

Meeting Summary
Highly Migratory Species Advisory Subpanel

Pacific Fishery Management Council
California Department of Fish and Game
Large Conference Room
4665 Lampson Avenue, Suite C
Los Alamitos, CA 90720
562-342-7100
Thursday, April 21, 2005

HMSAS Members Present

Lillo Augello
Pete Dupuy
August Felando
Robert Fletcher (Chair)
Steven Fosmark
Douglas Fricke
Wayne Heikkila
Russell Nelson
Robert Osborn
Bill Sutton
Kate Wing

HMSAS Members Not Present

Tana McHale

Others Attending

Brent Bixler, albacore fisherman, Santa Barbara, CA
Fred Bogenschutz, Avalon, CA
Jerry Cicconi, Avalon, CA
Marcelis Cicconi, San Pedro, CA
Steve Crooke, CDFG and HMSMT, Los Alamitos, CA
Kit Dahl, PFMC staff, Portland, OR
John Fisher, commercial fisherman, Fullerton, CA
Peter Flournoy, San Diego, CA
Kathy Fosmark, drift gillnet fishery, Pebble Beach, CA
Joel Greenberg, Valley Village, CA
Craig Heberer, NMFS SWR, Long Beach, CA
Mark Helvey, NMFS SWR, Long Beach, CA
John LaGrange, longline fisherman, Solana Beach, CA
Darin Maurer, harpoon fishery, Carlsbad, CA

Liz Petras, NMFS SWR and HMSMT, Long Beach, CA
Tom Rafrican, United Anglers of Southern California, Huntington Beach, CA
Allison Routt, NMFS SWR, Long Beach, CA
Gary Sakagawa, NMFS SWFSC, La Jolla, CA
Ted Shaep, Rancho Dominguez, CA
Jim Smith, harpoon fishery, Long Beach, CA
Alan Yata, Oceanside, CA
Steve Wertz, CDFG, Los Alamitos, CA

A. Call to Order

Bob Fletcher, Chair, HMSAS

Bob Fletcher called the meeting to order at 10:05 AM.

B. Introductions

Bob Fletcher introduced some of the new participants to the HMS process, including Mark Helvey, Gary Sakagawa, and Allison Routt. He also noted that Peter Flournoy, former chairman of the HMSAS, was present. Subpanel members and the public then introduced themselves.

C. Approval of Agenda

The HMSAS asked that item D.1 be taken up again later on the agenda after some of the other issues were discussed. Members also asked about what would be discussed under item H.1. There were calls to include a discussion of developing the regulatory regime for turtle bycatch on the agenda and it was argued that this could be addressed under D.1. The agenda as modified was adopted.

D. FMP Implementation (10:15-12:00)

1. Prioritization of HMS issues for Council action and proposed timelines Bob Fletcher

The subpanel looked over the situation summary from the April Council meeting, which listed a number of HMS issues for the Council to consider. Several members urged that the HMS Management Team (HMSMT) develop at least a draft of the SAFE document by the June Council meeting, since the information would be important to their decision-making. For example, a summary of catches of by gear and species would be very useful when discussing the response to bigeye tuna (BET) overfishing.

Kate Wing suggested recommending the Council act on the designation of an HMSMT seat for a member of the Inter-American Tropical Tuna Commission (IATTC) staff since this would be an easy to accomplish task. There was general agreement on this point.

There was some discussion of the process that led up to the declaration of BET overfishing and notification of the Council and what will happen next; for example, if the Council did not take action on this issue, would a Secretarial plan be developed?

2. Oregon/Washington CPFV logbook design

Craig Heberer, NMFS SWR

As of April 11, 2005, logbooks are required for all commercial (including CPFV) vessels. Most sectors have existing logbooks that can be used under the existing plan. The exception is that Washington and Oregon CPFV vessels do not have an existing logbook requirement so one needs to be developed for them. Craig Heberer passed out some examples of logbook forms used by California and asked the panel members to provide recommendations on how to make these appropriate for the northern CPFV fisheries. In the interest of time, he said this could be done by sending comments to him after the meeting.

He noted that all CPFV vessels are required to have an HMS permit before they begin fishing. August Felando asked about how logbook data was handled in terms of review by the IATTC and how to coordinate that. Craig said the Southwest Science Center works closely with IATTC staff on this.

There was further discussion about the compatibility of CPFV and commercial vessel logbooks so information could be compared. Steve Crooke felt they were sufficiently similar but accepted a recommendation that fishing location be gathered by latitude/longitude coordinates rather than statistical block.

3. Review of observer coverage plan, status of observer program

Craig Heberer reviewed the origin of the observer coverage plan and said that it will be reviewed by the HMSMT; it is not ready at this time. The HMSAS should be able to look at it fairly soon, probably by the June Council meeting.

Pete Dupuy noted that he has had some problems with observers and as a result had received a citation. He felt it the program needs to be better administered and more transparent to address this problem.

4. Modification of drift gillnet closed areas, recommendations to HMSMT

With the reduction of fishing effort in the DGN sector questions have been raised as to whether the northern closed area needs remain in place or could be modified in terms of time and/or area.

Russell Nelson asked if the reduction of fishing effort was a consequence of the closures, meaning that opening it could lead to an increase in effort. The DGN fishermen on the subpanel agreed that there was a correlation, since larger class vessels can no longer participate for economic reasons. However, it was further noted that the fleet has substantially reduced its protected species take. Furthermore, it is likely that some former participants will not re-enter the fishery even if these restrictions were relaxed.

Russell Nelson recommended that the HMSMT analyze this issue and whether other measures

would be necessary to keep total fishing effort at current levels if any closures were modified.

Bob Fletcher recommended that a representative of the DGN sector attend the HMSMT meeting and June Council meeting to provide information and perspective. In evaluating changes to the closed areas it is important recognize that data used to establish the areas came from when the fishery had not implemented gear and strategy measures to reduce protected species take. More recent data should be used in any evaluation.

A contingent of harpoon fishermen was attending the meeting as members of the public. They voiced their concern about and general opposition to opening these closed areas. They believe the DGN fishery has led to a depletion of stocks and also unfavorably affects market prices for swordfish. Pete Dupuy stated that the stock reductions observed by the harpoon fishermen are more likely a result of fishing by foreign distant water fleets.

The subpanel decided they were not in a position to make a recommendation at this time because they need more information first. They urged the HMSMT to examine this issue and develop the data needed for a decision. The subpanel hopes to take it up in June when this information would be available. NMFS Protected Resources Division (PRD) has asked for a Council recommendation on this before they begin needed ESA analyses, so a recommendation from the HMSAS to the Council is needed.

5. Change in HMSAS composition

Bob Fletcher referenced a letter requesting the addition of an Oregon albacore sports fishery representative on the HMSAS. He argued that the current funding situation precludes expansion of the HMSAS, and furthermore there is a risk that if one request like this is granted it will lead to other groups asking to get on the subpanel. He recommended that Russell Nelson, as the at-larger recreational representative, should contact this group. Russell responded that although he can talk to this group and others, he can't necessarily represent their views if he disagrees with them. Kate Wing said that there is a responsibility for subpanel members to meet with the range of groups that they represent in order to ensure that their issues are adequately represented.

The subpanel moved that, given funding constraints, the HMSAS should not be expanded at this time and that anyone wishing to raise an issue or voice a concern should work through an existing member. It was further noted that the Council has a regular process for considering advisory body composition.

The question of whether the northern processor seat, which is currently vacant, should be replaced with a different designation was then discussed. Whether current funding for HMSAS meetings includes a member for this seat, if filled, was unknown. It was noted that HMS processing has recently expanded in the Pacific Northwest, suggesting that the seat should be retained and ultimately filled.

E. Review of Exempted Fishing Permit Applications (12:30-1:45 PM)

1. Review of current application and recommendations to Council

Subpanel members had been provided with an exempted fishing permit (EFP) application submitted to NMFS by Pete Dupuy. Members were concerned that without an adopted protocol for reviewing EFPs there was no basis for evaluating the current proposal. Discussion turned to the need to develop the protocol first. Some members also argued that the proposal as currently written did not contain sufficient information for an adequate review. Craig Heberer pointed out that the current application is intended only to give a general idea of the proposal; Pete will be working with science staff from the Southwest Fisheries Science Center, but at this point NMFS was looking for an initial recommendation from the HMSAS. Use of cooperative research funding, as is being done on the east coast, was noted and Craig replied that this type of funding has been identified for implementation of this EFP. As to the issue of the lack of a protocol with which to evaluate the proposal, he noted that NMFS will use the national standards for EFPs contained in the Magnuson-Stevens Act as a basis for their evaluation of the proposal. Mark Helvey emphasized that NMFS' concern was not to get ahead of the Council in terms of reviewing this EFP proposal and moving it forward.

The idea of using a request for proposals process to solicit additional EFP applications focusing on testing sea turtle bycatch mitigation was also discussed.

Several members voiced concern about the component of the EFP application proposing test fishing in the EEZ and indicated support would be more forthcoming if the proposal were confined to fishing outside of the EEZ, which would be consistent with implementing sea turtle bycatch mitigation regulations similar to what is in place for the Hawaii fishery. In response, Pete argued that the proposal was an attempt to show that fishing could occur inside and outside the EEZ with substantially reduced sea turtle bycatch and impacts. He noted that the FMP discusses such an EFP to gather data on the effects of longline fishing inside the EEZ.

Peter Flournoy pointed out that Pete has been working on trying to get a longline fishery going for a couple of years and the HMSAS should not further delay the process. He urged them to make a recommendation. Bob Fletcher said that the purpose of the EFP process is to conduct a fishery under scientifically controlled conditions to see if it was feasible from a technical and/or management standpoint. If so, it is supposed to lead to the development of a regulated fishery. Thus he was concerned about the component proposing fishing in the EEZ because it could lead to a larger fishery there. There was then some discussion about the Council's decision and voting record on the EEZ closure question.

Pete emphasized that what he was proposing was a different type of fishery than what the Hawaii boats are conducting. Doug Fricke pointed out that this type of fishery could potentially reduce sea turtle bycatch impacts if DGN fishers switched over to a longline method proven to reduce impacts through this type of EFP. A related discussion ensued later on under this agenda item about the issue of managing total sea turtle mortality across the DGN fishery, the Hawaii-based longline fishery targeting swordfish, and any West Coast longline fishery for swordfish. Thus, as Mark Helvey pointed out, any regulatory regime would have all aspects of the HMS and pelagic fisheries in terms of limiting sea turtle bycatch.

Discussion continued on the two issues of the lack of a protocol, and thus a basis for evaluation,

and the lack of enough specific information in this EFP application to be able to adequately evaluate it. Several members suggested a need for further evaluation by the HMSMT first before the HMSAS makes a recommendation. Others pushed for some kind of recommendation from the HMSAS. August Felando said NMFS should be made aware that some members of the HMSAS support this proposal. This discussion resulted in a motion put forward by Doug Fricke and affirmed by the HMSAS: *The EFP proposal may have potential to reduce impacts to stocks and animals of concern. The HMSAS advises that the EFP go forward for scientific review by the HMSMT.*

Kate Wing asked for a friendly amendment adding a recommendation for review by the SSC, which was not accepted. Bob Fletcher asked Steve Crooke if it was likely that the HMSMT would recommend SSC review and he replied affirmatively.

2. Recommendations for Council Operating Procedure on HMS EFPs (to be developed by HMSMT)

Since this item had a thorough airing under the last agenda item, there was little additional discussion. The subpanel agreed that the current Council Operating Procedure (COP) #19 describing the EFP review process under the Groundfish FMP offered a good model and recommended that the HMSMT use that as a basis for developing a protocol for the HMS FMP.

F. NMFS Report (1:45 PM-3:00 PM)

1. HMS stock status report (bigeye, albacore) Gary Sakagawa, NMFS SWFSC

Gary Sakagawa presented information on the status determination criteria for bigeye tuna (BET), based on stock assessments conducted by IATTC and SPC. BET in the Eastern Pacific Ocean (EPO) is being overfished and the stock is overfished; in the Western and Central Pacific Ocean (WCPO) overfishing is occurring but stocks are not overfished. A Pacific-wide assessment shows overfishing is occurring but the stock is not overfished.

There was some discussion of information on stock structure. There is insufficient tagging information to make a determination of whether the EPO and WCPO are different stocks. Currently, BET is considered a single Pacific-wide stock.

Subpanel questions and discussion centered on the relevance of U.S., and particularly West Coast, landings in relation to total fishing mortality. The subpanel also talked about the background of the current 150 mt U.S. national quota for BET caught by large-scale (>23 m) longliners. Mark Helvey argued that although Council-managed fisheries make a very minor contribution to fishing mortality, how the Council responds to the declaration of overfishing could set a precedent for how HMS overfishing will be dealt with in the future.

Russell Nelson pointed out that without vigorous action by the IATTC mortality trends will continue upward, so channeling recommendations to them is important. He also noted that the Atlantic coast councils have seats on the body for the International Commission for the Conservation of Atlantic Tunas (ICCAT) similar to the General Advisory Committee to the U.S.

Section of the IATTC (GAC); the Pacific Council along with the Western Pacific Fishery Management Council (WPFMC) should look into getting seats on the GAC. Because stock structure has not been resolved, Mark Helvey noted the Council may also need to see how to be involved in with the new Western and Central Pacific Fisheries Commission (WCPFC). Peter Flournoy pointed out that the relatively unfavorable U.S. national quota stemmed in part from the lack of representation of longliners on the GAC.

Allison Routt emphasized the opportunity for the Council to get involved in the international arena for HMS management. Although Peter Flournoy's point was that the BET situation may not be a template for addressing albacore overfishing concerns, it is a wakeup call for increased Council involvement.

Kate Wing put forward a recommendation for the Council to press for development by the IATTC of a long-term framework rebuilding plan for HMS stocks. The Council should therefore come up with a specific proposal to be forwarded to the IATTC, if not this year then next.

Russell Nelson argued it is too early for the HMSAS to make specific recommendations, but some general advice would be useful. One of the measures under consideration for MSA reauthorization is an import prohibition of fish products from nations not complying with international management bodies and the Council should consider their response.

Pete Dupuy talked about the implication of the 150 mt quota for West Coast fisheries. The subpanel discussed the need to consider mechanisms to allocate the quota between Hawaii and West Coast fisheries.

The discussion began touching on recommendations for the fast track letter (item G below) and whether it should discuss BET issues. Mark Helvey thought a primary recommendation could be mechanisms to facilitate Council involvement. Bob Fletcher suggested a recommendation for more action by international bodies on stock conservation measures. Another possible recommendation would be for improved catch and effort data across all fisheries. However, Gary Sakagawa said it would be unwise to question scientific information from the IATTC, especially since the HMSAS has not had the opportunity to fully review the information the IATTC has gathered.

The ensuing discussion combined recommendations for the Council and recommendations through the Council to be put to the IATTC. Recommendations for allocation of the U.S. national BET quota are more for Council consideration, including mechanisms for PFMC-WPFMC coordination on this issue. But changes to the quota (including the possibility it could apply to other fishery sectors) will be a subject for the IATTC, and those decisions could affect the domestic allocation issue. Peter Flournoy said the GAC is a good forum for resolving these types of issues.

For the Council's information, August Felando said it is important to emphasize current West Coast catches are *de minimus*, but for those few fishermen involved in the fishery the current quota situation is having a severe impact.

Allison Routt argued for the Council to develop a broader, visionary plan for addressing HMS

overfishing, because additional species are likely to be under this status in the future. It should be recognized that the current BET longline quota is through 2006 and efforts should look towards renegotiation of the quota for succeeding years.

Russell Nelson recommended deferring any recommendation on how the Council should deal with BET overfishing until the June Council meeting when more information will be available.

Discussion again turned to the issue of U.S. fishing mortality being a small component of the total and what kind of action would be appropriate. Bob Fletcher suggested the fast track letter could recognize the burden on U.S. fisheries from overfishing constraints and call on action to ensure equitable sharing among nations of the measures needed to address conservation concerns. Peter Flournoy followed up by saying part of the recommendation should be to our government stating that it take action on conservation concerns as long as the burden is shared across nations. Gary Sakagawa then gave a report on the preliminary findings of a review the most recent International Science Committee (ISC) and the North Pacific Albacore Workshop albacore stock assessment. Stock parameters suggest a target spawning potential ratio (SPR) relative the unfished state with F that ranges from about F30% and F40%. Estimates of 2003 fishing mortality rates translate into SPRs ranging from F30% to F17%, indicating moderate to severe overfishing. A 5-year forward projection of stock status using values bracketing the range of recent estimates of stock productivity and current fishing mortality rates indicate spawning stock biomass could fall to between 23% and 31% of unfished biomass, a range that would be indicative of an overfished stock. In response to a subsequent question, Gary Sakagawa noted IATTC scientific staff thought the fishing mortality rate was closer to the higher end of the model estimates of 0.43 to 0.68. August Felando recommended review of the stock assessment by the Council's SSC, but Gary Sakagawa cautioned this would be a huge task, which they may not be in a position to take on.

Subpanel members asked for further clarification and how this information related to the status determination criteria in the FMP. Gary Sakagawa said that because there is no agreement on the appropriate proxy biological reference points for of B_{MSY} at this time it was not possible to translate information he presented to the same terms as the status determination criteria.

The HMSAS then moved on to a discussion of what kind of response should be recommended. Bob Fletcher noted that it is not clear whether the IATTC is in a position to effectively deal with fisheries in the Northeast Pacific, which is the area of operations of the West Coast albacore fishery.

2. U.S. Resolution to IATTC on albacore

Mark Helvey NMFS SWR

Mark Helvey provided some background on the development of the draft resolution, which the subpanel had before them; it was jointly produced by NMFS and the State Department with input from industry representatives. Peter Flournoy provided some additional background on the evolution of this issue, noting the initial concern was high catches by Japanese fleets in the Northwest Pacific. Because the U.S. is not yet a member of the WCPFC, the State Department, which was against interim agreements between the Japanese and U.S. governments, advocated working through the existing management body, the IATTC. This put the focus on the EPO, even though the problem as initially identified did not occur there. However, the IATTC and

WCPFC have established cooperation mechanisms and the draft resolution does reference the WCPFC.

There was discussion on what countries are parties to IATTC; current illegal, unregulated, and unreported (IUU) fisheries in the Pacific; and the potential impact of increased activity by Spanish fleets in the ETP. Mark Helvey pointed out that the issue stemming from the resolution was simply a cap on existing effort; the issue of allocating catch opportunity domestically was not yet ripe. There was also discussion of how the application of domestic regulations stemming from the resolution would be handled—through the MSA or the Tuna Conventions Act.

The subpanel talked about the need for the WCPFC to take action, but Peter Flournoy pointed out that an effort cap in the EPO would make addressing overfishing in the WCPO more tractable. Further, it could have a benefit in limiting additional effort from shifting out of the WCPO into the EPO. There was agreement among committee members with these points.

The subpanel considered a recommendation to ask for action by the WCPFC in the resolution, but it was subsequently noted that the resolution already has language substantially addressing this.

3. Update on proposed bigeye overfishing response strategy Mark Helvey NMFS SWR

Mark Helvey said there was no new information at this time beyond what he reported at the March Council meeting.

G. Development of Recommendations for Fast Track Letter on IATTC-related Matters (3:00-4:00)

Bob Fletcher, Chair, HMSAS

At their April meeting the Council directed the HMSAS to prepare a fast-track letter that would go out in advance of the GAC meeting and contain Council recommendations on IATTC matters. Under the fast track process Council members review and okay the contents of the letter before it is sent out. The committee started by discussing whether a fast track letter was necessary. Consensus was reached that such a letter should be sent and that it should be general in nature, deal primarily with the draft albacore resolution, and be a mechanism for informing NMFS and the State Department of the Council's desire to play a higher profile role in IATTC-related processes.

There was agreement that the letter should endorse paragraph 7 of the draft albacore resolution calling on the WCPFC to take action while noting the concern that U.S. vessels could be disproportionately affected by effort limits.

The committee also discussed a comment on paragraph 3 dealing with the 15% of trip landings value as a threshold for defining what vessels effort limits would apply to. There was agreement that the letter should ask for clarification of why this value was chosen.

Peter Flournoy said that the May 12 GAC meeting would be an opportunity to answer this type

of question. Nonetheless, as noted by Doug Fricke, drafting a fast track letter would offer an opportunity for the Council as a whole to become engaged in these processes.

H. Development of Recommendations to Council (4:00-5:00 PM) Bob Fletcher, Chair, HMSAS

1. Procedures for coordinating management of HMS fisheries with the WPFMC
2. Procedures for channeling recommendations to international HMS management bodies

Given the late hour, the considerable discussion of topics touching on these issues, and the close correlation with the matters under item D.1, the wrap-up discussion here focused more on general prioritization of Council HMS activities.

How the Council could formally participate in the GAC was discussed, recognizing that the implementing legislation does not facilitate or preclude Council participation. Membership is by application and appointment, so there no provision automatically designating a Council seat on the GAC. Nonetheless, a recommendation would be for a Council member to apply for membership.

Turning to further prioritization of issues, there was a vigorous discussion of whether implementing an EFP or working on an overall regulatory regime would be the most expeditious method to allow longlining to occur in the high seas east of 150° W longitude. Lillo Augello brought up the problem some Hawaii-permitted longline vessels are having in the current fishery and the need to provide opportunities for them to fish out of the West Coast. It was recommended that the HMSMT develop a set of options comparing the use of EFP and a regulatory change for this purpose.

The Committee recommended that the Council move forward on the necessary steps to revise or open up the current DGN northern closed area. Kathy Fosmark pointed out that the DGN fishery was one of the first to be regulated and there is an urgent need for some relief. There was some discussion about the degree of shared sea turtle bycatch between these two fisheries, which creates a linkage in terms of revising the regulatory regime for both of them.

Bob Fletcher asked if there were any additional public comments on items not covered by the agenda. There were none.

The HMSAS adjourned at 4:50 PM.

Summary of HMSAS Recommendations to the Council

1. Appoint a representative from the IATTC scientific staff to the HMSMT. This position could either be added to the current composition of the team or could replace the currently vacant NMFS SWFSC seat.
2. Direct the HMSMT to evaluate modifying the current northern closed area for the DGN fishery. As part of the evaluation, the Team should analyze the effect of any such change on

fishing effort in the DGN fishery. Based on the recommendations from the HMSMT, the Council should work with NMFS to implement any necessary regulatory changes for the closed area.

3. At this time the HMSAS should not be expanded to include an additional member representing the Oregon albacore sport fishery, as has been requested, or expanded to include a representative from any other sector.
4. The EFP application submitted to NMFS by Pete Dupuy may have the potential to reduce impacts to stocks and animals of concern. The HMSMT should conduct a scientific review of the proposal.
5. Consistent with a previous Council recommendation, the HMSMT should develop a COP for HMS EFP applications closely modeled after COP #19, Protocol for Consideration of Exempted Fishing Permits for Groundfish Fisheries.
6. At the direction of the Council, one or more Council members should apply for a seat on the General Advisory Committee to the U.S. Section of the IATTC in order to better communicate Council concerns related to the HMS FMP.
7. Direct the HMSMT to develop a set of options comparing the efficacy of an EFP versus a regulatory amendment in order to allow shallow-set swordfish targeting by West Coast longliners in the area east of 150° W longitude and outside the seaward boundary of the West Coast EEZ. Such a comparison should not necessarily be based on the current EFP application submitted by Pete Dupuy, which contemplates a fishery occurring both within and outside of the West Coast EEZ. A generic EFP concept involving test fishing only in waters outside of the EEZ may better serve as a basis for such a comparison.

PFMC
05/25/05