

TRAWL RATIONALIZATION
COUNCIL ACTION
NOVEMBER 2008
DRAFT STAFF NOTES ON DISCUSSION

The following are the staff notes on the discussion. After refinement and proofing, these notes will be incorporated into the draft Council minutes.

Discussion on Final Action

Mr. Lockhart started out by noting the administration's support of limited access privilege programs.

Mr. Anderson noted that regardless of today's outcome follow-up action on the part of the Council will be required and provided history of the groundfish limited entry program from the first adoption of a control date in July of 1987 through development of a groundfish strategic plan to where it is today. There will be some implementation concerns including National Marine Fisheries Service (NMFS) and state capacity to implement the program from a human resource perspective, along with fishermen's ability to pay for the program. Mr. Anderson then spoke to his philosophy on the role of government. Our economy relies on competition and on individuals and businesses acting in their own self interest for growth, innovation, price setting, and the allocation of resources. Government should not interfere in business competition unless it is necessary for the public benefit. The Council interferes with harvesting businesses because of problems identified relative to conservation and management both in the nonwhiting and whiting fishery. When we intervene in harvesting we cannot help but also interfere with the processing businesses by changing the basic bargaining dynamics in the raw fish product market. We should leave exvessel price negotiations up to the harvesters and processors but we cannot ignore how our actions might influence those negotiations. Under status quo, the section on marketing power states that processors are in a strong position to exert bargaining power (starting on Page A-60 and on page A-67). Some concerns about transitioning to individual fishing quota (IFQ) are: consolidation of fleet and shifts in the timing and geography of landings (Chapter 4, 307-309). Because of this reshuffling, communities and processors that are dependent on the fishery face some or a lot of uncertainty about their future economic future and viability (Chapter 4, Page 407). Washington Department of Fish and Wildlife (WDFW) has been consistent in its expression of concern about communities in Washington, many of which have been adversely and disproportionately affected by the trip limit system. In addition, not unlike California, the buyback program also reduced the number of trawl boats delivering in Washington. Through this program various ideas have been proposed to address community stability and geographic dispersion of the fleet, including adaptive management, allocation to processors, and the concept of regional landing zones. With respect to allocation to processors, Mr. Anderson noted the Magnuson-Stevens Act (MSA) Limited Access Privilege Program (LAPP) provisions in Section 303A(5) require that the Council ensure fair and equitable initial allocations, including consideration of (1) current and historic harvests, (2) employment in the harvesting and processing sectors, (3) investments in and dependence on the fishery, and (4) the current and historical participation of fishing communities. Congress specifically instructed the Council to fully analyze alternative program designs, including the allocation of limited access privileges to harvest fish to fishermen and processors. Two motion packages were presented (Agenda Item F.3.i, Supplemental WDFW Motion, Package 1 and Supplemental WDFW Motion, Package 2). The packages differed only with respect to the shoreside fishery. Separate packages were presented because Mr. Anderson was aware of divergent views on the Council with respect to the best approach to be used in managing the shoreside fishery. In the packages, the term "trailing action" was used to describe additional action that would be needed to support the foundational decisions at this

meeting, prior to the submission of the package to NMFS, and the term “trailing amendment” was used to reference any decisions that would be implemented in a separate regulatory or plan amendment.

Mr. Anderson began with Motion #1 of Agenda Item F.3.i, Supplemental WDFW Motion Package 1. He moved and Mr. Cedergreen seconded a motion to adopt the following as the Council’s preferred alternative with respect to the general provisions for whiting co-ops (Motion 19).

Motion 19		
Topic	Section	Council Preferred Alternative
<i>General Provisions - Whiting Co-ops</i>		
		The mothership and catcher-processor sectors will be managed under a co-op system rather than an IFQ system
Bycatch Rollover	B-1.3.2	Option 1 – Unused bycatch may be rolled over from one sector to another if the sector's full allocation of whiting has been harvested or participants do not intend to harvest the remaining sector allocation
Bycatch Management	B-1.3	Subdivide bycatch among whiting sectors and within sectors, subdivide between co-op and non-co-op fishery and among co-ops within sectors
At-Sea Observers/ Monitoring	B-1.4	Include as specified
Mandatory Data Collection	B-1.5	Include as specified

Mr. Mark Cedergreen seconded the motion, (Motion 19).

Mr. Myer said that he would recuse himself from the discussion and vote on this motion and the second motion in the WDFW motion package. In response to a question, Mr. Anderson confirmed that the omission of Section B-1.2 was intentional. Motion 19 passed with Mr. Myer recusing.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 20) to adopt as the Council’s preferred alternative for the mothership sector (Motion #2 of Agenda Item F.3.i, Supplemental WDFW Motion, underlined sections indicate changes from the preliminary preferred alternative):

Motion 20		
Topic	Section	Council Preferred Alternative
<i>Mothership (MS) Sector</i>		
Groundfish LE Permit Length Endorsement	B-1	Retain the length endorsement for permits, with two modifications: 1) If a permit is transferred to a smaller vessel, then the permit would retain the larger length endorsement (e.g., if a permit endorsed for a 75 ft vessel is transferred on to a 50 ft vessel, the permit would retain the endorsement for a 75 ft vessel); and 2) to add length to a permit, additional permits required (as needed), but only one endorsement would be required for all combined permits (i.e., do not need to acquire multiple endorsed permits).
Processor Participation	B-2.1a & c & B-2.2c	As specified for CVs and processors. Vessels excluded: Motherships operating as a catcher-processor may not operate as a mothership during a year in which it also participates as a catcher-processor
Catcher Vessel Allocations	B-2.2a	Qualifying for a CV whiting endorsement in the MS fishery: minimum 500 mt in 1994-2003

Motion 20		
Topic	Section	Council Preferred Alternative
		Catch history assignment: 1994-2003, drop 2 years
		Bycatch history assignment: Pro-rata in proportion to whiting catch assignment
Whiting Endorsement Transferability	B-2.2b	Transfer Option 1 - The CV whiting endorsement may <u>not</u> be severed from the permit
		<u>CV permits may be transferred two times during the fishing year, provided that the second transfer is back to the original CV (I.e., only one transfer per year to a different CV).</u>
MS Processor Permit Qualification	B-2.2a	Qualifying Entities: The owner or bareboat charterer of qualifying motherships will be issued MS permits
		Qualification Requirements: Minimum requirement of 1000 mt of whiting in any two years, 1997-03
MS Processor Permit Transferability	B-2.2c	Transferability: MS permits will be transferable and MS permits may be transferred to a vessel of any size
		Option 1 - MS permits may not be transferred to a vessel engaged in harvest of whiting in the year of the transfer
		Modified Option - MS permits may be transferred two times during the fishing year, <u>provided that the second transfer is back to the original mothership (I.e., only one transfer per year to a different mothership).</u>
		Usage Limit: No individual or entity owning an MS permit may process more than <u>45%</u> of the total MS sector whiting allocation
Co-op Formation	B-2.3.1	Co-ops are not required, but may be voluntarily formed. A minimum of 20% CV permit holders is required to form a co-op. This minimum threshold balances the potential advantages for multiple co-ops while limiting implementation and management costs and administrative requirements for managing this sector.
		Subdivide whiting between co-op and non-co-op fishery and among co-ops within sectors.
		In the event there is more than one co-op, whiting and bycatch QP will be transferable between co-ops through an inter-co-op agreement.
		The non-co-op fishery will close based on projected attainment of their allocation of either whiting or one or more bycatch species
Co-op Agreement Provisions	B-2.3.3e	Include as specified. The intent is to have MS participants work with NMFS to develop and describe a process and co-op agreement requirements to include in the implementing regulations for this action.
Initial Ties to the Motherships	B-2.4.1	<u>No processor tie. By September 1 of the year prior to implementation and every year thereafter, CV permit is required to contact NMFS and indicate whether CV permit will be participating in the co-op or non-co-op fishery in the following year. If participating in the co-op fishery, then CV permit must also provide the name of the MS permit that CV permit QP will be linked to in the following year (i.e., annual CV-MS linkage that may be changed each year without requirement to go into "open access" fishery). Once established, the CV-MS linkage shall remain in place until changed by CV permit.</u>

Motion 20		
Topic	Section	Council Preferred Alternative
		<u>By July 1 of the year prior to implementation and every year thereafter, if CV permit would be participating in the co-op fishery in the following year, then CV permit must notify the MS permit that the CV permit QP will be linked to in the following year.</u>
		In the event there is agreement between the CV permit holder and the MS permit holder to which it is linked, the QP may be transferred to another MS permit.
MS Processor Withdrawal	B-2.4.2	<u>If the MS permit withdraws subsequent to QP assignment, then the CV permits that it is linked with is free to participate in the co-op or non-co-op fishery. The MS permit shall notify NMFS and linked CV permits of its withdrawal, and CV permits shall notify NMFS of their intent to participate in the co-op or non-co-op fishery thereafter. If continuing in co-op fishery, then CV permit shall provide NMFS with the name of the MS permit for new linkage.</u>

Mr. Lockhart noted that the requirement that ties be identified prior to September 1st may be awkward in the first year if implementation occurs after September 1st. He said the NMFS intent would be to announce as far in advance as possible when this is implemented. Mr. Anderson stated that there should be flexibility to adjust that date in the first year so that it would not delay implementation.

Motion 20 passed. Mr. Myer recused himself.

Mr. Anderson moved and Mr. Myer seconded Motion #3 of the WDFW motion package (Motion 21), to adopt as the Council's preferred alternative for the catcher-processor sector:

Motion 21		
Topic	Section	Council Preferred Alternative
<i>Catcher Processor Sector</i>		
General Provisions	B-4	Adopt a co-op for the catcher-processor sector; include provisions as specified
		Specify harvest amounts in regulation for co-ops.
		Do not require unanimous consent for a member to leave the co-op
		If the voluntary co-op fails, then QS will be divided equally among ten CP permits in sector
		Catcher processor cannot operate as a mothership during the same year it participates in the CP fishery
		Mandatory data collection included
		Annual co-op report required
		Bycatch: The CP sector fishery will close based on projected attainment of its bycatch allocation

Motion 21		
Topic	Section	Council Preferred Alternative
CP Endorsement		Create a catcher-processor endorsement to be placed on qualified limited entry permits. Qualified permits are those that harvested and processed in the catcher-processor sector of the whiting fishery sometime from 1997-2003. Limited entry permits with catcher-processor endorsements will continue to be transferable; however, the endorsement is not severable from the permit.
Permit Transfer		<u>CP permits may be transferred two times during the fishing year, provided that the second transfer was back to the original CP (I.e., only one transfer per year to a different CP).</u>
Length Endorsement		<u>Retain the length endorsement for permits, with two modifications: 1) If a permit is transferred to a smaller vessel, then the permit would retain the larger length endorsement; and 2) to add length to a permit, additional permits required (as needed), but only one endorsement would be required for all combined permits (i.e., do not need to acquire multiple endorsed permits).</u>

Ms. Vojkovich questioned the rationale for the length endorsement provisions. Mr. Anderson indicated that the provisions existed under status quo but that the rules for combining permits when there is a new type of endorsement needed to be addressed. Mr. Myer responded that in public testimony we heard that as the program moves forward people may want to lengthen their vessels to add more efficiencies such as a meal plant or oil plant. This would allow them to do that by not requiring that the permits that are being combined have the same sector endorsements. Motion 21 passed unanimously.

Mr. Lockhart noted that NMFS has made a preliminary determination that both the mothership (MS) sector and catcher-processor (CP) sector will be defined as a LAPP under the MSA. As part of that, in order to monitor and enforce the system NMFS would be issuing a permit to the co-ops. This would mean that the cost recovery provisions would apply to these two sectors.

Mr. Anderson noted that in package #1, Motion #4 applies to shoreside whiting and non-whiting fisheries, but in package #2 Motion #4 is for shoreside whiting only. Ms. Vojkovich moved and Ms. Fosmark seconded a motion (**Motion 22**) that the Council manage the shoreside non-whiting fishery under status quo management.

Ms. Vojkovich said that there has been opposition to the IFQ program in public testimony, in comments at the hearings and over the last two years since the state had in-state meetings. She had reviewed the documents to determine where the IFQ program would be a better way of doing business. She also examined the goals and objectives to see how current management might, with some variation, meet those needs. And, she looked at what might be generated out of this fishery if we have IFQs. She was not seeing where there would be an economic payback for the fleet. Economics is one of the major portions of the goal of the entire program.

Ms. Vojkovich said that for the IFQ to work, consolidation is required. We have heard that the savings would be somewhere around \$14 million. If we are going to have that cost savings realization, consolidation has to happen quickly. We cannot wait. If we have a slow consolidation, which is what is expected to save communities (e.g. low accumulation caps) she questioned whether the consolidation will happen quickly enough. While we are waiting for the benefits of consolidation, there will be real costs to bear every day (tracking, monitoring, and enforcement). An assumption that underlies the \$14 million is that we are expected to gain in the volume of the fish landed and that processors will buy the fish. The

price of the fish paid to fishermen will not increase. The only increased value is from the increase in the amount of fish, not the price.

This increased volume is expected to offset the upfront cost to acquire the additional shares in order for consolidation to occur. However, in order for this to happen the markets have to be able to absorb the additional catch volumes immediately. There must be an immediate demand in order to realize the benefits needed to offset costs. If we have a use it/lose it program, that works against markets. You lose the fish because you haven't used it but you can't deliver it because there is no market for it. You may be able to access more of the OY if you are carrying observers and it turns out you are avoiding bycatch and able to land more target species. But right now there is not a major financial benefit that will support the fishermen as they bear the costs of the program, or while the market develops for the extra fish that might be produced from the program. There is nothing in the program to change the rockfish conservation areas (RCAs), so accessing more fish there will be difficult. She did not know how we would move forward with an IFQ program with no place to sell the extra fish, and no extra value out of it.

Ms. Vojkovich also noted that we would be allocating catch shares based on historical landed catch but that vessels would need those shares to cover catch, not landings. Therefore vessels may not receive enough to cover their discards. Therefore people will not start out "whole" with respect to their need for QS.

There are only one to three target species that actually generate money for the shoreside fishery. Going through CDFG logbooks, median exvessel trawl fleet value for one of the major revenue species, sablefish, was less than \$2,000 a day. If observers cost \$350 a day that's almost 18 percent of the daily amount. Then there is the 5 percent fee for the buyback program and the program administration cost of 3 percent. If you don't have enough sablefish to cover your discards you'd need another 17 percent-18 percent to cover your sablefish discard rate. You end up with potentially half the amount of money you are currently making today. She is trying to find in the document information on the potential revenue for the fleet relative to what they are making today. She can only find speculation in the document. During testimony the processors indicated that "someday" the market would develop for the additional fish. So she is concerned that for the shorebased fishery we really don't have a clear idea of what we are setting ourselves up for. She is not saying that IFQs are not where we need to go. While she hopes the predictions develop, she is not sure and does not see a lot of concrete evidence for it in the document. She is concerned that many people will be put out of business and we will end up worse off than we are now.

She then discussed whether there is a way to get total catch accounting without going to IFQs. Fishermen have been talking a lot about full retention as an option. How do we promote practices that reduce bycatch and discard mortality. Since most of the discards are regulatory, she suggested the possibility of a longer trip limit period. This would give people an opportunity to catch more fish, avoid the bycatch and discard mortality. It would also increase operational flexibility. The objectives state that we should minimized adverse effects of IFQ program. The California communities and constituents would be very negatively impacted by going to an IFQ program right now. Another objective is safety. A longer trip limit period would promote safety. With respect to the promotion of economic benefits throughout the industry she noted that under an IQ program California could lose fishermen and the ports. Status quo will not exacerbate those issues. In summary she does not see solid evidence that this is going to be better.

Dr. Dave Hanson asked if it was the intent of the motion that all work on rationalization for the non-whiting fleet would cease and there would be no trailing amendments or actions.

Ms. Vojkovich said we should continue forward to get real analysis of what the fleet is currently, the initial allocation and quantification of benefits. How many people will be consolidated out and how many people will have to buy up to get to where they are currently. She does not have a clear picture of that.

Mr. Steve Williams said he would not support Motion 22. In the executive summary of the analysis it states that the “trawl fishery is currently viewed as economically unsustainable due to the number of participating vessels, excess capacity, a regulatory approach that constrains efficiency and the status of certain groundfish stocks along with the measures in place to protect those stocks.” One of the challenges that the Council faces is that there are differences among the state fisheries. While we heard testimony in support of status quo, over the last year we have also heard public testimony to the effect that it is critical that we move forward on this. We have heard that even after the buyback we are still over capitalized. With respect to the objectives, he had been told they cannot be attained without an IFQ program. IFQ will decrease harvesting costs and markets will develop over time. Assumptions are that it will result in increased revenues, safety, higher profits and a better chance at achieving OYs. There has been extensive analysis. There is no doubt that more analysis could be done. He does not believe that after five years of work we should step away from what we have come down to for a preferred alternative. This has been talked out, all of the analysis has been examined, and without a change in the approach, such as IFQs, these non-whiting trawl fisheries are going to crumble, they will not be sustainable in the future. If there is a delay we will lose momentum and never get back to this point again.

Mr. Myer shared many of Ms. Vojkovich’s concerns that the package is not ready to move forward; but at the same time shares the sentiments of Mr. Steve Williams that this not be dropped. The way the motion is stated right now, he could not support it.

Mr. Anderson also shares many of Ms. Vojkovich’s concerns. He is uncertain about how this IFQ program will impact the fleet over time. We are at least 3 or 4 years away from implementation even if we stay on schedule. However, the program must be viewed in comparison to other alternatives. For Washington, there are only five trawl boats left. While the program is not completely ready, the principal components are there. Mr. Larkin talked about discarding marketable fish at an unacceptable rate. The exempted fishing permit (EFP) proved that if the fishermen were held accountable for bycatch they can catch more marketable healthy species. In 2006, the trawl fishery left 1,000 tons of sablefish on the table, worth close to \$3 million. The cost of the observer program was \$3.7 million, including the dockside monitors. There are large quantities of seabastes available, such as yellowtail rockfish. Mr. Dulcich indicated that while it might take some work to expand the market for Dover sole the ability to market seabastes is there right now. He would like to give our fleet a chance to be successful. He has a lot of concerns about our small processors and how they will be affected by this; while there are not many they are important. While Washington does not have many boats in the trawl fishery right now, the people that are in it are as important as if there were more of them. So he will be voting against the motion and will continue to work to try to make the program successful and address the concerns that have been raised.

Mr. Cedergreen also shares Ms. Vojkovich’s concerns. Much more work needs to be done and he was disappointed that some members of industry had not gotten together during the time we have been involved in this. But we can’t afford to lose all of the work that has been done so far. So he cannot support the motion as written and therefore he would vote against it.

Mr. Ortmann empathized with Ms. Vojkovich’s comments, but he also agreed with the comments of other Council Members that we need to follow-up on the investment that we have made so far and manage the trawl fishery in an improved manner. He does not support the motion.

Dr. Dave Hanson noted that Ms. Vojkovich raised some valid points. While this is specified as final action, in reality it is not. There will be a number of elements which will need to come back in front of the Council. We have the funding to work on it now and we may not have it available for a long period of time. In a subsequent meeting there will be an opportunity to not move forward if we are not happy with the program. It would be too early to do that now.

Ms. Fosmark supported the motion. She does not believe we are over-capitalized based on the number of vessels active in California and the small number of processors. She does not see it as forming a safety factor. There are other means to create a longer season to allow people to choose when to go fishing. She does not expect increased profits, especially if they consolidate. She does not see provisions for future generations that will allow other fishermen to get into the fishery under this program. Even as we have heard about processors and harvesters being impacted we have not heard about crewmen being impacted. Most people get into fisheries by being a crewman, that's how they learn. They will be priced out of the program. Regional associations can be formed even without an IFQ program. She is not sure it is ready to go forward. She understands the amount of money and time that have been put into this, however, she does not want this to move to a system where the fishermen themselves are priced out of the market and have to work like the plantation system. There is not enough protection for the fishermen in the program. She requested a referendum some time ago, to give people a chance to do a little more work on the program. She also said that California, in general, has a lot of work to do to improve the trawl fisheries. We have gone through the Marine Protected Area (MPA) process and are looking at possible sanctuary marine protected areas, the essential fish habitat (EFH) and RCAs. She is concerned that we will not be able to attract anyone down there to help the processors out and that we don't put additional costs on the fishermen that are already marginal.

Mr. Wolford noted a number of excellent points made by Ms. Vojkovich. His assessment was that the outcome could be worse than status quo. However, he was concerned about killing the program. There are some features that are valuable, such as community based fishing association, 100 percent monitoring and the attendant conservation benefits. He was uncertain about which way to go.

Mr. Lockhart noted that with respect to IFQs for the shoreside boats one of the greatest benefits is that it aligns economic and conservation incentives for the fishermen. He stated his belief that fishermen and processors will work together to figure out a way to use the additional fish that may be landed, though it may take some time. He believed that the basic components of the package provide the tools to address concerns raised by Ms. Vojkovich. We will never have all of the information and we need to move forward with the information before us. The time to move forward is now. Given the concerns about the program, it was his hope that the Council would continue to watch and evaluate the program. The guidance in the MSA is clear that the Council must continue to evaluate LAPPs with respect to their achievement of objectives. He will vote against the motion.

Mr. Roth expressed his support for going forward at least provisionally with the IFQ program. This would be a historic and positive event as compared to the negative outcome from earlier this year when the Council was forced to shut down the salmon fishery. The basic framework has been crafted to move the process down the road for needed management reform. There is no doubt there are many more details to be worked out but today's action to approve the LAPP system sets the stage for that to happen. The action captures the management framework that will provide the most benefits to the nation for the public resource including assigning personal accountability for the fisheries, providing opportunities for bycatch reduction, providing opportunities to maximize catch of targeted species while protecting species of concern, helping to maintain community stability, guarding against local stock depletion and addressing unforeseen circumstances through a robust innovative adaptive management provision. He supports the action and then to follow up with the various details that have yet to be developed.

Mr. Gordon Williams heard testimony about the Alaskan IQ program. The circumstances are much different there. There have been unintended and unanticipated consequences, but there are changes being made to those programs through a review process. There is data coming out of Alaska on those programs that will be helpful to the Pacific Council as they move forward. The halibut and sablefish IFQ programs had effects on communities. Some of those were recognized after the fact and programs were developed to accommodate those interests. But it has been difficult, due to the price of the quota, for communities to play catch-up.

Mr. David Sones said he will also vote no on the motion. He shared many of the same concerns of Ms. Vojkovich. Some of them are big concerns. There are 160 boats or permits in the fleet. Because of under harvest we are dividing up something that has not been fully utilized. We will be taking quota and assigning it to permits that have been on the sidelines, which seems unfair to the vessels that have been actually harvesting the fish. However, the amount of unused fish is a reason to move forward. As we go through the process there will be an opportunity to resolve problems in the program. But the current situation we have now with 2-month quotas is flawed too and needs to be addressed in the interim. If it is going to take us 2 or 3 years to implement, is there something we can do in the interim to allow the fishermen to access those unused fish and reduce discards. This would allow them to keep their businesses viable and get the markets in place to utilize some of these under harvested species as we are working out the details and during the implementation process. It's an important program to our fishermen, to the use of public resources and to develop the markets.

Mr. Warrens said he will be voting no on this motion. A lot of time and effort has gone into this proposal. There will be consolidation of the fleet and winners and losers. It is only fair that the Council sends that message now for however this shakes out in the next two or three years. To take a system that is not economically viable for many, and turn it into a system that works for the people who will come out of this on the other end in a businesslike fashion only makes sense.

Mr. Rod Moore noted that at the June meeting many processors indicated that they were just as well off under status quo. He agreed with Ms. Vojkovich's concerns about the economic cost-benefit data. There are a lot of big assumptions and a lot of big costs flowing down to the fleet. He has yet to see that anybody wants to help the processors even though they are part of the fishery. There has been a lot of good, hard-working people involved in this, a lot of good debate and facts developed – but rarely has he seen the level of personal attack that there has been on this issue. However, he is voting against the motion because of the hard work put in on the program, and there will be opportunities to address the deficiencies, including accumulation limits and looking at innovative ways to get fishermen and processors to work together. If we don't do this, we will wind up in a situation where we have continued problems with our trip limits and it will support those who want to get rid of the trawl fishery completely. There are problems with discard and bycatch that would be resolved by the program.

Mr. Mallet opposed the motion. We have heard a lot about people catching more fish and making more money, and all of the work that has gone into this. However, the conservation of the fish resources is his main reason for voting against the motion. This would help reduce bycatch and discards and rebuild stocks that are suffering partially because of the discards.

Chairman Hansen noted the length of the process and degree of acrimony. This week the fishermen and processors started to work together. We started five and half years ago to protect the resource, because of discards and bycatch. This is not a time to stop. There has been much progress since June. The funding is there now to keep going. There is an opportunity to protect the resource and bring more fish in so both harvesters and processors can make more money.

Motion 22 failed. 11 no, 2 yes. Ms. Vojkovich and Ms. Fosmark voted yes.

Mr. Anderson moved and Mr. Rod Moore seconded Motion #4 of the WDFW motion package 1 (Motion 23), to adopt as the Council’s preferred alternative for the shoreside sector:

Motion 23 – See “Motion 23 as amended” for final version		
Topic	Section	Council Preferred Alternative
<i>IFQ Program</i>		
General Provisions	A-1	Applies to shoreside whiting and non-whiting fisheries
Scope: Gears and Fisheries Covered	A-1.1	Modified Option 2 - If a vessel has an LE trawl permit and groundfish is caught by any gear, IFQ must be used, with the following exceptions: exempted trawl, California halibut trawl, coastal pelagic species gear, highly migratory species gear, salmon troll, and crab pot.
Gear Switching and Conversion	A-1.1 & 1.7	Gear switching allowed. <u>Do not include any provisions for permanent gear conversion.</u>
IFQ Management Units: Species	A-1.2	<u>For non-whiting sector, IFQ is required for all species, except: longspine S. of 34.27'; minor nearshore rockfish (N & S); black rockfish (WOC); CA scorpionfish; cabezon; kelp greenling; shortbelly rockfish; other rockfish; spiny dogfish. The catches of these species would be accounted for and tracked against the overall OY. If a trawl allocation for any of these species is adopted in the future, then QS/QP for those species could be added at that time. For whiting fisheries, IFQ required for whiting and species with bycatch caps. Bycatch caps would be established for the following species: widow, canary, and darkblotched rockfish, and Pacific ocean perch. The catches of all groundfish species would be accounted for and tracked against the overall OY.</u>
Area Management	A-1.2	<u>For species managed under coastwide OY with precautionary harvest policy (I.e., 40:10 or some other policy) applying to a specific area, subdivide the OY and apply the precautionary policy as recommended by the Council's SSC.</u>
Number of Trawl Sectors	A-1.3	Three trawl sectors
Limited Entry Permit Length Endorsement	A-1.6	<u>Retain the length endorsement for permits, with a modification: If a permit is transferred to a smaller vessel, then the permit would retain the larger length endorsement (e.g., if a permit endorsed for a 75 ft vessel is transferred on to a 50 ft vessel, the permit would retain the endorsement for a 75 ft vessel).</u>
Initial Allocation - Whiting	A-2.1	<u>80% to harvesters;20% to processors (no adaptive management)</u>
Initial Allocation - Non-whiting	A-2.1	<u>90% harvesters; 10% to adaptive management</u>
Attributing and Accruing Processor History	A-2.1.1	Option 3 (whiting) - Attribute history to the receiver reported on the fish ticket, except history may be reassigned to an entity not on the landings receipt, if parties agree or through an agency appeals process

Mr. Anderson spoke to the motion. On gear switching he thought it was premature to make a decision on gear conversion and would like to first see how temporary switching works and the impacts of bycatch on other sectors. The species for IFQ management was narrowed for the whiting sector. In the whiting

fishery there are species that are rarely caught or caught in de minimis amounts and he did not see a need to require IFQ for those species. For the length endorsement, the analysis does talk about how the fleet might consolidate and the optimum size of vessel. We wanted to allow people with permits for larger vessels to move to smaller vessels if that was the most efficient and effective thing to do, yet not have a permanent reduction on the length of the permit for the vessel. With respect to the issue of processor shares, the motion does not include an allocation of QS to processors for the nonwhiting side. For the whiting sector, an allocation is appropriate based on a few factors identified in the analysis. First, there are three large volume shoreside whiting processors; fleet consolidation will take place among shoreside whiting vessels but not to the extent of the non-whiting portion of the shoreside fleet. The analysis predicts that the shoreside whiting fleet would drop to approximately 20 vessels (see 4.6.2.2, page 312). Even with a 20 percent allocation to processors, it is uncertain whether the initial allocation to processors will offset the gains in negotiating power to harvesters relative to status quo (Chapter 4, page 435). For shoreside whiting, the need for processing capital may decline by 30 percent to 50 percent (see 4.9.2.4, page 415, and Figure 4-2.2, which shows the projected changes in the seasonality under this type of an approach). Initial allocation of QS to processors functions as a means of guaranteeing supply, and to provide an incentive to make necessary capital investments to increase product recovery yield (public testimony and Section 4.9.2.6 page 416 which addresses product recover).

Mr. Anderson also noted his concerns about processors in the nonwhiting fishery and that he was pinning a lot on the 10 percent set aside for adaptive management. If he was going to make an allocation of QS to processors, he would likely consider something along the lines of a 10 percent allocation. In the non-whiting fishery we know there is a high degree of market concentration in the processing sector. Small processors face some risk under the IFQ program because of vessel consolidation. Yet there is reason to believe that issuing QS to processors would increase market concentration in an already concentrated sector. In contrast to whiting, the nonwhiting trawl fishery is not a derby style system. The Council has attempted to achieve optimum yields, albeit with limited success, minimize bycatch and rebuild overfished stocks with the bimonthly trip limit system (see Section 4.4.2). The buyback program left 163 permits in the fishery. In 2006 there were 123 permits active, earning approximately \$25 million in exvessel revenue (see Section 4.4.2, page 289). There has been significant consolidation in the processing sector resulting in high market concentration. The number of nonwhiting processing firms has dropped in half since 1994. The processing sector for nonwhiting groundfish is characterized by a relatively small number of processing companies processing the majority of the harvest. The consolidation has already occurred as part of the current management approach. Because of concern about the potential for further consolidation if QS to processors are issued, Mr. Anderson favored a 10 percent set aside for adaptive management that could be used to not only provide certainty and security to the larger processors, but also provide flexibility to tailor a program that would provide some protection to smaller processors. A set of protocols will need to be established to ensure that the program accomplishes this as one of its objectives.

Dr. Dave Hanson said, on the scope of fisheries covered, the GAC recommended that California halibut trawl be included in the program, as they are using the same nets in Federal groundfish fisheries. That would also get observers in that fleet.

Ms. Vojkovich moved and Ms. Fosmark seconded an amendment (Amendment #1 to Motion 23) to amend the scope in Section A-1.1. to strike "California halibut trawl" in the list of exemptions. Ms. Vojkovich clarified that there are limited entry trawl vessels participating in the California halibut fishery in the central coast with the same gear. In southern California there is a state fishing area that requires a different set of gear, 7.5" mesh, so she did not know if we have any LE fishermen that participate in that fishery. Her motion deals with the gear type that is exactly the same as the groundfish gear type. Amendment #1 to Motion 23 passed unanimously.

Mr. Moore supported the motion. He had some disagreement with Mr. Anderson with his characterization of consolidation in the groundfish processing sector. He had seen some of the same data in the analysis and had been confused about some of it based on his own knowledge. His preference would be to allocate harvesting shares non-whiting groundfish species to the processors. There has been testimony on that issue, and while we have been successful getting together harvesters and processors in the whiting sector, we are still not there yet in the non-whiting sectors. The approach being taken, while not his preferred approach, is a reasonable way to get people working together and resolving some of the issues identified. He will address this issue further with a motion on adaptive management.

Mr. Mallet stated that adaptive management seems to be something that the fishermen and processors were against. He did hear everybody agree, environmental community fishermen and processors, that we don't want to damage communities, and in particular, the small and medium size processors that were affected by our buyback program. This is a way to have the staff develop a program so we can help out the communities and those small and medium processors in particular which were affected by buyback and may be affected unintentionally by this program. The normal Federal program is to give each of the three states a third and let them give it to regional associations. Mr. Mallet felt that staff should focus on the small and medium processors that are struggling and the communities that are struggling because of our actions, and determine a plan on how to use this 10 percent to try to aid those communities and entities rather than just broad-brushing it off and giving everyone a small amount. This is an important part of this program. We don't want to have unintended results where we further damage those that have been damaged by the buyback program. We want to try to maintain our processors in a diverse geographic area so we have places for the fishermen to deliver their fish. If we take the adaptive management provision out and we have no way of aiding places like Bellingham and Fort Bragg, it will be difficult to support the motion.

Ms. Vojkovich asked Mr. Anderson about the initial allocation to non-whiting; where it says 90 percent to harvesters and 10 percent to adaptive management. Up until now we've been talking about QP being put in the adaptive management program, not QS. This appears to be QS. Up until now it has been listed as 100 percent to harvesters with 10 percent QP to the adaptive management program.

Mr. Wolford moved and Ms. Vojkovich seconded an amendment (Amendment #2 to Motion 23) to change the initial allocation for whiting and non-whiting to read "100 percent QS to harvesters and 10 percent QP to adaptive management" in both the whiting allocation and the nonwhiting allocation. This is more than a clarification, it is a change.

Mr. Wolford said there is no philosophical objection to processors having shares. There is not a way to prosecute the fisheries without both harvesters and processors, working together. Each is required, both must be healthy. There has been a lot of talk about community stability. There is nothing that protects shares from beings sold or leased by either harvesters or processors. It is not clear that giving shares to one group or the other specifically protects the community. Both of those factions are clear they are loyal to their communities and have no intention of leaving. He saw no risk to the community on the issue of harvester shares themselves. The issue of unbalanced power between processors and harvesters is not really the issue. We are only talking about the initial allocation. The processors will be able to acquire shares and achieve the balance of power that is necessary. They will do that whether there is an initial allocation or not. The real issue is one of the control caps to ensure that the balance of control does not get out of hand. That is where the real focus ought to be. There are some practical differences that relate to processors getting an initial allocation. An initial allocation comes as a tax on all the participants. Whether they want to cede some amount of the shares or not, it is a tax on everyone. Whereas if there are individuals who want to transfer some of their QS to processors, that is a business decision that they

would make on an individual basis. With respect to fairness, the question is one of whether we balance the investment and commitment to the fishery made by processors against the risk that they take. When it comes down to looking at risk, the scale tips to the side of the harvesters, who risk their very lives for the business. There is a question as to how to effectively change behavior on the water using QS. It is the harvesters that are on the water. That is clearly in the hands of harvesters. No matter who has custody, the only way to realize benefit from the shares is to put it back on the boat and let it be fished. No matter what, if the processor has shares or not it will go back to the boat and will be fished. The fishermen will ultimately get their chance, but that gets to the heart of the issue. If they are going back to the boats, why remove them in the first place? Why have the administrative complication of a difficult allocation process, taking that away from the boats only to turn around and give it back. That is an unnecessary complication. Therefore, we ought to leave the allocation 100 percent on the vessels. With respect to adaptive management, it is important across all segments. To not have any adaptive management in the whiting sector is an injustice. In aerospace, he never saw a program where they got every wrinkle ironed out before it was implemented. A management reserve needs to be held back. Adaptive management is needed in all segments for practical reasons of providing opportunities to look at new gear, to put money into processors, or to put QP into communities to achieve stability there. Adaptive management is important in all of those things. It is important to take the QP up front. This distributes the burden to everyone, but then everyone can plan for it. If you don't plan for it and the problem arises, you are going to need to take it away to address a problem that you did not foresee. It is easier to plan for these things if it is taken up front. He was certain that it would be needed. It is clear that time needs to be spent defining in greater detail how it will be dispersed and for what purposes. However, this is something we set aside to fix problems we can't forecast or control at the onset. There needs to be some flexibility in how we use it but that can be addressed in a follow-up action that helps define and clarify how we use it.

Mr. Dale Myer said during public testimony we heard from just about the entire shoreside whiting industry in favor of an 80 percent/20 percent harvester processor split. These people had been at odds for a long time and it would be an injustice not to move ahead based on their agreement. He also noted Mr. Anderson's earlier explanation of the differences between whiting and non-whiting sectors with respect to the processing issues. He was not in favor of amendment #2.

Mr. Cedergreen also opposed the amendment. He noted that most of the Council would have hoped that the nonwhiting sector had been able to work out an agreement like the whiting shoreside and mothership folks had. If that had happened, the Council would have been supportive of it. Making this kind of a change to the whiting sector agreement is essentially saying that even if the nonwhiting folks were to get together with an agreement, the Council might not support it.

Ms. Vojkovich supported the amendment. Ms. Vojkovich noted the state of California's policy in opposition to the granting of the right to harvest fish to processors. They agree that processors serve as an integral part in the development and maintenance of fisheries, but there does not appear to be any logic for using the performance of fishermen to award rights or benefits to processors. They are two wholly separate industries and functions. Awarding processors shares based on a harvester's prior performance is not rationally related to the performance of the processor. If the state wants to reward processors, it should be on their own merits. The most recent MSA allows us to consider allocating shares to processors. The Council's task is to determine whether the processors meet the standard of whether they substantially participate in the fishery. The first definition of fishery in the MSA is "one or more stocks of fish," the second definition is "any fishing for such stocks." During the past several years we've had discussions about processing at-sea and onshore. NMFS has said the reason we can permit or limit the MS in the whiting fleet is because, by definition, they are considered a fishing entity, but we can't do the same for shoreside processors because they are not considered a fishing entity. This guidance indicates to her that shoreside processors are not part of the fishery so they cannot be allocated harvester shares. The

MSA does provide for processors through communities or regional fishery associations. Additionally, several skippers and crew members spoke about the fishery and how they might be affected. If we are not considering giving shares to skippers and crew members, why would we think about giving shares to a trucking firm, a fabricator, a processor, or the storage company? This is a back-door entry into processing privileges. Processors indicated that they would give it free to the vessels delivering it to them. However, there is no free lunch in any industry. There is a cost associated with it. The cost is the requirement that the vessel deliver to the processor. This is like the linkage that we will not allow in the mothership fishery, or like processing shares. Adaptive management and RFAs will take care of the stranded capital and community issues that might develop. Processors are vital to the fishing communities but this does not make sense, it is not rationale, and it may set a precedent. There is no place where this has happened in a conscious decision by a public policy group. It has been done by Congress as a directive but there has not been a decision by a body like the Council in a public process to do this.

Mr. Warrens said he is in opposition to the amendment. The reason was clearly spelled out when the shoreside whiting group stood up together in total agreement. This is consistent with recommendations coming from the harvesting group, advisory panel throughout the whole Council process. When there is agreement among the majority of the parties to do something, for us to not follow through does not make sense, in this case. The rationale was explained fairly well by Mr. Joe Plesha when he said they needed commitment of delivery to their plants in order to improve their efficiency and their recovery rates. That would have a mutual benefit to the processors as well as the harvesters.

Mr. Anderson spoke against the amendment. He acknowledged the precedential nature of the decision. The Council has managed this fishery through its development for 18 or more years, to the current Olympic fishery. As a result, we have a processing industry that has 30-50 percent more harvest capacity and capital investment than is needed to process the resource. Also, through our management, we have forced processors and fishermen to be inefficient. We are exporting raw product out of the country to where the final processing is done. That does not make sense. We have to give this fishery the tools to be efficient and successful and allow the processors the ability to make the needed investments, similar to what they have done in the pollock fishery, to extract the maximum value out of the resource and within our borders. This is about money, in large part, and who will control the profit. There needs to be a balance in that. What we do here can result in a balance of that power over the extraction of rent, the ability of the fishermen to have quality platforms from which to operate their businesses, and processors having an opportunity to have a quality processing plant that delivers a high quality of product to the consumer within our borders.

Mr. Lockhart mentioned that he will be abstaining because it is more largely about allocation.

Amendment #2 to Motion 23: Amendment failed. Ms. Vojkovich, Ms. Fosmark, and Mr. Wolford voted yes. Mr. Lockhart abstained.

Mr. Cedergreen moved and Mr. Anderson seconded an amendment (Amendment #3 to Motion 23) to add "limited entry fixed-gear" under Section A-1.1 to the list of exceptions; under IFQ management [Section A-2.1] strike the phrase "species with bycatch caps. Bycatch caps would be established for" and add "sablefish" to that list.

Mr. Moore noted that limited entry fixed-gear had been added as a gear for which you did not have to have IQs for but that gear conversion allows the use of IFQs with fixed-gear. It was agreed that the motion should be understood to include the language that is already in A-1.1 that allows vessels with limited entry trawl endorsements and fixed-gear endorsements to fish against their fixed-gear

endorsement without needing trawl IFQs by going through a declaration procedure. Mr. Anderson noted that the reason for removing the bycatch cap language is that we have three sectors, not four. The vessels would have to have IQs for those other species but there would not be sector bycatch caps. Amendment #3 to Motion 23 passed unanimously.

Ms. Vojkovich asked whether NMFS will issue processors Federal permits and recover costs from them. Mr. Lockhart said that the 3 percent landing fee would be collected.

Ms. Vojkovich moved and Mr. Wolford seconded an amendment (Amendment #4 to Motion 23), under the section “Gear Switching and Conversion” have it read “Gear switching is allowed, include provisions for permanent gear conversion.” She stated that this should be a tool in the box and that we would not lose anything by including it with no special provisions for how it might happen or when.

Mr. Lockhart asked if under the original motion, someone would not be able to switch permanently to another gear. Mr. Anderson noted the amount of uncertainty in the program and stated that we should go slow and allow gear switching to occur, but at the same time not require the gear change to be permanent. When the program is reviewed the effect of gear switching could be evaluated and a determination made on the need for gear conversion. Ms. Vojkovich withdrew her Amendment #4.

Mr. Wolford asked if the intent of the motion was that 100 percent of the QS go to harvesters and 10 percent QP to adaptive management. Mr. Anderson explained that under adaptive management program we might have a multi-year business plan brought forward. In such case, some portion of the QS that were assigned to a particular region could be given to that group. So he specified QS for the adaptive management program rather than every year having to calculate QP and then converting those.

Ms. Vojkovich said that we had not discussed the QS approach before. The whole adaptive management plan was to go away at some point in time. Giving QP for five years to a business to plan, that allows them to make the money to buy the QP, then engage in that kind of fishery. It is “up to 10 percent,” with the remainder to go back to the fleet, it has changed completely with QS going to the adaptive management program instead of QP.

Mr. Anderson said that this lack of synchronization of vision is why a trailing action is going to be needed to put together the adaptive management component of our program. If that trailing action results in the need to specify QP instead of QS, that modification to the language could be made at that time. Mr. Anderson clarified that regardless of the language being used at this time, the intent would be that if the QP arising from the QS set aside for adaptive management were not needed for the adaptive management program, those QP would be issued to the other QS holders.

Main Motion 23 passed as amended. Mr. Lockhart abstained.

The following is the motion as amended.

Motion 23 – As Amended		
Topic	Section	Council Preferred Alternative
<i>IFQ Program</i>		
General Provisions	A-1	Applies to shoreside whiting and non-whiting fisheries

Motion 23 – As Amended		
Topic	Section	Council Preferred Alternative
Scope: Gears and Fisheries Covered	A-1.1	Modified Option 2 - If a vessel has an LE trawl permit and groundfish is caught by any gear, IFQ must be used, with the following exceptions: exempted trawl, California halibut trawl , coastal pelagic species gear, highly migratory species gear, salmon troll, crab pot, and LE fixed gear (when it is declared they are fishing against their endorsement).
Gear Switching and Conversion	A-1.1 & 1.7	Gear switching allowed. Do not include provisions for permanent gear conversion.
IFQ Management Units: Species	A-1.2	For non-whiting sector, IFQ is required for all species, except: longspine S. of 34.27'; minor nearshore rockfish (N & S); black rockfish (WOC); CA scorpionfish; cabezon; kelp greenling; shortbelly rockfish; other rockfish; spiny dogfish. The catches of these species would be accounted for and tracked against the overall OY. If a trawl allocation for any of these species is adopted in the future, then QS/QP for those species could be added at that time. For whiting fisheries, IFQ required for whiting and species with bycatch caps. Bycatch caps would be established for the following species; sablefish, widow, canary, and darkblotched rockfish, and Pacific ocean perch. The catches of all groundfish species would be accounted for and tracked against the overall OY.
Area Management	A-1.2	For species managed under coastwide OY with precautionary harvest policy (I.e., 40:10 or some other policy) applying to a specific area, subdivide the OY and apply the precautionary policy as recommended by the Council's SSC.
Number of Trawl Sectors	A-1.3	Three trawl sectors
Limited Entry Permit Length Endorsement	A-1.6	Retain the length endorsement for permits, with a modification: If a permit is transferred to a smaller vessel, then the permit would retain the larger length endorsement (e.g., if a permit endorsed for a 75 ft vessel is transferred on to a 50 ft vessel, the permit would retain the endorsement for a 75 ft vessel).
Initial Allocation - Whiting	A-2.1	80% to harvesters; 20% to processors (no adaptive management)
Initial Allocation - Non-whiting	A-2.1	90% harvesters; 10% to adaptive management
Attributing and Accruing Processor History	A-2.1.1	Option 3 (whiting) - Attribute history to the receiver reported on the fish ticket, except history may be reassigned to an entity not on the landings receipt, if parties agree or through an agency appeals process

Mr. Anderson moved and Mr. Cedergeen seconded Motion #5 of the WDFW motion package 1 (Motion 24), to adopt as the Council's preferred alternative for the shoreside sector:

Motion 24 – See “Motion 24 as amended” for final version		
Topic	Section	Council Preferred Alternative
Recent Participation Requirements (Permits)	A-2.1.2	Recent participation not required
Recent Participation Requirements (Processors - SS)	A-2.1.2	Option 2 (whiting) - 1 mt or more of deliveries from whiting trips in each of any two years from <u>1998-04</u>
Allocation Formula for Catcher Vessel Permits	A-2.1.3	Option 2 – An equal division of the buyback permits’ pool of QS for all groundfish, except overfished species, among all qualifying permits plus allocation of the remaining QS based on each permit’s history
		Non-whiting non-overfished species: Use permit catch history (1994-03, drop 3 worst years)
		Non-whiting overfished species: Modified option 2 - use <u>finer scale</u> bycatch rates
		Shoreside Whiting: Use 1994-03, drop 2 worst years
		Shoreside Whiting overfished species: Option 2 - pro-rata based on whiting allocation
Allocation Formula for Processors	A-2.1.3	Shoreside Whiting: No bycatch allocation; whiting allocation only.
Permit Holding Requirement	A-2.2.1	If a vessel has an overage: Element 4 - Allow exceptions for vessel to participate in the fisheries for which IFQ would not be required to cover groundfish catch: exempted trawl; CPS purse seine; HMS fisheries; salmon troll; and crab pot. Element 6 - Alternative compliance options would <u>not</u> apply.
Carryover	A-2.2.2	Will not apply to QP that are not transferred to a vessel's account
Eligibility to Own or Hold	A-2.2.3a	Include as specified (p. A-212)
Temporary Transfer Rules	A-2.2.3c	Suboption 2 - QS will not be transferred in the first two years of the program (QP will be transferable)
Accumulation Limits	A-2.2.3e	It is the intent of the Council to have accumulation limits. However, the details of the accumulation limits would be further developed and analyzed through a trailing action. Items to be addressed through the trailing action would include: 1) identification of the species that would be subject to accumulation limits; 2) description of how to treat overfished species; 3) determination of whether to apply accumulation limits at the vessel (usage) or entity (ownership/control) level or both; and 4) how accumulation limits would be tracked. The intent would be to have the trailing action process completed in time for the accumulation limits to begin upon implementation of the trawl rationalization program.
Grandfather Clause	A-2.2.3	No grandfather clause

There was a discussion of the method that would be used to allocate overfished species. Mr. Anderson indicated that his intent was to take the allocation that would otherwise be associated with the buyback permits and pro-rate them to the individual permits based on the finer scale bycatch rate approach, that seems a more logical approach to align the overfished species with the QS for the target species each permit would have. This was a change for the approach specified in June. Mr. Anderson confirmed Dr.

McIsaac's interpretation that the column in Supplemental WDFW Motion Package 1 labeled "change from June" is for informational purposes only and not part of the motion.

With respect to the permit holding requirement, Ms. Cooney noted that they would be fleshing that out in how the enforcement and compliance parts interact based on the enforcement consultant report. That does not need to be dealt with now but she wanted to note that the previous discussion was relevant and would have to be dealt with. Also the citation to statutes in the section on eligibility to hold or own (A-2.2.3.a) has been recodified and will need to be updated.

Mr. Moore moved and Mr. Anderson seconded an amendment (Amendment #1 to Motion 24) to adopt the following:

Allocation formula for processors is amended to include:

"Allocate whiting quota share based on the entity's history for the allocation period of 1998 – 2004 (drop two worst years) and use relative history"

This amends section A-2.1.3(d) of the IQ alternatives regarding whiting.

Mr. Moore explained that when the whiting co-ops were discussed there was an option put together for the processing history and this is what it read. At the June meeting, the co-op option was dropped and as a result the processing history portion of the allocation formula had reverted to the vessel history portion of the allocation formula. This goes back to the original language that had been in there for the whiting processor sector. These years were chosen to better reflect the historic and current participation in the processing sector. They recognize that there were some low years that occurred during that time and there was movement in and out of the whiting processing sector during that period.

Ms. Vojkovich reiterated her opposition to processor allocations and opposed this extension of the qualifying period beyond the control date. If we want to explain why we think its a good idea then maybe we should extend the control date for all of the other participants because some people are disadvantaged by going only to 2003. We have had 2003 all along and now we are changing it for one minor section of this program. She did not think it is fair and equitable.

Mr. Lockhart noted that going past the control date is an important consideration and asked why this was crucial. Mr. Moore said that this came up in testimony. This is language that has been in there all along. Because the co-op opportunity was declared illegal we dropped the shoreside co-op option in June. In doing so the processing history year range had been dropped back from 1994-2003. These dates were chosen to be included in the shoreside co-op alternative to reflect the difference in the whiting fishery for a couple of poor years and movement in and out of the fishery during the latter part of this period. There is a major issue of stranded capital. This will still not recognize the history of various processors that operated either before or after.

Amendment #1 to Motion 24 passed. Ms. Vojkovich voted no and Mr. Lockhart abstained.

Mr. Wolford moved and Ms. Vojkovich seconded an amendment (Amendment #2 to Motion 24) to amend the paragraph by striking the "and" in front of "4" and then insert "and 5), how accumulation limits would apply to and affect community-based or regional fishery associations." Mr. Wolford noted that this concept of regionally based fishing associations is very important as we move forward and there is a lot of uncertainty about how they would be affected by accumulation caps. It deserves explicit mention in this paragraph. Amendment #2 to Motion 24 passed unanimously.

Motion 24 passed as amended. Mr. Lockhart abstained from the main motion. The following is the motion as amended.

Motion 24 as amended		
Topic	Section	Council Preferred Alternative
Recent Participation Requirements (Permits)	A-2.1.2	Recent participation not required
Recent Participation Requirements (Processors - SS)	A-2.1.2	Option 2 (whiting) - 1 mt or more of deliveries from whiting trips in each of any two years from <u>1998-04</u>
Allocation Formula for Catcher Vessel Permits	A-2.1.3	Option 2 – An equal division of the buyback permits’ pool of QS for all groundfish, except overfished species, among all qualifying permits plus allocation of the remaining QS based on each permit’s history
		Non-whiting non-overfished species: Use permit catch history (1994-03, drop 3 worst years)
		Non-whiting overfished species: Modified option 2 - use <u>finer scale</u> bycatch rates
		Shoreside Whiting: Use 1994-03, drop 2 worst years
		Shoreside Whiting overfished species: Option 2 - pro-rata based on whiting allocation
Allocation Formula for Processors	A-2.1.3	Shoreside Whiting: No bycatch allocation; whiting allocation only. <u>Allocate whiting quota share based on the entity’s history for the allocation period of 1998-2004 (drop two worst years) and use relative history.</u>
Permit Holding Requirement	A-2.2.1	If a vessel has an overage: Element 4 - Allow exceptions for vessel to participate in the fisheries for which IFQ would not be required to cover groundfish catch: exempted trawl; CPS purse seine; HMS fisheries; salmon troll; and crab pot. Element 6 - Alternative compliance options would <u>not</u> apply.
Carryover	A-2.2.2	Will not apply to QP that are not transferred to a vessel's account
Eligibility to Own or Hold	A-2.2.3a	Include as specified (p. A-212)
Temporary Transfer Rules	A-2.2.3c	Suboption 2 - QS will not be transferred in the first two years of the program (QP will be transferable)
Accumulation Limits	A-2.2.3e	It is the intent of the Council to have accumulation limits. However, the details of the accumulation limits would be further developed and analyzed through a trailing action. Items to be addressed through the trailing action would include: 1) identification of the species that would be subject to accumulation limits; 2) description of how to treat overfished species; 3) determination of whether to apply accumulation limits at the vessel (usage) or entity (ownership/control) level or both; and 4) how accumulation limits would be tracked <u>and 5) how accumulation limits would apply to and affect community-based or regional fishery associations.</u> The intent would be to have the trailing action process completed in time for the accumulation limits to begin upon implementation of the trawl rationalization program.
Grandfather Clause	A-2.2.3	No grandfather clause

Mr. Anderson moved and Mr. Cedergeen seconded Motion #6 of the WDFW motion package 1 (Motion 25), to adopt as the Council's preferred alternative for the shoreside sector:

Motion 25 – See “Motion 25 as amended” for final version		
Topic	Section	Council Preferred Alternative
Tracking and Monitoring	A-2.3.1	Program: Alt 1 - discards allowed; discards of IBQ required
		At-sea Catch Monitoring - Non-whiting: Alt 2 - At-sea observers required
		Shoreside Whiting: Observers would be required in addition to or as a replacement for video monitoring
		At-sea Whiting: Observers would be required in addition to or as a replacement for video monitoring
		MS and CP: Remove reference to "supplemental video monitoring on processors may also be used"
		Shoreside Catch Monitoring - Include as specified
		Catch Tracking Mechanisms - Include as specified
		<u>Landing Hour Restrictions: Landing hours not restricted</u>
		Vessel Certification - Include as specified
		Program Performance Measures - Include as specified
Data Collection	A-2.3.2	Include as specified
Program Costs	A-2.3.3	Cost Recovery: Option 1 - Fees up to 3% consistent with 303A(e) Magnuson Stevens Act, page 86, costs recovery shall be for costs of management, data collection, analysis and enforcement activities.
Program Duration and Modification	A-2.3.4	Include as specified: 4-year review process
Pacific Halibut IBQ	A-4	Establish limit for legal-sized Pacific halibut bycatch mortality through the use of an IBQ in the trawl fishery up to 10% of the Area 2A Constant Exploitation Yield (CEY) as set by the International Pacific Halibut Commission. This amount will be set initially at 10% and may be adjusted through the biennial specifications process.
Other Provisions		Require that all QP be deposited into a vessel account each year
		Require that all retained IFQ non-whiting groundfish in the non-whiting groundfish fishery be landed shoreside (i.e., no at-sea landings allowed for non-whiting groundfish). Ensuring that non-whiting groundfish continues to be delivered shoreside helps protect shoreside processors and communities that have historically relied on groundfish deliveries.
		Initiate a trailing action process to require eligibility criteria to own or hold QS (e.g., ownership interest in a vessel or permit) to help ensure that QS holders have direct ties or investments in the fishery. Requirements should not be so onerous so as to preclude or discourage crew members, for example, from acquiring QS and entering the fishery.

Mr. Myer stated he would recuse himself from the motion discussion and vote.

Mr. Anderson said the intent of the last provision is to not have this program result in QS holders who are absentee, or not involved or engaged in the fishery in some way.

Mr. Moore asked Mr. Anderson about the landing requirement for non-whiting groundfish shoreside with respect to the MS and CP fisheries. Mr. Anderson said this is for the non-whiting groundfish fishery. It

is not intended to preclude nonwhiting groundfish taken in the whiting fishery from being taken care of at-sea.

Ms. Fosmark moved and Ms. Vojkovich seconded an amendment (amendment #1 to Motion 25) to adopt for the non-whiting trawl rationalization alternative for consideration as a trailing action a permit-owner-on-board requirement and grandfathering provision similar to that specified in Amendment 14 to the Pacific Coast Groundfish FMP language.

Ms. Fosmark said her concern was to keep the fishery in the fishermen's hands. There are owner-on-board provisions in the halibut IFQ program in Alaska as well as programs managed by the state of California, and the National Marine Fisheries Service through this Council. This would offer an opportunity for younger people to get into the fishery, it is also addressed in appendix A (page A-48 under the consideration of communities). She feels we should not restrict the fishery or make it more difficult for people to sell their permits. It would not restrict the QS but would offer an opportunity for fishermen to get into the fishery that would not ordinarily be able to do so. This would not be for the initial allocation but would be for the second generation. There needs to be some provision of 150 days or something similar to what the limited entry fixed-gear sector has to at least show an effort that they have been in the fishery before they purchase the fishery.

Mr. Lockhart noted that the TIQC considered and rejected this several times. It seems like this would be changing the way the fishery operates now. Ms. Fosmark said she would not disrupt the existing fishery. Her concern is the future of the fishery and if permits are bought and sold by people who are not invested in the fishery other than just owning a permit it would create a movement that the fishermen themselves would not have as much control over. This would apply just to the second generation.

Ms. Vojkovich read this as a possible way to do what is already in the current motion. It does not preclude the group from thinking of using something like this. Mr. Anderson concurred. Dr. McIsaac stated that the Council is attempting to take final action to the extent that it can. The amendment is on whether or not to have an owner-on-board and grandfather provision and the follow-on action would be to develop some specifics. The motion as it now stands is to come back with a variety of options, this might be one of them. This is a motion to get more specific now on that general provision.

Ms. Fosmark withdrew her amendment #1 to Motion 25.

Ms. Vojkovich moved to amend (Amendment #2 to Motion 25) the landing hour restrictions, revert to the June alternative 2 where landing hours are limited. Mr. Lockhart seconded the amendment. Ms. Vojkovich said this was identified in the EC report as something that would help with enforcement. It may control costs. She thinks it needs to be in there and if it doesn't work we can change it after we have tested it. Mr. Anderson said the fishery is a 24-hour fishery. We are planning on having monitors at the off-load sites. If the restriction is on the order of no more than 12 hours a day it will be very onerous on the industry. Our offload monitors are going to be able to contact state or Federal law enforcement if there is an issue. So not knowing what restrictive landing hours means, he would rather leave this as is; but if we need to restrict hours, we can consider that at that time.

Mr. Myer felt that with observers and monitors, the landing hour restriction to ensure that enforcement can be there at the same time was excessive. Mr. Moore opposed the amendment. While there are costs, there is also a safety issue, this is a 24 hour fishery. If someone has an operational problem or ill crew member and cannot offload because it is not the proper hour, what is he going to choose?

Ms. Vojkovich noted that while some fisheries are 24 hours, this will cost the smaller fishermen. This program is supposed to end the race for fish.

Mr. Anderson asked if her concern would be addressed by saying that landing hours “may” be restricted and noted that this could be done on a port by port basis, depending on circumstances. In response to a question, Mr. Seger indicated that the specific hours would be developed as part of the implementation phase. Mr. Lockhart stated that as long as the original motion does not preclude that type of decision-making process he would be okay with the original motion.

Mr. Anderson moved and Dr. Dave Hanson moved to amend Amendment #2 to specify that the Landing hours may be restricted” (Amendment #3 to Motion 25). Amendment #3 passed unanimously. Amendment #2 to Motion 25, as amended by Amendment #3, passed unanimously.

Mr. Lockhart moved and Ms. Vojkovich seconded an amendment (Amendment #4 to Motion 25) to adopt the following:

The Council shall begin a review of the TIQ program no later than 5 years after implementation of the program. The review will evaluate the progress the TIQ program has made in achieving the goal and objectives of Amendment 20. The result of this evaluation could include dissolution of the program, revocation of all or part of quota shares, or other fundamental changes to the program. Holders of quota shares should remain cognizant of this fact when making decisions regarding their quota shares, including buying selling, and leasing of these shares.

The Council shall consider the use of an auction or other non-history based methods when distributing quota share that may become available after initial allocation, such as quota that results after a stock transitions from overfished to non-overfished, when Quota share from an AMP is no longer needed, when “use it or lose it” quota shares are forfeited, and if any quota is available after the initial or subsequent reviews of the program are completed.

The specific form of the auction or other method of distribution shall be designed to achieve the goals of Amendment 20, specifically including minimizing the adverse effects from an IFQ program on fishing communities to the extent practical.

Mr. Lockhart said this promotes the idea that the fisheries resources are the property of the citizens of the United States and not perpetual grants to the QS holders. This also recognizes that we are not developing the perfect system. It puts the QS holders on notice that there may be changes to the program that could involve their QS and affect them. There will be a review in four or five years. At that point in time the Council could consider what is going on in the fishery, including whether there are adverse effects on communities, new entrants are effectively prohibited due to costs of entry, or there are other adverse effects. If the adaptive management program is not adequate, the Council could consider an auction of some of the QS to correct these things or deal with other results of the review. There were concerns that under the auction those with the deepest pockets will get it all. The last paragraph addresses ways to limit the auction so as to not disrupt communities, e.g. limiting the auction to small vessels. The motion is not requiring the Council to have an auction, it is putting it in there as a specific item that the Council would consider after the initial review.

Ms. Vojkovich said she would support the amendment. It aligns very closely to the State of California’s views on ITQs and the fact that they are not property rights in perpetuity.

Mr. Myer objected to the auction because the people with the deepest pockets may not be a fishermen or processor but rather it may be an NGO, if that is also considered an adverse effect.

Mr. Moore expressed concern about the burden that future consideration of auctions would place on the Council process in terms of production of documents and additional meeting time when there are other fishery management issues that need to be dealt with.

In response to questions from Mr. Williams and Dr. Hansen, Mr. Lockhart said that after the review, there may be some problems, and that the tools we have may not be adequate to handle those problems. An auction or some other nonhistory based method may be used to try fix that, it would not be required. The earliest the auction might be implemented would likely be six to eight years after implementation. There would be no additional action or analysis at this time.

Amendment #4 to Motion 25 passed. Mr. Jerry Mallet, Mr. Dave Ortmann, Mr. Frank Warrens and Ms. Kathy Fosmark voted no.

Motion 25 passed as amended. Mr. Myer recused himself.

Motion 25 as amended		
Topic	Section	Council Preferred Alternative
Tracking and Monitoring	A-2.3.1	Program: Alt 1 - discards allowed; discards of IBQ required
		At-sea Catch Monitoring - Non-whiting: Alt 2 - At-sea observers required
		Shoreside Whiting: Observers would be required in addition to or as a replacement for video monitoring
		At-sea Whiting: Observers would be required in addition to or as a replacement for video monitoring
		MS and CP: Remove reference to "supplemental video monitoring on processors may also be used"
		Shoreside Catch Monitoring - Include as specified
		Catch Tracking Mechanisms - Include as specified
		<u>Landing Hour Restrictions: Landing hours may be not restricted</u>
		Vessel Certification - Include as specified
		Program Performance Measures - Include as specified
Data Collection	A-2.3.2	Include as specified
Program Costs	A-2.3.3	Cost Recovery: Option 1 - Fees up to 3% consistent with 303A(e) Magnuson Stevens Act, page 86, costs recovery shall be for costs of management, data collection, analysis and enforcement activities.
Program Duration and Modification	A-2.3.4	Include as specified: 4-year review process The Council shall begin a review of the TIQ program no later than 5 years after implementation of the program. The review will evaluate the progress the TIQ program has made in achieving the goal and objectives of Amendment 20. The result of this evaluation could include dissolution of the program, revocation of all or part of quota shares, or other fundamental changes to the program. Holders of quota shares should remain cognizant of this fact when making decisions regarding their quota shares, including buying selling, and leasing of these shares. The Council shall consider the use of an auction or other non-history based methods when distributing quota share that may become available after initial

Motion 25 as amended		
Topic	Section	Council Preferred Alternative
		<p>allocation, such as quota that results after a stock transitions from overfished to non-overfished, when Quota share from an AMP is no longer needed, when “use it or lose it” quota shares are forfeited, and if any quota is available after the initial or subsequent reviews of the program are completed.</p> <p>The specific form of the auction or other method of distribution shall be designed to achieve the goals of Amendment 20, specifically including minimizing the adverse effects from an IFQ program on fishing communities to the extent practical.</p>
Pacific Halibut IBQ	A-4	Establish limit for legal-sized Pacific halibut bycatch mortality through the use of an IBQ in the trawl fishery up to 10% of the Area 2A Constant Exploitation Yield (CEY) as set by the International Pacific Halibut Commission. This amount will be set initially at 10% and may be adjusted through the biennial specifications process.
Other Provisions		Require that all QP be deposited into a vessel account each year
		Require that all retained IFQ non-whiting groundfish in the non-whiting groundfish fishery be landed shoreside (i.e., no at-sea landings allowed for non-whiting groundfish). Ensuring that non-whiting groundfish continues to be delivered shoreside helps protect shoreside processors and communities that have historically relied on groundfish deliveries.
		Initiate a trailing action process to require eligibility criteria to own or hold QS (e.g., ownership interest in a vessel or permit) to help ensure that QS holders have direct ties or investments in the fishery. Requirements should not be so onerous so as to preclude or discourage crew members, for example, from acquiring QS and entering the fishery.

Mr. Anderson moved and Mr. Myer seconded Motion #7 of the WDFW motion package 1 (Motion 26), to adopt as the Council’s preferred alternative for the shoreside sector:

Motion 26		
Topic	Section	Council Preferred Alternative
Adaptive Management	A-3	It is the intent of the Council to have an adaptive management program for the shoreside non-whiting sector. Up to 10% of the non-whiting QS will be reserved for this program. QS will be divided among the 3 states. QS/QP will be provided through separate, but parallel, processes in each of the three states (e.g., through the use of regional fishery associations or community stability plans or other means). Further details will be developed through a trailing action with the intent of having the adaptive management provisions apply during the first year of implementation of the trawl rationalization program.

Ms. Vojkovich supported the motion. Ms Vojkovich noted that throughout the discussion of adaptive management we have talked about it being within the Council’s purview and not a state responsibility to go off on its own. She expressed her view that it would be within the way the Council operates but state-specific, i.e. whatever process it is in the state. She was concern about state costs. Mr. Anderson did not concur. He said he would expect a process within the respective states that would bring forward

recommendations to the Council, though his thoughts were not entirely formed on this issue. He did not see independent state programs and decision making outside the Council process but that there would be independent public processes within the states that would bring recommendations forward to the Council. Ms. Vojkovich asked if there would be Council guidelines that would run the program. Mr. Anderson replied that as the further details are developed through the trailing action some criteria and protocols would be developed as part of that process.

Mr. Moore moved and Mr. Myer seconded an amendment (Amendment to Motion 26) to adopt the following:

The Council will allocate 10 percent of target species quota shares (QS) to be set aside for fishing communities.

The Council will distribute these shares to fishing communities (as defined) on a first-come, first-serve basis with no less than 3 percent available to fishing communities in each of the states of Washington, Oregon, and California. Distributions will be made in perpetuity subject to future action by the Council. Special accumulation caps will apply to fishing communities. Upon dissolution of a fishing community, QS will revert to the Council to be redistributed. At the end of the 6 year period following initial implementation of the IQ system, any QS not distributed to fishing communities or returned following dissolution of a fishing community shall be distributed to initial recipients of QS on the same basis as QS were originally distributed.

Definition of fishing community:

A fishing community shall consist of one shoreside processor (as defined under A-2.1.1(c)) of non-whiting groundfish and at least 2 entities owning or holding non-whiting groundfish quota shares. The fishing community may include other entities. Members of the fishing community must demonstrate by a signed contract among all parties that QS issued to the fishing community will be harvested and processed in the port where the processor is located and must provide a business plan showing how the QS will be used.

Mr. Moore said he is trying to figure out a way to get at this issue of how do we protect local processors and communities without taking away fish from the fishermen. We have heard that people support processors, but no one wants to give QS to processors. Processors want QS because they are worried about the effects of consolidation in light of their experiences with the trawl buyback program. Section 303A(c)(3) of the MSA provides a solution in that it allows QS to be allocated to fishing communities. The term is misleading because while it implies a municipality, port or some other political organization, the NOAA Technical memorandum on design and use of LAPs states that the "revised MSA sets up procedures for the Councils to create fishing communities." He envisions this to work by setting aside 10 percent of the groundfish target species QS. The formation of fishing communities is entirely voluntarily. This will require fishermen and processors to work together. The NOAA Tech memo provides guidance on the types of provisions that would be included in the business plan. He expects that guidance would be used. He specified a six year time frame for triggering the reversion of unused QS back to the initial QS recipients because six years was too long for fishermen to boycott these fishing community associations but not so long that there would be significant economic harm to fishermen given the amount of fish that would be in the program. By allowing QS to remain with the fishing community we avoid some of the pit falls with the BC system, e.g. not having continuity in business planning. A system that allows for planning and partnership is important. This provides the basis for that, gets us out of the box

around the issue of an initial allocation to processors and provides an opportunity, especially in small ports, for processors and fishermen to work together.

In response to a question from Mr. Williams, Mr. Moore said the reference to “perpetuity” was that in order to support the business plans of entities representing a fishing community you need to have some long range assurance. Once these are established they keep the QS for as long as they carry out the business plan and they remain as a legally contracted entity. With respect to the entities that joined with the processors to form a community association, the two other entities would not be processors (e.g. they could be a boat or The Nature Conservancy).

Mr. Anderson said a copy of Mr. Moore’s motion should be provided to the committee that will work on this proposal but at this time we should not be moving forward with a motion with this amount of detail. Mr. Moore said if we can take a look at this seriously later, he would withdraw his amendment.

Motion 26 passed unanimously.

PFMC
2/23/09