other species of concern. This sort of efficiency combined with conservation is what the whole IQ program is designed to encourage. Mr. Lockhart indicated that this would be brought back to the Council via the deeming process and the Council would have a chance to review this.

Ms. McCall clarified that the risk pool agreement is one in which two people can enter into an agreement whereby if one person needs some extra QP the other would agree to provide the QP if he has them. She noted that for those kinds of agreements, whether informal or formal, as other considerations or conditions are added to the agreement there is a point at which the agreements begin to become control. You have limits on control but at the same time you want to have an allowance for pooling agreements of this type so long as the agreements do not become control. That is the kind of issue they will try to draft, clarify, and work on during the deeming process. Mr. Moore noted that the Council is not looking at the pools as control, but more as a voluntary cooperative arrangement to meet both efficiency and conservation goals along with the limits that have been set on accumulation. Mr. Steve Williams noted that in the GAC discussions of this issue the key words were “flexibility,” “voluntary,” and “informal.” Ms. Vjokovich stated that her understanding was that they may also be formal arrangements.

E.12 FMP Amendment 20 – Trawl Rationalization—Final Action for Adaptive Management Program (06/18/09; 10:16 a.m.)

E.12.a Agenda Item Overview

Mr. Burden provided the agenda item overview.

E.12.b Reports and Comments of Management Entities and Advisory Bodies

Mr. Corey Niles and Mr. Robert Jones provided the agenda Item overview (Agenda Item E.12.b, Supplemental GMT PowerPoint). Mr. Jones read Agenda Item E.12.b, Supplemental GMT Report. Dr. Martin Dorn provided Agenda Item E.12.b, Supplemental SSC Report. Mr. Tommy Ancona read Agenda Item E.12.b, Supplemental GAP Report.

E.12.c Public Comment

Mr. Shems Jud, Environmental Defense Fund, Lake Oswego, OR
Ms. Laura Pagano, NRDC, San Francisco, CA
Mr. Zeke Grader, PCFFA, San Francisco, CA
Mr. Ed Backus, EcoTrust, Portland, OR
Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA
Mr. Tom Libby, Point Adams Packing Company, Astoria, OR
Mr. Andrew Bornstein, Bornstein Seafoods, Bellingham, WA
Mr. Jay Bornstein, Bornstein Seafoods, Bellingham, WA
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR (on screen proposal)

E.12.d Council Action: Adopt Final Preferred Alternative

Mr. Lockhart moved and Ms. Vojkovich seconded a motion (Motion 33) that the Council adopt as final action the motion that was adopted preliminarily in April 2009 with one change. This motion is contained in Agenda Item E.12.a, Attachment 1 in the briefing book and the only change is that the blue language which reads "Amendment 1 (passed): include a non pass through option under methods for allocating Adaptive Management Program (AMP) QP to be used in the first or second year (include all objectives)" would be struck.

Mr. Lockhart then spoke to the motion. With respect to goals, he sees that all of the listed goals and objectives should remain unprioritized, recognizing that choices on priorities may be made in the future. The main goal of the adaptive management program (AMP) is to respond to unintended consequences as well as these other objectives. The rest of the motion basically spells out the way to get to a final program; however, he did not think we are ready to design anything up front. Therefore the motion spells out a way to get to a full AMP, phasing it in over time. For the first two years of the program there would be a pass-through, and the AMP QS would be distributed to permit holders in the same way the other 90 percent is distributed. During this time, Council staff will work with states and NMFS to determine the details of the formula for determining community and processor eligibility as well as methods for allocating consistent with additional goals. In years three to five of the program, the formulaic approach developed in the first years would be used to distribute the QS. There was a lot of work by the GMT and public on formulas which might be considered. With respect to the decision making structure, a range of options is left open. The decision on that structure would be made later. One of the main reasons for the pass through is that we have heard a lot of discussion about the infrastructure being in poor shape. Providing this pass through in those years provides the industry an opportunity to recoup from a period of bad years. Also, we need to see how this program is going to work, and by getting all the QP out according to the same formula we are using for QP distributed for QS it will allow fishermen to work with processors in unique ways. It will allow processors to figure out how it will work. Those results may inform us in our ultimate decision making. The final reason for the pass through is workload. This gives us time to see how the program plays out and think about this a little more. There has been discussion about having this sunset but this is left open for additional decision making at the five year review. This does not mean the program should last forever but right now we don't know how long it should last.

Mr. Moore asked about the methods for allocating AMP QP. The GMT came up with several methods in their report and there were suggestions in the public testimony; would the intent be to look at all of these things and more? Mr. Lockhart responded affirmatively. Also, Mr. Moore asked whether the decision making structure beyond those outlined as options in the motion might be considered. Mr. Lockhart

responded that a fairly broad range might be considered. During later discussion, Mr. Lockhart characterized the options as examples.

Mr. Mallet asked about testimony from processors and the fishing community to see a one year pass through. Mr. Lockhart said the reasons for two years of pass through was that it aligns with the biennial specification process and the lack of time to work on it and have it in place for year two. He also questioned making a dramatic change in the second year of a biennial specifications process.

Mr. Anderson moved Amendment 1 to Motion 33 to strike the sentence “QP distributed consistent with the formulas developed during the first two years.” Mr. Cedergreen seconded the amendment. Prior to making the motion, Mr. Anderson indicated that this seemed obvious and did not need to be stated. Amendment #1 to Motion 33 passed unanimously.

Mr. Steve Williams moved Amendment #2 to the motion to begin implementation in year two. Mr. Warrens seconded the amendment. The intent of the amendment is to keep the motion intact but reflect implementation of the program in year two.

Mr. Steve Williams’ main concern in delaying implementation until the third year is that we will not get back to it without some push to accomplish it, momentum will be lost. We also heard public testimony that if we wait until year three of the program it may be too late to address some things, or to address them effectively. Mr. Lockhart said if the Council does or does not go through the process to develop it, it will also take a rulemaking for implementation; if we cannot implement in year two, would it be your intent that the pass-through would continue for year two? Mr. Williams responded affirmatively.

Mr. Lockhart moved to amend the motion so that if the Council is not ready, or the rulemaking supporting Council action is not ready, that the pass-through would continue during year two. Ms. Fosmark seconded the amendment. Mr. Williams responded that the motion would give us outs and there would be no push behind it. Mr. Lockhart withdrew the amendment. The second concurred.

Amendment #2 to Motion 33 failed on a roll call vote (7 yes, 7 no). Voting no were Mr. Sones, Ms. Vojkovich, Mr. Lockhart, Mr. Anderson, Mr. Wolford, Ms. Fosmark, and Mr. Hansen.

Main Motion 33 passed unanimously.

The Council then returned to finish business left undone on Agenda Item E.10.a. Mr. Moore moved (Motion 34) that the Council adopt the amendments to the groundfish FMP as shown in Agenda Item E.10.a, Attachment 3 as modified by Agenda Item E.10.a, Supplemental Attachment 6. Mr. Anderson seconded the motion. After a clarification that this language would not require that the Council move forward with IFQ for other fishery sectors, Motion 34 passed unanimously.

Mr. Frank Warrens and Ms. Kathy Fosmark jointly moved (Motion 35) to have the Council direct staff to draft and submit to NMFS the complete Amendment 20 package of final Council actions, Draft Environmental Impact Statement (DEIS), supporting analyses, and other documents necessary for the approval and implementation of Amendment 20. The Council's final actions which constitute Amendment 20 shall include the final trawl rationalization action taken by the Council in November 2008 and further additions or modifications made during final action in March and April 2009 and under Agenda Items E.10, E.11, and E.12 of the current (June) Council meeting. Staff is authorized to draft, change, and correct the necessary documents to reflect the Council's intent in its adoption of this final

Amendment 20 package. The Council recognizes that NMFS may, if appropriate, implement Amendment 20 in a series of regulations. Motion 35 passed unanimously. Mr. Sones seconded the motion.

Council went into a closed session from 1:35 p.m. until 2 p.m. on June 18, 2009. Discussion on stipends, position description for Don Hansen.

F. Highly Migratory Species Management

F.1 Council Recommendations to International Regional Fishery Management Organizations

F.1.a Agenda Item Overview (06/14/09; 10 a.m.)

Dr. Dahl provided the agenda item overview.

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

Dr. Stephen Stohs presented Agenda Item F.1.b, Supplemental HMSMT Report. Dr. Stohs added an additional recommendation orally, which is that the U.S. delegation to the Northern Committee consider any conservation recommendations for North Pacific swordfish adopted by the International Scientific Committee for Tuna and Tuna-like Species Plenary (ISC), to be held July 8-20, 2009. Mr. Doug Fricke presented Agenda Item F.1.b, Supplemental HMSAS Report. He also summarized some of the points made in the comment letter included as Agenda Item F.1.a, Supplemental Attachment 3.

F.1.c Public Comment

Mr. Chip Bissel, American Albacore Association, Seattle, WA
Mr. Doug Fricke, Washington Trollers Association, Quilcene, WA

F.1.d Council Action: Approve Recommendations on Highly Migratory Species Management to the Northern Committee of the Western and Central Pacific Fisheries Commission

Chairman Hansen asked Mr. Helvey about whether extending the public comment period on the proposed rule implementing Western and Central Pacific Fisheries Commission (WCPFC) requirements (see Agenda Item F.1.a, Supplemental Attachment 2) was feasible, given that it ended on June 22, 2009. Mr. Helvey said it is possible. Mr. Judson Feder, NOAA General Counsel (GC) also said it was possible, although unlikely.

Mr. Moore recognized that the proposed rule (Agenda Item F.1.a., Supplemental Attachment 2) represented U.S. compliance with the WCPFC but it seemed like the requirements were focused on particular fisheries while other U.S. fisheries were getting swept up in the requirements. He asked Mr. Helvey if that is a fair assessment. Mr. Helvey said the Commission covers all nations fishing on highly migratory species (HMS), rather than focusing on particular gears or vessels. Mr. Moore clarified that he wondered if the requirements were meant to enforce management measures, such as closed areas in the far western Pacific, but also affected a small number of west coast vessels fishing in the Convention area. He wondered if there is a conservation problem related to these relatively small albacore troll vessels. Mr. Helvey said the thought there was some flexibility with regard to the observer requirement, but probably not with respect to VMS.

Ms. Culver recalled the observer coverage plan reviewed by the Council some years ago and noted that there are current regulations for the west coast HMS fleet with respect to observer coverage. She thought that the proposed regulations for WCPFC compliance were in line with the observer coverage plan and regulations.

Following up on Ms. Culver's point, Dr. Dahl noted that under the WCPFC regional observer program as long as the NMFS observer program is compliant, then the existing procedures or level of coverage would continue to apply. Therefore, the current observer coverage plan would likely be rolled into meeting the requirements for the WCPFC.

Mr. Myer noted that the VMS requirements in the proposed rule appeared more lenient than some of the current regulations applicable to west coast vessels. He felt the proposed rule was consistent and written fairly well.

Mr. Cedergreen asked if current rules regarding vessels unable to accommodate observers would apply under the proposed rule. Mr. Helvey said that he thought the proposed rule has that flexibility.

Ms. Vojkovich wanted to remind everybody that the Council has spoken in the past, in September 2008, on the issue of vessel marking requirements.

Ms. Fosmark discussed some of the operational challenges of fishing west of 150° W. longitude and how it would be affected by the observer and VMS requirements in the proposed rule. She asked if all vessels would be required to carry VMS with only those going beyond 150° W. longitude having to turn them on. Mr. Helvey said he thinks at the international level that these types of requirements was the trend. Ms. Fosmark asked if the vessel marking requirement was similar. Mr. Helvey indicated yes.

Mr. Moore asked how closely SWR had worked with the Pacific Islands Regional Office on developing the proposed rule, given that it seemed to focus more on Hawaii-based vessels rather than west coast based vessels. In reviewing the comments received, he thought the two regions should work closely together. Mr. Helvey said the two regional offices do work together, but on this particular rule he did not know specifically what interaction had occurred.

Ms. Vojkovich moved (Motion 6) to have the Council draft a letter to the U.S. delegation attending the next Northern Committee meeting. Relative to Agenda Item F.1.b, Supplemental HMSMT Report, the letter should contain the recommendation #1 for northern albacore, recommendations #1 and 2 for striped marlin, and express our interest/recommendations on stock assessment for northern bluefin tuna. Noting that they may be separate issues related to the WCPFC more generally, she moved to include the recommendations relative to albacore about WCPFC members providing fishing effort information and that the WCPFC participate on the Inter-American Tropical Tuna Commission (IATTC) working group formed to consider definitions of "current levels" of fishing effort. Mr. Helvey seconded Motion 6.

Ms. Vojkovich said that relative to the issues on stock assessment and cooperation between the WCPFC and IATTC, both the Highly Migratory Species Management Team (HMSMT) and Highly Migratory Species Advisory Subpanel (HMSAS) are pretty much on the same page, although the HMSAS did not talk about reference points. The Council has made comments several times before about the need for a striped marlin stock assessment and the need to add striped marlin to the Northern Committee list of stocks. She said she felt the Council didn't need to address the recommendations in the HMSAS report on the proposed rule, given previous discussion.

Mr. Moore asked if Ms. Vojkovich intentionally omitted the second recommendation on North Pacific albacore in the HMSMT Report. Ms. Vojkovich said that was to be addressed in the second part of the letter as outlined in the motion.

Mr. Moore said he was still confused and asked for further clarification. Ms. Vojkovich said all five of the HMSMT's recommendation are included in the motion, she just organized them a little differently.

Mr. Helvey noted that it is a requirement for parties to report their current level of fishing effort at the next Northern Committee meeting.

Mr. Steve Williams asked whether the recommendation made orally by Dr. Stohs with respect to recommendations on swordfish management was included in the motion. Dr. Dahl summarized the HMSMT's discussion about the preparation of a North Pacific swordfish stock assessment and its adoption at the upcoming International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC) Plenary meeting.

Mr. Helvey clarified that the ISC Plenary might develop conservation measures for North Pacific swordfish, based on the stock assessment, and it was the HMSMT's recommendation that these be considered by the U.S. delegation.

Mr. Helvey moved an amendment to the motion to include the HMSMT recommendation regarding swordfish in the motion. Mr. Rod Moore seconded the amendment to Motion 6.

Amendment to Motion 6 passed unanimously.

Motion 6 passed unanimously.

G. Administrative Matters

G.1 Membership Appointments and Council Operating Procedures (06/15/09; 3:46 p.m.)

G.1.a Agenda Item Overview

Dr. Coon provided the agenda item overview. He also referenced Agenda Item G.1.a, Supplemental Attachment 1.

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

None.

G.1.c Public Comment

None.

G.1.d Council Action: Consider Changes to Council Operating Procedures and Appoint Council Chair and Vice Chairs and New Advisory Body Members as Needed

Mr. Mallet moved and Mr. Moore seconded a motion (Motion 15) to appoint Mr. Dave Ortmann to the position of Council Chair for the 2009-2010 term. For the two Vice Chair positions for the 2009-2010 term: reappoint Mr. Mark Cedergreen, and appoint Mr. Daniel Wolford to his first term as Vice Chair.

Motion 15 passed unanimously.

Mr. Sones moved and Mr. Warrens seconded a motion (Motion 16) to appoint Mr. Roger Bain to the Tribal Fisher position on the GAP to complete the remainder of the 2007-2009 term.

Motion 16 passed unanimously.

Mr. Steve Williams moved and Mr. Cedergreen seconded a motion (Motion 17) to create an ad hoc Salmon Plan Amendment Committee to help develop Amendment 16 to the Salmon FMP which deals with catch control measures and overfishing (Agenda Item G.1.a, Supplemental Attachment 1). Motion 17 passed unanimously. Chairman Hansen appointed those listed in Supplemental Attachment 1 to the committee, with the exception of Ms. Mariam McCall and Ms. Eileen Cooney. Ms. Cooney explained that it is sufficient that NOAA General Council be represented by Ms. Sheila Lynch. At the request of Mr. Steve Williams, the Chairman also appointed Mr. Ron Boyce, Oregon Department of Fish and Wildlife (ODFW), to the committee. WDFW and the Northwest Indian tribes may provide nominees to the Chair at a later time.

Chairman Hansen announced his nomination of Dr. Dave Hanson to NOAA's Catch Shares Task Force and Mr. Jim Seger to the Catch Share Working Group. These are the work groups identified by Dr. Lubchenco at the Boston CCC meeting that have been established to help NOAA facilitate the consideration and adoption of catch shares as a national fishery management strategy.

Ms. Vojkovich asked what the two catch share groups do. Dr. David Hanson said the task force looks at big picture issues for implementing catch shares and their task is to be done by August 1, 2009. The Catch Share Working Group is more technical in nature and will serve over a longer time to advise NMFS on technical aspects of catch shares program, the nominations need to be in by June 22, 2009. Dr. Coon said there is also a CCC catch work group. Ms. Vojkovich was aware that with regard to membership on the task force we are just forwarding a nomination. Dr. Coon said on the second group it was unclear about the selection process. Dr. Hanson said the document does not provide clarification. Ms. Vojkovich asked if there would be input from the Council if they were not selected? Dr. Hanson said my guess is that they will pick one from each coast. If Alaska gets on, he guarantees that he will be working with them to convey our Council's input.

Mr. Lockhart said that both he and Mr. Helvey will do their best to provide communication and liaison as we find out what is going on with the committee participants.

G.2 Fiscal Matters

G.2.a Agenda Item Overview

Dr. Coon provided the agenda item overview.

G.2.b Budget Committee Report (06/18/09; 2:31 p.m.)

Mr. Jerry Mallet read Agenda Item G.2.b, Supplemental Budget Committee Report.

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

None.

G.2.d Public Comment

None.

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

Mr. Warrens moved and Mr. Moore seconded a motion (Motion 36) to approve the recommendations of the Budget Committee as shown in Agenda Item G.2.b, Supplemental Budget Committee Report. Motion 36 passed unanimously.

G.3 Proposed Rule on Council Operations

G.3.a Agenda Item Overview (06/18/09; 2:36 p.m.)

Dr. Coon provided the agenda item overview which included staff comments on each of the proposed regulation changes (G.3.a, Attachment 1), the proposed rule (G.3.a, Attachment 2), a proposed draft response letter (G.3.a, Supplemental Attachment 3), and a history of the Council's position on stipend payments (G.3.a, Supplemental Attachment 4). Dr. Coon noted that staff supported most of the proposed regulations which were mainly housekeeping in nature. The issues of concern to staff were: the definitions of advisory panels (which raise definite problems with regard to payment of stipends and the way regional councils use panels); and the lobbying restrictions which are confusing and do not recognize the regional councils' special advisory role under the MSA.

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

None.

G.3.c Public Comment

None.

G.3.d Council Action: Provide Comments on the Proposed Rule

Mr. Moore said he is not concerned with the proposed language on lobbying, but has no problem with the recommendation made in the draft letter. He agrees with the recommendation for allowing regional councils to define their panels and who they will pay stipends to. Further, the proposed definitions for advisory panels and fishing industry advisory committee do not comport with the legislative history for establishing those panels.

Mr. Lockhart said that since the letter is to NMFS, he will be abstaining, but is in support of having the Council send the letter.

Dr. Coon said we would anticipate this letter and several similar letters from the other Regional Fishery Management Councils (RFMCs) will cause NMFS to reassess the final rule based on the information they receive. Mr. Steve Williams said it sounds like there is more clarity needed from NMFS before we make final decisions on stipends. Dr. Coon agreed and said he would expect more information will come; but he is not sure how fast NMFS will come back with the proposed rule or changes. In the interim, the Council needs to decide how to handle the stipend funds for SSC members since funds are available. No funds have specifically been made available for advisory panels.

Mr. Mallet, regarding this interim period, asked Mr. Lockhart if he could relay some of our discussion on needing clarity about what we can and cannot do to the appropriate people in NMFS. Mr. Lockhart said he had already put it on his to do list.

Dr. McIsaac asked if there was consensus for the recommendations in the draft letter with the changes discussed. The staff will take the sense of the comments provided in the discussion and include them in the letter to NMFS in time to meet the comment deadline. The Council concurred.

G.4 Approval of Council Meeting Minutes

G.4.a Council Member Review and Comments (06/18/09; 2:53 p.m.)

Dr. Coon provided the agenda item overview seeking Council review and approval of Agenda Item G.4.a, Draft March 2009 Council Meeting Minutes. He reported that in the minutes under Agenda Item G.5.d (final action on groundfish Amendment 22, Open Access License Limitation) there was an omission of that part of the Council's discussion following the final motion on that agenda item. He proposed the Council conditionally approve the minutes contained in G.4.a, with the provision that staff would complete the omitted portion and circulate it for Council comment and approval after the Council meeting.

G.4.b Council Action: Approve March 2009 Council Meeting Minutes

Mr. Moore moved and Mr. Wolford seconded a motion (Motion 37) to conditionally approve the Draft March 2009 minutes with the exception of the missing portion from Section G.5.d. That portion would be emailed to the Council members for their review and approval after the Council meeting. Motion 37 passed unanimously. [Following the Council meeting, the missing portion of the minutes was circulated to Council members for review and incorporated in the final March minutes on July 15, 2009.]

G.5 Future Council Meeting Agenda and Workload Planning

G.5.a Agenda Item Overview (06/18/09; 2:27 p.m.)

Dr. McIsaac provided the agenda item overview. He noted that there were two written comments in the briefing book, one from the Coastal Pelagic Species Advisory Panel and one from Mr. Pete Dupuy.

Dr. McIsaac began with a review of the year at a glance (Agenda Item G.5.a, Supplemental Attachment 3) and noted the changes for the September meeting from the previous version. The changes were strike outs of the follow-up on sardine allocation (postpone to November) and the reconsideration of Amendment 22 (permanently postponed). He noted the addition of the Sacramento Biological Opinion and report on the failure of the Sacramento fall Chinook salmon and the addition of an item on ocean

acidification. He also called attention to the November agenda which included an ecosystem plan item as we will definitely receive funding for that this year; and reminded the Council of the September-November process of reviewing advisory bodies and making new appointments for the 2010-2012 term.

Dr. McIsaac reviewed the planner for the September meeting (Agenda Item G.5.a, Supplemental Attachment 4) and noted the changes made since the original briefing book attachment. He asked for input from Council members on the changes and proposed September agenda.

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

Dr. McIsaac provided the Supplemental CPSAS Report which requested that the sardine allocation consideration be postponed to the November Council meeting.

G.5.c Public Comment

Ms. Erika Feller, The Nature Conservancy (TNC), Monterey, California—Reported TNC was hosting a series of workshops on CFAs, plans to provide a written report on the workshops to the Council for the open comment period in September, and requests the Council follow-up with a CFA agenda item in November.

G.5.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning

The Council members worked with Council staff and the Executive Director to develop the workload priorities, and September 2009 agenda.

Mr. Moore recommended the Council include CFAs on the November Council agenda if it was at all possible.

Regarding the September agenda, Ms. Yaremko expressed a preference for maintaining the 10 a.m. start on Sundays. Several Council members agreed that, in general, the later start on Sunday was beneficial. Mr. Moore noted that there is no breakfast available at the hotel Sunday morning.

Mr. Wolford questioned the need for the September agenda items on Marine Debris, Ocean Acidification, and Offshore Aquaculture if they were just informational. Perhaps an evening presentation would be better. Chair Hansen noted how he and others had been surprisingly impressed with the marine debris presentation. Mr. Cedergreen noted that the marine debris and ocean acidification items would be presented at the Pacific States Marine Fisheries Commission (PSMFC) meeting just a couple of weeks prior to the Council meeting and several other Council members would be there as well. Mr. Myer noted there were already two evening functions and was not in favor of having more. He noted the difficulty of being alert for the evening sessions given the long week and Mr. Cedergreen and Mr. Hanson concurred in limiting evening presentations. Mr. Steve Williams also noted that the evening time was important for preparing for the next day's agenda items. With regard to start time on Saturday, he would just as soon start at 8 a.m. as he will have to come in the previous evening anyway. Other Council members agreed. Mr. Cedergreen suggested moving the Chairman's briefing back to Friday as nearly all Council members would be there then. Mr. Lockhart suggested the three information items be informational reports rather than agenda items. Ms. Fosmark expressed support for the aquaculture presentation.

Ms. Yaremko said that in looking ahead to 2010 Council meeting planning, they would like to see an attempt be made to go back to starting the advisory body meetings on Monday afternoon and start the Council session on Wednesday afternoon. This would allow some staff workload relief in that they would have the weekend before the Council meeting off. With the current start on Thursday or Friday, staff ends up working through two weeks with no time off.

Ms. Yaremko noted that the four hours for stock assessments may not be enough considering the significance, complexity, and number of assessments.

Dr. McIsaac summarized the input received from the Council members. With regard to the informational items, he would drop the marine debris item, perhaps have a written report for the ocean acidification, but keep the marine aquaculture item. He proposed that it may be possible to have them together early in the week to reduce their impact on the more critical agenda items. He will maintain the late start on Sunday.

With regard to start times and length of days, several Council members expressed a desire to maintain full days and use any reduction in agenda items to delay the start of the Council session to allow more time at home on the weekend prior to the start of the Council meeting.

Council members expressed their appreciation for the contributions and hard work of the outgoing Chairman Donald Hansen, Mr. Frank Warrens, and Ms. Kathy Fosmark.

H. Coastal Pelagic Species Management

H.1 Pacific Mackerel Management for 2009-2010 (06/16/09; 8:01 a.m.)

H.1.a Agenda Item Overview

Mr. Mike Burner gave the agenda item overview.

H.1.b National Marine Fisheries Service Report

Dr. Paul Crone provided a PowerPoint presentation.

H.1.c Reports and Comments of Management Entities and Advisory Bodies (06/16/09; 9:09 a.m.)

Dr. Dorn read Agenda Item H.1.c, Supplemental SSC Report.

Ms. Vojkovich asked for clarification on what the SSC meant when requesting that the Council “take into account” the alternate assessment model run (AB). Dr. Dorn felt that Dr. Crone expressed it best in that model AA should be viewed as a base-case and model AB as a sensitivity analysis for comparison. Model AB was an attempt to better fit the model output to recent data but, the question is whether the methods used at the STAR Panel are the best methods. The intent of the SSC statement is to inform the Council that model AA is appropriate for considering an ABC value, but the SSC recommends that the Council take a precautionary approach when setting harvest levels for the coming fishing season because model AB is a plausible state of nature.

Regarding the SSC recommendations on when to do the next full assessment, Ms. Vojkovich asked for specifics on what the SSC meant by “substantial” increases in landings triggering the next full assessment. Dr. Dorn said it is difficult to quantify and that the SSC felt that the stock would be a candidate for the monitored species category unless landings in the directed fishery increased. Dr. Hamel clarified that the STAR Panel discussed the matter and concluded that landings over the harvest levels prescribed by model AB (~8,000 mt) would warrant a new full assessment that should include a more thorough analysis of the catch per fishing vessel (CPFV) data. He noted that the current assessment presents a high and low value for management, but lacks a middle value. Dr. Hamel added that the assessment could be improved by taking a year off of the assessment cycle to further refine the data.

Mr. Burner clarified for Mr. Moore and the Council that the harvest control rule for Pacific mackerel results in the ABC which is sometimes listed as the harvest guideline because the ABC is also the maximum harvest guideline the Council can recommend.

Mr. Dale Sweetnam read Agenda Item H.1.c, Supplemental CPSMT Report. Ms. Vojkovich asked how the Coastal Pelagic Species Management Team (CPSMT) arrived at 30,000 mt. Mr. Sweetnam noted that the CPSMT considered the advice of the SSC and weighed the two model outcomes and wanted to present a risk-neutral approach that was a mid-point in the range between model run AA and AB. He noted that the error bars for both model runs included values at approximately 33,000 mt. He added that the CPSMT discussed recent landings that averaged 6,000 mt and felt that landings could increase above that level due to recent decreases in Pacific sardine opportunities.

Mr. Mike Okoniewski read Agenda Item H.1.c, Supplemental CPSAS Report. Mr. John Royal joined him at the podium. Mr. Steve Williams asked if the Coastal Pelagic Species Advisory Subpanel (CPSAS) feels that it is likely that landings will increase considerably in the 2009-1010 season. Mr. Okoniewski stated that fisherman have been reporting increased sightings of Pacific mackerel from spotter planes out looking for bonita. Additionally, Pacific mackerel could have been passed over in the recent past due to opportunities for Pacific sardine and market squid; opportunities that have declined recently.

H.1.d Public Comment

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

H.1.e Council Action: Approve Stock Assessment, Harvest Guideline, and Management Measures

Ms. Vojkovich moved (Motion 18) to adopt the Pacific mackerel stock assessment as shown in Agenda Item H.1.b, Attachment 1. Ms. Fosmark seconded the motion.

Ms. Vojkovich said we have heard considerable concerns from the scientists regarding this assessment although the SSC has recommended to us that it is the best available science. Motion 18 passed unanimously.

Ms. Vojkovich moved (Motion 19) that the Council adopt for the 2009-2010 Pacific mackerel season, an ABC of 55,408 mt and a harvest guideline of 10,000 mt with a 2,000 mt set-aside for incidental catches in other CPS fisheries. Should the fishery attain 8,000 mt, close the directed fishery and revert to an incidental fishery that allows a 45 percent incidental landing allowance when Pacific mackerel are landed with other CPS, except that up to 1 mt of Pacific mackerel could be landed without landing any other CPS. Mr. Wolford seconded the motion.

Ms. Vojkovich spoke to the assessment uncertainty and the bounds for harvest levels presented by the two model runs and recommended by the SSC and their divergent estimates of stock status. She also considered landings over the last 20 years where landings rarely exceeded 20,000 mt and the discussions regarding the likelihood of the 2009-2010 fishery increasing in volume substantially. She noted general agreement and frustration among the STAT and the advisory bodies on the data difficulties for assessing Pacific mackerel including the decline in data sources for informing our understanding of the resource. On the other hand, she did consider the life-history characteristics and resiliency of Pacific mackerel and the industry reports of increasing Pacific mackerel availability and its associate potential for increased landings. She thought given the uncertainty of the current assessment, the Council should likely be looking at recent landings as a guide for harvest policy. This motion is in keeping with landings observed in the last 10 years that average approximately 6,000 mt while providing some room for fishery growth in the coming season by nearly doubling the 6,000 mt to the 10,000 mt in the motion.

Mr. Moore asked if the CPS FMP provides any guidance on whether the 2,000 mt set aside for incidental fisheries is intended for incidental landings within the CPS fleet or is it also intended to cover incidental landings in other non-CPS fisheries such as Pacific whiting. Mr. Burner stated that the CPS FMP is not specific in this regard and that it is his understanding that the 2,000 mt set aside being discussed was envisioned to cover only incidental landings in CPS fisheries. He noted that NMFS would likely be interested in total catch accounting for Pacific mackerel regardless of what fishery it was taken in and that, should the motion pass, there would be a significant buffer between the harvest guideline (HG) and the ABC. In the CPS FMP, the HGs are treated more as a harvest target rather than a hard cap such as the ABC. One mechanism available to NMFS to curtail incidental landings in the CPS fisheries would be to take automatic inseason action to reduce the incidental landing allowance of 45 percent to discourage mixed loads that include Pacific mackerel.

Ms. Vojkovich stated that it was the intent of her motion to only cover incidental landings in the CPS fleet. When reviewing available data, it appears that 2,000 mt should easily address this need, and without data on incidental landings in non-CPS fisheries it is difficult to assess the potential for total incidental landings to exceed 2,000 mt.

Ms. Fosmark spoke in opposition of the motion and in favor of the already conservative harvest strategy proposed by the CPSMT (Agenda Item H.1.c, Supplemental CPSMT Report).

Mr. Helvey said although the current assessment is data-poor, the SSC has endorsed it as the best available science and has recommended ways to address uncertainty. He is concerned that this motion is not based on the available science and said NMFS will be voting against the motion.

Mr. Wolford paraphrased the SSC position and felt that the motion is in keeping with the SSC recommendation to use model AA to set the ABC while considering model AB when setting the harvest guideline. He felt that model AB takes on a great deal of importance when setting the harvest guideline and spoke in favor of the motion.

Mr. Anderson spoke in favor of the motion and strongly disagreed with Mr. Helvey that the motion has no basis. Mr. Anderson reiterated that the assessment and the SSC have provided a range of potential harvest levels and although there is no middle-point provided by the SSC, he felt the harvest levels in the motion did have a basis. He supported Ms. Vojkovich's approach of trying to meet the needs of the fishery while considering the available scientific advice. He felt the Council could argue whether the harvest levels in the motion are the right one or not, but not whether the motion has a basis.

Motion 19 passed on a roll call vote (9 yes, 4 no). Mr. Sones, Mr. Cedergreen, Mr. Anderson, Ms. Vojkovich, Mr. Wolford, Mr. Myer, Mr. Williams, Mr. Mallet, and Mr. Ortmann voted yes. Mr. Moore, Ms. Fosmark, Mr. Helvey, and Mr. Warrens voted no.

Ms. Vojkovich asked for clarification on the schedule for the next Pacific mackerel stock assessment. Mr. Burner said that under the CPS FMP, actively managed species such as Pacific mackerel are assessed annually with full assessments every third year and updated assessments conducted in the interim years. Therefore, we would expect to see updated assessments in 2010 and 2011 and a full assessment in 2012. Ms. Vojkovich, responding to comments from the stock assessment authors, proposed not doing any assessment of Pacific mackerel in 2010 and spending that time working on the research and data needs issues and reviewing the terms of reference. Under this scenario she proposed doing the next full assessment in 2011.

Dr. Crone spoke in favor of the proposal. Mr. Burner recommended the recommendation come in the form a motion as the proposal deviates from adopted protocol.

Ms. Vojkovich moved (Motion 20) to schedule the next full assessment of Pacific mackerel occur in two years (2011) and in the interim, direct the stock assessment team and others work on the data and research needs to improve the next full assessment. Mr. Anderson seconded Motion 20.

Mr. Burner and the Council clarified that under this motion the Council would look to this year's full assessment and other data sources when addressing harvest specification and management measures for the 2010-2011 Pacific mackerel fishery. Motion 20 passed unanimously.

Mr. Helvey asked for clarification on whether attainment of the 2,000 mt set aside would close only CPS fisheries that contact Pacific mackerel or is it the Council's recommendation to close all fisheries that contact Pacific mackerel. Mr. Burner reiterated that in the CPS FMP a HG is a harvest target and that exceeding a HG does not have the same implications as exceeding the ABC, which is overfishing. However, looking forward to full implementation of the reauthorized MSA, you could consider the HG as analogous to an ACL, a harvest value that you would buffer against exceeding by accounting for total catch. There is some tolerance for occasionally exceeding an ACL, particularly if appropriate accountability measures are subsequently adopted. In this case the HG is not set at or even near the ABC or overfishing level.

Mr. Anderson stated that it was his understanding when the motion was being discussed that the 2,000 mt is intended for incidental landings only in CPS fisheries and that although we recognized there is some un-quantified residual amount of Pacific mackerel in other fisheries, the 10,000 mt harvest specifications only addresses CPS fisheries.

Mr. Dale Myer encouraged continued and expanded use of logbooks in CPS fisheries as a means of improving the data that informs assessments. Chairman Hansen noted that logbooks do exist, but their importance to the assessment process is increasing and there could be improved coverage and reporting.

H.2 Survey Methodology Review and Exempted Fishing Permit (EFP)

H.2.a Agenda Item Overview (06/16/09; 10:47 a.m.)

Mr. Burner provided the agenda item overview. It was noted Mr. Tom Jagielo, a co-principal investigator on the EFP and industry representatives Mr. Jerry Thon and Ms. Diane Pleschner-Steele were available should the Council members have any questions.

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

Dr. Martin Dorn (along with Dr. Owen Hamel) read Agenda Item H.2.b, Supplemental SSC Report. Ms. Vojkovich asked about the biological sampling, specifically if it is intended to be used in the next assessment. Dr. Dorn noted that biological sampling is planned to occur at the dock and biological samples could be turned around fairly quickly. Dr. Owen Hamel clarified that length composition data would be available in time for the assessment work, but age composition data will take more time and will not likely be ready for this fall's assessment. Dr. Hamel also clarified for Mr. Helvey that this initial survey effort will not provide an index of Pacific sardine biomass at this early stage, but the results have the potential to identify a minimum population level in the 2009 assessment.

Deputy Chief Mike Cenci read Agenda Item H.2.b, Supplemental EC Report. Regarding Enforcement Consultant (EC) concerns about bycatch and the need for observers, Deputy Chief Cenci reported that members of the EC met with the CPSAS and industry representatives did not have any difficulty with the reporting requirements and believe bycatch in the fishery was very low. Mr. Burner clarified that the study proposed under the EFP is not intended to enumerate bycatch and that the sardine landed during the EFP would otherwise be landed in the directed fishery. Therefore, he recommended that unless there is an enforcement concern, bycatch in the EFP should be treated the same as the directed fishery from a conservation or regulatory perspective.

Mr. Sweetnam read Agenda Item H.2.b, Supplemental CPSMT Report. Mr. Sweetnam clarified that the CPSMT support of the EC report was focused on notification and accurate species enumeration more than on full retention. The CPSMT is primarily interested in the information collected on Pacific sardine and is less concerned about bycatch species.

Mr. Royal (along with Mr. Okoniewski) read Agenda Item H.2.b, Supplemental CPSAS Report. Responding to Mr. Helvey, Mr. Okoniewski stated that it is the intent of the industry to continue the survey after 2009 and noted there is Congressional support for this effort and potential grants for future work.

H.2.c Public Comment

Mr. Jerry Thon, Northwest Sardine Survey, LLC, Bellingham, WA. Mr. Thon reported that full retention is not a problem for the survey participants, however, he felt it would not hinder nor improve the focus of the research and he would prefer to see the salmon returned with a chance to survive.

Mr. Tom Jagielo, Tom Jagielo Consulting, Copalis Beach, WA. In response to Ms. Vojkovich that data collection and analysis will be contained within the project and will not require State support, he noted that biological samples will be collected for the purposes of age determination at the Southwest Fisheries Science Center (SWFSC) and that the work will not likely be completed in time for the 2009 assessment.

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA. Ms. Pleschner-Steele reported that herring are not generally caught in the sardine fishery and to further reduce interactions on herring, which typically stay near shore, fishing will occur outside of three miles.

H.2.d Council Action: Adopt Final EFP Recommendations

Due to California's conservation concern regarding herring and the pending prohibition on ocean herring landings, Ms. Vojkovich noted that accurate enumeration of herring take, both in the EFP as well as during the directed fishery, will be important in 2009. She understands that herring are present in Monterey Bay in August, creating the potential for interactions with the fishery. She is not recommending any specific requirements at this time, but she stressed the importance of accurate enumeration and timely reporting of any bycatch in the EFP.

Mr. Anderson said that Washington had concerns about potential bycatch issues associated with the sardine fishery back at its inception. Washington conducted a fairly extensive observer program for five years that was most concerned about bycatch of salmon. The survey achieved a 25-27 percent observer coverage rate on the Washington trips. He reported that the fishery operates off the Columbia River, an area where salmon interactions could be high. The observer survey showed low salmon bycatch rates and release mortality for salmon at 60-75 percent. After five years of acceptably low salmon bycatch rates WDFW ended the observation program. The data from this program was instrumental in a favorable NMFS Biological Opinion on salmon bycatch in the fishery.

Mr. Moore moved and Mr. Steve Williams seconded a motion (Motion 21) to approve the "West Coast Sardine Survey Application for Exempted Fishing Permit in 2009" as shown in Agenda Item H.2.a, Attachment 1 and include the pre-fishing notification requirements suggested by the Enforcement Consultants (Agenda Item H.2.b, Supplemental EC Report).

Mr. Moore felt there has been adequate discussion of the matter and he supports going forward with this effort to learn more about the Pacific sardine resource. He supports the EC recommendations regarding pre-fishing notification to ensure compliance and to protect the vessels participating legitimately.

Mr. Anderson spoke in support for the motion and commended the sardine industry for stepping up to the challenge to improve the science for stock assessments; it would not have happened otherwise.

Mr. Moore clarified for Ms. Fosmark that the motion only included the pre-fishing notification portion of the EC report and was silent to the issue of full retention.

Mr. Helvey expressed bycatch concerns, particularly for salmon and mixed CPS loads with herring or anchovy. Mr. Moore noted that it is not the intent of the motion to include full retention or to exempt participants from State regulations in Oregon and Washington that require at-sea sorting and release of salmon. Additionally, log books are required and full catch accounting occurs at the plant.

Ms. Vojkovich said that the discussions she has had with Mr. Helvey have been focused on enumeration and reporting of captured species and noted that the EFP application does not have a detailed description of what data will be collected, when it will be collected, and how it will be reported. A detailed mechanism for data collection and reporting would be helpful.

Mr. Steve Williams suggested a simple requirement for full enumeration of landings by species.

Mr. Helvey agreed with requiring full enumeration of catch and further requested that a full description of the sampling and reporting procedures be developed to ensure that regulators and stock assessment teams are kept abreast of timely information.

Chairman Hansen asked Mr. Jagielo if the existing documentation could be amended as requested. Mr. Jagielo added that the document does have a section on roles and responsibilities. Mr. Ryan Howe will handle the data and the Co-Principal Investigators will be writing the report. Additionally, industry has been in coordination with the stock assessment team and is prepared to work with them to get data delivered as timely as possible. He offered to amend the description of data processing and reporting as necessary.

Ms. Vojkovich was concerned that the data will be entirely collected by industry and she would prefer to include a reporting requirement so that NMFS and the States have access to the information in a timely fashion. Mr. Helvey reported that the terms and conditions of the EFP can be written to include reporting requirements and he welcomed Mr. Jagielo's offer to supply additional details on planned data collection and reporting.

The Council agreed that these data reporting requirements can be transmitted to NMFS as guidance and that they do not need to be included in the motion. NMFS has the final say in what will be required under the EFP.

Motion 21 passed unanimously.

ADJOURN

The Pacific Fishery Management Council meeting adjourned at 3:30 p.m., on Thursday, June 18, 2009.



Council Chairman

March 11, 2010

Date