

MEETING SUMMARY
Highly Migratory Species Management Team
Ad Hoc Highly Migratory Species Management Committee

Pacific Fishery Management Council
Large Conference Room
National Marine Fisheries Service Southwest Fisheries Science Center
8604 La Jolla Shores Drive, Room D-203
La Jolla, California 92037
October 3-4, 2005
(858) 546-7007

HMSMT Members Attending:

Steve Crooke
Michele Culver
Suzanne Kohin
Jean McCreae
Elizabeth Petras
Stephen Stohs
Dale Squires

HMSMC Members Attending (Oct. 4):

Don Hansen
Mark Helvey
Marija Vojkovich

Others Attending:

Pete Dupuy, HMSAS
Tomo Eguchi, NMFS SWFSC
Ben Enticknap, Oceana
Tina Fahy, NMFS SWR
Bob Fletcher, HMSAS
Peter Flournoy, AFRF
Svein Fougner, HLA
Craig Heberer, NMFS SWR
Bob Osborn, HMSAS
Heidi Taylor, NMFS SWR
Steve Wertz, CDFG

MONDAY, OCTOBER 3, 2005 – 8 A.M.

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM MEETING

A. Call to Order

1. Introductions
2. Approval of the Agenda

The agenda was changed to allow a discussion of the draft SAFE document provided by Kit Dahl. A discussion of Team reports for the November Council meeting (Item D) was moved from Tuesday to the end of the day on Monday.

B. Draft SAFE Report

Kit Dahl reviewed the contents of the draft SAFE report, which he had assembled from the contributions from the team members. He noted there were still some outstanding figures and tables for Section 4 and

suggested that a final deadline would be around October 14. He would consult with Council staff to determine a firm final deadline.

Dale Squires arranged copies of the draft document for team members and recommended that edits be provided to Kit Dahl, with the option to have a follow-up discussion on Tuesday morning, based on an overnight review by Team members.

C. Review and Further Refine Alternatives For the Modification of the Drift Gillnet Closure Area (Thursday, November 3, Agenda Item J.3: Council to adopt a public review draft of proposed options to modify the drift gillnet time/area closure.)

1. Clarification of proposed action

Kit Dahl reviewed a write-up of the purpose and need statement he had provided to the Team members. There were several editorial comments that will be incorporated into the statement.

Liz Petras gave a PowerPoint presentation reviewing information relative to leatherback sea turtles, the drift gillnet (DGN) fishery, and the preliminary range of alternatives developed at the August 3-5 HMSMT and HMSAS meetings.

There was considerable discussion of a slide showing the incidental takes and mortalities of leatherbacks from the incidental take statements (ITSS) for the HMS FMP and WPFMC's Pelagics FMP fisheries. This underscored the point that take across all fisheries needs to be considered comprehensively in some fashion. This should be an element in the Team's report.

The slide presentation also stimulated a lot of discussion of the alternatives, which is summarized under #3 below.

2. Review of preliminary draft EFP proposal, formulate recommendations

The Team discussed the draft EFP proposal developed by Chuck Janisse in preparation for providing specific recommendations to him for further revisions.

After getting Chuck on the line, Michele Culver led the discussion by going through the proposal section by section. At the start, however, she noted that the proposal needs to contain enough information to support any analysis of its effects and there is also a need for more specific information under several of the sections, which come from the draft Council HMS EFP review protocol but are also based on NMFS EFP guidelines.

Chuck noted he had completely redrafted a couple key sections (#3 purpose and goals, #4 justification), but it was agreed that the Team should provide comments in an interactive way and Chuck could note whether their concerns had been addressed in his revisions.

Under item #3, purpose and goals, the Team recommended removing the reference to the use of net extenders as testing new gear, since this is requirement that has already been in place for some time. Furthermore, a review of reports on leatherback sea turtle takes does not provide clear evidence that this modification (intended to mitigate marine mammal takes) reduces leatherback sea turtle mortalities. The Team recommended that an additional goal be added, testing the economic feasibility of the fishery subject to harvest limits, incidental take limits for sea turtles, and the collection of additional biological

and oceanographic information relative to interactions between the fishery and sea turtles.

Chuck said that in his revision of the section he focused on fact that the 2000 biological opinion (BiOp) had predicted 12 takes and 9 mortalities for leatherback sea turtles when in fact there had been no takes since 2001 (with a 20% observer coverage). This was a point raised in the Galloway report, which concluded that the reason why overly restrictive measures were placed on the fishery was because the requirement for 36 foot extenders was not taken into account and the projected level of effort was twice what actually occurred. Therefore, the purpose of this EFP is to demonstrate that under the management options currently being considered, the DGN fishery can operate in the time/area closure in a manner that will keep impacts to sea turtles to an acceptable level while providing economic opportunity to DGN fishermen.

Michele said that what Chuck described should be put under section #4, justification, while under section #3, purpose and goals, the EFP proposal should describe the information that would be gathered or what would be learned from the EFP that could be applied to future management of the fishery. This could be in terms of testing existing gear, new gear, the economic viability of a fishery under various management restrictions, etc. Overall, the EFP is a method of finding out if a fishery operating with 100% observer coverage and fishing under turtle caps (incidental take limits) is economically viable. The second goal relates to gathering new data. New data on fishery-turtle interactions are needed; the EFP could explore the use of observers to collect this information while on fishing vessels. The goals and objectives will be used to evaluate the EFP when and if it is prosecuted in order to determine whether this type of fishery structure can be translated into regulations.

Chuck noted that the changes he made to section #4 (justification) are basically the same as the points made in the Galloway report.

Michele then noted that the section describing the percent decline in fishing activity needed to be corrected, but Chuck Janisse said he was probably going to drop that aspect of the discussion anyway.

Under section #5, broader significance of EFP results, Michele said the discussion of the \$0.02 fee should make clear that it would not be administered by CDFG, but Chuck said he was dropping that whole discussion from the proposal. Michele said this section should also discuss how the results of the EFP could lead to long-term regulatory action to change management measures for the DGN fishery.

Under section #7, number of vessels, Michele said there should be a specific numerical estimate, or at least a possible range of the number of vessels that would participate. (Participation is likely to be dictated by the availability of observers, so there is not a definite subset of vessels that will participate.) Any such estimate doesn't have to exactly match what might be in the alternatives laid out in the environmental impact analysis for this action.

Under section #8, description of target and incidental species to be harvested, Michele said there should be some estimate of the total amount. Chuck said he didn't have any way of estimating that without some help from the Team. Kit Dahl suggested that since the proposal provided to the Council will be in draft form, it could note that this information is not yet available but will be provided in the final proposal to be reviewed by the Council at the March 2006 meeting. Michele also said that this section should reference the harvest guidelines in the FMP for mako and thresher sharks. Chuck said he planned to address that based on previous comments he had received. Michele also said that the EFP should have as a condition a requirement that two swordfish must be landed for every thresher shark landed. This is consistent with Washington and Oregon laws and would address concerns raised by those states.

Michele also noted that as far as a discussion of seabird takes in the EFP, there will be a requirement to

notify the USFWS about the action to see whether they want to consult on the action relative to the MBTA or any ESA-listed species under their jurisdiction.

Craig Heberer said he didn't think that Chuck had to worry too much about the exact wording of his proposal with respect to seabirds (the draft notes past documented take of seabirds) because it will be up to USFWS to make a determination on the issue.

With respect to section #9, accounting for target and incidental catches, there was an extended discussion of how to provide real-time reporting of sea turtle takes. This could be accomplished either by marine band radio, which all the vessels have, or satellite phone, which few vessels have. The problem with using marine band radio is some shore-based receiving facility would have to be set up, since none currently exists for this purpose. Satellite phones would be an easier option, but unless NMFS could provide them to observers there is no guarantee that they would be available on every vessel. Another option, which would be the least desirable, would be to require the vessel to immediately return to port to report a sea turtle take. The possibility of using processors or fish buying stations as the radio shore base was mentioned, since they by and large have the equipment.

Under section #10, data collection and analysis, Michele said the discussion should focus on the observer requirement and simply state that any analysis prior to EFP issuance would be conducted by NMFS, while and post-EFP analysis would be done by both federal and state agencies.

As far as section #11, how vessels would be chosen for participation, from the Team's perspective that mechanism is up to the applicant (Chuck Janisse and FISH). A single EFP would be issued to FISH, which would then contract with vessels as far as their participation under the EFP. Chuck said the DGN permit holders would have to submit an application, which would define the universe of potential participants. Michele Culver recommended the application process have a set deadline, but reiterated that it would be up to FISH to determine participation.

3. Finalize preliminary range of alternatives

As noted above, the discussion of the preliminary range of alternatives began earlier in the day during Liz Petras's presentation and was taken up again after the EFP discussion.

A number of general points were made. First, it would be possible to develop separate ITSs for the EFP fishery and the non-EFP fishery, or develop one ITS for the entire DGN and distinguish between the hard cap and anticipated takes for the EFP and non-EFP components of the fishery. Most of the fishing under the EFP is likely to be in the northern area, north of Pt. Conception, which is the level of discrimination in terms of leatherback CPUE. This would "hold harmless" fishermen in the two fisheries from the impacts in the other area, recognizing that there are little if any leatherback takes in the southern region (south of Pt. Conception).

The idea of prohibiting EFP participants from participating in the regular fishery was raised, but it was pointed out that this would not be a popular approach because fishermen would want to incorporate fishing outside the closed area with EFP participation into their overall seasonal strategy.

There was a lot of discussion of areas that would remain closed to EFP participants (i.e., areas within the current closed area) and/or areas that would be opened to all fishery participants (i.e., regulatory modification of the closed area boundary). This discussion was stimulated by the available satellite tag data, which provided some information on leatherback sea turtle movement. The Team recognized that the appearance of these data was largely dictated by the area where the turtles were tagged (primarily in Monterey Bay) and should be used with caution. Nonetheless, it was one of the few types of data

available and could be one consideration in formulating and evaluating fishing area alternatives.

There was also some discussion of how any regulatory change in the southern boundary of the closed area would be evaluated and how an overall ITS (including an EFP for the closed area) would be determined.

In terms of setting an incidental take limit, the Team discussed whether to base it on the takes or mortalities. The two are apparently linearly correlated because there is an estimated 61% mortality rate, although it was not clear whether this included any estimate of post-release mortality or just represented an estimate of the proportion of takes in which the turtle was dead when brought to the vessel.

The team also discussed the need for imposing set limits or only using take limits. In general, the Team held the view that set limits would not be necessary if an overall take limit was imposed. Furthermore, it would be likely that other constraints, such as the availability of observers and overall interest in participation, would result in a level of sets well below that projected to result in unacceptable levels of sea turtle take. However, Liz Petras noted that from the standpoint of consultation, having a take limit is advantageous in that it is a specific action for which the take can be estimated. Setting a take limit, or at least an estimate of anticipated sets, is more difficult to consider since they are not supposed to directly authorize a certain level of take. The use of set limits as an additional conservation measure was also mentioned.

Another point made by Liz Petras was that from an analytical perspective set limits and take limits are equivalent: either set limits can be identified and the expected level of take computed or the likely level of effort (in sets) can be back-calculated for a given anticipated incidental take limit.

Initially, five features of potential alternatives were considered, based on the initial range of alternatives developed at the August meeting: fishing area restrictions, incidental take limits applicable to fishing in the area of the current time/area closure for leatherbacks, limits on the number of sets for a fishery in this northern area, modification of the timing of the time/area closure, and the applicability of effort limits to either only EFP participants or all fishery participants. These features could apply to a regulatory change, conditions placed on an EFP, or a combination of these two types of actions. There was some discussion of which features would apply to a regulatory action versus an EFP.

The following fishing area alternatives were identified:

1. Status quo, or maintaining the current closed area unchanged
2. Variations on a proposal initially put forward by Steve Fosmark (DGN representative on the HMSAS) at the August meeting, which proposed a closure area roughly extending southwest from Monterey Bay within the current closed area. South of this area would be opened to all fishermen (regulatory change) and the area north of this zone (part of the current closed area) would be open to EFP participants only.
3. Consider only the regulatory component of Steve Fosmark's proposal (i.e., changing the southern boundary of the current closure to allow DGN fishing south of Pt Sur).
4. Restrict EFP participants to fishing only in the part of the current closed area north of 39° N latitude.
5. Restrict EFP participants to fishing only in the part of the current closed area north of a line stretching from Point Arena (approximately 39° N latitude) to the westernmost waypoint of the northern line identified in Steve Fosmark's proposal.
6. Completely eliminate the current closure (which would be a regulatory action).

A problem with any changes to the boundary of the current closed area as a permanent regulatory measure is the difficulty in distinguishing the impacts of one proposal in comparison to the other. This stems from the very limited spatial resolution of leatherback CPUE estimates. However, there was some

discussion of how other data, such as the limited satellite tag data, could be used in a qualitative evaluation of these proposals.

There was also considerable discussion of whether any additional area restrictions should be placed on EFP participants. Given the limited available data, it is uncertain that restricting fishing to a certain area (e.g., more northern portions of the current closed area) would actually reduce the likelihood of incidental takes of leatherbacks. The fishermen probably have a lot of empirical information, based on experience, on areas and conditions that increase the likelihood of takes, which they could bring to bear. The take limits acting as an incentive to avoid interactions, leveraging this knowledge. On the other hand, Bob Osborn suggested there might be a public relations advantage in closing the area around Monterey Bay as an additional conservation measure placed on the EFP. This would demonstrate that the EFP would not be affecting the environment in that area.

Because of the analytical similarity between the effort limits and the take limits the Team decided these should be presented as a single table, which would show various set limits and corresponding incidental take limits. In crafting a preferred alternative the Council could choose just a set limit, just an incidental take limit, or both a set limit and the corresponding take limit.

After some discussion it was agreed that the upper range of set limits and incidental take limits should be eliminated from further consideration. The rationale for eliminating these alternatives is that available evidence indicates that this level of effort would not be achieved in the currently closed area under any circumstances, at least in the short term, since historical effort never exceeded 500 sets in the northern area (north of Pt. Conception). Additionally, it is likely that the corresponding level of take would not be acceptable in any BiOp. This would result in set limits of 250, 500, and 600 and incidental take limits of 1, 2, and 3 leatherback turtles for the duration of the EFP. Because the Team did not favor set limits, their preference would be to establish an upper limit of effort of 600–750 sets* (to account for any unanticipated increase in interest in fishing in the current closed area) and use the take limits as the method to prevent impacts resulting in the re-initiation of consultations.

In her presentation, Liz Petras indicated that modifying the duration of the closure could be another set of alternatives, but the Team did not see this as a viable set of measures, mainly because of the limits on what can be analyzed.

Craig Heberer pointed out that some vessels have declared “unobservable” (they cannot carry an observer for safety or other reasons) and wondered if they would be excluded from the participating. Chuck Janesse pointed out that some of these vessels have carried observers in the past. Craig said that NMFS SWR is willing to work with those vessels, to a reasonable extent, to help them resolve the issues preventing them from being certified to carry observers.

4. Next steps: material for November Council meeting briefing book, preparation of EA for March 2006 Council meeting, scheduling and tasking

Michele Culver agreed to finalize the description of the alternatives based on the Team’s discussion and subsequent review of her write-up. This would take the form of an HMSMT report for the November Council meeting. The purpose and need statement drafted by Kit could be included as an attachment to the report.

D. Draft Statements for Other Item on November Council Meeting Agenda

* During the meeting it was understood a set level of 750 would correspond to 3 leatherback takes. Subsequently it was discovered that the actual set level corresponding to 3 takes is 600.

1. *Thursday, November 3, Agenda Item J.2: Council to adopt interim and final EFP review protocols.*

It was agreed there was no need for a statement on Agenda Item J.2 (EFP protocol) because the Team had nothing to add beyond the protocols they had already developed and submitted at the September Council meeting.

2. *Thursday, November 3, Agenda Item J.4: Council discussion and guidance on planning albacore management activities.*

Michele Culver recommended the Team not have a report on Agenda Item J.4 (albacore management) because at this stage the Council needs to provide guidance to the team on where to go on this issue.

Suzy Kohin said the SAFE Report has some information on albacore, which should be brought to the attention of the Council. Kit said he would reference this in the situation summary and the Team co-chairs could provide more information relative to that.

3. *Thursday, November 3, Agenda Item H.10 (Groundfish): Council to adopt final preferred VMS expansion alternative.*

On Agenda Item H.10 (groundfish VMS), Michele Culver had previously circulated a draft statement to the Team. She reviewed the issues and the recommendations in the draft statement. The team was satisfied with the draft statement and agreed it should be submitted for the briefing book.

Craig Heberer briefly reviewed the discussion of the IATTC VMS resolution at the Ad Hoc VMS Committee meeting held in Portland on September 29. He said that the NMFS SWR Regional Administrator (Rod McInnis) had decided the resolution does not apply to CPFV vessels, but he reserved the right to revisit this issue in the future. The requirement for commercial vessels would be implemented through the Tuna Conventions Act rather than the MSA. It will go through the full rulemaking process, so there will be some opportunity for the Team to comment on the proposed rule.

There was some discussion about why this is being implemented through the Tuna Conventions Act rather than MSA.

Peter Flournoy pointed out that the IATTC is most interested in the applicability of VMS to longline vessels since they already have 100 percent observer coverage on the purse seine fleets. However, there is a National Plan of Action (NPOA) on VMS stemming from the FAO, which could result in some further VMS requirements in the future. He also expressed his view that the Pacific Council is at a disadvantage in terms of how actively they have been able with limited resources to engage internationally when compared to the resources available to the WPFMC.

TUESDAY, OCTOBER 4, 2005 – 8 A.M.

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM

E. SAFE Report

The HMSMT provided written comments on the draft to Kit Dahl.

**HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM
AD HOC HIGHLY MIGRATORY SPECIES MANAGEMENT COMMITTEE
JOINT MEETING**

A. Call to Order

1. Introductions
2. Approval of the Agenda

B. Management Regime for High Seas Longline Fishery – Identify Proposed Action and Management Concepts

Dale Squires provided an introductory overview to facilitate discussion. He reviewed the history to date of Council action on this issue, noting the Team left off in 2004 developing an FMP amendment to implement a limited entry program, which would consider both the high seas longline fishery and the DGN fishery as a combined source of mortality for loggerheads and leatherbacks. During the hiatus in HMS activities due to funding constraints, the situation changed because the Hawaii shallow longline fishery (managed under the WPFMC's Pelagics FMP) resumed and it was determined that Pelagics permit holders could land swordfish on the West Coast, discharge and take on a new observer, and reprovision. Most of the West Coast longline fleet consisted of vessels with Pelagics permits, which fish out of Hawaii for most of the year and the West Coast during the fourth and first quarters. They had come over and based themselves in California during the period when the Hawaii shallow-set fishery was tightly restricted due to sea turtle takes. Pete Dupuy said there are a few Pelagics permit holders that make their home in California but fish out of Hawaii because of this situation. But from a practical perspective the shallow-set fishery out of the West Coast has a three-month window period in the fall and winter months.

There was some discussion of the effect of overfishing-related restrictions on bigeye tuna (BET) catches and how that would affect the shallow-set longline segment of the fishery; there is some BET catch in this segment, and also the same vessel may want to switch strategies as part of their seasonal rounds.

Dale noted that data on turtle takes indicated a higher take rate west of 140° West longitude, and an early proposal in the development of the FMP was to close the fishery west of that line.

Marija Vojkovich asked about the information from Liz Petras's report on Monday about the ITSs for leatherbacks the different fisheries. That slide was put up for discussion. There was some discussion of what constituted the action area for each BiOp and what would trigger re-initiation. For the Pelagics FMP fisheries the BiOp mainly focused on the areas around Hawaii where they more often fish (east of 150° West longitude). However, the regulations allow fishing in any area up to the outer limit of the West Coast EEZ. There were questions about the reasonable and prudent measures (RPMs) and Reasonable and Prudent Alternatives (RPAs) for the different fisheries. Attention focused on the deep-set segment of the Hawaii fishery because it has a comparatively high level of incidental take. It was noted that a new BiOp was about to be released for the Hawaii deep-set longline fishery.

Craig Heberer asked if the observer coverage level would be increased, since it is only at 20%. He was surprised that that fishery had a 20% coverage level when West Coast fisheries such as the DGN fishery are under an expectation of 100% observer coverage as part of the EFP. The current DGN fishery, with

the time/area closure is observed at 20%.

There was a discussion of the current regulatory framework for the various fisheries. The West Coast shallow-set fishery is closed east of 150° W longitude under ESA regulations and closed west of that line under MSA (HMS FMP) regulations. The effort limitation—set certificates—applied in the Hawaii shallow-set fishery was discussed and how this could affect West Coast deliveries. This had been a concern of Lillo Augello (southern processor on the HMSAS), but apparently the vessels delivering to him had been able to accumulate most of the set certificates they needed. Dale Squires noted that the WPFMC was considering eliminating the effort limit provision, although Svein Fougner said that he had heard no indication on action on this as yet.

Mark Helvey asked whether the group should just look at the issues from a PFMC perspective or see about working with the WPFMC to get a broader perspective. Marija Vojkovich expressed frustration that from a regulatory standpoint the fisheries were considered separately. Dale Squires pointed out that it is virtually one fleet, targeting the same stocks and interacting with the same turtle populations, underscoring Marija's point.

Pete Dupuy talked about how the HMS FMP ended up with a closure line at 150° W longitude (which was then disapproved under Secretarial review) rather than a 140° W longitude line, which likely may have been approved. He also emphasized the broader perspective of the many fisheries (not just U.S.) interacting with sea turtles.

Peter Flournoy argued that NMFS had an opportunity to address the problem of a piecemeal approach to considering turtle interactions in these fisheries when the HMS FMP was reviewed by the Secretary of Commerce and didn't take it. It was a NMFS caused problem, and they should solve it, not the Council. Marija Vojkovich followed up by asking about communications between NMFS SWR and Pacific Islands Region (PIRO). Mark Helvey said there had been no formal communications but a dialogue between the two RAs is possible. Marija suggested a letter from the Council be drafted to stimulate this type of action on the part of NMFS.

Don Hansen argued that in spite of any dialog, the issue would still end up being one of essentially allocating sea turtle takes among the fisheries. Furthermore, according to Dale Squires, from a procedural standpoint it is a "first come, first served" situation, which could affect the ITSs for different fisheries. In this respect the Hawaii fisheries have a precedent in terms of incidental take. Craig Heberer pointed out that Hawaii supports a very active fishery in their EEZ while the West Coast has no active fishery. Marija Vojkovich said that in spite of this, these issues affect the DGN fishery.

The group agreed that this *de facto* allocation of incidental take of ESA-listed sea turtles among the fisheries is the key issue.

Marija Vojkovich asked how the different fisheries are considered in a BiOp and Liz Petras replied that the environmental baseline section of the BiOp describes all the sources of take aside from the proposed action, along with the current status of the species considered. This would be an aspect of the BiOp for any DGN action.

The group looked at some slides of sea turtle takes and mortalities in the area between Hawaii and the West Coast. This led to a discussion of the seasonal pattern of the shallow-set fishery. There was further discussion of how a broader consideration across all the fisheries could be achieved.

Pete Dupuy pointed out that the application of the law may not be helping turtles because it limits U.S. fisheries while foreign fisheries with more serious impacts aren't affected.

Kit suggested that some sort of programmatic EIS might be the vehicle (proposed action) that would allow a BiOp considering all the fisheries.

Bob Osborn said that on the East Coast NMFS developed a secretarial FMP because the councils could not jointly manage HMS fisheries. Perhaps a secretarial FMP is needed to resolve the issues between the PFMC and the WPFMC. Requesting such a plan would at least put some pressure on the WPFMC for joint action.

Marija Vojkovich asked if there had been any evaluation of the fisheries and the ITS levels compared to the value of the different fisheries. This could be the basis for some decision on allocating take and could be presented to the Secretary of Commerce.

Don Hansen argued that a basic problem is there is no bottom line number. PRD will not provide a number for what would be an acceptable take for all U.S. fisheries.

Liz Petras pointed out that from an ESA perspective you have to have an action to analyze with some idea of the level of effort in order to project the incidental take.

Bob Fletcher said he realizes set limits are unpopular, but he argued that the only way to address this at broad level will be to establish set limits for every fishery, which would be the basis for dividing up impacts across all the fisheries.

Pete Dupuy said the problem with ESA is that it only considers the status of species in one area rather than worldwide. Liz Petras responded that impacts are considered in terms of how the species is listed (i.e., the global leatherback population) but there is also a need to consider the distribution of a species across its traditional range, whether local populations are going extinct, and how these factors affect the global population.

Peter Flournoy followed up by saying that there are differences between the US and foreign fleets and the two international organizations managing the fisheries in the Pacific. Our law doesn't mitigate the effects of the foreign fisheries. Some people believe that you could shut down all U.S. fisheries and still not affect the recovery of these populations.

Craig Heberer said that early in the development of the HMS FMP there was an "HMS summit" at NMFS HQ. He felt that something like that needs to be done again. However, the last summit generated a lot of ideas but very little action. A follow-up summit would need to result in concrete actions. Perhaps some type of programmatic action would allow PRD to do the type of analysis being requested.

The group discussed how much fishing would actually occur if a West Coast opportunity was created. It was agreed that looking at the time around 1996 would be a good way to see the distribution of fishing effort between Hawaii and the West Coast at a time when the fisheries were relatively unconstrained by protected species concerns. Pete Dupuy argued that a lot of the early participation was just opportunistic effort shifting from the Gulf of Mexico to the West Coast and then Hawaii. It is not indicative of any long-term stable fishery participation.

Bob Fletcher said setting up a limited entry program is a high priority for these broad picture considerations. Peter Flournoy disagreed, given that U.S. participation is declining relative to foreign fleets.

The group discussed options to allow a shallow-set fishery east of 140° W longitude. Svein Fougner

pointed out that the letter partially disapproving the HMS FMP encouraged the Council to consider measures for a fishery in that area; the issue that led to disapproval was allowing fishing between 140° and 150° W longitude. The Council felt there was not enough evidence for a closure west of 140°. He said any change to allow fishing would probably require an FMP amendment rather than just a regulatory action, because there is no discussion in the FMP as approved about the area where fishing is permitted. In any case, in terms of the documentation and Council process there is not much difference between a regulatory amendment and an FMP amendment. There was discussion of having an EFP for fishing in this area and what would be the purpose of an EFP and who would be the applicant. Such an EFP could be slated for 2006 and would be intended to evaluate economic viability and feasibility of gear and bait modifications to limit sea turtle interactions (similar to measures adopted in the Hawaii pelagics FMP), and seabird avoidance measures.

Pete Dupuy expressed some skepticism about providing this opportunity given the current situation where Pelagics permit holders can fish out of the West Coast. Marija Vojkovich thought there would be some interest, and it would be a way to determine the viability and feasibility of such a fishery while NMFS figured out how to evaluate all the fisheries together, which could take a long time.

Dale Squires asked whether another possibility would be to go back and consider limited entry.

Marija Vojkovich said that, based on what Pete Dupuy said, dealing with the shallow-set fishery should be a low priority for the Council. The one possibility would be an opportunity for DGN fishermen to transition to longline. But Pete doubted many of the current DGN participants would be interested in such a switch. In terms of direction to the Team, Marija said that the DGN closure alternatives should remain the higher priority, although it is difficult to determine the priority of a shallow-set action over a longer time frame.

Pete Dupuy said that it might be wise to put some conditions on any future participation in the shallow-set fishery (whether an EFP or limited entry program) because there may be some interest in participation that could take away from those who traditionally participated.

Bob Fletcher pointed out that an observer requirement will dictate the size of any EFP.

Kit Dahl asked Caig Heberer about observer availability and how it could impinge on any EFP for the DGN fishery. Craig said that was a legitimate concern given the limitation on funds for observers.

Kit Dahl asked how the issues raised today should be brought forward into the Council process. He pointed out there was no agenda item at the November Council meeting directly concerning the longline fishery. It was agreed that it should be raised as a workload issue on the administrative portion of the agenda. This would also be an opportunity to provide direction on any letter to NMFS about coordinating an overall evaluation of the fisheries, which could then be put on the fast track process.

The group developed the following recommendations (not in order of priority):

1. Ask NMFS-HQ or SWR/PIRO to initiate and lead combined WPFMC and PFMC management of pelagic fisheries. This could lead to a U.S. Pacific-wide BiOp. Refer to the previous NMFS-Council summit as a model.
2. Consider a PFMC shallow-set longline fishery east of 140° W and outside the EEZ. (The exact western boundary would need to be based on an evaluation of combined Hawaii-California observer data.) Any such fishery would follow the WPFMC guidelines on sea turtle modification gear modifications, sea bird mitigation measures, and observer coverage. This could be initiated

by either:

- (a) an EFP to evaluate economic viability and feasibility of gear, bait, and sea turtle and seabird avoidance measures (target year: 2006). Questions about the level of observer coverage (100%?) and funding for observers would have to be resolved.
 - (b) A regulatory procedure or FMP amendment (target year: 2007)
3. Consider the possibility/need of limited entry for the longline fishery (both shallow and deep set)
 4. Pursue revitalization of the DGN fishery through modifying the DGN northern closure.

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM MEETING (RECONVENE)

F. Bigeye Tuna Overfishing FMP Amendment, Range of Alternatives (Friday, November 4, Agenda Item J.5: Council to adopt a public review draft FMP amendment responding to overfishing of bigeye tuna.)

Mark Helvey distributed a draft document containing a discussion of the proposed action and four alternatives. He recalled for the group that NMFS SWR volunteered to take the lead on developing an overfishing amendment for BET. He noted that the current BET measures pursuant to the IATTC (such as the national longline quota) will continue through the end of next year and so this FMP amendment could help the Council to provide input on recommendations to IATTC for 2007 and beyond.

He pointed to Alternative 2 as a bottom-up approach; it gets into more visionary ways of reducing BET catch. Both Alternatives 2 and 3 identify a Council role.

Steve Crooke asked if any of the alternatives include recreational catches. Mark Helvey responded they don't because recreational BET catch is really small. The approach needs to be practical, focusing on the fisheries with the biggest impact, such as purse seine. Steve also asked whether local purse seiners would be affected (which occasionally target tunas in warm water years). Mark said there is not a cutoff for vessel size, meaning they would be considered. Steve pointed out that they rarely catch BET.

Dale Squires asked if BET was considered a Pacific-wide stock. Mark Helvey responded that the Report to Congress identifies two stocks in the eastern and western Pacific.

Kit Dahl asked about the timing with respect to the next IATTC meeting. It didn't seem the FMP amendment process would be finished before the meeting occurred (in June 2006). Mark Helvey suggested that if the Council identified a preferred alternative it would be the basis for council recommendation to the GAC.

Gary Sakagawa expressed concern because the alternatives didn't have provisions for a recovery (rebuilding) plan, yet there is a chance BET will be declared overfished in the near future.

Peter Flournoy asked if this amendment was being developed under the Tuna Conventions Act or the MSA. Mark Helvey said that the overfishing procedures and requirements are in the MSA, so that is the controlling legislation.

Bob Osborn asked about the status of the Western Pacific BET stock. Gary Sakagawa said overfishing is occurring across entire Pacific. The issue of whether BET is overfished is due to the fact that the IATTC at an international level has declared it overfished. In a sense, the IATTC proposals are trying to recover the stock. That's why they are calling for draconian action. He felt it important to explain that because

the Council may be facing an overfished situation. Then you would be faced with developing a recovery plan.

Suzy Kohin pointed to the information in the (draft) SAFE report, which indicates the IATTC found the eastern stock to be overfished. But the reason there is no overfished declaration in the Report to Congress is that there is some question about the Western Pacific stock. If you consider BET a Pacific-wide stock then the assessment conducted by the SPC does not indicate that the stock is overfished.

Peter Flournoy followed up on the point made by Marija Vojkovich. It would be beneficial to broaden the discussion because it's very possible that the U.S. might become a member of the Western and Central Pacific Fisheries Commission (WCPFC) soon and then the Council could interface with them.

Pete Dupuy asked about a new department NMFS is setting up to deal with international issues, led by Rebecca Lent. He emphasized the importance of international action. Mark Helvey briefly described what he knew about these activities.

Kit Dahl mentioned that Charles Karnella had contact Don McIsaac to organize some constituent meetings relative to the December WCPFC meeting, which he wanted to hold at the November Council meeting.

Svein Fougner added that action in the Senate could lead to U.S. ratification of the Convention and thus membership before the December WCPFC meeting.

Marija Vojkovich asked if the presentation to the Council of the alternatives would include any supporting data about the different fisheries catching BET, and especially the purse seine fishery, which has the biggest impact. This would put things in perspective and help the Council decide whether it is just a purse seine issue or one relevant to all HMS fisheries.

Steve Crooke pointed out that the vessels managed under the HMS FMP have a negligible contribution to BET fishing mortality.

Pete Dupuy said he thought it was the seiners out of Ecuador, targeting juvenile fish with FADs which were the big problem as far as BET is concerned.

Peter Flournoy said if the Council wanted to get into the specifics of stock status, they would have to review the assessments and reports that provide the information from the international organizations.

Gary Sakagawa said the alternatives don't seem to address the jurisdictional area of the Council. He thought they should consider two categories, one for the jurisdictional area of the Council and one for internationally-managed fisheries. That would make sense to the public and also answer the question of what you are going to do with HMS FMP fisheries such as DGN, longline, etc.

Jean McCrae said that ending BET overfishing can't be done at the local scale; it has to be accomplished in the international arena. She thought the alternatives should focus on the international level rather than constraining HMS FMP fisheries. Mark replied that the alternatives have provisions for the Council to make recommendations to RFMOs. Jean said it needs to be clear that constraining the HMS FMP fisheries won't have any appreciable effect.

Bob Osborn stressed the importance of BET to West Coast fisheries, even if they are not caught in large numbers. They are a rare but highly desirable recreational species and longliners combine swordfish with BET fishing opportunity.

Gary Sakagawa cautioned about using estimates of any West Coast longline catch, estimated at about 50 mt, as a benchmark. This could set a precedent that could have a long-term effect on opportunity. The Council should instead stake out what is a realistic overall catch level, recognizing that it is still very small by international standards. Peter Flournoy emphasized the importance of Gary's point: it's defining what our BET catch is and then communicating that to NMFS and Department of State for use in the international arena.

Following up, Marija Vojkovich pointed to the importance of recreational fisheries, based on Bob Osborn's earlier point, and asked whether a larger estimate of West Coast catch should be put forward or if it would be better to seek an exemption altogether from any national quotas. There was further discussion of the applicability to recreational fisheries.

Pete Dupuy asked about the implications for albacore. It is also incidentally caught in a lot of fisheries, which would result in wide effects if rebuilding measures have to be put in place for that stock.

Gary Sakagawa said he saw the scenario getting worse because of the international situation. We may eventually have to deal with BET as an overfished stock, which will result in more stringent requirements, including a recovery plan. For that reason it may be wise to define fishing mortality for all the fisheries for entire stock. That would be a statement of the current catch and the intention to stay at that catch level. That would provide a better position relative to other areas if the stock condition gets worse. Unless we define our catch, the overfishing provisions in the MSA will otherwise put us at a severe disadvantage relative to other countries.

Marija Vojkovich asked if Gary Sakagawa's proposal was to declare a certain level for West Coast catch, which we will not exceed in order to prevent overfishing and provide recovery of the stock while pushing a rebuilding plan internationally. Gary said that is essentially correct, although the longline catch would have to be excluded from the total since that fishery is already subject to the IATTC national quotas. This would be another alternative put forward in the amendment package.

There was some further discussion of how to consider and define catches for different fisheries.

Peter Flournoy asked how this will be coordinated with WPFMC. Mark Helvey said it hasn't been yet. Once council adopts a preferred alternative it can be sent to the send out to WPFMC for review.

There was some discussion of the WPFMC position and relation both to stocks and the RFMOs. Svein pointed out that there is not yet a management program for the Western Pacific and that is why the WPFMC's BET amendment focused on a process for interacting with RFMOs rather than specific proposals that would be presented to those organizations.

ADJOURN