

DRAFT MINUTES
197th Session of the
Pacific Fishery Management Council
March 7-13, 2009
Marriott Hotel SeaTac Airport
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Call to Order	5
A.1 Opening Remarks and Introductions	5
A.2 Roll Call	5
A.3 Executive Director's Report	5
A.4 Council Action: Approve Agenda	5
B. Open Comment Period	6
B.1 Comments on Non-Agenda Items	6
B.1.a Agency and Advisory Body Comments	6
B.1.b Public Comments.....	6
B.1.c Council Discussion of Comments as Appropriate	6
C. Coastal Pelagic Species Management	6
C.1 Stock Assessment Review (STAR) Panel Terms of Reference for 2009	6
C.1.a Agenda Item Overview (03/08/09; 10:04 a.m.).....	6
C.1.b Scientific and Statistical Committee Report.....	6
C.1.c Reports and Comments of Agencies and Advisory Bodies.....	7
C.1.d Public Comment	7
C.1.e Council Action: Adopt Final Terms of Reference for Coastal Pelagic Species STAR Panels	7
C.2 Exempted Fishing Permit (EFP) for Sardine Research	8
C.2.a Agenda Item Overview (03/08/09; 10:39 a.m.).....	8
C.2.b Reports and Comments of Agencies and Advisory Bodies.....	8
C.2.c Public Comment	8
C.2.d Council Action: Adopt EFP for Public Review (03/08/09; 1:28 p.m.)	8
C.3 Fishery Management Plan (FMP) Amendments to Implement Annual Catch Limit (ACL) Requirements	11
C.3.a Agenda Item Overview (03/08/09; 2:20 p.m.)	11
C.3.b Reports and Comments of Agencies and Advisory Bodies.....	11
C.3.c Public Comment	11
C.3.d Council Action: Scope and Plan FMP Amendments to Implement ACL Requirements.....	11
D. Salmon Management	12
D.1 Review of 2008 Fisheries and Summary of 2009 Stock Abundance Estimates	12
D.1.a Report of the Salmon Technical Team (STT) (03/08/09; 3:58 p.m.)	12
D.1.b Reports and Comments of Agencies and Advisory Bodies.....	13
D.1.c Public Comment	13
D.1.d Council Action: Review and Discuss Relevant Fishery Information and Act on 2009 Abundance Estimates as Necessary.....	13

D.2	Identification of Stocks Not Meeting Conservation Objectives	13
D.2.a	Agenda Item Overview (03/09/09; 8:05 a.m.).....	13
D.2.b	Reports and Comments of Agencies and Advisory Bodies.....	13
D.2.c	Public Comment	14
D.2.d	Council Action: Direct Necessary Actions Required by the Salmon Fishery Management Plan	15
D.3	Identification of Management Objectives and Preliminary Definition of 2009 Salmon Management Options	15
D.3.a	Agenda Item Overview (03/09/09; 10:38 a.m.).....	15
D.3.b	Report of the Pacific Salmon Commission	15
D.3.c	NMFS Recommendations.....	15
D.3.d	Tribal Recommendations (03/09/09; 1:15 p.m.).....	17
D.3.e	State Agencies Recommendations	17
D.3.f	Report of the Salmon Advisory Subpanel	18
D.3.g	Reports and Comments of Advisory Bodies.....	19
D.3.h	Public Comment	19
D.3.i	Council Recommendations for Initial Options for STT Collation and Description	19
D.4	Council Recommendations for 2009 Management Option Analysis.....	20
D.4.a	Agenda Item Overview (03/10/09; 3:26 p.m.)	20
D.4.b	Report of the STT.....	20
D.4.c	Reports and Comments of Agencies and Advisory Bodies.....	20
D.4.d	Public Comment	20
D.4.e	Council Direction to the STT and Salmon Advisory Subpanel on Options Development and Analysis	21
D.5	Council Direction for 2009 Management Options	22
D.5.a	Agenda Item Overview (03/11/09; 1:44 p.m.)	22
D.5.b	Report of the STT (2:30 p.m.).....	22
D.5.c	Reports and Comments of Agencies and Advisory Bodies.....	22
D.5.d	Public Comment	22
D.5.e	Council Guidance and Direction	22
D.6	Fishery Management Plan Amendments to Implement ACL Requirements.....	24
D.6.a	Agenda Item Overview (03/12/09; 1:58 p.m.)	24
D.6.b	Reports and Comments of Agencies and Advisory Bodies.....	24
D.6.c	Public Comment	24
D.6.d	Council Action: Scope and Plan FMP amendments to Implement ACL Requirements	24
D.7	Adoption of 2009 Management Options for Public Review	24
D.7.a	Agenda Item Overview (03/12/09; 2:23 p.m.)	24
D.7.b	Report of the STT.....	25
D.7.c	Reports and Comments of Agencies and Advisory Bodies.....	25
D.7.d	Public Comment	25
D.7.e	Council Action: Adopt Management Options for Public Review	25
D.8	Salmon Hearings Officers	27
D.8.a	Agenda Item Overview (03/12/09; 3:55 p.m.)	27
D.8.b	Council Action: Appoint Hearings Officers	27
E.	Enforcement Issues	28
E.1	U.S. Coast Guard Annual West Coast Fishery Enforcement Report	28
E.1.a	Agenda Item Overview (03/09/09; 9:15 a.m.).....	28
E.1.b	Annual U.S. Coast Guard Fishery Enforcement Report.....	28
E.1.c	Reports and Comments of Agencies and Advisory Bodies.....	28
E.1.d	Public Comment	28

E.1.e	Council Discussion on USCG Annual West Coast Fishery Enforcement Report	28
F.	<i>Pacific Halibut Management</i>	29
F.1	Report on the International Pacific Halibut Commission Meeting	29
F.1.a	Agenda Item Overview (03/09/09; 3:32 p.m.)	29
F.1.b	Meeting Summary	29
F.1.c	Reports and Comments of Agencies and Advisory Bodies	29
F.1.d	Public Comment	29
F.1.e	Council Discussion	29
F.2	Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries	29
F.2.a	Agenda Item Overview (03/09/09; 4:12 p.m.)	29
F.2.b	Reports and Comments of Agencies and Advisory Bodies	30
F.2.c	Public Comment	30
F.2.d	Council Action: Adopt Public Review Options for 2009	30
G.	<i>Groundfish Management</i>	30
G.1	Pacific Whiting Harvest Specifications and Management Measures for 2009	30
G.1.a	Agenda Item Overview (03/10/09; 8:03 a.m.).....	30
G.1.b	Reports and Comments of Agencies and Advisory Bodies	32
G.1.c	Public Comment	35
G.1.d	Council Action: Adopt Final 2009 Stock Assessment, Allowable Biological Catch, Optimum Yield, and Management Measures	35
G.2	Consideration of Inseason Adjustments (Including Pacific Whiting Bycatch Limits)	38
G.2.a	Agenda Item Overview (03/10/09; 1:27 p.m.)	38
G.2.b	Reports and Comments of Agencies and Advisory Bodies	38
G.2.c	Public Comment	38
G.2.d	Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2009 Groundfish Fisheries	38
G.3	Fishery Management Plan Amendment 20 – Trawl Rationalization—Ownership and Miscellaneous Issues	41
G.3.a	Agenda Item Overview (03/11/09; 8:08 a.m.).....	41
G.3.b	Reports and Comments of Agencies and Advisory Bodies (03/11/09; 9:50 a.m.)	42
G.3.c	Public Comment	42
G.3.d	Council Action: Scoping of Ownership Trailing Action and Miscellaneous Clarifications.....	43
G.4	Fishery Management Plan Amendment 20 – Trawl Rationalization—Accumulation Limits .	50
G.4.a	Agenda Item Overview (03/11/09; 3:15 p.m.)	50
G.4.b	Reports and Comments of Agencies and Advisory Bodies	50
G.4.c	Public Comment	51
G.4.d	Council Action: Adopt Final Accumulation Limits (03/12/09; 10:15 a.m.)	51
G.5	Fishery Management Plan Amendment 22 – Open Access License Limitation	63
G.5.a	Agenda Item Overview (03/12/09; 4 p.m.)	63
G.5.b	Reports and Comments of Agencies and Advisory Bodies	63
G.5.c	Public Comment	64
G.5.d	Council Action: Adopt a Final Preferred Alternative for Implementation (03/13/09; 9:55 a.m.)	64
G.6	National Marine Fisheries Service Report (03/13/09; 10:45 a.m.)	67
G.6.a	Regulatory Activities	67
G.6.b	Fisheries Science Center Activities	68
G.6.c	Reports and Comments of Agencies and Advisory Bodies	68
G.6.d	Public Comment	68

G.6.e	Council Discussion	68
G.7	Final Consideration of Inseason Adjustments (if Needed) (03/13/09; 12:33 p.m.).....	68
G.7.a	Agenda Item Overview	68
G.7.b	Reports and Comments of Agencies and Advisory Bodies.....	68
G.7.c	Public Comment	70
G.7.d	Council Action: Adopt or Confirm Final Adjustments to 2009 Groundfish Fisheries	70
G.8	Essential Fish Habitat Review Committee (EFHRC) Terms of Reference	72
G.8.a	Agenda Item Overview (03/13/09; 1:34 p.m.)	72
G.8.b	Reports and Comments of Agencies and Advisory Bodies.....	72
G.8.c	Public Comment	72
G.8.d	Council Action: Adopt Final Terms of Reference	72
H.	Habitat.....	72
H.1	Current Habitat Issues.....	72
H.1.a	Agenda Item Overview (03/13/09; 11:10 a.m.).....	72
H.1.b	Report of the Habitat Committee.....	72
H.1.c	Reports and Comments of Agencies and Advisory Bodies.....	73
H.1.d	Public Comment	73
H.1.e	Council Action: Consider Habitat Committee Recommendations.....	73
	Administrative Matters	73
I.1	Membership Appointments and Council Operating Procedures	73
I.1.a	Agenda Item Overview (03/13/09; 1:47 p.m.)	73
I.1.b	Reports and Comments of Agencies and Advisory Bodies.....	73
I.1.c	Public Comment	73
I.1.d	Council Action: Consider Changes to Council Operating Procedures and Appoint New Advisory Body Members as Needed.....	74
I.2	Approval of Council Meeting Minutes.....	74
I.2.a	Council Member Review and Comments.....	74
I.2.b	Council Action: Approve March and September 2008 Council Meeting Minutes	75
I.3	Future Council Meeting Agenda and Workload Planning	75
I.3.a	Agenda Item Overview	75
I.3.b	Reports and Comments of Advisory Bodies.....	75
I.3.c	Public Comment	75
I.3.d	Council Action: Adopt April 2009 Agenda and Provide Guidance on Future Council Meetings and Priorities for Advisory Body Consideration	75

Call to Order

A.1 Opening Remarks and Introductions

Mr. Don Hansen, Chair, called the 197th meeting of the Pacific Fishery Management Council (Council) to order on Sunday, March 8, 2009 at 9 a.m. A closed session was held from 8 a.m. to 8:30 a.m. to discuss litigation and personnel matters.

A.2 Roll Call

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

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

The following Council member was absent from the entire meeting:

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

A.3 Executive Director's Report

Dr. McIsaac provided the Council with an overview of the Informational Reports, budget status, Council staff retreat, and ways to improve Council meetings. Mr. Dan Wolford asked that the security settings be changed on the PDF files for the Council website to allow commenting.

A.4 Council Action: Approve Agenda

The Council approved the agenda as shown in Agenda Item A.4, March Council Meeting Agenda. (Motion 1 moved by Mr. Rod Moore and seconded by Mr. Frank Warrens.)

B. Open Comment Period

B.1 Comments on Non-Agenda Items

B.1.a Agency and Advisory Body Comments

Mr. Anderson introduced Ms. Lisa Veneroso, new Coastal Pelagic Species Management Team (CPSMT) member from Washington Department of Fish and Wildlife (WDFW).

B.1.b Public Comments

Mr. Mark Cedergreen, Vice-Chair, referred the Council to the three public comments in the briefing book.

The following persons provided oral public comment to the Council.

Ms. Sara Winterlee, Oceana. Expressed concern about misusing exempted fishery permits (EFPs) to circumvent conservation and management measures.

Mr. Larry Collins, Crab Boat Owners Association, San Francisco, California. Spoke to negative impacts of the trawl rationalization program. His testimony is provided in http://www.pcouncil.org/bb/2009/0309/B1_SUP_OC2_0309.pdf.

Mr. Dave Bitts, Pacific Coast Federation of Fishermen's Associations (PCFFA), McKinleyville, California. He identified that most PCFFA members fish mainly for salmon and crab with some in other fisheries. However, groundfish is very important to the welfare of the ports used by PCFFA fishermen and a loss of groundfish fisheries could lead to closed ports, which would in turn take away the buyers and resources at each port. He asked that the Council make adjustments in its trawl rationalization program to prevent this.

B.1.c Council Discussion of Comments as Appropriate

None.

C. Coastal Pelagic Species Management

C.1 Stock Assessment Review (STAR) Panel Terms of Reference for 2009

C.1.a Agenda Item Overview (03/08/09; 10:04 a.m.)

Mr. Mike Burner provided the agenda item overview.

C.1.b Scientific and Statistical Committee Report

Dr. Steve Ralston provided Agenda Item C.1.b, Supplemental SSC Report.

C.1.c Reports and Comments of Agencies and Advisory Bodies

Mr. Mike Okoniewski provided Agenda Item C.1.c, CPSAS Report. Mr. Burner read Agenda Item C.1.c, CPSMT Report.

C.1.d Public Comment

None.

C.1.e Council Action: Adopt Final Terms of Reference for Coastal Pelagic Species STAR Panels

Mr. Anderson spoke to the Scientific and Statistical Committee (SSC) comments regarding Appendix C of the review draft of the Terms of Reference (TOR) (Agenda Item C.1.a, Attachment 1) and agreed with its removal as the specific names of the reviewers need not be included in the document. However, he felt that a brief description of the required expertise and number of reviewers should be included in the body of the text. Mr. Burner agreed and clarified an error in the original SSC report's listing of reviewers.

Ms. Vojkovich moved and Ms. Kathy Fosmark seconded a motion (Motion 2) to adopt the CPS TOR (Agenda Item C.1.b, Attachment 1) with the following alterations: remove Appendix C and the references to it and adopt, as a separate item, the table included in Agenda Item C.1.c, Supplemental SSC Report as revised by Mr. Burner.

Mr. Anderson asked Ms. Vojkovich if the main motion intends for the document to be silent to the type of expertise on the STAR Panel. Ms. Vojkovich stated that it would. Mr. Anderson moved and Mr. Dale Myer seconded an amendment (Amendment #1 to Motion 2) to include a description of the reviewers in the TOR.

Mr. Moore asked Ms. Vojkovich if it was the intent of the main motion to include all of the SSC recommendations in Agenda Item C.1.c, Supplemental Revised SSC Report.

Chairman Hansen asked that the Council vote on Mr. Anderson's amendment first. With that, Amendment #1 to Motion 2 passed unanimously.

Mr. Moore moved and Mr. Warrens seconded an amendment (Amendment #2 to Motion 2) to include all SSC recommendation in Agenda Item C.1.c, Supplemental Revised SSC Report.

Mr. Anderson asked Ms. Vojkovich why she didn't include all of the SSC recommendations in the original motion. Dr. Ralston clarified that the text change was intended to allow greater flexibility in the review process while preserving the intent of the assessment update process. Mr. Anderson and Ms. Vojkovich agreed and spoke in favor of the Amendment #2 to the main motion.

Amendment #2 to Motion 2 passed unanimously. Main Motion 2 passed unanimously as twice amended.

Mr. Burner will make the appropriate changes to the TOR and will have the revised document posted on the Council's website.

C.2 Exempted Fishing Permit (EFP) for Sardine Research

C.2.a Agenda Item Overview (03/08/09; 10:39 a.m.)

Mr. Burner provided the agenda item overview.

C.2.b Reports and Comments of Agencies and Advisory Bodies

Mr. Okoniewski provided Agenda Item C.2.b, Supplemental CPSAS Report. Mr. Burner read Agenda Item C.2.b, Supplemental CPSMT Report. Dr. Ralston provided Agenda Item C.2.b, Supplemental SSC Report.

C.2.c Public Comment

Mr. John Hillman, fish buyer, Monterey Bay, CA
Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA
Mr. Ryan Kapp, sardine fisherman, Bellingham, WA
Mr. Jerry Thon, Astoria Holdings, Astoria, OR
Mr. Ben Enticknap, Oceana, Portland, OR

C.2.d. Council Action: Adopt EFP for Public Review (03/08/09; 1:28 p.m.)

Mr. Anderson asked Mr. Helvey if there was a rulemaking process, other than an emergency rule, that could be used to increase the 1,200 mt research set-aside for the 2009 fishery. Mr. Helvey said that the initial consideration by NMFS indicated that a notice and comment rulemaking process could be conducted. Mr. Helvey noted that the Council in November 2008 adopted the 1,200 mt set aside as well as a mechanism for allocating unused portions to the directed fishery and he felt the Council could look at adjusting the management measures at this time. The question for National Marine Fisheries Service (NMFS) to consider is "what is the new set aside value going to be and what is the scientific basis for it?" He noted there will likely be other questions or issues to address as this matter is further scrutinized in the future, but at this time NMFS is willing to proceed if that is the direction the Council decides to go.

Mr. Anderson agreed with Mr. Jerry Thon's testimony regarding the importance of developing new indices and methods for Pacific sardine. Mr. Anderson stated that he felt the Council should focus on the long-term benefits to sardine research. He said that he had spoken with Dr. Jagielo who reported that the existing 1,200 mt set-aside would likely be inadequate for covering the geographic extent of both proposals. Mr. Anderson suggested that rather than trying to choose one EFP over another, the Council should consider increasing the set-aside to accommodate work in both areas. He felt that between the March and June Council meetings, industry could work on a single revised proposal and a revised set-aside value and the Council and NMFS could work on increasing the set-aside to a value to be determined.

Mr. Helvey noted that NMFS would need time to complete a rulemaking process and that waiting until the June meeting to identify a new set-aside value would likely mean it would not be in place until the fall. This would be too late for the work in the Pacific Northwest and would prevent using the collected data in the next assessment.

Mr. Anderson noted that if the research set-aside is not used in the second period, it would roll into the third period's directed fishery.

Dr. McIsaac asked if NMFS was proposing an emergency rule for this action. Mr. Feder said he is proposing notice and comment rulemaking because justification for an emergency has not yet been made.

Mr. Anderson moved (Motion 3) to adopt for public review the two EFP's found in Agenda Item C.2.a, Attachment 1 and Agenda Item C.2.a, Attachment 2; and that the Pacific sardine industry representatives work to provide a detailed single proposal for the area between Cape Flattery, WA to Monterey Bay, CA that addresses the recommendations of the SSC and the CPSMT. Mr. Dale Myer seconded the motion.

Ms. Vojkovich noted that testimony included disagreements between the industry representatives on the EFP proposals and she was wondering about how those differences would be reconciled. Mr. Anderson envisioned a process where the onus is on the industry representatives to negotiate a single EFP proposal in time for STAR Panel review in May. He also supports the concept that the resulting proposal and project be managed under a single entity guided by a scientific steering group. This could address concerns of duplication of effort and consistent methods.

Mr. Moore and Chairman Hansen asked the representatives to come forward to speak to the feasibility of developing a single proposal. Ms. Pleschner-Steele, Mr. Okoniewski, and Mr. Thon came to the table.

Mr. Okoniewski and Ms. Pleschner-Steele said that industry representatives can develop such a proposal, particularly if the set-aside could be bumped up to 2,400 mt. Further, industry could establish a non-profit entity and a Memorandum of Understanding for sharing the combined costs of oversight and data processing, etc. Industry would support allocating more of the harvest guideline (HG) to the set-aside while maintaining the provision of rolling any unused portion into the third period. Mr. Jerry Thon agreed that the two groups could work out the details of a single proposal and that the scientific advisors can work as a coordinated team.

Mr. Anderson and Mr. Okoniewski agreed that a single EFP would expedite the review process and could make for a better, more coordinated survey. Ms. Pleschner-Steele spoke to the differences and she suggested amendments to the EFP to address concerns of the California participants. Mr. Thon suggested that amending the proposals on the Council floor would not be efficient and recommends they both go forward for review to allow time for industry representatives to coordinate. Mr. Anderson thanked all of the industry representatives, but agreed with Mr. Thon and left his motion on the floor as originally stated.

Mr. Burner asked NMFS if the public comment period during the proposed notice and comment rulemaking process could encompass the June Council meeting to allow Council and advisory

body comments on its merits. Mr. Helvey noted that the comment period and final rule needs to be followed by a 30-day cooling off period before implementation. This schedule would significantly delay the start of the research and could complicate the management of the second period of the directed fishery.

Motion 3 passed unanimously.

Mr. Burner asked that the EFP proposal be submitted for publication on the Council website as soon as feasible, but no later than April 15, 2009 to allow for adequate review in advance of the May 4-8, 2009 STAR Panel meeting where survey methodology is scheduled for thorough evaluation.

Mr. Anderson said we had a total acceptable biological catch (ABC) of 66,932 mt with 1,200 mt set-aside for research and noted that 1,200 mt is not likely enough to carry out the two EFPs and obtain scientifically sound results. As a result of that, he thinks it would be wise for the Council to recommend that NMFS pursue the requisite rulemaking to increase the research set-aside. Mr. Burner expressed concern about inseason adjustments to the formally adopted harvest allocations in a single meeting inseason without the benefit of advisory body input. Mr. Anderson stated that he appreciates Mr. Burner's concerns, but he felt the proposal represents a relatively small amount of impacts to the overall industry while providing substantial benefits to the management of the resource.

Mr. Anderson moved (Motion 4) that the Council recommend revising the 2009 research set-aside from 1,200 mt to 2,400 mt with the understanding that any unused portion would roll into the third period of the directed fishery. Mr. Moore seconded the motion.

Mr. Helvey asked Mr. Anderson where the extra 1,200 mt the motion moves into the research set aside would come from. Mr. Anderson said he would prefer to maintain the allocation between the second and the third period by taking the 1,200 mt out of those two periods in proportion to the seasonal allocations to those two periods, including the rollover from the first period to the second period. Mr. Helvey asked if Mr. Anderson meant 600 mt from period 2 and 600 mt from period 3. Mr. Anderson said no, to account for the additional 1,200 mt research set-aside he recommends a reduction in the second and third seasonal allocation proportionally, (i.e., the second period is allocated 26,293 mt and the third period is allocated 16,433 mt and without doing the calculation this is roughly a 2/3:1/3 split that would be applied to the 1,200 mt to determine the amounts to be removed from the second and third periods). Mr. Helvey noted that the values in Mr. Anderson's example do not include previously adopted set asides to account for incidental landings. Mr. Anderson acknowledged those set asides, but continued to support using the values of 26,293 and 16,433 for calculating the proportion.

Mr. Anderson clarified that he did not have the exact numbers, but he suggested the following mechanism: 1) roll the remaining HG from the first period into the second period allocation, 2) use the resulting value for the second period and the 16,433 mt from the third period to calculate a proportion to be applied to the requested 1,200 mt (roughly 65:35 or 750 mt from the second period and 450 mt from the third period), 3) reduce the second and third period directed fishery allocations by roughly 750 mt and 450 mt respectively, and 4) roll any portion of the now 2,400 mt research set aside that is not used in the second period into the third period.

Ms. Vojkovich asked what happens if the rulemaking fails and the set-aside increase is not implemented. Mr. Anderson said he felt that at the June meeting, when the Council makes final recommendations on rulemaking, we will know the status of the rulemaking process. The Council can then recommend what to do with the available set-aside. If that value is inadequate or industry does not move forward with an EFP, there is the adopted provision to roll the set-aside into the directed fishery. Mr. Helvey appreciated Mr. Anderson's comments and said that NMFS will have to review this proposal further before moving forward with the rulemaking process.

Motion 4 passed unanimously.

C.3 Fishery Management Plan (FMP) Amendments to Implement Annual Catch Limit (ACL) Requirements

C.3.a Agenda Item Overview (03/08/09; 2:20 p.m.)

Mr. Burner provided the agenda item overview.

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

Mr. Okoniewski provided Agenda Item C.3.b, Supplemental CPSAS Report. Dr. Steve Ralston provided Agenda Item C.3.b, Supplemental SSC Report. Mr. Burner read Agenda Item C.3.b, Supplemental CPSMT Report.

C.3.c Public Comment

Ms. Dianne Pleschner-Steele, California Wetfish Producers Association, Buellton, CA
Mr. Ben Enticknap, Oceana, Portland, OR

Mr. Enticknap's comments included a request that the Council consider the inclusion of a wide variety of forage species as Ecosystem Components in the CPS FMP.

C.3.d Council Action: Scope and Plan FMP Amendments to Implement ACL Requirements

Dr. McIsaac asked if the analysis of the proposed amendment under National Environmental Policy Act (NEPA) would involve an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). Mr. Burner envisioned first completing an EA as an initial investigation into the significance of the impacts. At that time, the determination on whether an EIS is required would be made.

Ms. Vojkovich appreciated the input of the advisory bodies and requested some guidance on how best to proceed; in particular, she was interested in what guidance the Council may be giving on future workload.

Dr. McIsaac reviewed the schedule in Agenda Item C.3.a, Attachment 3. He noted that this is a scoping session for items to be considered in the CPS amendment process. The Council has heard from its advisory bodies and the public, including the Oceana request to include additional forage species in the CPS FMP. The Council is tasked with reviewing the revised National Standard 1 (NS1) guidance, taking scoping comments on the proposed FMP amendment, identifying additional issues for future analysis, and providing guidance on the amendment schedule.

Mr. Wolford expressed some reservation with including a broad range of forage species in the CPS FMP as Ecosystem Components. He noted that some forage species, such as smelt, are harvested recreationally and therefore may fall outside the intended use of the Ecosystem Component category in the NS1 guidance. He requested a thorough review of forage species when developing alternatives.

Mr. Anderson noted that under this agenda item there are topics of broad application of NS1 guidelines and Magnuson-Stevens Act (MSA) requirements across all Council management and others specific to CPS. He would prefer separation of the two categories in future discussions. He spoke to the Oceana request regarding the use of Ecosystem Components and expressed an interest in exploring the use to the Ecosystem Components category in all of the Council's FMPs.

Ms. Vojkovich reviewed the list of issues identified in the Coastal Pelagic Species Advisory Subpanel (CPSAS) and CPSMT reports under Agenda Item C.3.b, and noted that, although the items listed are of importance to Council CPS management, she expressed concern with the amount of work required to address them all in this amendment. She suggested that the Council first address the items that are directly related to meeting the MSA requirement and the NS1 guidelines and take up the other items such as those relating to improved landings reporting only after the core items are completed.

Mr. Moore asked which of the schedules presented in Agenda Item C.3.a, Attachment 3 the Council will be working under. Dr. McIsaac noted that the Council will likely proceed under the "moderate" schedule which would have this matter on the Council's September 2009 agenda. Mr. Burner noted that the November meeting traditionally includes more CPS business and there may be some efficiency to next addressing this amendment process then. Dr. McIsaac noted that the Council will make specific recommendations on scheduling under Agenda Item I.3, Future Council Meeting Agenda and Workload Planning.

D. Salmon Management

D.1 Review of 2008 Fisheries and Summary of 2009 Stock Abundance Estimates

D.1.a Report of the Salmon Technical Team (STT) (03/08/09; 3:58 p.m.)

Dr. Robert Kope reviewed the results of the stock assessment and fisheries evaluation for 2008 (Review of 2008 Ocean Salmon Fisheries) and the stock abundance projections for 2009

(Preseason Report I). He noted there was an update to the Queets River coho forecast, that was 31,400. The Snohomish and Stillaguamish natural coho forecasts were below the FMP conservation objective.

Mr. Williams asked for clarification of the lower than expected Klamath River fall Chinook (KRFC) spawning escapement in 2008. Dr. Kope replied the natural component of age-4 fish was about half the forecast and the hatchery component was less than half, resulting in failure to meet the 2008 objective of 40,700 natural area spawners and the fishery management plan (FMP) floor of 35,000.

Dr. McIsaac asked what the escapement to the Shasta Scott and Salmon rivers was in 2008. Dr. Kope replied all three had escapement comparable to 2007, which was relatively strong.

Mr. Roth asked what the returns to Sacramento Basin hatcheries were. Dr. Kope replied that Coleman, Nimbus, and Feather River all made their egg take although the numbers of spawners was below objectives.

Ms. Vojkovich asked what the status of KRFC was in 2009 compared to earlier forecasts. Dr. Kope replied abundance was good, similar to the 2004 brood.

D.1.b Reports and Comments of Agencies and Advisory Bodies

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

D.1.c Public Comment

Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, CA

D.1.d Council Action: Review and Discuss Relevant Fishery Information and Act on 2009 Abundance Estimates as Necessary

Ms. Vojkovich moved (Motion 5) to accept the abundance forecasts in Preseason Report I for use in modeling fisheries in 2009. Mr. Frank Lockhart seconded the motion; Motion 5 passed unanimously.

D.2 Identification of Stocks Not Meeting Conservation Objectives

D.2.a Agenda Item Overview (03/09/09; 8:05 a.m.)

Mr. Chuck Tracy presented the agenda item overview.

D.2.b Reports and Comments of Agencies and Advisory Bodies

Dr. Kope presented Agenda Item D.2.b, Supplemental STT Report, along with Table I-3 of Preseason Report I. Dr. Kope reported the following updates to Table I-3:

- 2008 Grays Harbor fall Chinook escapement was 13,700, below the FMP conservation objective;

- 2008 Queets fall Chinook escapement was 3,000, which achieved the FMP conservation objective;
- 2008 Grays Harbor coho escapement was 27,900, below the FMP conservation objective;
- 2008 Queets coho escapement was in the range of 4,300 to 4,700, below the FMP objective.

Mr. Anderson noted he had been provided a spawning escapement estimate for Grays Harbor coho of 36,154, which is above the FMP conservation objective.

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

Mr. Lockhart reported NMFS sent a letter to the Council Executive Director in February clarifying the status KRFC. The letter noted that the Salmon FMP did not clearly specify Council action after an overfishing concern occurred and the Salmon Technical Team (STT) assessment was completed. NMFS staff discussed whether KRFC was or was not overfished or rebuilding. The letter details how NMFS interpreted the status of KRFC with regard to the report to Congress on overfished stocks, which was not overfished but rebuilding, because of achieving the conservation objective in 2007. The letter also recommended the Council address the status determination criteria in the FMP to reduce future confusion.

Dr. McIsaac asked if the letter was in the briefing materials. Mr Tracy replied it was under Agenda Item D.6.

Dr. McIsaac asked what the status was of the rebuilding plan for KRFC. Mr. Lockhart replied the rule is still in review and would not be finalized prior to final Council action on 2009 management measures in April.

Ms. Vojkovich asked if the overfishing concern would continue while KRFC was rebuilding. Mr. Lockhart replied yes.

Mr. Anderson noted the Washington coastal Chinook stocks were harvested at very low levels in Council Area and freshwater fisheries, and no further action by the Council could make a significant difference in meeting the FMP conservation objective. The new Pacific Salmon Treaty (PST) Chinook annex should result in reductions from West Coast Vancouver Island (WCVI) and Southeast Alaska (SEAK) fisheries and contribute to increased spawning escapements for these stocks. The state and tribes are working on better harvest rate estimates for Queets coho, and should be able to meet the FMP conservation objective in 2009 given the large forecast. The state is also working with the tribes to constrain harvest and with local governments to improve habitat conditions for Grays Harbor Chinook.

Mr. Steve Williams noted a number of stocks may benefit from the new PST Chinook annex; including north Oregon coastal Chinook; the state has also constrained river and estuary fisheries to improve the status of those stocks.

D.2.c Public Comment

None.

D.2.d Council Action: Direct Necessary Actions Required by the Salmon Fishery Management Plan

Mr. Anderson asked for confirmation of the harvest rate on Strait of Juan de Fuca coho in Council managed fisheries. He then asked for clarification on the requirement for a formal assessment of Stillaguamish coho. Mr. Tracy replied that the Section 3.2.2.2 of the FMP (Attachment 1, Agenda Item D.2.a) required the Council to request an assessment from pertinent state and tribal managers if a stock had triggered a conservation alert and also failed to meet its FMP conservation objective for two consecutive years.

Mr. Lockhart asked what would be required if the Council adopted management measures that would result in SRFC falling below its FMP conservation objective. Mr. Tracy replied the Council would need to request an emergency rule, and since it had failed to meet its FMP conservation objective in the most recent two years, a formal assessment would also be required.

Mr. Anderson asked for clarification on the responsible parties for completing the necessary assessments. Mr. Tracy replied that for Queets, Western Strait of Juan de Fuca, and potentially Grays Harbor coho, the STT would be responsible for the assessment since they had triggered an overfishing concern. For Snohomish coho, the Council should request the State of Washington and the Tulalip and Swinomish tribes to complete an assessment since that stock had triggered a conservation alert.

Dr. McIsaac asked if the determination for a conservation alert for SRFC would occur after final Council action in April. Mr. Tracy replied yes.

D.3 Identification of Management Objectives and Preliminary Definition of 2009 Salmon Management Options

D.3.a Agenda Item Overview (03/09/09; 10:38 a.m.)

Mr. Tracy presented the agenda item overview.

D.3.b Report of the Pacific Salmon Commission

Mr. Gordy Williams provided a brief update on the Pacific Salmon Commission (PSC) process, noting the Endangered Species Act (ESA) Biological Opinion (BO) covering the new PST Chinook agreement was received, which is in place for 2009 through 2018. The coho agreement was also updated and will be in place through 2018. The Fraser River sockeye and Pink salmon agreement is still under negotiation. U.S. and Canada are in the process of seeking funds for research and monitoring programs outlined in the agreement.

D.3.c NMFS Recommendations

Mr. Lockhart recommended at least one of the management options the Council develops for public review should include no ocean Chinook fishing south of Cape Falcon.

Dr. Peter Dygert recommended the Council consider recommending inseason action to modify commercial and recreational fisheries from Cape Falcon to the OR/CA border which are scheduled to open March 15, 2009.

Dr. Dygert presented Agenda Item D.3.c, Supplemental NMFS Report 2.

Dr. McIsaac asked how NMFS viewed Council involvement in the ESA recovery planning process for the lower Columbia River and for Sacramento River winter Chinook. Dr. Dygert replied the BO process is coordinated with the states and tribes, through which the Council could offer comments.

Mr. Steve Williams asked what issues need to be resolved for the lower Columbia River natural coho harvest matrix. Dr. Dygert replied the recovery plan needs to be completed; NMFS is reviewing the proposed Oregon recovery plan. Stock representation issues with the Clackamas and Sandy River may need to be broadened, and full seeding levels calibrated. Differences in harvest rate estimation procedures and metrics for in-river and ocean fisheries need to be resolved.

Mr. Anderson noted efforts to reform hatchery practices were necessary to continue hatchery production and fisheries. The alternative is that Federal funding for those programs would be cut.

Drs. Churchill Grimes and Peter Lawson presented Agenda Item D.3.c, NMFS Report 1 and a Powerpoint presentation, available on the Council's website at:
http://www.pcouncil.org/bb/2009/0309/D3c_SUP_NMFS_PPT_0309.pdf.

Mr. Hansen asked if the genetic stock identification (GSI) study required funding to be spent in 2009. Dr. Grimes replied the Saltonstall-Kennedy funds could be carried over.

Mr. Hansen asked if a bubble fishery for KRFC could be monitored with GSI. Dr. Lawson replied yes.

Mr. Moore asked if the whiting fishery would continue to be sampled for GSI. Dr. Lawson replied yes, and that a considerable backlog of samples would continue to be processed.

Mr. Williams asked what level of participation was necessary to achieve study objectives. Dr. Lawson replied interest has been on the level of 150-180 in Oregon.

Ms. Vojkovich asked what fishery benefits would accrue from the three levels of GSI study proposed. Dr. Lawson replied that in 2009 on the order of 10 to 20 boats in Oregon and about the same in California. The lowest level study would have no contact or impacts to salmon, but would benefit the technological and logistical process for future studies.

Mr. Lockhart asked when study benefits would be realized for managing fisheries. Dr. Lawson replied probably in five years.

Mr. Lockhart asked if there would be substantial benefit to sampling in a year when SRFC were a much smaller than average proportion of the total catch, or conversely if there would be little loss if the study was delayed. Dr. Lawson replied there would be benefits in such a year, but if the study was delayed the lost benefits could be recovered in time.

Dr. McIsaac asked if the infrastructure was in place for running the sampling program in California. Dr. Grimes replied yes, the same as in 2007.

D.3.d Tribal Recommendations (03/09/09; 1:15 p.m.)

Messrs. Stuart Ellis, Herb Jackson, Raphael Bill, and Bruce Jim representing the four Columbia River Treaty Tribes presented Agenda Item D.3.d, Supplemental Tribal Comment 2.

Mr. David Sones noted there is great concern from the Columbia River tribes and other Northwest tribes about the use of mark-selective fisheries; there were concerns that the monitoring agencies have not been able to answer the tribes' questions about selective fisheries. The tribes question if selective fisheries are meeting all of the needs of the species we are trying to protect and whether there is enough technical information to move forward with selective fisheries.

Messrs. Billy Matilton and George Kautsky of Hoopa Valley Tribal Fisheries Department presented Agenda Item D.3.d, Supplemental Hoopa Valley Tribe Report.

Mr. Dave Hillemeier reported that the Yurok Tribe did not support the Council adopted criterion for ending the KRFC overfishing concern of two consecutive years with a natural area spawning escapement of at least 40,700 adults. As a result the Yurok Tribe managed its 2008 fisheries for an escapement of 35,000 natural area spawners. Actual catch was less than the allocation for either of those objectives, and therefore the management of the Yurok tribal fishery in 2008 was not related to the spawning escapement shortfall of KRFC in 2008. For 2009 the Yurok Tribe recommended a precautionary approach to setting fall ocean fisheries as recommended in the KRFC rebuilding plan.

Mr. David Sones presented Agenda Item D.3.d, Supplemental Tribal Report 3.

D.3.e State Agencies Recommendations

Mr. Anderson, presented Agenda Item D.3.d/e, Supplemental WDFW/Tribal Recommendations.

He noted that mass marking programs were necessary to carry out hatchery reform policies and ensure recovery of natural spawning populations. Mass marking also allows for mark-selective fisheries in mixed stock fisheries. Without mass marking and mark-selective fisheries, WDFW and Federal agencies were unlikely to continue funding large hatchery programs if the results were large hatchery surpluses and hatchery fish interbreeding with natural origin fish. WDFW respects the rights of the treaty tribes and will not suggest anything that would violate those obligations. WDFW understands the concerns of the tribes over mass-marking and mark-selective fisheries, but without this tool, state fisheries and coastal communities would be much less viable.

Mr. Steve Williams concurred with Mr. Anderson's testimony about mark-selective fisheries.

D.3.f Report of the Salmon Advisory Subpanel

Messrs. Butch Smith, Jim Olson, Paul Heikkila, Duncan MacLean, Steve Watrous, Richard Heap, Mike Sorenson, and Craig Stone presented Agenda Item D.3.f, Supplemental SAS Report.

Mr. Olson noted the following corrections:

- Page 2, U.S./Canada border to Cape Falcon commercial fishery, Option II: Underlined text should apply from August 1-15 only.
- Page 1, U.S./Canada border to Cape Falcon commercial fishery, Option III, Supplemental management information bullet 2 should read "Non-Indian commercial troll TAC: 10,000 Chinook..." not "20,000 Chinook..."

Mr. Heikkila noted the following corrections:

- Page 4, Cape Falcon to Humbug Mt. commercial fishery, Option III, September 1 through October 31: Closed.
- Page 5, Humbug Mt. to Oregon/California Border commercial fishery, Option II: change the Chinook quota to 1,500, not 1,000.
- Page 5, Humbug Mt. to Oregon/California Border commercial fishery, Option III: Closed.

Mr. MacLean stated that Option I was the Salmon Advisory Subpanel (SAS) preferred option for commercial fisheries south of the Oregon/California border.

Mr. Ortmann stated his assumption that there would be no regulations or Council action required to implement the GSI study in Option III since no fishing would take place, but the Council would support the research. The Council concurred.

Mr. Watrous noted the following corrections:

- Page 10, Cape Alava to Queets River recreational fishery, Option III: Open seven days per week beginning September 19.

Mr. Sorrenson noted the following corrections:

- Page 12, Cape Falcon to Humbug Mt. recreational fishery, Option I: replace underlined text "...release of legal fish prohibited, the first two legal fish caught per day must be retained..." with "...two fish per day..."
- Page 12, Cape Falcon to Humbug Mt. recreational fishery, Option II, Supplemental Management Information Bullet 5: replace 92,000 with 95,000.
- Page 12, Cape Falcon to Humbug Mt. recreational fishery, Option III, Supplemental Management Information: delete bullet 5.

Mr. Williams noted the state of Oregon is considering inland recreational fisheries permitting the retention of unmarked coho to take advantage of the large forecast of Oregon coastal natural coho.

Mr. Stone noted the following corrections:

Page 14, Horse Mt. to Point Arena recreational fishery, Option I: change February 13 to April 3.

D.3.g Reports and Comments of Advisory Bodies

None.

D.3.h Public Comment

Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, CA
Mr. Doug Fricke, Washington Trollers Association, Hoquiam, WA

D.3.i Council Recommendations for Initial Options for STT Collation and Description

Mr. Sones directed the STT to collate the following options for the treaty Indian ocean salmon fisheries in 2009:

Option I: 80,000 coho and 45,000 Chinook with 22,500 in the May-June Chinook directed fishery and the remainder in the July-September all species fishery.

Option II: 70,000 coho and 35,000 Chinook with 17,500 in the May-June Chinook directed fishery and the remainder in the July-September all species fishery.

Option III: 60,000 coho and 25,000 Chinook with 12,500 in the May-June Chinook directed fishery and the remainder in the July-September all species fishery.

Mr. Anderson directed the STT collate the non-Indian commercial and recreational ocean salmon options for the area between the U.S./Canada border and Cape Falcon as presented in Agenda Item D.3.f with the corrections noted during the SAS presentation.

Mr. Anderson noted his concern for Snohomish and Stillaguamish coho and the possibility for changing the coho quotas during the week to address those concerns.

Mr. Williams directed the STT collate the non-Indian commercial and recreational ocean salmon options for the area between Cape Falcon and the Oregon/California border as presented in Agenda Item D.3.f with the corrections noted during the SAS presentation, and to model the Option II GSI study during the four week period between May 1 and August 31 with the lowest Sacramento River fall Chinook (SRFC) impacts.

Ms. Vojkovich directed the STT to collate the non-Indian commercial and recreational ocean salmon options for the area between Oregon/California border and the U.S./Mexico border as presented in Agenda Item D.3.f with the corrections noted during the SAS presentation, and to model a Klamath River recreational fishery allocation of 15 percent in all three Options and model a Sacramento Basin recreational fishery allocation of 1,200 in Option I and zero in Options II and III. She also requested the STT provide separate estimates of SRFC impacts for the coho and Chinook directed fisheries in the Klamath Management Zone.

Mr. Anderson noted a correction to Table I-3 of Preseason Report I: the 2007 Snohomish natural coho escapement should have been 118,600 rather than 18,600, which means it did meet its FMP conservation objective in that year and therefore does not necessitate a formal assessment. The

Quinalt Indian Nation and WDFW technical staff reached agreement on 2008 Grays Harbor natural coho spawning escapement of 37,287, which achieves the FMP conservation objective, and therefore that stock had not triggered an overfishing concern.

Dr. McIsaac noted the Council direction meets the NMFS guidance in Agenda Item H.3.c, Supplemental NMFS Report 2, for targeting a natural spawning escapement of 40,700 adult KRFC.

D.4 Council Recommendations for 2009 Management Option Analysis

D.4.a Agenda Item Overview (03/10/09; 3:26 p.m.)

Mr. Tracy presented the agenda item overview.

D.4.b Report of the STT

Dr. Kope presented Agenda Item D.4.b, Supplemental STT Report, and noted that on page 19, Option II, the SRFC ocean commercial impacts should be 0.5, not 0.4, and on pages 23 and 24, Option II the SRFC impacts should be 96 not 48.

Mr. Wolford asked if the assumption for no retention of SRFC in river fisheries included any incidental mortality from non-salmon fisheries. Dr. Kope replied no.

Dr. McIsaac asked if the river recreational fishery in the Klamath could achieve an allocation of 30,000. Dr. Kope replied no, the 30,000 recreational allocation facilitated the tribal allocation.

Mr. Anderson asked if the Lower Columbia River natural (LRN) coho impacts assumed an ocean/inriver allocation sharing of two-thirds to one third. Dr. Kope replied yes.

Mr. Gordy Williams asked if the mark-selective Chinook fisheries in Agenda Item H.4.b, Supplemental STT Report, constituted low intensity fisheries, which would not result in biased results from the Chinook Fishery Regulation Assessment Model (FRAM). Dr. Kope replied yes. Mr. Anderson replied the monitoring and enforcement programs in place were designed to acquire information to assess the impacts of low intensity mark-selective fisheries contemplated for 2009, and that the SSC affirmed the Chinook FRAM was able to model such fisheries accurately.

D.4.c Reports and Comments of Agencies and Advisory Bodies

None.

D.4.d Public Comment

None.

D.4.e Council Direction to the STT and Salmon Advisory Subpanel on Options Development and Analysis

Mr. Anderson directed the STT to model non-Indian ocean fisheries north of Cape Falcon as in Agenda Item D.4.b, Supplemental STT report with the following changes:

- Pages 1 and 10, Option I, Supplemental Management Information, Bullet 1: change the Chinook TAC from 60,000 to 58,000 and the coho TAC from 25,000 to 22,5000.
- Pages 1 and 10, Option II, Supplemental Management Information, Bullet 1: change the Chinook TAC from 40,000 to 45,000.
- Pages 10 and 11, U.S./Canada Border to Cape Alava and Cape Alava to Queets River recreational fisheries, Option I: change "...marked Chinook (C.5)" to "...Chinook (C.5)", and change "All retained Chinook and coho..." to "All retained coho..."

Mr. Sones directed the STT to model treaty Indian ocean fisheries north of Cape Falcon as in Agenda Item D.4.b, Supplemental STT report with the following changes:

- Page 17, Option I, Supplemental Management Information, Bullet 1: change the coho TAC from 80,000 to 70, 000.
- Page 17, Option II, Supplemental Management Information, Bullet 1: change the Chinook TAC from 35,000 to 37,500.

Mr. Williams directed the STT to model non-Indian ocean fisheries between Cape Falcon and the Oregon/California border as in Agenda Item D.4.b, Supplemental STT report with the following changes:

- Pages 4 and 12, Option I, Supplemental Management Information, Bullets 4 and 5: change the overall recreational coho TAC from 140,000 to 137,000 and the commercial coho TAC from 15,000 to 14, 000.
- Page 5, Cape Falcon to Oregon/California Border commercial fishery, Option I: Close the GSI fishery.
- Page 12, Cape Falcon to Humbug Mt. recreational fishery, Option I, second bullet: change the coho quota from 10,000 to 7,000.
- Page 13, Humbug Mt. to Oregon/California Border recreational fishery, second bullet: Option I, delete July 3-6; Option II, Change August 15 to August 29; Option III, eliminate the August 29 through September 7 season.

Mr. Wolford requested the STT to provide any information available on the impacts of fall fisheries south of Cape Falcon on 2010 escapement of SRFC and KRFC.

Ms. Vojkovich directed the STT to model non-Indian fisheries between the Oregon/California border and the U.S./Mexico border as in Agenda Item D.4.b, Supplemental STT report with the following changes:

- Page 6, Options II and III: delete the GSI fisheries.
- Page 13, Oregon/California Border to Horse Mt. recreational fishery: Option I change open dates to August 29 to September 7; Option II and III are closed.

Ms. Vojkovich noted the California options for 2009 include two that are completely closed, including the river fisheries. California is focused on achieving the SRFC conservation

objective. GSI information is important for future management but not worth the risk given the few surplus fish available in 2009. She requested Oregon consider one option that is completely closed, the potential impacts of fall fisheries to 2010 fisheries, and reducing the number of days on the water in one coho option to reduce SRFC impacts.

Mr. Williams noted the Oregon coho fisheries represent a high priority for 2009.

D.5 Council Direction for 2009 Management Options

D.5.a Agenda Item Overview (03/11/09; 1:44 p.m.)

Mr. Tracy presented the agenda item overview.

D.5.b Report of the STT (2:30 p.m.)

Dr. Kope presented Agenda Item D.5.b, Supplemental STT Report.

D.5.c Reports and Comments of Agencies and Advisory Bodies

None.

D.5.d Public Comment

None.

D.5.e Council Guidance and Direction

Ms. Vojkovich requested Oregon align its Klamath Management Zone recreational fishery options with California's. She reported that based on coded-wire-tag (CWT) recoveries, the November-December river fishery targeting on late-fall stock Sacramento Chinook could reduce 2009 impacts to SRFC to less than 5 percent of the catch, or about 65 SRFC, if the fishery started after November 21. Option I should be modeled with a river allocation range of 1,200 to 65 SRFC.

Mr. Williams directed the STT to model non-Indian ocean fisheries between Cape Falcon and the Oregon/California border as in Agenda Item D.5.b, Supplemental STT report with the following changes:

- Pages 3 and 10, Option I, Supplemental Management Information, Bullets 4 and 5: change the overall recreational coho TAC from 137,000 to 117,000 and the commercial coho TAC from 14,000 to 11,000.
- Page 3, Cape Falcon to Humbug Mt. commercial fishery, Option I: change the closing date from October 31 to September 30; add landing and possession limits of 100 Chinook and 100 coho per vessel per calendar week.
- Page 3, Cape Falcon to Humbug Mt. commercial fishery, Option II: change the closing date from October 31 to September 30; change the landing and possession limits of 100 Chinook and 50 coho per vessel per calendar week to 50 Chinook and 100 coho.
- Page 3, Cape Falcon to Humbug Mt. commercial fishery, Option III: closed.

- Page 4, Cascade Head to Florence South Jetty commercial GSI fishery, Option II: closed.
- Page 4, Humbug Mt. to Oregon/California Border commercial fishery, Option I: change the opening date from September 1 to September 8; change the Chinook quota from 3,000 to 1,000; change the landing and possession limit of 100 Chinook per vessel per calendar week to 50 Chinook.
- Page 4, Humbug Mt. to Oregon/California Border commercial fishery, Option II: change the Chinook quota from 1,000 to 500; change the landing and possession limit of 50 Chinook per vessel per calendar week to 25 Chinook.
- Page 10, Cape Falcon to Humbug Mt. recreational fishery, Option I, first bullet: change the coho quota from 130,000 to 110,000; add bag limit to potential inseason adjustments.
- Page 10, Cape Falcon to Humbug Mt. recreational fishery, Option II, first bullet: add bag limit to potential inseason adjustments.
- Page 10, Cape Falcon to Humbug Mt. recreational fishery, Option III, first bullet: change the open dates from June 20 through August 31 to July 1 through August 30; change seven days per week to Wednesday through Sunday; add bag limit to potential inseason adjustments.
- Page 10, Cape Falcon to Humbug Mt. recreational fishery, Option III, second bullet: add open seven days per week; allow transfer of unused coho quota from the July-August recreational fishery.
- Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Option I, first bullet: change the coho quota from 130,000 to 110,000.
- Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Option I, second bullet: change the opening date from August 15 to August 29.
- Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Option III, first bullet: change the open dates from June 20 through August 31 to July 1 through August 30; change seven days per week to Wednesday through Sunday.

Mr. Lockhart asked what the status of GSI research would be. Mr. Williams replied there would be none except what could be accomplished during open commercial seasons.

Mr. Tracy asked if the no impact GSI fishery on page 3 Option III would remain. Mr. Williams replied yes.

Mr. Lockhart requested Mr. Williams consider retaining the GSI study on page 4 Option II but moving it to Option I. Mr. Williams replied that would encompass a broader range for the options but may result in not meeting the conservation objective for SRFC.

Mr. Lockhart noted that in the past, options that did not meet all the FMP conservation objectives have been adopted for public review. Mr. Williams responded by modifying his guidance to move the page 4 GSI study in Option II to Option I rather than deleting it.

Mr. Anderson noted the bolded numbers for Skagit, Stillaguamish, and Snohomish coho on page 17 indicated a projected failure to meet the FMP conservation objectives, while the FMP allowed annual management targets to differ from the FMP objectives if agreed to by the parties of U.S. v. Washington, as was the case in 2009 based on Agenda Item D.3.d./e., Supplemental WDFW/Tribal Recommendations, and subsequent guidance to the STT. He recommended

additional discussion of the issue as it relates to triggering a conservation alert or an overfishing concern.

D.6 Fishery Management Plan Amendments to Implement ACL Requirements

D.6.a Agenda Item Overview (03/12/09; 1:58 p.m.)

Mr. Tracy presented the agenda item overview.

D.6.b Reports and Comments of Agencies and Advisory Bodies

Mr. Lockhart presented Agenda Item D.6.b, Supplemental NMFS Report.

Mr. Tracy read into the record Agenda Item D.6.b, Supplemental SSC Report.

Dr. Kope presented Agenda Item D.6.b, Supplemental STT Report.

Mr. Richard Heap presented Agenda Item D.6.b, Supplemental SAS Report.

Mr. Lockhart recommended NOAA General Council advise staff on the topic of exceptions to the annual catch limit (ACL) and accountability measure (AM) requirements. Ms. Cooney agreed.

D.6.c Public Comment

None.

D.6.d Council Action: Scope and Plan FMP amendments to Implement ACL Requirements

Mr. Anderson moved (Motion 33) to recommend staff include in an FMP amendment the major elements in Agenda Item D.6.a, Attachment 2 and the three advisory body reports, Agenda Items D.6.b, Supplemental SSC Report, Supplemental STT Report, and Supplemental SAS Report, and in addition, address the issue of the conservation alert requirement to completely close fisheries impacting the stock by including a *de minimis* fishery provision. The process should follow the moderate schedule in Attachment 2 with a target completion date of November 2010. Mr. Cedergreen seconded the motion.

Motion 33 passed unanimously.

D.7 Adoption of 2009 Management Options for Public Review

D.7.a Agenda Item Overview (03/12/09; 2:23 p.m.)

Mr. Tracy presented the agenda item overview.

D.7.b Report of the STT

Dr. Kope presented Agenda Item D.7.b, Supplemental STT Report. He noted that the SRFC conservation objective was not met only in Option I with an assumed river harvest of 65 SRFC. All options for other stocks met the annual conservation objectives.

D.7.c Reports and Comments of Agencies and Advisory Bodies

Mr. Bruce Jim presented Agenda Item D.7.c, Supplemental Tribal Comment 2.

Mr. Anderson stated that WDFW would like to meet with the Columbia River Technical Advisory Committee to discuss the capability of the Chinook FRAM to model mark-selective ocean fisheries, and to discuss the monitoring and evaluation programs associated with implementing ocean salmon fisheries.

Mr. Mike Orcutt and Mr. Billy Matilton presented Agenda Item D.7.c, Supplemental Comments of Hoopa Valley Tribe.

D.7.d Public Comment

Mr. Paul Pierce, Coastside Fishing Club, San Leandro, CA
Mr. Duncan MacLean, F/V Barbara Faye, El Granada, CA

D.7.e Council Action: Adopt Management Options for Public Review

Mr. Anderson moved (Motion 34) to adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report for the recreational and non-Indian commercial ocean salmon fisheries in the area north of Cape Falcon.

Mr. Cedergreen seconded the motion; Motion 34 passed unanimously.

Mr. Steve Williams asked if an emergency rule would be required to implement fisheries that failed to meet the conservation objective for SRFC. Mr. Lockhart replied yes.

Mr. Steve Williams moved (Motion 35) to adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report for the recreational and non-Indian commercial ocean salmon fisheries in the area between Cape Falcon and the Oregon/California border with the following changes:

- Page 4, Cape Falcon to Oregon/California Border commercial fishery, Option I: delete the GSI fishery.
- Pages 10 and 11, Cape Falcon to Humbug Mt. and Humbug Mt. to Oregon/California Border recreational fishery, Option I, first bullet: change the opening date from June 20 to July 1.
- Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Options I, II, and III: eliminate the 2010 fishery opening on March 15.
- Page 13, C.6: delete the second sentence, which limits Oregon State water fisheries to Chinook only.

Mr. Warrens seconded the motion.

Ms. Vojkovich asked if the range of alternatives that go out for public review requires a no fishing option south of Cape Falcon for the Council to consider such an option at the April meeting. Ms. Cooney replied that if new information was received between the March and April Council meetings that required a no fishing option, the Council could consider it.

Ms. Vojkovich asked if Oregon had considered restriction of fall fisheries as recommended in the KRFC rebuilding plan. Mr. Steve Williams replied yes, in Option III there was no commercial harvest and no directed recreational Chinook fishing.

Mr. Lockhart asked if Oregon would be opposed to requesting public comment on a no fishing option south of Cape Falcon. Mr. Steve Williams replied no.

Dr. McIsaac asked if there was a need to justify an emergency rule at the March meeting. Ms. Cooney replied no, but noting the potential need pending further information prior to the April meeting would allow the public to comment on that issue.

Mr. Steve Williams asked what form that notice would take. Mr. Tracy replied it would appear in Preseason Report II.

Ms. Vojkovich stated she would not support an option package having no opportunity for California fisheries in one option while there was opportunity for Oregon fisheries in all options.

Motion 35 passed. Ms. Vojkovich, Ms. Fosmark, and Mr. Wolford voted no.

Ms. Vojkovich moved (Motion 36) to adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report for the recreational and commercial ocean salmon fisheries in the area between the Oregon/California border and the U.S./Mexico border.

Ms. Fosmark seconded the motion; Motion 36 passed unanimously.

Mr. Sones moved (Motion 37) to adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report, for the treaty Indian ocean salmon fisheries in the area north of Cape Falcon.

Mr. Anderson seconded the motion; Motion 37 passed unanimously.

Mr. Wolford moved (Motion 38) to have the Council forward a letter to the California Fish and Game Commission (CFGC) stating the Council's opposition to an in-river salmon fishery in the Sacramento River based on the status of SRFC and the consequences of not achieving the conservation objective again in 2009.

Mr. Cedergreen seconded the motion; Motion 38 passed unanimously.

Mr. Tracy asked for clarification about the assumed impacts on SRFC in river fisheries, which included a range of impacts from 65 to 1,200. Ms. Vojkovich replied the CFGC had the

flexibility to choose a river fishery with impacts within that range, and that the associated escapement projections for SRFC should be presented in the option package

Mr. Tracy noted that if the package contained an option that failed to meet the SRFC conservation objective then the Council should formally justify the need for an emergency rule.

Ms. Vojkovich asked if the emergency rule justification was needed prior to public review or when the Council took final action. Dr. McIsaac replied it would be required prior to public review.

Ms. Cooney stated the record would require justifying the need for an emergency rule at some point, and that the public should be made aware of that possibility during the comment period.

Mr. Steve Williams noted the changes made to Oregon season options were intended to avoid the need for an emergency rule; if that was not the case he may request additional changes to the option package.

Mr. Lockhart suggested including the emergency rule criteria in Preseason Report II and noting the public may wish to comment on the possible need for an emergency rule.

Mr. Williams asked if the CFGC would take action prior to Council final action in April. Ms. Vojkovich replied no.

Mr. Tracy suggested the Council state their assumption for the river fishery and then address the need for other considerations in Preseason Report II. Ms. Cooney suggested the modeling results for both the upper and lower end of the range be presented in Preseason Report II

Mr. Steve Williams recommended noting the situation in Preseason Report II and requesting public comment. Mr. Lockhart agreed.

Mr. Anderson recommended presenting three points in Preseason Report II: 1) the freshwater fisheries impacts assumed for modeling purposes; 2) acknowledgement that CDFG will determine actual impacts at a meeting in April, which could result in greater impacts than assumed for modeling purposes; and 3) if that happens, the Council adopted regulations would need to be implemented by emergency rule, pending justification according to the criteria in the Council Operating Procedure 10 (Agenda Item D.3.a, Attachment 2) and the NMFS final rule (Agenda Item D.3.a, Attachment 3). Council concurred.

D.8 Salmon Hearings Officers

D.8.a Agenda Item Overview (03/12/09; 3:55 p.m.)

Mr. Tracy presented the agenda item overview.

D.8.b Council Action: Appoint Hearings Officers

Chairman Hansen appointed the hearing officers as follows:

Washington – Mr. Mark Cedergreen, Hearings Officer; Mr. Doug Milward, STT representative; Dr. Peter Dygert, NMFS representative.

Oregon – Mr. Frank Warrens, Hearings Officer; Mr. Craig Foster, STT representative; Ms. Peggy Busby, NMFS representative.

California – Mr. Dan Wolford, Hearings Officer; Mr. Chuck Tracy, STT representative; Mr. Mark Helvey, NMFS representative.

E. Enforcement Issues

E.1 U.S. Coast Guard Annual West Coast Fishery Enforcement Report

E.1.a Agenda Item Overview (03/09/09; 9:15 a.m.)

Mr. Jim Seger announced that RADM John Currier was present to make a presentation to the Council.

E.1.b Annual U.S. Coast Guard Fishery Enforcement Report

RADM John Currier was introduced. RADM Currier spoke about safety issues. He encouraged that the dockside inspection voluntary program be made mandatory, such as they did in Alaska. He also spoke about the number of people that lost their lives at-sea along the West Coast this past year. His concerns were the lack of safety on vessels, old or non-working safety equipment, having no safety equipment at all, expired United States Coast Guard (USCG) decals, and the increased use of illegal substances. RADM Currier spoke about budget concerns. He wanted people to understand the realities of budget cuts in the USCG and what strategies will be used to deal with those budget cuts as far as being able to monitor and protect the Pacific Exclusive Economic Zone (EEZ).

CDR Peter F. Martin and Mr. Brian Corrigan provided a powerpoint presentation of USCG activities: http://www.pcouncil.org/bb/2009/0309/E1b_USCG_0309.pdf.

E.1.c Reports and Comments of Agencies and Advisory Bodies

None.

E.1.d Public Comment

None.

E.1.e Council Discussion on USCG Annual West Coast Fishery Enforcement Report

Mr. Hansen noted that he had received no phone calls this year on illegal, unregulated, and unreported (IUU) fishing. He asked if there was any data on that. Data will be forwarded to Mr. Hansen on that issue.

F. Pacific Halibut Management

F.1 Report on the International Pacific Halibut Commission Meeting

F.1.a Agenda Item Overview (03/09/09; 3:32 p.m.)

Mr. Tracy presented the agenda item overview.

F.1.b Meeting Summary

Ms. Michele Culver presented Agenda Item F.1.b, IPHC Meeting Summary.

Dr. Bruce Leaman, Executive Director of the IPHC gave a powerpoint presentation summarizing the IPHC annual meeting process and results, and some background information on the stock status that was central to the IPHC deliberations.

Mr. Hansen asked why the growth rate of Pacific halibut has slowed. Dr. Leaman replied there were two main reasons, density dependence and increased abundance of arrowtooth flounder in the central Gulf of Alaska, which correlates well with reduced halibut growth rate.

Mr. Sones asked if the lower growth rate affects the productivity of the fishery. Dr. Leaman replied yes, particularly because male halibut never grow to legal size and so are unavailable to the fishery. The IPHC is investigating the effects of eliminating the minimum size limit to access that portion of the halibut population.

F.1.c Reports and Comments of Agencies and Advisory Bodies

None.

F.1.d Public Comment

None.

F.1.e Council Discussion

Mr. Anderson recommended Area2A representatives from the tribes, states, and NMFS attend the April 2009 IPHC biomass apportionment workshop.

F.2 Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries

F.2.a Agenda Item Overview (03/09/09; 4:12 p.m.)

Mr. Tracy presented the agenda item overview.

F.2.b Reports and Comments of Agencies and Advisory Bodies

Mr. Paul Heikkila and Mr. Jim Olson presented Agenda Item F.2.b, Supplemental SAS Report.

Mr. John Holloway presented Agenda Item F.2.b, Supplemental GAP Report.

F.2.c Public Comment

Mr. Joel Kawahara, Salmon Troller, Quilcene, WA

F.2.d Council Action: Adopt Public Review Options for 2009

Mr. Anderson moved (Motion 6) to adopt for public review the options for incidental catch regulations in the 2009 non-Indian salmon troll fishery as shown in Agenda Item F.2.b, Supplemental SAS Report.

Mr. Dale Myer seconded the motion; Motion 6 passed unanimously.

Mr. Anderson moved (Motion 7) to adopt for public review a range of landing restrictions for Pacific halibut retention in the 2009 non-Indian commercial sablefish fishery north of Point Chehalis as listed in Agenda Item F.2.b, Supplemental GAP Report; with the addition of a third option of limiting pacific halibut landings to no more than 100 pounds dressed weight per trip.

Mr. Dale Myer seconded the motion.

Mr. Anderson stated that with only about 1,200 pounds of halibut available in the sablefish fishery, a broader range of options was necessary, which is why the third option was added.

Motion 7 passed unanimously.

G. Groundfish Management

G.1 Pacific Whiting Harvest Specifications and Management Measures for 2009

G.1.a Agenda Item Overview (03/10/09; 8:03 a.m.)

Mr. John DeVore provided the agenda overview.

Drs. Owen Hamel and Ian Stewart provided a PowerPoint presentation of the new 2009 Pacific whiting assessment and key results.

Mr. Rod Moore asked about the extended decision tables and why the 215,000 mt and 184,000 mt catch streams were constant catch streams after 2009. Dr. Hamel explained the interest was in projecting the effect of 2009 removals only on depletion harvest rate and spawning biomass abundance.

Mr. Moore asked about the pre-recruit survey index and Dr. Hamel said that index was not included because it was not informative. Mr. Moore asked if the STAT team factored in the high juvenile whiting bycatch in last year's shrimp fishery and Dr. Hamel said no.

Mr. Moore referred to figure 70 in the assessment and asked for an explanation of the negative log likelihood values for acoustic survey catchability (q). Dr. Stewart explained that there is substantial uncertainty in estimating q and estimates vary by few units of negative log likelihood. Mr. Moore asked about figure 69 and Dr. Stewart said the estimated value of q has a significant influence on model results. Mr. Moore asked what parameters in the model drove the estimate of q and Dr. Stewart said the selectivity blocking assumptions and the ageing error correction factors were the primary drivers in the change of scale in the assessment results. Mr. Moore noted this assessment did not benefit from a new acoustic survey and Dr. Hamel said yes, an acoustic survey will be done this year to inform next year's assessment.

Ms. Vojkovich noted there were multiple estimates of the current depletion of the stock and asked which one was correct. Dr. Hamel explained the maximum likelihood estimate (MLE) is 32 percent and the median of the posterior Bayesian estimate from the Monte Carlo Markov chain (MCMC) runs is 29 percent. He recommended the SSC should explain which estimate is used in which context. Mr. Lockhart asked why there were MLE and MCMC estimates and Dr. Hamel explained that MLE estimates are most often used but there is a recommendation from the SSC to do more Bayesian estimates. Dr. Stewart said the MLE estimate is used to determine current depletion, but the MCMC estimates are probabilistic estimates of forward projections.

Mr. Wolford asked for an explanation of Figure 68 and asked if the interpretation is that the exploitation rate is trending rapidly towards the overfishing level and Dr. Hamel said yes. He asked what explained the sudden changes in exploitation rates over time and Dr. Hamel said the emergence and disappearance of strong year classes were the factors influencing exploitation.

Mr. Anderson asked what drove the dramatic change in unexploited equilibrium biomass (B0) and Dr. Stewart said the change in time blocking of fishery selectivity and the ageing error correction factors were applied to gain better data fits. These components changed the scale of the assessment. Mr. Anderson asked what the difference in depletion rates was in the new assessment and Dr. Hamel said the depletion rate in 2008 from last year's assessment was 38 percent and the 2008 estimate of depletion from the new assessment is 41 percent. The 2009 depletion estimate of 32 percent is due to the die-off of the strong 1999 year class. Mr. Anderson asked if the 2008 assessment detected the 2005 year class strength at a different recruitment strength than the 2009 assessment signal and Dr. Hamel said yes. This year's assessment downgraded the strength of the 2005 year class, but both estimates of recent year class strength are highly uncertain.

Mr. Myer asked if the 2005 year class showed up in the fishery data and Dr. Hamel said yes. This year class was detected in the 2007 acoustic survey and in the last two years of fishery data. The 2005 year class did not show up at all in the pre-recruit survey. Mr. Myer asked if changes in fleet behavior due to bycatch species avoidance were factored into the assessment and Dr. Hamel said the fishery selectivity flexibility is modeled by blocking the selectivity in 4-year blocks.

Mr. Moore noted the 2008 assessment benefitted from the 2007 acoustic survey and the pre-recruit survey and Dr. Hamel said that assessment did not include the pre-recruit survey. Mr. Moore asked why the 2005 year class recruitment strength was higher in the 2008 assessment than in the 2009 assessment and Dr. Hamel explained that was true, but the estimates of 2005 year class strength were highly uncertain in both assessments. One factor is the 2007 acoustic survey selectivity for two year olds (i.e., the 2005 year class) is quite low, resulting in a large abundance estimate.

Dr. McIsaac asked if the 2009 assessment assumed the fishery was avoiding the smaller fish and Dr. Hamel said the data directed the fishery selectivities. Dr. Stewart explained fishery selectivity time blocking which, in recent years, were selectivity curves held constant over four-year time periods. Dr. Hamel said that year class strength estimates improve over time since more information in surveys and fisheries on year class strength is factored into the model. Dr. McIsaac asked if more refined time blocks for fishery selectivities would provide more information and Dr. Hamel did not think it would have changed the result that much. Two-year time blocks were considered for fishery selectivities, but the STAR panel did not approve of that approach.

Dr. McIsaac asked about the MLE and MCMC estimates of depletion and asked which estimate was the best estimate of current depletion. He heard that MLE estimates are best used for current depletion estimates and MCMC estimates were best used in forward projections. Dr. Hamel explained the probabilistic distributions of both estimates are not in sync because the probability distributions are not symmetrical and the median estimates of the MLE and MCMC runs, where there is a 50 percent probability of a lower value and a 50 percent probability of a higher value, are therefore different.

Mr. Anderson asked about the Canadian reviewers' perspective at the STAR panel and Mr. DeVore said they were concerned about the downward trend in stock biomass and depletion. They wanted to apply precautionary specifications and management measures to address this concern. An alternative modeling approach reviewed by Canadian reviewers and the SSC showed similar trends in stock biomass and depletion. Mr. Anderson asked about MLE and MCMC results and which should be used. Mr. DeVore recommended posing that question to Dr. Ralston when he provides the SSC recommendations.

G.1.b Reports and Comments of Agencies and Advisory Bodies

NMFS Report

Mr. Frank Lockhart provided an update from the NMFS report. He explained that Amendment 15 was published this morning in the Federal Register. There is an error in the application dates, which will be corrected. The notice now reads that today is the application date deadline which will be extended 30 days from today in the correction notice.

Mr. Lockhart said there is a delay in implementing the Whiting Treaty Act first caused by the Canadian parliament and now in the U.S. based on a ruling that industry members cannot serve on advisory panels. That restriction will likely be addressed in legislation which will allow industry members into the process. The treaty will likely be implemented fully in a short time.

Mr. Lockhart explained there will be an EFP again this year in the shoreside whiting fishery. The Amendment 10 proposed rule will be published in the late spring/mid-summer period and should be implemented by 2010.

Fleet performance in avoiding bycatch has greatly improved in the last year. The monitoring program implemented last year worked well. NMFS will prepare a report explaining these details. Mr. Myer thanked NMFS for implementing Amendment 15. He recommended a mass notification to the fleets on this and Mr. Lockhart said that will be done.

Mr. Moore asked about monitoring the catcher vessels (CVs) in the mothership (MS) fleet and asked if that is an element in Amendment 10 and Mr. Lockhart said there will be a separate NEPA process for implementing the monitoring of these vessels. This will not be part of Amendment 10 or implemented this year.

Mr. Moore asked if 2010 will be the year of implementing the whiting treaty and Mr. Lockhart said yes.

Mr. Moore noted the shoreside whiting plant compliance monitoring caused an economic burden to the plants and asked if these impacts were analyzed. Mr. Lockhart said this was analyzed in a supplemental analysis of 100 percent coverage of the landings. This will be done this year and may occur at a lower cost to the plants. Mr. Moore noted the Council wanted full coverage of the landings, but did not anticipate compliance monitors standing around when landings are not occurring, which drives up costs. Mr. Lockhart acknowledged this.

Dr. McIsaac asked if this year's whiting management will be done under MSA or via the treaty elements. Will the current FMP management framework be used for this year? Mr. Lockhart said we are in transition and this is somewhat of a gray area. NMFS will take into account the recommendations of the Council to help decide what management framework will be used. Regardless, any decisions need to use the best available science. Therefore, there will be a need for scientific advice on what constitutes overfishing. Mr. Lockhart said there would still be discussion with the Northwest Fisheries Science Center (NWFS) if the Council recommends harvest specifications that run counter to MSA mandate and NS1 guidelines. Ms. Cooney said the Canadian views and the MSA mandates need to be taken into account. There will be a need to stay below the overfishing threshold of $F_{40\%}$ in deciding the 2009 OY.

SSC Report

Dr. Steve Ralston provided Agenda Item G.1.b, Supplemental SSC Report.

Mr. Moore asked about the potential OY values in the SSC report and asked if the 253,582 mt value was the best ABC value and the 215,000 mt value would be the appropriate 40-10 OY and Dr. Ralston said yes. He clarified that these values are the MCMC values and incorporate all the uncertainty in the assessment. This is the most appropriate value for the ABC and 40-10 OY. Mr. Moore asked if we assume the 253,582 mt ABC and the coastwide OY of 215,000 mt would lead to a 24 percent depletion in 2010 and Dr. Ralston said yes. Mr. Moore asked if the 2009 OY is 184,000 mt and fully harvested would result in a depletion of 25 percent and Dr. Ralston

said yes and added that would be with a 50 percent probability. Mr. Moore asked for an explanation of the fishing mortality rate estimates of 1.0 vs. 0.93 and Dr. Ralston explained that is the harvest rate relative to the F_{MSY} threshold of F40 percent. Therefore, a 1.0 value is at the $F_{40\%}$ level and 0.93 is at 93 percent of the target F level.

Mr. Lockhart asked for an expanded explanation for why the SSC is recommending the MCMC values for forward projections. Dr. Ralston explained the central tendency of the MCMC projections (i.e., median values) is probabilistically at the central point in the distribution with 50 percent of the probability above the median and 50 percent below the median. These whiting projections distributions are skewed giving different MLE and MCMC estimates. They would be the same estimates if the distribution of parameter estimates was symmetrical.

Mr. Lockhart asked about the probabilities of the population collapsing with 2009 harvests of 253,582 mt or 215,000 mt and Dr. Ralston asked if by “collapsing” he meant falling below the overfished threshold and Mr. Lockhart said yes. Dr. Ralston explained that was unknown but the probability distributions provide risk-averse and risk-prone decisions.

Mr. Williams asked what happens if the stock falls below $B_{25\%}$ and Dr. Ralston said a rebuilding plan would need to be developed and decided and presumably the stock would have to be rebuilt within 10 years.

Mr. Anderson asked about the SSC statement that implies the 40-10 rule is likely to cause excursions into the overfished zone. Dr. Ralston said that is the implication of the default 40-10 and $B_{25\%}$ minimum stock size threshold (MSST) framework for whiting. It is likely different control rules need to be developed for whiting since it has extreme recruitment variability. It is likely the $B_{25\%}$ threshold is overly conservative for whiting. One could devise control rules that could more aggressively reduce harvest if the overfished threshold is attained.

Mr. Moore noted the whiting OYs have been set below the 40-10 OY for various precautionary reasons in recent years, does this mean that we have been fishing below the F_{MSY} level? Dr. Ralston said yes. Mr. Moore asked if we have been managing more conservatively than the 40-10 control rule and Dr. Ralston said yes.

GMT Report

Mr. Rob Jones and Dr. E.J. Dick provided Agenda Item G.1.b, Supplemental GMT Report.

Mr. Moore asked about the set-aside issue and assumed the data on the 2007 whiting bycatch in the shrimp fishery is new data and Mr. Jones said that is correct. He asked if we know past bycatch of whiting in the shrimp fishery and Mr. Jones says there is only anecdotal evidence that this bycatch in the shrimp fishery is increasing. Mr. Moore asked if he knew the age of the shrimp fishery whiting bycatch and he replied no, but he understands these were small fish.

Mr. Lockhart asked about the decision table and Figures 1 and 2 in the GMT report and Mr. Jones provided the explanation.

GAP Report

Mr. Dan Waldeck provided Agenda Item G.1.b, Supplemental GAP Report.

Mr. Moore noted Mr. Waldeck was the GAP representative at the 2008 and 2009 whiting STAR panels. Mr. Moore asked him if target strength of whiting in the acoustic survey was discussed and Mr. Waldeck said this was explored in depth in the 2008 STAR panel but not in the 2009 STAR panel.

Mr. Lockhart asked if the recommendation to do an MSE evaluation was similar to the SSC statement that the 40-10 rule may be inappropriate for whiting. Mr. Waldeck said that is part of the need for the MSE evaluation, but also the consideration for a more appropriate overfished threshold as stated by Dr. Ralston.

Mr. Anderson noted the majority of the GAP recommended an OY of 215,000 mt and asked about the minority opinion. Mr. Waldeck said a minority of the GAP preferred an OY of 184,000 mt.

EC Report

Chief Mike Cenci and Mr. Dayna Matthews provided Agenda Item G.1.b, Supplemental EC Report.

Mr. Moore thanked the Enforcement Consultants (EC) for their report. He asked about sensor data and thought there was only a requirement for cameras and shoreside monitoring. Mr. Matthews said that there is a hydraulic sensor that turns on the camera when the hydraulics are activated to haul back the net.

G.1.c Public Comment

Mr. Dennis Rydman, Ocean Gold Seafoods, Westport
Mr. Tom Libby, Pt. Adams Packing Company, Astoria, OR
Mr. Richard Carroll, Ocean Gold Seafoods, Westport, WA
Mr. Ben Enticknap, Oceana, Portland, OR
Mr. Mike Okoniewski, Pacific Seafoods, Woodland, WA

G.1.d Council Action: Adopt Final 2009 Stock Assessment, Allowable Biological Catch, Optimum Yield, and Management Measures

Mr. Anderson moved and Mr. Lockhart seconded a motion (Motion 8) to adopt the SS3-based Pacific whiting assessment recommended by the SSC as representing the best scientific information for managing the 2009 whiting fishery.

Mr. Anderson said he is troubled by the significant difference in the assessment result from year to year. However, there were strong points brought forward by the stock assessment team (STAT) regarding why the 2009 assessment result was so different. The anecdotal evidence of strong recent year classes is encouraging but cannot be adequately assessed yet.

Mr. Moore supports the motion although somewhat reluctantly. He believes the STAT and STAR panel did a great job, but the data informing the assessment are troubling and there needs to be more work to explore such data as acoustic survey q and target strength of whiting to reduce the uncertainty in the assessment.

Mr. Myer thought statistical analysis of the q estimate would show great uncertainty and agrees with Mr. Moore's comments.

Motion 8 carried unanimously.

Ms. Vojkovich was unclear when more focused work to improve the assessment would occur. Drs. Clarke and Hastie explained the STAT and acoustics team are working through these STAR requests and have had two meetings already and a third one is planned for later this week. Dr. Clarke explained prioritizing will be required given budget realities. She does believe more work is needed to improve the acoustic survey. She plans to come back to the Council in the near future with a prioritized research plan.

Mr. Anderson asked what information should be used to decide the ABC and Mr. DeVore recommended the SSC report. Mr. Anderson asked Dr. Ralston whether the MLE estimate of 291,965 mt or the MCMC value of 253,528 mt would be the more appropriate value and Dr. Ralston said the SSC recommends an ABC of 253,582 mt.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 9) to adopt a coastwide ABC of 253,582 mt.

Motion 9 carried unanimously.

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 10) to adopt a coastwide OY of 184,000 mt.

Mr. Anderson said he is concerned with the current stock status. Anecdotal information suggests there are strong recent year classes but betting on that future result would be risky in his opinion. An OY higher than 184,000 mt would be risky and would violate the NS1 guidelines in that the stock would be projected to fall under the overfished threshold at the beginning of next year. He understands the assessment uncertainty and realizes much will be learned in this year's acoustic survey. Next year's assessment should reveal the strength of the 2005 and more recent year classes. The fact that the stock is at its lowest spawning stock biomass must be heeded. There are scheduled discussions between WDFW and the tribes to discuss the tribal whiting set-aside this year.

Mr. Williams said he will support the motion and agrees with Mr. Anderson's comments. A higher OY would be risky.

Mr. Lockhart said he supports the motion and agrees with many of the points made by Mr. Anderson regarding assessment uncertainty and the risk assessment done to decide a 2009 OY.

He reminds the Council that, with sector-specific bycatch limits, we are likely to see sectors coming closer to attaining their allocations.

Mr. Moore said he will reluctantly support the motion. He doesn't necessarily believe that an OY of 184,000 mt is the correct harvest level, but the science is what it is. He is increasingly cynical of the continuing pessimism in the assessment result that is not borne out in subsequent assessments. However, there are legal limits and we must abide by them. The 184,000 mt limit is at this legal limit and should not be exceeded.

Ms. Vojkovich said she will support the motion. She also considers the value of this stock to the ecosystem and the support of Canadian managers for this level of harvest.

Mr. Sones said the tribe stopped fishing early last year because they could not avoid the small fish that were abundant last year. He emphasized the need to better assess the abundance of young fish in the whiting assessment. He agreed with the integrity of a conservative decision given the assessment uncertainty. In that spirit, he supports the motion.

Motion 10 carried unanimously.

Mr. Lockhart proposed that the Council recommend a set-aside for non-whiting, non-tribal bycatch of whiting.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 11) to adopt a 4,000 mt set-aside to account for whiting bycatch in non-tribal non-treaty fisheries.

Motion 11 carried unanimously.

Dr. McIsaac asked whether the tribal set-aside question should be addressed today and Mr. Anderson said the co-managers will meet later today on this issue and he hopes to come back to the Council later today with the results of that discussion.

Mr. Anderson came back after the lunch break with news regarding the co-manager meeting on the whiting set-aside to accommodate 2009 tribal fisheries. In June 2008, the Council set aside 50,000 mt for 2009 tribal fisheries with 42,000 mt for the Makah Tribe and 8,000 mt for the Quileute Tribe. At that time, the Council did not anticipate the results of the new whiting assessment, which turned out to be more pessimistic than anticipated. The co-manager meeting resulted in an offer from the Makah Tribe to reduce the set-aside for the 2009 Makah tribal whiting fishery to a level corresponding to 17.5 percent of the U.S. OY, which results in a Makah tribal set-aside of 23,789 mt. The Quileute Tribe discussions are ongoing to attempt to secure two vessels to prosecute a whiting fishery this year and a co-manager meeting between WDFW and the tribes will occur in April to finalize the Quileute Tribe's set-aside.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 12) to recommend to NMFS a yield rollover from the original tribal whiting set-aside of 50,000 mt of 18,211 mt to the non-treaty fisheries for 2009. This roll-over amount is calculated by subtracting the new Makah tribal set-aside of 23,789 from the original Makah set-aside of 42,000 mt.

Motion 12 carried (Mr. David Sones recused).

Mr. Lockhart appreciated the effort of WDFW and the tribes to reach this agreement and he looks forward to hearing the result of the WDFW and Quileute Tribe discussions in April.

G.2 Consideration of Inseason Adjustments (Including Pacific Whiting Bycatch Limits)

G.2.a Agenda Item Overview (03/10/09; 1:27 p.m.)

Mr. Merrick Burden provided the agenda item overview.

G.2.b Reports and Comments of Agencies and Advisory Bodies

Mr. Jones provided Agenda Item G.2.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item G.2.b, Supplemental GAP Report.

G.2.c Public Comment

Mr. Dave Bitts, PCFFA, McKinleyville, CA

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

Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, CA

G.2.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2009 Groundfish Fisheries

Mr. Myer moved (Motion 13), to remove 5 percent of the widow rockfish amount specified in the GMT scorecard from each of the non-tribal whiting fishery sectors – about 22.97 mt – and treat that as a buffer to use for management flexibility and uncertainty. Mr. Cedergreen seconded the motion.

Mr. Moore moved to amend the main motion (Amendment #1 to Motion 13). He moved that the non-tribal whiting fishery bycatch limit for widow rockfish be set at 396 mt, divided proportionately in the same manner whiting is distributed among the three sectors. Mr. Warrens seconded the motion.

Mr. Moore said he was concerned about the bycatch limits of widow rockfish. In recent years the widow bycatch has been increasing as the widow stock rebuilds. A bycatch limit could be restrictive on the whiting fishery and the Council should take this into account. However, Mr. Moore acknowledged that the Council had taken drastic action earlier in the day when they set the whiting OY to a very low level and a smaller whiting fishery may not need as much widow rockfish in order to prosecute the fishery. Mr. Moore indicated the desire to make sure that the Council had a buffer of widow rockfish in the scorecard, and also to set the widow rockfish bycatch limit at a low enough level that would still encourage fishermen to be careful and avoid widow rockfish. Rather than dropping the widow cap down by 5 percent from the numbers in the GMT scorecard, his amendment would drop the limit down by 8 percent. This would allow for a larger buffer and smaller bycatch limit than what was proposed in the main motion, but he did not think the more restrictive bycatch limit would hurt the whiting fishery.

Ms. Vojkovich indicated that she was having difficulty with both the main motion and the amendment. Ms. Vojkovich made reference to the size of the widow rockfish bycatch limit over the past several years and the Council's earlier decision to set a relatively low whiting OY. Both the main motion and the amendment would result in a higher widow bycatch limit than was set in recent years, even though the whiting OY had substantially decreased. She indicated that because the whiting fleet has done relatively well at reducing bycatch in recent years that it is difficult for her to now support a widow bycatch limit that is higher than recent years, especially since the whiting OY was substantially lower.

Mr. Moore said that one of the main issues with widow rockfish bycatch is that the widow stock is rebuilding. As a result, encounters with widow rockfish in the whiting fishery are increasing. He indicated that fishermen do not really know how much widow they might run into while fishing for whiting. Fishermen keep running into widow, no matter how conservative they are fishing.

Mr. Anderson indicated that he was not supportive of either the amendment or the main motion for the same reasons as Ms. Vojkovich. He made reference to the fact that the whiting fishery caught approximately 235 mt of widow rockfish in 2007 while taking 194,000 metric tons of whiting. He indicated that increasing the widow bycatch limit above recent levels while the whiting OY is being set lower than recent levels did not make sense to him.

Chairman Hansen asked for a vote on the amendment. Messrs. Moore, Myer, Cedergreen, and Williams voted yes; all the rest voted no. Amendment #1 to Motion 13 failed.

Main motion vote: Only Mr. Myer voted yes on the main motion. Main motion 13 failed.

Mr. Moore moved (Motion 14) to set the widow and darkblotched bycatch cap in the nontribal whiting fishery at 275 mt and 35 mt respectively. Mr. Dale Myer seconded the motion.

Mr. Moore said 275 mt on widow is where we have been the past couple of years. Even with larger whiting OYs in the past we have not attained that number, but at the same time the widow rockfish population is increasing. With darkblotched rockfish, that species is not fully attributed to the various sectors, so increasing the bycatch limit would not impact other fisheries. The at sea sector has run into problems with darkblotched rockfish and a larger bycatch limit would allow them more flexibility in their fishing operations.

Mr. Anderson asked Mr. Moore about darkblotched rockfish. He referenced the numbers on table 3, page 4 of the GMT Report and pointed specifically to the catch of darkblotched over the past four years relative to the motion for 35 mt. He indicated that we are obligated to rebuild these species in the shortest time possible, while taking into account the needs of the fishing community and that he was trying to reconcile the recent catch levels with the 35 mt in the motion along with the rebuilding obligation.

Mr. Moore addressed Mr. Anderson's concern. He indicated that one of the problems identified to him from industry about darkblotched is that by allocating darkblotched on a pro-rata basis to each sector, we end up with more darkblotched in the shorebased fishery than what is needed and

less in the MS fishery where it is needed. He indicated that he was trying to resolve that problem and would welcome other numbers. On widow rockfish, he expressed his desire to not have to come back later in the year to deal with widow bycatch cap increases, should the fishery hit that limit prematurely and be closed.

Mr. Lockhart indicated that he believes the purpose for having bycatch caps in the whiting fishery is to allow capture of the whiting OY to the extent possible. He asked whether staff had guidance for an appropriate bycatch limit level, given the Council's earlier decision on the whiting OY. Mr. Burden said that an appropriate level is difficult to estimate, but that during the last specifications process they found a relationship in the whiting fishery between the darkblotched bycatch limit and the widow bycatch limit. A relatively large widow limit might be accompanied with a relatively small darkblotched limit, while a small widow limit might be accompanied by a large darkblotched limit. Mr. Lockhart then asked if the GMT had any reason to believe that the catches of these rebuilding species would be higher than where we have been in the past couple of years. Mr. Burden replied that it is difficult to tell and did not know the answer.

Mr. Anderson asked for a substitute motion (Motion 15) to set the bycatch caps in the nontribal whiting fishery for darkblotched at 25 mt and widow at 250 mt. Ms. Vojkovich seconded the motion.

Mr. Anderson said that the darkblotched bycatch limit is significantly above what we have seen caught in the past four years and widow is slightly higher than what we have seen in the past four years. The substitute motion would leave buffer in the scorecard in case the Council needed to come back and address the problem later in the year. Given the relatively small US OY for whiting and the information available, it seems highly likely the fishery will harvest their whiting OY.

Ms. Vojkovich asked for clarification and whether bycatch limit adjustments can still be made inseason. Mr. Burden replied that bycatch limit adjustments are still specified as a routine inseason adjustment.

Mr. Myer spoke to the ability to make changes in bycatch limits later in the year. He indicated that relying on that mechanism is costly to the industry because the fishery would be shut down prematurely if a bycatch limit is met. To get a MS out fishing, it costs approximately one half a million dollars, so there needs to be a realistic expectation that the whiting available to the fishery can be caught in order to justify that expense. Mr. Myer then addressed Mr. Lockhart's statement that bycatch limits are set to provide for an opportunity to take the whiting allocation. He indicated that the difference between a 250 versus 275 mt bycatch limit of widow doesn't look like much on paper, but if the idea is to allow the whiting OY to be taken, then if one sector hits a bycatch cap, then that cap obviously wasn't enough for that sector to take their whiting. However, if a sector does take their whiting, then the bycatch species that aren't caught are then available to help in rebuilding. Therefore, by making the bycatch limits smaller we are just reducing the possibility of attaining the available whiting. Higher bycatch limits do not necessarily increase the chances of taking more widow or darkblotched just because it is available.

Mr. Moore said that the issue of changing bycatch caps in the whiting fishery also becomes one of timing. The MS and catcher/processor fishery starts April 15, but the first time the Council has a chance to examine where the catch is relative to the bycatch caps is in June. If for some reason the bycatch cap is reached prior to June, then waiting until June to take action might be too late to allow one of those sectors to effectively prosecute the fishery. Many vessels in the catcher processor and MS sector need to move to other fisheries in June. Therefore, the bycatch limits also become a timing issue, and that was why in his original motion he wanted to set bycatch limits at a size that the industry would be comfortable with so that the Council would not have to come back again to re-set the bycatch caps.

Motion 15 vote: Mr. Myer, Mr. Sones, and Ms. Fosmark voted no. Motion 15 passed.

Mr. Moore noted that he understood that there may be further information that will be brought forward to the Council from the GMT on Friday and that he would like to keep the Friday inseason adjustment agenda item open. He indicated that he had no plans to make further motions today, but might change his mind on Friday.

Mr. Burden said the Council took the only action that was necessary when they set the bycatch caps. He indicated that Mr. Moore was correct in that the GMT was intending to provide some additional information on Friday and if the Council did want to make further adjustments on Friday, they could.

Mr. Anderson referenced Page 2 of the GMT Report. He noted that there was a section of potential changes in trip limits as a result of having darkblotched rockfish available in the scorecard. He also indicated that he believed there was a reference to arrowtooth trip limits that wasn't in the GMT report. Mr. Burden indicated that the GAP requested that the GMT look into the possibility of increasing the arrowtooth trip limit.

The GMT will provide additional information under Agenda Item G.7 on Friday.

G.3 Fishery Management Plan Amendment 20 – Trawl Rationalization—Ownership and Miscellaneous Issues

G.3.a Agenda Item Overview (03/11/09; 8:08 a.m.)

Ms. Heather Brandon provided an agenda item overview for the eligibility portion of the agenda item.

Ms. Cooney spoke about the limitations and ownership control issues, what is required and what is allowed. There are two sections in the reauthorized MSA that are relevant to new Limited Access Privilege Program (LAPP) provisions. The Council has selected a preferred alternative of who is eligible to own quota shares (QS) and the MSA LAPP provisions add a requirement of who can own, which says we shall prohibit QS ownership by any person other than a U.S. citizen or permanent resident alien. Between now and the April meeting we can work with Council staff on clarifying the MSA and Amendment 20 language of who can and cannot own QS. Another MSA section speaks to authorizing the substantial participants in the fishery to hold QS. The

Council could limit who is eligible to own QS by defining who is a substantial participant in the fishery.

Mr. Moore said one of the things that we have maintained through the process of developing the trawl individual quota (TIQ) amendments was allowing an American Fisheries Act (AFA) authorized bare boat charter vessel to be eligible to own. Will these references be broad enough, including definition of “person,” to accomplish the Council wishes to allow QS ownership by AFA authorized vessels? Ms. Cooney said she thinks they are broad enough. Ms. McCall has been working on this in detail, and we will make sure it is included.

Ms. Vojkovich asked if the issue of legal aliens owning QS will be part of what the Council puts in the trawl EIS document or should she make a motion on it? Ms. Cooney did not know if legal aliens are specifically included in the current preferred option. If you want it in Amendment 20, you should make sure it is in there. If resident aliens are clearly within the group that can hold permits, then they could own QS. Ms. Brandon noted that Supplemental Attachment 10 shows the ownership language and implementing policy language from Amendment 6. The Amendment 20 language would mirror the language found in Amendment 6.

Mr. Myer asked about the wording on Amendment 6 and Amendment 20, do they mirror what Ms. Cooney was talking about earlier? No, said Ms. Brandon, but we intend to incorporate MSA information and highlight any differences at the April meeting.

Mr. Moore asked if we are to use the Amendment 6 language except where it conflicts with MSA? Ms. Cooney said she would assume so, but she didn’t see the language from the NMFS website until now and she will have to take a closer look at it.

Mr. Burden provided an agenda item overview for the additional clarifications piece of this agenda item.

G.3.b Reports and Comments of Agencies and Advisory Bodies (03/11/09; 9:50 a.m.)

Mr. Gregg Williams, noted that the staff of the IPHC has reviewed the recommendation for a methodology to establish an Individual Bycatch Quota (IBQ) for the rationalized west coast trawl fishery. Their comments can be found on the Council’s website at http://www.pcouncil.org/bb/2009/0309/G3c_SUP_IPHC_0309.pdf

Ms. Culver reviewed Agenda Item G.3.b, Supplemental WDFW Report 1 and Agenda Item G.3.b, Supplemental REVISED WDFW Report 2.

Mr. Tommy Ancona provided Agenda Item G.3.b, Supplemental GAP Report.

G.3.c Public Comment

Mr. Dave Bitts, PCFFA, McKinleyville, CA
Mr. Nate Grader, PCFFA, San Francisco, CA
Mr. Ben Bowman, Food & Water Watch, San Francisco, CA
Mr. Sam Shabacker, Food & Water Watch, San Francisco, CA

Mr. Larry Collins, Crab Boat Owners Association, San Francisco, CA
Mr. Don Muruska, Marine Interest Group, CA
Ms. Laura Pagano, NRDC, San Francisco, CA

G.3.d Council Action: Scoping of Ownership Trailing Action and Miscellaneous Clarifications

Chairman Hansen asked Mr. Ancona who can own QS? He replied that any person who is eligible to own a US documented vessel, as specified in the MSA, and any entity within our legal system.

Mr. Jerry Mallet asked if a longliner or charterboat owner/operator could qualify for one of these trawl permits? Ms. Cooney said the language deals with who can own QS not who can receive an initial allocation. Yes, Ms. Cooney said, a longliner would probably be eligible to buy a trawl permit and also be eligible to own QS. The longliner would have to buy a trawl permit in order to harvest the quota pounds.

Mr. Moore asked about process, the schedule in Attachment 1, there have been several public comments on the issue of establishing a definition for community fishing associations (CFAs). The definition of what constitutes a CFA does not appear on the agenda for this meeting or for any future meetings. Which agenda item should "CFA definition" go under? Dr. McIsaac said it could come up under this agenda item, or under G.4, or in April under the adaptive management program agenda item. Final Council decision making on the eligibility to own provision and the adaptive management program are scheduled for June. This agenda item is to direct staff to analyze groups that are eligible to own and bring back to the Council later. If there is an aspect within eligibility to own that needs a definition, such as a definition of a CFA, that could be taken up here preliminarily, and then we would bring something back in June. If you get into the adaptive management program (AMP) in April, which is just for guidance on analysis of the AMP, then CFAs could come up under that topic, should CFAs be an entity receiving AMP quota pounds.

Mr. Moore said if the Council wanted to think about having CFAs, and wanted to get staff analysis, advisory body comments, and public comments on how to define CFAs, we could do that by suggesting today that we would allow QS to be held by CFAs and request ideas in April on how to define a CFA. Can that be accommodated through this existing timeframe? Chairman Hansen nodded yes.

Council Action:

Ms. Heather Brandon referenced the current preferred option adopted by the Council at the November meeting. We are asking for guidance on additional analysis and possible further refinement of who can hold or is eligible to own QS.

Ms. Vojkovich moved (Motion 16) that the Council adopt eligibility criteria for the trawl rationalization program consistent with the MSA and the regulatory implementing language found in Groundfish Fishery Management Plan Amendment 6 (Supplemental Attachment 10). Mr. Lockhart seconded the motion.

Mr. Myer said the MSA is not here in Attachment 10. Ms. Cooney said we will work to get the MSA language and the preferred Amendment 20 alternative to mesh.

Ms. Vojkovich said the intent is to make this program consistent with the new provisions in the MSA that address ownership and make it consistent with what we currently have for who is eligible to hold a limited entry permit. The intent is to make sure that Amendment 6 and the new MSA language match for this program.

Mr. Moore asked Ms. Cooney about the issue of the AFA boat charter vessels and whether they are included in Ms. Vojkovich's motion. Ms. Cooney said we will look into that. She also said the MSA does include resident aliens, and we understand that you want that group included as eligible to own QS.

Ms. Culver asked to clarify that this motion selects a preliminary preferred alternative with a request for additional discussion and analysis later, in June or whenever this is on the agenda again. The maker of the motion confirmed this clarification is correct.

Motion 16 passed unanimously.

Mr. Lockhart was trying to recall the history and what he thought happened regarding the "owner on board" and "use it or lose it" provisions. He thought the "owner on board" and the "use it or lose it" ideas were considered by the TIQ Committee and the Groundfish Allocation Committee (GAC). He asked what the effect would be to remove these two items from this eligibility to own analysis? Isn't there already analysis on both of these? Mr. Seger said both have been analyzed, you have already taken action on those issues, and the Council could clarify that no further analysis on those two concepts would be needed.

Dr. Hanson moved and Mr. Moore seconded a motion (Motion 17) to delete the owner on board requirements and use it or lose it requirement from further consideration and be placed in the "options considered" section of the trawl EIS.

Dr. Hanson said we have considered this in the past, everyone already agreed that we do not wish to include these concepts in future alternatives. Ms. Cooney said the record will include how it was analyzed and why it was rejected, so it is certainly in the record.

Ms. Vojkovich said it sounds like we cannot consider something in the future if we remove it from consideration now, but I want to be able to consider everything that has been analyzed. Yes, that is what we are saying, said Chairman Hansen, we have analyzed it, rejected it for now, but nothing is precluded from being brought back up in the future. Mr. Lockhart said the analysis is already there, and if people don't know about it but want it, they should be shown where it is, or maybe they should ask. Dr. Hanson said that is correct.

Motion 17 passed unanimously.

Dr. McIsaac said Supplemental Attachment 10 shows the Amendment 6 language, but we don't have the MSA language you are referring to in front of us. Ms. Cooney said the MSA language

she is referring to says the Council can limit who can own QS, but the Council must consider substantial participation in the fishery and not throw those participants out. The Council can limit ownership further from the preliminary preferred alternative (PPA) or not. Dr. McIsaac stated that the motion that just passed did not state that those who are eligible to own QS must have ties to the fishery. Ms. Cooney responded that that is correct and said that the question for the Council is do you want to further refine the alternative you currently have? And do you want to continue to refine those earlier decisions?

Mr. Lockhart said in having discussions with legal counsel, the prior motion set the universe of who is eligible to own QS consistent with the MSA. The Council may want to limit the “universe,” and if we are thinking about limiting ownership eligibility to the substantial participants in the fishery then we must get going on it and request the analysis.

Mr. Moore thought we already had a substantial participation requirement that is defined as “you have to be involved in the fishery in some way” already in the trawl rationalization. Ms. Brandon said you might be referring to the November Council motion to initiate a trailing action process that would require eligibility criteria be developed to ensure that QS owners have direct ties with the fishery. Staff is asking the Council for further clarification on the direction the eligibility criteria should take.

Mr. Lockhart stated that under MSA the Council has the authority to define those who substantially participate in the fishery and limit QS ownership to that category of persons and entities. The Council would also need to describe why it is a good idea and why you support that refinement of eligible owners. Does the current analysis provide an adequate description of why, or is more needed to describe the Council action from November?

Dr. McIsaac asked for clarification on Mr. Lockhart’s description of the “universe.” He thought the intent of the motion was to not have a smaller universe or not have any direct ties to the fishing industry.

Ms. Vojkovich agreed that was the intent of the motion. She said it did not include “owner on board” or “use it or lose it” or define a group with direct ties to the fishery or define those with substantial participation in the fishery. The motion would be the broadest definition allowed by MSA of who can own QS – that was the intent of my motion.

Ms. Cooney said you have seen the analysis and you don’t want to further limit who can own QS.

Mr. Moore asked if the current language adopted in November allows ownership of quota by a yet undefined entity (i.e., a CFA) assuming the definition we would come up with would include substantial participation in the fishery? Ms. Brandon said yes. She described the current preferred option adopted by the Council in November.

Ms. Cooney said she was confused when he added “substantial participation”? Mr. Moore said he was sorry he didn’t mean to add that.

Mr. Moore moved and Dr. Hanson seconded a motion (Motion 18) to instruct Council staff to present at the April meeting options for defining what a CFA is for the purpose of soliciting comments from advisory bodies and public on that definition, with possible final action in June. Motion 18 was not voted on.

Ms. Vojkovich moved (Motion 19) to substitute that the Council staff define CFAs and the guidelines under which that CFA would operate, and use the proposal that is in public comment from The Nature Conservancy (TNC) as a baseline approach to start with, and the intent that the definitions and guidelines are completed by the time the whole trawl rationalization program is adopted in the final rule. Mr. Wolford seconded Motion 19.

To speak to her motion, Ms. Vojkovich said one of the elements we have been fighting is sending people off to develop things and then being concerned about the time and resources involved in that approach. There have already been suggestions made and well-developed approaches suggested to the Council through public comment as to what and who could be in a CFA. We should start with that, instead of starting from the beginning.

Mr. Williams asked for a clarification. Earlier this morning there was a suggestion that we had not seen any definition to help us with CFAs. And now you have a motion to narrow the options? Ms. Vojkovich said the motion is to start with that document that already has some definitions of CFAs and what it might look like. Council suggestions are already in that document.

Mr. Lockhart asked if the substitute motion does not preclude other options at all? That's true said Ms. Vojkovich.

Mr. Moore understands the motion and is not opposed to some of the ideas from TNC. But he has to oppose the motion because there is broader guidance on CFA criteria from the NOAA technical memorandum on Design and Use of LAPPs, and he would rather see formal guidance from NOAA used than suggestions from one particular constituent group.

Ms. Fosmark said the TNC Public Comment is G.4.c. We are under a short timeframe here and have some good ideas coming from TNC. She thinks no one has worked on it yet except TNC, and their ideas would give us a place to start.

Mr. Wolford concurred with Ms. Vojkovich's motion that it provides a starting point only and we can expand to include other definitions.

Mr. Lockhart said the motion would result in more than likely staff going forward with both the TNC and NOAA memorandum. Mr. Lockhart asked if both of those would be included. He moved to amend Motion 19 to include the guidance contained in the NOAA technical memorandum as well as TNC public comment letter. Mr. Myer seconded the amendment to Motion 19.

Ms. Culver asked Mr. Lockhart about his amendment, it did not speak at all to the process and timing. When would we get the options back? April or June? Mr. Lockhart said he is amending Ms. Vojkovich's motion, so it would follow her process. Ms. Vojkovich said the intent was that

the definitions would be completed at the same time as the trawl rationalization program is implemented; did not have a month or meeting when it would come before the Council.

Amendment to Motion 19 passed unanimously.

Main Motion 19 (Ms. Vojkovich's substitute motion) passed unanimously.

[The Council took a break until 1:10 p.m.]

Using Agenda Item G.3.c, Supplemental WDFW Report 1, Ms. Culver moved (Motion 20) and Mr. Moore seconded a motion, to clarify Motion #4 from the November 2008 meeting. It was the Council's intent to have three trawl sectors and to have the species for which IFQ is required in the shoreside sector be consistent with what was adopted by the Council in November 2008 for the nonwhiting sector. Specifically shoreside trawl vessels would be required to have IFQ for all species in the Council's ABC/OY table, except: longspine S. of 34°27'; minor nearshore rockfish (N & S); black rockfish (coastwide); CA scorpionfish; cabezon; kelp greenling; shortbelly rockfish; other rockfish; and spiny dogfish. The catches of these species would be accounted for and tracked against the overall OY.

Ms. Culver stated that she believed this was what the Council had intended in November and that it was consistent with the explanation provided in WDFW Attachment 1.

Motion 20 passed unanimously.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 21) to adopt a set of species for which the at-sea sector cooperatives would have catch limits: whiting, widow, canary, darkblotched rockfish, and Pacific ocean perch. The catches of all groundfish species in addition to these would be accounted for and tracked against the overall OY.

Ms. Culver stated that she believed this was what the Council had intended in November.

Motion 21 passed unanimously.

Ms. Vojkovich moved (Motion 22), that the Council use one latitudinal area south of 40° 10' N. latitude to make a finer area bycatch rate for the initial allocation of overfished species. Ms. Fosmark seconded the motion.

Ms. Vojkovich stated that using one latitudinal area would be a relatively less fine stratification of data for making an initial allocation of overfished species for vessels historically operating in that area. She indicated that she felt the less fine area was more appropriate because the data was relatively sparse in the southern areas. Furthermore, the result of using the relatively fine data stratification would mean that the amount of overfished species available for some of the permit holders would be prohibitive for them to even access fisheries. Using a single latitudinal area means that all of the permit holders operating in that area start with at least some overfished species.

Motion 22 passed unanimously.

Relative to the allocation of Pacific halibut south of 40° 10' N latitude, Ms. Vojkovich moved (Motion 23) that the Council establish a set aside and monitor and track the catch accordingly. Seconded by Kathy Fosmark.

She spoke to the motion. The amount of Pacific halibut caught south of 40° 10' N latitude accounts for a minimal amount of the overall halibut catch along the west coast. She indicated that it was more appropriate to have a pool of fish set aside for incidental catch in that area that is monitored and tracked accordingly rather than requiring vessels in that area to have IBQ. She stated that the appropriate set aside amount would be dealt with in the intersector allocation decision.

Motion passed unanimously on a voice vote.

Ms. Culver moved and Mr. Cedergeen seconded a motion (Motion 24) to adopt a similar action for Pacific halibut in the at-sea whiting sectors. A set aside would be established for the at-sea sectors to accommodate incidental catch in the at-sea fishery. As part of the motion, Council staff would be directed to look at an appropriate poundage set aside to accommodate the at-sea sector catches of Pacific halibut.

Mr. Myer said halibut bycatch in the at-sea sector is very little but it does occur.

Motion 24 passed unanimously.

Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 25) using page 2 of Agenda Item G.3.c, Supplemental WDFW Report 1, Motion # 5 from November 2008 Council meeting, to clarify the intent of Option 2. With respect to the Council's decision on the initial allocation of QS, the equal division of the buyback permits' pool of QS for all groundfish, except overfished species, would be made among all qualifying permits plus allocation of the remaining QS based on each permit's history. This would include all A permit holders in the shoreside and MS sectors, but not the catcher/processor sector.

Mr. Myer noted three to five vessels that only participate in the MS sector but they are paying for the trawl sector buyback and therefore should receive some benefit through the initial allocation of non-whiting IFQ.

Motion 25 passed unanimously.

Ms. Culver noted that if the allocation of Pacific halibut to the trawl sector is to be taken up under the inter-sector allocation (ISA) process, that her next motion should be viewed as guidance for that document. Using Agenda Item G.3.c, Supplemental Revised WDFW Report 2 (page 2), Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 26) relative to the halibut IBQ, to establish a limit for total Pacific halibut bycatch mortality (legal-sized and sublegal fish) through the use of an IBQ in the trawl fishery. The initial amount for the first two years of the trawl rationalization program would be calculated by taking 15 percent of the Area 2A Total Constant Exploitation Yield (CEY) as set by the International Pacific Halibut Commission (IPHC) for the previous year not to exceed 130,000 lbs per year for total mortality.

Beginning with the third year of implementation, the maximum amount set aside for the trawl rationalization program would be reduced to 100,000 lbs per year for total mortality. This amount may be adjusted downward through the biennial specifications process for future years. The motion would be preliminary action, brought up through the intersector allocation process.

Mr. Burden asked if the 130,000 applies to both legal and sublegal? Yes, said Ms. Culver. Mr. Moore said he appreciates this as preliminary action and asked how the maker of the motion arrived at 130,000 pounds. She said the difficulty in trying to come up with an amount, whether it was a percentage or a poundage amount, is that the halibut quotas are set on an annual basis. The Council does not know what the trawl rationalization allocation will be for the halibut quota for that year. As an initial allocation of IBQ, she proposed 15 percent of the CEY that is in the IPHC stock assessment for the previous year. The CEY has ranged from 640,000 pounds, which is what it was for the 2009 fishery upward of 1.5 million pounds. Ms. Culver stated that she attempted to specify a percentage with that range by looking at the NWFSC report on Pacific halibut mortality in the trawl fishery. Halibut bycatch has declined in recent years. 130,000 pounds is a reduction of 50 percent from the recent total bycatch estimate (legal and sublegal combined). The reason WDFW is putting this forward is because we know more about the implications from the action in November that set the bycatch limit at 10 percent. The CEY for Pacific halibut from this year was 640,000 pounds, and it looks like there is a potential for the CEY to go down as low as 500,000 pounds. We could be at a really low Pacific halibut CEY when the trawl rationalization program goes into place. If we stuck with the original motion of 10 percent, the initial allocation would be 65,000 pounds when trawl rationalization was implemented. The 130,000 pounds represents twice that amount for the initial start for the first two years, but still a reduction from current bycatch levels. We are trying to provide an incentive to minimize halibut bycatch and bycatch mortality; and at the same time prosecute a successful trawl rationalization program that is not overly restricted by halibut bycatch limits. So at this junction she is proposing to put in a limit that is at least two times the amount the Council adopted in November with the anticipation that harvesters would take the first two years to voluntarily change their behavior to minimize halibut bycatch.

Mr. Moore asked, similar to the IPHC recommendation, we are embarking on a process of capping a bycatch amount that is roughly 50 percent of what is currently occurring, then reducing it using a percentage of CEY? Ms. Culver nodded yes.

Mr. Burden asked whether the at-sea set aside would also be included in the 15 percent. Ms. Culver said the intent is this would be the maximum amount for the trawl fishery and whatever set asides for other items (research, EFPs, etc) would also be included within that 15 percent.

Ms. Vojkovich said she thought both options would be analyzed and come back to the Council through the intersector allocation analysis. She asked if the intention was for the affected sectors to make comments on that analysis and give feedback. Ms. Culver stated that bringing this analysis through the intersector allocation process and making the decision under that agenda item gives the industry a chance to see how the option plays into the broader picture of Pacific halibut quota in the rationalization program. Having said that, she wanted to make sure that Pacific halibut IBQ is in place for the trawl rationalization implementation. She asked Mr. Lockhart about the timing of when NMFS would need final action on IBQ. Mr. Lockhart said he

did not have an answer at this time; given where we are in the decision process for all of these things, he did not foresee the decision timing being a large problem.

Ms. Culver then asked Dr. McIsaac about the final action on intersector allocation in April. She asked if final action on this item would occur in April or whether there is an opportunity to bring Pacific halibut IBQ up at a later meeting. Dr. McIsaac said we will do everything we can to make final action in April. If the trailing actions are sealed up in June, the staff would be sending out the final trawl rationalization documents to the Secretary of Commerce for review in the fall. He further stated that there are other implementation necessities besides the Council's regulatory recommendations. He indicated that if the Council did not reach final decision on Pacific halibut IBQ in April, that staff would put it back on the agenda in June, September, or as soon as possible.

Mr. Lockhart said if the decision was made final in April and additional analysis was made and caused the Council to change their mind, that doing so would still be okay.

Motion 26 passed unanimously.

G.4 Fishery Management Plan Amendment 20 – Trawl Rationalization—Accumulation Limits

G.4.a Agenda Item Overview (03/11/09; 3:15 p.m.)

Mr. Seger provided the agenda item overview.

G.4.b Reports and Comments of Agencies and Advisory Bodies

Mr. Corey Niles and Mr. Merrick Burden provided Agenda Item G.4.a, Supplemental Powerpoint, which was done in lieu of reading Agenda Item G.4.b, GMT Report. Mr. Jones provided Agenda Item G.4.b, Supplemental GMT Report.

Dr. Todd Lee provided Agenda Item G.4.b, Supplemental SSC Report.

Ms. Culver provided Agenda Item G.4.b, Supplemental WDFW Report.

Mr. Seger summarized Agenda Item G.4.b, GAC Report.

Mr. Tommy Ancona read Agenda Item G.4.b, Supplemental GAP Report.

Council adjourned for the day.

Council back in session (03/12/09; 8:10 a.m.)

Dr. McIsaac noted there was one more report before the Council went to public comment.

Mr. Frank Lockhart introduced Agenda Item G.4.b, Supplemental NMFS Report. First he noted that the ranges of accumulation limits with the options under consideration have been very

consistent for months now. We have been looking at a similar set of ranges all along and most particularly since the November Council meeting. He stated that he had met with members of the GAP the night before to discuss the rationale for their recommendations on each species. The following was the GAP's general approach. In general, as a starting point the GAP developed control limits by looking at the maximum initial share that people would receive. They wanted to allow for some growth above that. Allowing for growth was important because that is where you get the benefits of the LAPP. You get some of the efficiencies that we are all counting on for the fishermen to make some money rather than just breaking even. The vessel limits, in general, were simply one-and-a-half times that. There were some exceptions. As indicated in the table footnotes, control limits for overfished species were treated differently because the GAP viewed it as particularly important to minimize excessive control. Control limits for these species were set at exactly the maximum initial allocations, rather than at a slightly higher level. However, they also went lower than the general approach in situations where a catch of a species was widely distributed along the coast and important to a number of different trawl strategies. They did not want to take a chance on one entity developing excess concentration that could potentially affect the entire coast. Occasionally, in the opposite situation they went somewhat higher, when the fishery was very limited geographically. In these situations, the effect of the concentration would be limited to a smaller geographic area and they did not believe there was any possibility for expansion of that fishery elsewhere. Mr. Lockhart also noted that information on current levels of control in the fishery is incomplete and the levels of control are constantly changing. There will never be perfect information but the Council can still develop a good rationale for setting the accumulation limits while fully recognizing this limitation.

G.4.c Public Comment

Mr. Tom Libby, Pt. Adams Packing Company, Astoria, OR
Mr. Shems Jud, Environmental Defense, Lake Oswego, OR
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Ms. Margaret Spring, The Nature Conservancy, Monterey, CA
Mrs. Erika Feller, The Nature Conservancy, Monterey, CA
Mr. Larry Collins, Crab Boat Owners Association, San Francisco, California
Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, CA
Mr. Dave Bitts, PCFFA, McKinleyville, CA
Mr. Ben Bowman, Food & Water Watch, San Francisco, CA
Mr. Sam Shabacher for Mr. Edward Backus, North Pacific Fisheries Trust, Portland, OR
Mr. Brent Paine, United Catcher Boats, Seattle, WA
Mr. Bob Dooley, United Catcher Boats, Seattle, WA
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR
Mr. Mike Hyde, American Seafoods Company, Seattle, WA

G.4.d Council Action: Adopt Final Accumulation Limits (03/12/09; 10:15 a.m.)

Mr. Moore moved (Motion 27) to approve a Preliminary Preferred Alternative on accumulation limits for final action in June as follows (boxed text and tables):

Non-whiting Groundfish Species Aggregate Limit

- Set the Control Limit to 2.7 percent (GAP recommended)
- Set a Vessel Limit of 3.2 percent to ensure a minimum number of boats (this is the mid-point of the available options).

Control Limit for Non-overfished species

- Adopt GMT recommended control limits; where a range is present, adopt the low end of the range, except for the following

Species	Control Limit	Species	Control Limit
Lingcod – coastwide	2.5%	Minor rockfish (n) -slope	5%
Pacific cod	12%	Minor rockfish (s) -shelf	9%
Pacific whiting (Shoreside)	15%	Minor rockfish (s) -slope	6%
Sablefish (s 36)	10%	Dover sole	2.6%
Shortspine (s 34'27)	6%	Arrowtooth flounder	10%
Minor rockfish (n) -shelf	5%	Other fish	5%

Vessel Limit for Non-overfished species

- 1.5 times the control limit with the following exceptions

Species	Vessel Usage Limit	Species	Vessel Usage Limit
Pacific cod	20%	Arrowtooth flounder	20%
Pacific whiting (Shoreside)	15%	Starry Flounder	20%

Halibut IBQ

- Analyze a control limit range for quota share from 1-8%
- Analyze a vessel usage limit equal to control, up to 1.5 times control with a maximum of 10%

Overfished species

For vessel limits, analyze:

- Set vessel limit (QP) = control limit (QS)
- Set vessel limit (QP) greater than control limit (QS); with vessel limits 1.5 times the control limit but not to exceed 10%

Control limits:

- POP = 3.3% (GAP)
- Darkblotched rockfish = 2.0% (GAP)
- Widow = 2.5% (GAP)
- Canary rockfish = 5.2% (GAP)
- Bocaccio rockfish = 7.5% = 50% of GAP
- Yelloweye rockfish = 2.6% = 50% of GAP
- Cowcod = 10% = 50% of GAP

Task the GMT with analyzing the options in the GMT reports under Agenda Item G.4 and with exploring any additional options for control and vessel limits, with results to be made available for the May GAC meeting.

Species Category	Preliminary Preferred Alternative		GMT	GAP	
	Vess Lim*	Cntrl Lim	Control Limits Identified in GMT Report	GAP Vessel Limit Option	GAP Control Limit Option
Nonwhiting Groundfish Species	3.2%	2.7%		None	2.7%
Lingcod - coastwide	3.2%	2.5%		3.8%	2.5%
Pacific Cod	20.0%	12.0%	20%	20.0%	12.0%
Pacific whiting (shoreside)	15.0%	15.0%		15.0%	10.0%
Pacific whiting (mothership)					
Sablefish					
N. of 36° (Monterey north)	4.5%	3.0%	3%	4.5%	3.0%
S. of 36° (Conception area)	15.0%	10.0%		15.0%	10%
PACIFIC OCEAN PERCH*	5.0%	3.3%		3.3%	3.3%
WIDOW ROCKFISH*	3.8%	2.5%		2.5%	2.5%
CANARY ROCKFISH*	7.8%	5.2%		5.2%	5.2%
Chilipepper Rockfish	15.0%	10.0%	10%	15.0%	10.0%
BOCACCI*	10.0%	7.5%			15.0%
Splitnose Rockfish	15.0%	10.0%	10%	15.0%	10.0%
Yellowtail Rockfish	7.5%	5.0%	5%	7.5%	5.0%
Shortspine Thornyhead					
N. of 34°27'	9.0%	6.0%	6%-10%	9.0%	6.0%
S. of 34°27'	9.0%	6.0%		9.0%	6.0%
Longspine Thornyhead					
N. of 34°27'	9.0%	6.0%	6%-10%	9.0%	6.0%
COWCOD*	10.0%	10.0%		20.0%	20.0%
DARKBLOTCHED*	3.0%	2.0%		2.0%	2.0%
YELLOWEYE*	3.9%	2.6%		5.2%	5.2%
Minor Rockfish North					
Shelf Species	7.5%	5.0%		7.5%	5.0%
Slope Species	7.5%	5.0%	6%-10%	7.5%	5.0%
Minor Rockfish South					
Shelf Species	13.5%	9.0%		13.5%	9.0%
Slope Species	9.0%	6.0%	6%-10%	13.5%	9.0%
Dover sole	3.9%	2.6%	5%+	3.9%	2.6%
English Sole	7.5%	5.0%	5%+	7.5%	5.0%
Petrals Sole	4.5%	3.0%	3%	4.5%	3.0%
Arrowtooth Flounder	20.0%	10.0%	10%+	20.0%	10.0%
Starry Flounder	20.0%	10.0%	10%+	30.0%	15.0%
Other Flatfish	15.0%	10.0%	10%+	15.0%	10.0%
Other Fish	7.5%	5.0%		7.5%	5%

Mr. Frank Warrens seconded Motion 27. Speaking to the motion, Mr. Moore noted the sentiment for taking final action at this meeting and that this motion is based on the GMT report which was first made available in the prior week. Where it is not based on the GMT report it relies on the GAP report which came out this week. This meeting was not advertised as a major

groundfish meeting and there is not the amount of participation by industry here that will be present in June. Given that the Council is dealing with new numbers and that the data and analyses on which these numbers are based was only available last week he did not feel it wise to go forward with final action at this time. Additionally, until recently people have not been able to get the data they need to see where their history lies within the control limits, and so do not have the information they need to be able to make a decision at this meeting. Therefore he prefers going with a preliminary preferred option and providing people an opportunity to provide input at the May GAC meeting.

With regard to the control limits for non-overfished species, Mr. Moore stated that most of the values in the motion came from the GAP report. Where the numbers differ from the GMT report, either the GMT report did not have the number or the GAP numbers were lower. An exception is for Pacific whiting shoreside. The GAP statement was unclear on this recommendation. Twenty percent was requested in public testimony, but this is too high. Fifteen percent is similar to what is recommended in the WDFW report. Fifteen percent of the shoreside whiting allocation would be equivalent to 6.3 percent of the total US whiting catch.

With regard to vessel limits for non-overfished species, Mr. Moore stated that the values used for the motion were also taken mainly from the GAP Report and some from the GMT report. There were differing values between the GAP and GMT on starry flounder so he used a number halfway between the two. On halibut IBQ, we need to set a control limit at the start. He is not certain what that number should be, therefore a range is presented.

With respect to overfished species, for vessel limits there were no clear values presented for vessel limits so a number of options are presented for analysis. For control limits for overfished species, the first four species listed are taken from the GAP. For the last three numbers, bocaccio, yelloweye and cowcod, he thought for those overfished species they were rather high, so he took 50 percent of what the GAP recommended. Mr. Moore also noted that since he relied on the GAP report for many of the values in his motion, the rationale provided for the GAP recommendations in Supplemental NMFS report G.4.c, would also apply. Mr. Moore then clarified that in the table on page 1, for minor slope rockfish north, the value was from the GMT recommendations rather than the GAP recommendation.

Ms. Vojkovich moved to amend Motion 27 (Amendment #1) to make this final adoption of the accumulation and control limits in Agenda Item G.4.d, Supplemental Motion in Writing, with the exception of the halibut IBQ, which should be forwarded for determination in June and drop the tasking of GMT for analyzing other options. Mr. Wolford seconded Amendment #1 to Motion 27. She later clarified that her motion was to use for the final values provided in the first two columns of the third page of the motion in writing (in the final table in Agenda Item G.4.d, Supplemental Motion in Writing). This effectively eliminated the overfished species text referencing a range but left intact the range for halibut IBQ.

Ms. Vojkovich said she understands that some of this information is new at this meeting, but disagreed that no one knew that this would be final action. She felt with the information from the GMT's document, from discussions with the GAP and the GAP report, and the rationale provided in the NMFS report this morning there is sufficient information for a final decision. Through the various iterations of these options, every time we get a new set of numbers and a

different way to look at it. What all of this has told her is that we all have an idea that we want to try to set the limits low enough for people to have as much diversity as possible and not so high that we get excessive control. She did not feel the Council would be more informed after today with a new option that comes in later and she suspected that no matter how much information the Council received some mistakes will still occur. There is never any way to find out how this is all going to work.

Mr. Myer supported Ms. Vojkovich's amendment and believes it is time to move forward. With respect to statements that people need to see what they would be getting before they could comment on the options, he stated that it would be wrong to personalize the decision and that doing so would drag it out and make it harder. With respect to consideration of excessive limits and how much is too much, the decision can be made without knowing who got what. The decision can be made based on criteria having to do with what we want the fleet to look like and the implications of the percentages. He does not necessarily agree with the values in the motion but agrees that it should be final action.

With respect to Mr. Meyer's concern that this not be personalized as people find out what their initial allocations might be, Mr. Moore noted that the issue is not whether one person knows what someone else is getting but rather whether the person who would be getting it himself knows what that amount would be. Those not in attendance at this meeting and those who have not had time to use the Fishermen's Marketing Association calculator do not know what the GMT and GAP recommendations are or where their potential allocations stand with respect to those recommendations. This is about trying to allow the public an opportunity to look at the data that is available and advise the Council.

Mr. Lockhart supported the motion noting it is important that the decision not be made in consideration of where any one particular individual's potential allocation stands with respect to the proposed limits. The decision should be supported by the rationale which has been provided, which is that we are trying to set the accumulation limits that allow for some growth to get the efficiencies out of that and prevent excessive consolidation. Much information has been provided on why that is needed and the GAP did a good job of spelling out why they varied from historic patterns and either raised or lowered the control limits given the individual circumstances of each species. He also felt that there had been notice that this decision was coming, that industry was aware of it, and that it had been spelled out at the November Council meeting.

Ms. Culver supported this being a preliminary action today. She believed that the Council should recognize the impacts of the accumulation limits and how it will affect, not necessarily the individuals, but how the fishery will look in the future. She did not feel that she had that level of comfort at this point. The Council and WDFW are concerned with protecting the coastal communities and concerned about levels of fleet consolidation and the only tools left to address these concerns are accumulation limits and adaptive management. She was not completely convinced that we are going to get it right with adaptive management. For that reason accumulation limits are an even more important tool and they need to be as correct as can be. She likes the proposed original motion that looks at the lower limits of the range to begin with; it is a good precautionary approach to take. We need to take a little more time, especially on the overfished species limits. At first glance there are one or two target species as well as some

overfished species for which she is not convinced the values are appropriate to accomplish the Council's objectives for the future. With respect to process, there has been discussion of taking final action then revisiting it in the future if there is a problem. She is not comfortable with that approach to decision making. This should be preliminary if there is a good chance that most if not all Council members will want to revisit the issue in June.

Mr. Cedergreen supported the amendment, stating this has been scheduled for action since November and he agreed with Mr. Myers' statement.

Dr. McIsaac asked Ms. Vojkovich about her amendment, what is the intent on how to handle the ranges in the motion? She said her amendment refers to page 3, the table and columns labeled "preliminary preferred alternative," that is what she is adopting. The info on the right hand side of the table is informational only and not part of the amendment.

Mr. Steve Williams did not support the amendment. He felt that while we have gained some clarity on the issue, the industry and public need more time to understand what is being presented. For the success of the program, it is important that the public become comfortable with the numbers, even if they are in disagreement with them. Hearing the industry response would also help clarify the issues for the Council. At the same time, he did not expect that there would be any new information that would change the numbers that are presented in the motion, with the exception of perhaps overfished species. Some of the technical experts had expressed to him concerns that these values may be too low and would be constraining. Delaying final action until June will not delay implementation but may benefit the process.

Mr. Wolford supports the amendment, noting that there had been proper notice and opportunity for public comment. However, more important is that it is not clear that additional analysis would provide any more insight on the issues.

Ms. Fosmark expressed her concern that the needs of communities and CFAs had not been well identified and there is no divestiture timeline. Given the uncertainty in her mind, she preferred to not make the decision today.

Mr. Ortmann agreed with Mr. Wolford's comments and supported Ms. Vojkovich's amendment. He noted that things are constantly changing and because of that final action is never final. He also expressed concern about other Council workload items that need to be addressed, support for high caps for underutilized species, and that there be a fair time span for divestiture.

The vote on Amendment #1 to Motion 27 was a roll call vote with the following people voting no: Mr. Sones, Mr. Moore, Ms. Fosmark, Ms. Culver, Mr. Steve Williams, and Mr. Warrens. The vote was 7 yes and 6 no; Chairman Hansen voted yes, so Amendment #1 to Motion 27 passed with Chairman Hansen's yes vote.

Ms. Fosmark moved to amend the motion (Amendment #2 to Motion 27) to analyze impacts of accumulations on CFA and communities and include a divestiture period of three years. The reason for doing that is that we haven't had time to develop any CFAs. Mr. Warrens seconded Amendment #2 to Motion 27 for purposes of discussion. Ms. Fosmark noted, we have heard testimony that they are concerned about impacts and the changes they have to face. There are

many unknowns at this point. The idea would be to take impacts on CFAs into account through the three year divestiture period. She noted that the motion did not address accumulation limits for CFAs. Several Council members expressed concern that this issue be addressed in a separate motion and noted that CFAs would be addressed again at the June Council meeting. In particular, divestiture is an issue that might be taken up separately. Mr. Myer opposed the motion because it clutters the motion. Mr. Wolford concurred with Mr. Myer; he would like to see this in a stand alone motion, rather than an amendment. With that, both maker and seconder of Amendment #2 withdrew the amendment.

Ms. Culver moved (Amendment #3 to Motion 27) to identify canary rockfish as a preliminary preferred alternative and not a final alternative. Mr. Cedergreen seconded Amendment #3 to Motion 27. Ms Culver noted that the GMT report identified some species that could be benchmarks, for example, petrale and sablefish. These benchmark species are fully utilized, available coast wide, and not regionally distinct. The GMT recommendation was to set for those species a fairly low accumulation limit. Canary fits a similar definition. She did not think there was enough information today to tell us how fishing operations would be impacted by a canary rockfish limit twice as high as what is proposed for the directed petrale and sablefish fisheries.

Ms. Vojkovich spoke against the amendment. Looking at the canary rockfish amounts the tables for all the options, and the maximum historic annual share, the value is well within any of those numbers. She could not see where we would get other information that would lead us to a different decision.

Ms. Culver noted that with respect to historic harvest information we are looking at a historical time period when trawl vessels targeted canary rockfish and there were not limits on them. But looking today and into the future under our OYs specified in rebuilding plans we would not be looking at those high levels of what was achieved when canary was viewed as a target species.

Amendment #3 to Motion 27 passed; Mr. Wolford voted no.

Mr. Myer moved to amend Motion 27 (Amendment #4 to Motion 27) to make the following change: under the category of Pacific whiting shoreside strike 15 percent and replace it with 10 percent in the column of control limits. Mr. Cedergreen seconded Amendment #4 to Motion 27.

Mr. Myer said the change will make the recommendation more closely in line with what the GAP suggested. He believes the absence of rationale in the industry discussion was because of their belief that those were already the numbers that would be adopted. The industry came up with those numbers. He does believe the shoreside whiting is different than other sectors of the whiting fishery, it's more community based. It is important to keep all the plants and boats necessary to supply those plants. Getting up into the 15 percent range does have the chance to limit the number of plants that may be able to get deliveries.

Mr. Moore opposed Amendment #4. While he felt the 20 percent requested in public testimony was too high, the 15 percent is a reasonable number that prevents any problems with divestiture, will allow things to operate without establishing undue control, and the shoreside whiting fishery is not that different from the MS fishery. Mr. Myer noted that the difference between shoreside whiting and the offshore facilities is that plants are located in different areas of the coast, and

they will require deliveries. In response to a question from Mr. Lockhart, Mr. Myer indicated that the rationale regarding the need for a 10 percent limit for shoreside fisheries was one that had been expressed to him by members of that sector. Mr. Seger noted that the Council also had a recommendation from the GAC on this issue.

Amendment #4 to Motion 27 passed, Mr. Warrens and Mr. Moore voted no.

Main Motion Vote on Motion #27. Main motion 27 passed as amended. Mr. Moore voted no.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 28) to adopt the following: that the Council declare its intent to allow CFAs to own or control more QS and/or QP than may otherwise be allowed under the ownership control and accumulation limits of the non-whiting trawl rationalization program and direct Council staff to develop mechanisms for Council consideration. Analysis of various mechanisms should proceed only for CFAs and final adoption of that mechanism and or any limits for CFAs will take place at the June Council 2009 meeting. In the analysis the Council staff should take into consideration how the CFA definition might assist in preventing “excessive control.” The intent of this motion is to have all of the provisions governing CFAs implemented along with all of the other provisions of the trawl rationalization program and at the same time.

Ms. Vojkovich said that over the time we have been deliberating on trawl rationalization, we have struggled with how to deal with communities and made several attempts to get communities involved with the process and find mechanisms in which that they can be fully engaged and also be protected from unexpected and expected changes that may be caused by going to this kind of system. We have an adaptive management program, however, she did not feel that program guarantees community access to QP. She is taking a forward-looking perspective of when this program gets implemented and the changes become more clear. She is relying on information in the draft documents which identifies vulnerable, and listened to public comment about impacts on communities, especially by those who are not part of the trawl fishery. A CFA provides an opportunity to sustain a fishing community. It may possibly serve as a vehicle to attract fishing activity into the ports, an opportunity to provide for new entry training for crew members – not just fishing participants, but fishing businesses, processors, buyers of fish, even tourism where people want to come and see an active fishing community, etc.. CFAs have a role they can play there. Since some of our fishermen will be allocated a small portion of QS, to maximize their benefits, they may not be able to fish them on their own and don't want to leave their community but want to support it. A CFA can be structured where QS and QP are managed by an entity for the benefit of the entire community. The definition of a CFA will play a big role in dealing with the issue of control and excessive ownership. The action took yesterday sets up the expectation that there will be guidelines on how a CFA would operate. The more structure we have, the more chance we have of having it work. Ms. Vojkovich thinks this is important because the trawl rationalization program is not just about trawl vessels and the trawl fleet, it's about the fishing communities. This is an opportunity that would be afforded for those communities that want to proceed down this road.

Ms. Culver agreed with the analysis Ms. Vojkovich requested relative to the mechanisms for Council consideration that would allow us to consider higher accumulation limits for CFAs. We do need to define what a CFA is and some guidelines. Ms. Culver had concerns about the use of

the word “intent.” In some cases after we see an analysis, we may want them to not own more QS/QP of certain species. We may want to hold them to the accumulation limits that other folks have. With that, Ms. Culver moved to amend Motion 28 (Amendment #1 to Motion 28) to change the wording to say “to consider allowing CFAs” in the first sentence. Mr. Myer seconded Amendment #1 to Motion 28.

Mr. Moore said we need to be looking at CFAs and what they can do for our local communities with the modification being suggested, he intends to support her amendment and if it fails, he will vote against the main motion.

Mr. Warrens also said the CFAs will be a good solution to stabilize communities which may otherwise be out in the cold. He asked Ms. Vojkovich if these would be in lieu of or in addition to the adaptive management program. She said they are two separate issues; adaptive management is a stand-alone program.

Amendment #1 to Motion 28 passed unanimously.
Main Motion 28 as amended passed unanimously.

Ms. Culver moved (**Motion 29**) to have the Council adopt as a final measure, whiting CV ownership limits in the MS sector of 20 percent and a whiting CV usage limit in the MS sector of 30 percent. Mr. Cedergreen seconded the motion.

Mr. Myer recused himself from this issue for both voting and discussion.

Ms. Culver, in looking at the whiting sectors, said the CP sector has 3 companies, and about 5 to 6 active vessels that participate in the fishery in a given year. The shoreside sector has 43 permits, but there are 30 vessels that actively participate. In the MS sector, 5 MS companies have 6 vessels. Most of the years, all six vessels participate in the MS fishery. We have 32 CV permits active in the sector and around 15 to 18 participants and CVs that participate in a given year. The MS sector is in between in terms of the number of participants, between the CP and shoreside sectors. We have adopted a co-op structure for the MS sector that is reliant on maintaining the balance of power between the MS and CVs, and maintaining those strong working relationships between the individual CVs and the MS they have historically delivered to. The Council in November adopted a MS usage limit of 45 percent; thereby requiring a minimum participation of three MS in this fishery. However the Council also did not establish a processor tie or any processor linkage of those CV to those MS. So in any given year we would have a minimum of three MS, however, there is no certainty or tie or obligation for any of the CVs to deliver to any particular MS. Having a use limit helps ensure that there is a minimum fleet that is available for those three MS to successfully prosecute the fishery. We have heard from public comment that we have one MS company that has had 1-2 CVs delivering to it. The other MS have had 3-4 CVs each. In looking at a minimum number of three MS it seems like they would need at least 5 CV's to prosecute that fishery. The recommendation of 20 percent ownership and 30 percent usages is consistent with the proposal put forward by United Catcher Boats Association; which seems to represent a general consensus of the participants in that fleet and the CVs in the fleet. Given the data that was presented to the Council in November and is referenced in the WDFW Supplemental Report, those limits would strike a balance between

achieving efficiency in the fleet, providing a minimum number of vessels needed to prosecute the fishery, and making sure that one entity did not have excessive control.

Mr. Lockhart asked Ms. Culver to expand on why the control limit of 20 percent is better than 18 percent or 15 percent? Ms. Culver explained that data we have available to us are relative to usage because there has not been ownership of quota. In looking at initial allocation of what the permits are expected to receive, there is one permit that is expected to receive an initial allocation of 9.5 percent based on the qualifying period. Setting a limit of 20 percent allows for room to grow in that fishery from the 9.5 up to a 20 percent limit. In looking at the maximum that occurred in the qualified period 94-03, we have a maximum usage of 29 percent. Twenty percent would strike a balance between those two while still not providing a level of control that we would deem as excessive.

Ms. Vojkovich asked Council staff, what were the decisions we made for the at-sea whiting fleet relative to ownership and vessel limits? Mr. Seger answered that in November there was a set of options for control limits but no action taken, so that was left undone. With respect to usage limits, there had been nothing on the table for consideration at that time. With that Ms. Vojkovich said she would vote against the motion. She had felt the entire fishery should be in an IFQ program but had been convinced otherwise because the fleet wanted co-ops. They felt they had been operating well all that time and that they could come to their own business arrangements. Putting a vessel limit in a co-op goes against the philosophy of a co-op and is inconsistent if we are not applying a vessel limit and control limit in the other part of the at-sea whiting fishery. If this is just to apply to the MS sector and for use in a co-op then she would vote against it.

Ms. Culver stated this only applies to the MS sector, not the entire at-sea sector. Usage limits are not needed in the CP sector because of the very small number of vessels that participate in that fishery. As you increase the number of participants, the necessity for a usage limit increases. The co-op must maintain its structure, otherwise the fishery would revert to an open access fishery. We've heard a lot of testimony relative to the desire to maintain and participate in the co-op and how the fall back of the non-co-op fishery is very undesirable. In a situation where some members of the co-op might want to have fewer CVs participate in the fishery (taking catch for the other vessels), some vessels may feel pressured to agree and forego their participation because if they did not do so, they would be forced into the non-co-op fishery. Some of those vessels are small and in the non-co-op fishery would be outcompeted by larger vessels. So there would be this pressure to agree with the co-op to maintain that co-op structure. As those disagreements build between the CVs and the MS and amongst the CVs, it calls into question the stability of the co-op management structure and avoiding having it turn into a "race for fish."

Ms. Vojkovich said she is troubled with the rationale, she thought that the co-op option that we have is essentially status quo. Vessel accumulation limits for the MS fishery have not been on the table throughout five years of discussion and was opposed in public comment. She did not understand how this got missed in all of the discussions and deliberations and why it is necessary now. Ms. Culver clarified that the fishery operating as a co-op is something new for the MS sector and they are looking to have some guidelines for their operations. In public testimony the

catcher vessels are all in agreement with the motion. There was one comment from a MS owner who did not want to have a usage limit on the catcher vessels.

Motion 29 passed. Ms. Vojkovich voted no. Mr. Myer recused himself.

Mr. Anderson spoke regarding concerns about values identified for overfished species and requested that the GMT review the values contained in the motion for overfished species and give the Council an assessment tomorrow as to the appropriateness of these values. The Council concurred.

Ms. Fosmark moved (Motion 30) to set a period of three years for permit holders to divest themselves of QS that exceed accumulation limits, and that divestiture can take place in any of the first three years following implementation of the program. Ms. Vojkovich seconded the motion.

Ms. Fosmark said it is important to allow time for organizations or folks that have permits that are going to exceed the limits to have an opportunity to divest themselves of the overages before they get rolled back into the program.

Mr. Anderson supported the motion and asked if the intent was for the 36 month period to start after the implementation date of the program? Ms. Fosmark said that is the intent.

Mr. Moore supported the motion, and noted that right now we have a two-year moratorium on transfer following implementation. The motion makes an exception for those that find they are over the control limit.

In response to questions from staff, Ms. Fosmark indicated that QP would be issued to those holding QS in excess of control limits and that any additional permits acquired prior to the time of initial allocation would be eligible to receive QS and participate in the divestiture period.

Mr. Anderson said that if we determine these control limits, he would not be comfortable with letting them catch and make profits on amounts above those limits during the divestiture period. A divestiture provision is making an accommodation for people who have history that results in QS that are beyond limits set this morning. We are giving them a grace period to get rid of them, not to make more money off them.

Mr. Moore moved to amend the motion (Amendment #1 to Motion 30), to add the language that says "QP associated with QS that are in excess of accumulation limits cannot be used or transferred." Mr. Anderson seconded the amendment.

Mr. Lockhart said the other side of the issue needs additional discussion. The other side is that you could just not assign it to them and then you wouldn't have to worry about divestiture. Why is this a preferred manner rather than just not assigning QS?

Mr. Moore noted the testimony from Ecotrust and Environmental Defense, both of which recommended divestiture to handle excess shares. The public also said they made investments in the fishery and we are recognizing the investments by giving them something of value, a limited

access privilege. To some of the people who have made investments we are saying “we’re sorry” you have made too much of an investment for us to be comfortable giving a privilege for the full value of your investment. Because of that we are going to give you an opportunity to recoup part of that investment, to divest your QS. The other mechanism we could use is that we are only going to allocate QS up to the control limits. The point at which any individual permit holder hits the control limits, the remaining QS would be put aside and we have to figure out what to do with the excess. We only have public comment recommending divestiture.

Mr. Myer said in June we will make a similar decision on other people that hold excess shares, CFAs. We should treat them similarly. If we are going to let those associations divest themselves, if members of the fishing community have excess shares it’s important to allow them to divest themselves as well.

Dr. Hanson recommended the issue be sent to the GAC for consideration. It is too complex to be dealt with now on the Council floor.

Mr. Anderson noted that when we set up the tiered limits for the program we had big losers in the top tier and they were not allowed to divest themselves.

Amendment #1 to Motion 30 passed unanimously.

Mr. Warrens moved to amend the motion (Amendment #2 to Motion 30) so that the Council take Dr. Hanson’s advice and defer the action on this motion until after the GAC has had time to deal with it and bring to the June meeting (table the motion). Mr. Steve Williams seconded Amendment #2 to Motion 30.

Amendment #2 to Motion 30 passed on a roll call vote. Mr. Moore, Ms. Vojkovich, Mr. Wolford, and Ms. Fosmark voted no.

The main motion was not voted on, as it was tabled to June.

Dr. Hanson moved and Mr. Moore seconded a motion (Motion 31) to apply control limits to QS and vessel use limits to QP. This had been recommended by both the GMT and GAC. Motion 31 passed unanimously.

Dr. Hanson moved and Mr. Wolford seconded a motion (Motion 32) to fix the weighting schemes of trawl allocations of the 2010 OYs for the aggregate limit.

Dr. Hanson said we need to specify a time period, this is the one recommended by industry. There could be other options. The staff needs some kind of set point. If the GMT sees a problem with what the Council does here they can bring it up on Friday when they report back on the overfished species accumulation limits.

Motion 32 passed unanimously.

[Friday, 03/13/09; 10:54 a.m.]

Mr. Robert Jones provided Agenda Item G.4.b, Supplemental GMT Report 2.

Mr. Williams moved to reconsider the final vote on Motion 27 (accumulation limits) made by Mr. Moore as amended by Amendments #1, #3, and #4. Mr. Warrens seconded the motion (Motion 41).

Motion 41 passed unanimously.

Ms. Culver moved (Motion 42) to amend Motion 27 by stating that the vessel limits and control limits of the main motion for overfished rockfish be viewed as preliminary amounts and that the GMT do an analysis of these amounts relative to how they could affect prosecuting an efficient viable groundfish trawl fishery; report back in June the effects of these amounts along with recommendations it may have for other amounts. For purposes of the Council action, the GMT should focus its priority in looking at vessel usage limits as they did in their recommendation to us earlier this week, understanding that control limits and ownership limits are more of a policy decision. Mr. Cedergreen seconded the motion.

Motion 42 passed unanimously.

Dr. Hanson noted there was another part to the GAP's thinking on overfished species limits, the GMT's maximum vessel concept. This does not need to go in front of the Council now but it has some possibilities and he asked that the GMT be directed to look at. The Council concurred.

The Main Motion 27, as amended by Motion 42, passed. Mr. Moore voted no.

G.5 Fishery Management Plan Amendment 22 – Open Access License Limitation

G.5.a Agenda Item Overview (03/12/09; 4 p.m.)

Mr. LB Boydston provided an agenda item overview which included a Powerpoint presentation, Review and Update of Open Access Fishery Preliminary Draft Environmental Assessment, Proposed Amendment 22,

http://www.pcouncil.org/bb/2009/0309/G5b_SUP_EA_TEAM_PPT_0309.pdf. During the powerpoint, Mr. Kevin Ford, NMFS, joined Mr. Boydston to answer questions. The slide show summarized (1) the license limitation alternatives, (2) the analysis of Alternative 6 (same as A-6, the Council's September 2008 adopted preliminary preferred alternative), and (3) new information regarding cumulative impacts and post window period landings.

During questions, it was clarified that the administrative process for the proposed B permit program would mimic that of the Limited Entry (A permit) program.

G.5.b Reports and Comments of Agencies and Advisory Bodies

Mr. Jones provided Agenda Item G.5.b, Supplemental GMT Report. Among other things, he noted that sablefish trip limits would not change until the fleet size was lowered to about 250

vessels and that a license limitation program would improve some aspects of the current management.

[Council adjourned for the day; returned back to Agenda Item G.5.b, on 03/13/09; 8 a.m.]

Mr. Ancona provided Agenda Item G.5.b, Supplemental GAP Report. The Council asked questions about issuing permits to previous vessel owners or fisherman and why the GAP recommended a relatively low landing threshold for a sablefish endorsement given that it made very little difference between the 100 lb or 500 lb thresholds.

Dr. McIsaac summarized Agenda Item G.5.b, GAC Report.

Ms. Vojkovich summarized Agenda Item G.5.b, Supplemental CDFG Report.

Mr. Lockhart summarized Agenda Item G.5.b, Supplemental NMFS Report. In addition, Dr. Clark reported that the proposed license limitation program under Alternative 6 would cause the observer program to redesign their at-sea sampling strategy and increase overall program cost.

Mr. Steve Williams summarized Agenda Item G.5.b, Supplemental ODFW Report.

G.5.c Public Comment

Mr. Dave Bitts, PCFFA, Eureka, CA

Mr. Steve Gray, Bell Buoy Crab Co., Seaview, WA

Mr. Bill James, Port San Luis Commercial Fishing Association

Mr. Larry Collins, Crab Boat Owners Association, San Francisco, CA

Mr. Jason Salvato, fisherman, Petaluma, CA

Mr. Santi Roberts, Oceana (for NRDC), Portland, OR

Public comments ranged from taking no action to requesting a much higher standard for a sablefish endorsement (to several thousand pounds).

G.5.d Council Action: Adopt a Final Preferred Alternative for Implementation (03/13/09; 9:55 a.m.)

Mr. Moore moved and Mr. Warrens seconded the following motion (Motion 39):

I move that the Council approve converting the Open Access Fishery to Federal Permit Management using the Council Preliminary Preferred Alternative (A-6) with the addition of sablefish and lingcod endorsements using the following criteria:

- The current owner of a vessel is eligible for a B permit if that vessel(s) was (were) used to make one or more directed B species open access fishery landings totaling ≥ 100 pounds from Federal and/or state waters off the Washington, Oregon or California coasts during the period April 9, 1998-September 13, 2006 (window period); and that at least one directed fishery landing was made during January 1 2004-September 13, 2006;
- A lingcod endorsement will be affixed to a B permit if a vessel qualifies for a B permit and landed ≥ 100 pounds of lingcod in any one year during the window period;

- A sablefish endorsement will be affixed to a B permit if a vessel qualifies for a B permit and landed ≥ 500 pounds of sablefish in any one year during the window period;
- Allow both a lingcod and a sablefish endorsement to be affixed to a B permit if the vessel qualifies for both endorsements;
- Affix species endorsements permanently to and for sole use with the original B permit and allow directed fishing for the endorsed species in addition to other B species groundfish;
- The endorsement provision is intended to preclude non-endorsed vessels from directly fishing for (targeting) endorsed species, but allow B permitted vessels without endorsements to land incidental amounts of the endorsed species under cumulative landing limits identified during the normal specifications process;
- Vessels that apply for and receive B permits, including any associated species endorsements, would be allowed to take and land B species groundfish using open access gear in amounts specified in Federal groundfish regulations;
- Vessels that do not receive a B permit and that do not possess a Limited Entry (A) permit will be allowed to take and land B species groundfish incidental to fishing for non-groundfish species in amounts specified in Federal groundfish regulations;
- Permits and associated species endorsements are transferable between vessels, including transfer during the first year;
- Allow A and B permits to be used alternately on the same vessel in the same year, but not in the same cumulative limit period. A declaration process is required as part of the A and B provision;
- Establish a process for initial issuance appeals;
- Remove C permit program provisions and provide a mechanism to account for and manage incidental catch of groundfish in these fisheries

Motion 39 was not voted on because Mr. Dan Wolford made a substitute motion.

Mr. Wolford moved and Ms. Kathy Fosmark seconded a motion (Motion 40) to adopt, with one exception, Alternative 2 (the vessel registration alternative on page 35 of Agenda Item G.5.a, Attachment 3) which establishes an annual Federal license requirement for vessel owners that intend to participate in the open access groundfish fishery. The one exception would be in the last sentence of the paragraph under Alternative 2 which should read: "However, a vessel owner may apply for an open access license for the following year at any time during the year."

Mr. Wolford stated that there has been a lot testimony by the public that the current fishery was viable and that many longtime fishermen, for one reason or another would not qualify to continue fishing under the more limiting alternatives. He noted that the fleet size reduction had been achieved; the proposed B permit program was too complex; the vessel monitoring system (VMS) requirement is effective in limiting fishery participation; a \$100 to \$200 annual registration fee would discourage frivolous vessel registrations; and a salmon vessel effort shift did not appear to be a problem in the fishery.

Mr. Wolford reviewed the seven items under the need for the proposed action of page 4 of the EA and compared his motion with the preliminary preferred alternative. His Alternative 2 with a simple registration program would be expected to have fewer vessels; would allow simple market forces rather than regulatory action to determine how communities would benefit; is as

effective or more effective than the preferred alternative with regard to eliminating restrictive landing limits; assists in efficiently meeting management goals with the registration of vessels; is neutral with regard to economic viability issues and salmon effort shifts; and achieves improved management and enforcement through simple registration as effectively as the preferred alternative.

He further noted that the analyses for Alternatives 2 and 6 had very similar results and that the directed fishery was too small to justify the high cost of a limited entry program.

It was further clarified that the purpose of this alternative is to identify all vessels and vessel owners that participate in the open access fishery and to aid managers in estimating fishery impacts to target and non-target species. This alternative would not limit fishery participation and the registration would be valid for directed or incidental fishing operations in both state and Federal waters. Registration would have to occur far enough in advance of the next year to allow for processing by NMFS.

Mr. Lockhart stated he would not be supporting the substitute motion. The primary reason is because the problem with open access (OA) is that it does provide an outlet for potentially increasing and expanding effort in the fishery. We don't see a lot of people in the fishery right now, but that hasn't always been true, and we don't know what will happen in the future. The Federal Government has a strong position in limiting capacity and matching capacity to the resource. And without capping this fishery, we cannot achieve that match. A simple registration does not do that. When we created this fishery 15 years ago, we did not anticipate that we would be here today when the limited entry (LE) system was designed. Everyone thought OA would be a minor thing, but it is not. There is significant effort on sablefish and possibly a growing problem with lingcod. The economic issues mentioned by Mr. Wolford are a concern, but all of these fisheries are linked. Decisions in one fishery affect other fisheries. The trawl rationalization decisions, such as the AMP, could help to alleviate some of these economic problems in the OA fishery. The EFP for a Community Fishing Association could be another venue for addressing some of these economic problems identified by Mr. Wolford. The substitute motion at its core does not address the primary problem, but the original motion does.

Mr. Warrens said that he was at the table when LE was created. We did not cut deep enough at that time, and now is the time to limit this. If not now, you will be back at this table again and again. I oppose the motion.

Ms. Vojkovich said she would support this motion as the preliminary preferred alternative (PPA). The suite of management measures we had 15 years ago are not that same as those we have now. If we give out 1000 permits under the PPA, it would not match the capacity to the resource given that California now has less than 700. The complexity of the program is far in excess of what is needed. It will have disproportional effects on California. Mr. Wolford's motion takes care of part of the issue, and we could discuss sablefish as a separate item.

Mr. Moore said the need for the proposed action is stated in the EA which says the number of vessels needs to be limited to match capacity and effort to match resource availability, but the analysis for Alternative 2 says this alternative would not limit fishery participation. I will have to oppose the substitute motion.

Ms. Fosmark stated she would support the motion. What she sees going forward with a more restrictive permitting system would not allow people to come in and out of a fishery that serves as a safety net. Our aging fleet and harvesters will leave, and young fishermen want to get in. This fishery allows them to get in with cheaper vessels and gear – you can't get into a more expensive fishery because no one will loan you the money to do so. This fishery is necessary to provide opportunity for young folks to enter the fishery.

Mr. Wolford said that with regard to how many permits would be available, the analysis under Alternative 2 estimates less than 713 permits would be needed initially and less than 713 permits in the long term. The same analysis shows that Alternative 6 would use those same numbers, but the analysis shows the PPA would have in excess of 1000 boats that would qualify. Therefore, the PPA does not limit entrants into the fishery any more than a simple registration. That excess is not needed.

Ms. Culver said that WDFW proposed an option similar to this three years ago to the Council, but over that time she realized she couldn't convince all Council Members to support it. One of the things that concerns her with the PPA is that 15 years ago the LE fishery was developed over 6 or 7 years. As a result, there were people identified that would not qualify for an LE permit. The Council decided an OA component would be available for people to enter annually when other fishing opportunities were not available, such as Dungeness crab and salmon troll. And for the last 15 years that's what OA was used for. The GMT said the trip limits would not change under the PPA; the landings in this fishery are directly related to the amount of sablefish that is available in the OY and OA allocation; and the trip limits would roughly be the same under the substitute motion. If we have concerns about the amount of effort in this fishery, and the quickness with which the OA allocation is obtained, and the potential bycatch in the fishery – then the Council should do a better job of managing the fishery through trip limits, and by applying the bycatch rate appropriately. The one thing she is most uncomfortable with in the PPA is creating a new LE permit that looks like a property right, even though we say it isn't. We had testimony today from people who feel like they have had a property right in the past, and giving out a permit sets that in concrete a little bit more. She stated she will support the substitute motion.

Motion 40 passed on a roll call vote with all voting members present. Mr. Moore, Mr. Warrens, Mr. Lockhart, Mr. Williams, and Mr. Ortmann voted no. Mr. Jerry Mallet abstained. The vote was 5 no, 7 yes, 1 abstention. The Chair did not vote nor abstain.

G.6 National Marine Fisheries Service Report (03/13/09; 10:45 a.m.)

G.6.a Regulatory Activities

Mr. Lockhart said that the trawl rationalization schedule includes deeming by June, but that is very likely too early for NMFS to have more than just an idea of where we are going.

Ms. Culver asked about the final rule for halibut this year, has it been published yet, because we are holding back on our state rule until the Federal rule is published.

Ms. Sarah Williams said that the final rule is now at headquarters and has not been published yet, but she will check into it.

G.6.b Fisheries Science Center Activities

Dr. Elizabeth Clarke gave a report on NWFSC activities. New observer reports have been produced, as well as a total mortality report. An informational report is now available on the Oregon and California pink shrimp and California halibut fisheries in 2004, 2005, 2007. An informational report is available on salmon bycatch in groundfish fishery. Petrale and splitnose stock assessments will happen in early May 2009 in Seattle. The SWFSC finished their piece of the historical catch reconstruction work, and ours is proceeding more slowly. We are working on a bycatch trends report using observer information, which will provide us with baseline information as we proceed into ecosystem work.

Mr. Moore asked about incidental catch of whiting in the shrimp fishery, and wondered if information from 2004, 2005, and 2007 is available on the web. Dr. Clarke said it was available.

G.6.c Reports and Comments of Agencies and Advisory Bodies

None.

G.6.d Public Comment

Mr. Santi Roberts, Oceana, Portland, OR

G.6.e Council Discussion

None.

G.7 Final Consideration of Inseason Adjustments (if Needed) (03/13/09; 12:33 p.m.)

G.7.a Agenda Item Overview

Mr. Burden provided the agenda item overview.

G.7.b Reports and Comments of Agencies and Advisory Bodies

Mr. Robert Jones provided Agenda Item G.7.b, Supplemental GMT Report. In that report, the GMT requested that the Council provide guidance on when to develop and implement methodologies to incorporate accounting for unidentified rockfishes into all Council processes that use historical and current recreational catch data, see the [updated bycatch scorecard](#) contained in that report.

Mr. Russell Porter, Pacific States Marine Fisheries Commission (PSMFC), said the RecFIN technical committee indicated that he hold a dialogue with the GMT on the issue of unidentified rockfish. He stated that based on his experience with sportfishing data since 1979 that unidentified rockfish has been an issue since the beginning. He indicated that the main issue

with resolving unidentified rockfish issues is the timeframe that this would be looked at. He indicated that the problem is that most anglers simply don't know what rockfish species they are catching and record that catch in the "unidentified rockfish category." He stated that RecFIN strives to be as accurate as possible in entering the data. He advised the Council that if they intended to examine the issue and try to resolve it, that the Council give themselves some time to do so. Coming up with methodologies and proxies is something that needs careful study. In order to resolve the issue appropriately, the Council might want to address this issue in the next management cycle. He reiterated that the issue needs careful time and thought. He then spoke to efforts being undertaken to help anglers accurately identify rockfish, including posters and fish identification cards that were being provided to anglers.

Dr. McIsaac asked about the people who may be infrequent anglers. He asked if those people are likely to even know what a rockfish is. He then addressed a question posed by the GMT regarding catch sampling procedures in the field. He asked if those sampling procedures could be improved and implemented this year. Mr. Porter said the main issue associated with resolving unidentified rockfish is working to educate the anglers more. He indicated that they (PSMFC) have a flipchart (30 pages) as a tool to assist anglers in identification. PSMFC samplers take time to assist anglers in determining species, as well as teaching and educating anglers.

Mr. Williams pointed Mr. Porter to the GMT report, where the report stated that unidentified fish might be filleted or given away – Oregon doesn't allow that. Mr. Williams indicated that a short-term solution might be to have the other areas not allow that. Mr. Williams asked about guidance from NMFS, what options do we have in dealing with it now or later?

Mr. Lockhart said there are limited resources for resolving these problems and that he too was struggling as to what to do. He asked if there were intermediate steps that could be taken to not affect the current workload for the GMT and the science center. He indicated that we have a lot of other things that have a higher biological consequence that are before us. Ms. Cooney said Mr. Lockhart's comments are good; this is the first she has seen of this and had not had time to talk about it; sounds like it would take some work to figure out what it would take and what the timing would be.

Mr. Ortmann stated that it is possible to educate someone today but then the next day there is a new person. He spoke to language and communication barriers. He then asked if there were resources available for the field biologists to provide their best judgments of the makeup of what the catch is, along with local enforcement agents. Mr. Porter said that staff used information from field biologists and enforcement agents in deciding whether to label catch as unidentified rockfish or unidentified fish. He indicated that it is difficult for RecFIN samplers to figure out what the anglers have caught if the anglers don't know what they have caught and discarded. In California, samplers ride on all the charter boats and record the discards; and a cross check is done with angler interviews about what they thought they threw back. On private boats where samplers cannot be aboard the boat, data is not complete or given to the samplers.

Ms. Vojkovich asked Mr. Porter, in the GMT report there is reference to "state staff," GMT, and the SSC. There is no reference to the RecFIN committee. Would you see this exercise as being an effort that is much broader than Council staffing? Yes, said Mr. Porter. He indicated that

RecFIN would like to be involved in the process. He said it is a complex thing, and reiterated that the topic should be put into next year's management cycle.

Mr. Lockhart suggested that maybe some general direction to the Council staff to work with the Science Centers, RecFIN committees, and other staff, to come up with an "analysis" to find ways to fix the problem. Mr. Lockhart said the stock assessment authors should be notified of this too as they may want to be kept abreast of the issue. Mr. Lockhart also spoke to the possibility that researching the unidentified rockfish topic may uncover a conservation concern. He stated that if problems were found, that those problems should be communicated to the Council. He stated that he thought resolving the issue would involve a lot of people and it was difficult for him to come up with a timeline for coming to a resolution.

Dr. McIsaac said it only takes a small fraction of a species such as yelloweye for this to be a concern. He asked if there was high potential of this being a conservation concern, and asked whether PSMFC looked into the potential for this to be a conservation matter. Mr. Porter said that there currently were not a lot of yelloweye juveniles that may have been in the unidentified category. He indicated that canary are the fish some people cannot identify; he did not think cowcod was an issue. He stated that he didn't think yelloweye, canary, cowcod, or bocaccio are problem fish for data recording as most people can identify those fish properly.

Mr. Burden noted Table 2 of the GMT report itemizes the amount of unidentified fish by area and that this may shed some light on the type of fish potentially being unidentified.

Ms. Culver asked Mr. Porter, in looking at the GMT report, they try to quantify the amount of unidentified rockfish that resulted from angler recorded discarded fish, as opposed to filleted fish. She would think that filets coming in could possibly be overfished rockfish. Mr. Porter said that in California, RecFIN samplers ride the boats. On private boats, the fish doesn't come in filleted. Mr. Porter said most of the unidentified is from private boats, where they discard them, and don't know what the identity of the species is.

Mr. Moore asked Mr. Porter about the potential for overfished species, there is a large number of unassessed rockfish out there; what do you think the impacts are on those species? Mr. Porter said there may be some conservation concern there. Mr. Moore asked if we have methodology and start working on this, that potentially could mean we have data coming back in September that might result in a conservation issue? Mr. Porter said that might be possible; and then he said the same procedure is used in the assessments and harvest guidelines.

G.7.c Public Comment

Mr. Dan Wolford read a statement from Mr. Bob Ingles.

G.7.d Council Action: Adopt or Confirm Final Adjustments to 2009 Groundfish Fisheries

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 43) to have RecFIN committees and appropriate state GMT staff, meet to assess and narrow down the discussion of the risks associated with the "unidentified group of rockfish" so the Council can determine the

priorities and further direction on what should take place; and identify priority needs in which revised data might be applied (situation, refine risks, what areas to focus attention on), report back to Council in September, then determine what it might take and how long it might take and when the data might be able to be used in Council management.

Ms. Culver asked, with the report coming back in September, did you envision having the SSC review the proposed conclusions the group might come to? Ms. Vojkovich said she did not expect to get a display of methodologies by September, if they could that would be great. But since most of the workload is in the state of California, she is really looking for a discussion on what it might take, not a full methodology report, just a prioritized listing with a “risk analysis.”

Mr. Moore moved to amend Motion 43 that the report come back to us in June. Mr. Warrens seconded the amendment. Mr. Moore indicated that he was sensitive to staffing concerns of California, etc., but waiting until September will not give us enough time to deal with conservation concerns should that come up or other actions if needed. He thought by waiting it might cause legal troubles too, not just conservation issues.

Ms. Vojkovich said that if the amendment passed, that she would have to prioritize between CDFG bringing inseason numbers to the Council in June, or working on the unidentified rockfish issue before June. She indicated that CDFG has staffing limitations.

Mr. Wolford, on the amendment, as a recreational angler in California, and facing the dockside samplers, he said he thinks the state of California has done an outstanding job of educating the anglers in species of concern. He did not believe that the fish that is “discarded” by anglers are species of concern. He did think that anglers in California are getting more educated and are identifying them.

Mr. Warrens asked Ms. Vojkovich about her response. He indicated that he assumed the unidentified category was part of catch accounting. He asked, couldn't that just be done along with the catch for inseason? Ms. Vojkovich said it is determining what the species are as she understands it, and that is different from inseason catch estimates. Mr. Warrens stated that he interpreted the amendment as initiating the methodology discussion in the interim and get it back in June so we can be on board for the 2010 season if necessary.

Ms. Culver indicated that she thinks this is an important issue; not just identifying the fish that have been recorded, but exploring some alternatives to fix the larger problem of “how to reduce the amount of unidentified rockfish” recorded in the future. WDFW does not allow the filleting of rockfish at-sea. Getting a report back would be helpful and good to get information from the Enforcement Consultants as well.

There was a roll call vote on the Amendment to Motion 43. Voting no were Mr. Wolford, Ms. Vojkovich, Mr. Ortmann, Mr. Mallet, Mr. Cedergreen, Ms. Fosmark, and Chairman Hansen (6 yes, 7 no). The Amendment failed.

Mr. Lockhart asked if others could be involved if they had information. Mr. Lockhart asked if the stock assessment authors could be notified if there was a conservation concern.

Motion 43 passed unanimously.

G.8 Essential Fish Habitat Review Committee (EFHRC) Terms of Reference

G.8.a Agenda Item Overview (03/13/09; 1:34 p.m.)

Mr. Tracy presented the agenda item overview.

Mr. Warrens reported he met with the EFHRC at its December 2008 meeting in an effort to clear up any misunderstanding between the EFHRC and the Council that may have occurred at the initial meeting of the EFHRC during the September 2008 Council meeting; he was satisfied that the EFHRC was well prepared to carry out their duties towards achieving the Council's objectives for reviewing proposed modification to groundfish Essential Fish Habitat (EFH).

G.8.b Reports and Comments of Agencies and Advisory Bodies

Ms. Megan Mackey presented Agenda Item G.8.b, EFHRC Report.

Mr. Sones presented Agenda Item G.8.b, Supplemental Tribal Recommendation.

Mr. Tracy read into the record Agenda Item G.8.b, Supplemental HC Report.

G.8.c Public Comment

None.

G.8.d Council Action: Adopt Final Terms of Reference

Mr. Warrens moved (Motion 44) to adopt the Terms of Reference for review of proposed changes to groundfish EFH as shown in Agenda Item G.8.b, EFHRC Report.

Mr. Moore seconded the motion.

Motion 44 passed unanimously.

H. Habitat

H.1 Current Habitat Issues

H.1.a Agenda Item Overview (03/13/09; 11:10 a.m.)

Dr. John Coon provided the agenda item overview.

H.1.b Report of the Habitat Committee

Dr. Coon summarized Agenda Item H.1.b, Supplemental HC Report.

H.1.c Reports and Comments of Agencies and Advisory Bodies

Dr. Coon read Agenda Item H.1.b, Supplemental SAS Report.

H.1.d Public Comment

None.

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

Mr. Hansen noted that it could be difficult to talk to the Navy about naval training concerns and their habitat impacts.

Mr. Moore suggested that if CDFG and the Klamath tribes are invited to talk about dredging impacts, then a representative from the dredge mining industry should be invited as well. As a matter of public process, we should invite representatives of both sides of the issue.

Ms. Vojkovich said she was unsure whether CDFG representatives would be able to speak on this subject, since there might be a gag order due to an ongoing lawsuit.

Ms. Fosmark said she understands this is a recreational issue, and wasn't sure if the recreational miners would have a representative who could attend a Habitat Committee meeting.

Administrative Matters

I.1 Membership Appointments and Council Operating Procedures

I.1.a Agenda Item Overview (03/13/09; 1:47 p.m.)

Dr. John Coon provided the agenda item overview.

I.1.b Reports and Comments of Agencies and Advisory Bodies

None.

I.1.c Public Comment

Mr. Mike Okoniewski. Requested the Council create a new position on the Coastal Pelagic Species Management Team (CPSMT) for a NMFS Northwest Fisheries Science Center (NWFSC) representative. He cited the importance and growth of the northern sardine fishery as justification for adding the position.

I.1.d Council Action: Consider Changes to Council Operating Procedures and Appoint New Advisory Body Members as Needed

Ms. Michele Culver asked the Council to approve a new position on the CPSMT for a representative from the NWFSC. She indicated that it was important to get the new member on board as soon as possible in light of upcoming stock assessments and that the NWFSC has agreed to provide a nominee.

Dr. Coon noted that creating a new position would require a change in Council Operating Procedure 3 and such an action requires the Council to notice the action prior to making a final decision. The Council directed staff to notice the proposed change for the April Council meeting.

Mr. Steve Williams moved and Mr. Rod Moore seconded a motion (Motion 45) to appoint Mr. Greg Krutzikowsky to replace Ms. Cyreis Schmitt on the CPSMT. Motion 45 passed unanimously.

Mr. Steve Williams moved and Mr. Moore seconded a motion (Motion 46) to appoint Mr. Shems Jud to the Conservation position on the GAP (formerly held by Dr. Stephen Barrager). Motion 46 passed unanimously.

Mr. Lockhart moved and Ms. Kathy Fosmark seconded a motion (Motion 47) to appoint Dr. Kevin Piner to replace Dr. Suzanne Kohin on the HMSMT. Motion 47 passed unanimously.

Mr. Lockhart moved and Ms. Fosmark seconded a motion (Motion 48) to appoint Dr. Thomas Helser to replace Mr. Dell Simmons on the MEW. Motion 48 passed unanimously.

Mr. Myer moved and Mr. Moore seconded a motion (Motion 49) to appoint Mr. Thomas Libby to replace Ms. Heather Mann as the processor representative on the GAP. Motion 49 passed unanimously.

Mr. Cedergreen moved and Mr. Moore seconded a motion (Motion 50) to appoint Mr. Larry Giese to replace Mr. Rhett Weber as the Washington Charter Boat representative on the GAP. Motion 50 passed unanimously.

Mr. Moore moved and Mr. Myer seconded a motion (Motion 51) to appoint Mr. Andrew Bornstein as the non-voting Processor representative on the GAC. Motion 51 passed unanimously.

Mr. Sones moved and Ms. Culver seconded a motion (Motion 52) to appoint Mr. Joe Schumacker to the EFHRC. Ms. Culver seconded the motion. Motion 52 passed unanimously.

I.2 Approval of Council Meeting Minutes

I.2.a Council Member Review and Comments

Chairman Hansen asked for Council comments.

I.2.b Council Action: Approve March and September 2008 Council Meeting Minutes

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 53) to approve the March 2008 and September 2008 meeting minutes as shown; with the following changes:

- Draft September Minutes, page 37, where it says “Mr. Steve Williams moved,” correct “moved” to “seconded.”
- Draft March Minutes, page 49, where it says “Dr. Hanson noted that by its actions the Council has endorsed the report and adjourned the meeting for the day,” correct “Dr. Hanson” to “Mr. Hansen.”
- Draft March Minutes, page 41, where it says “Mr. Myer said he is in support of the motion. In the past he has voted to increase the OY because the 2005 year class had not shown an increase.” Change “an increase” to “a decrease.”

Motion 53 passed unanimously.

I.3 Future Council Meeting Agenda and Workload Planning

I.3.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview. He noted changes in the three supplemental attachments (the Year-at-a-Glance and preliminary proposed agendas for the April and June Council meetings). He also noted the HC report, which recommended three items for future agendas: ecosystem-based management, salmon EFH review, and nominations for MPAs.

I.3.b Reports and Comments of Advisory Bodies

Dr. McIsaac noted, Agenda Item I.3.b, Supplemental HC Report, regarding potential review of the Atlantis Model and ecosystem management plan issues on the Council agenda.

I.3.c Public Comment

Dr. McIsaac referred the Council to Agenda Item I.3.c, Supplemental Public Comment, concerning scheduling of the Highly Migratory Species Advisory Subpanel meeting in April. (It was later noted this issue had been addressed.)

I.3.d Council Action: Adopt April 2009 Agenda and Provide Guidance on Future Council Meetings and Priorities for Advisory Body Consideration

The Executive Director and staff worked with the Council to develop the April 2009 Agenda and plan future Council meetings and priorities for advisory body consideration.

Dr. McIsaac asked if it would be possible to delay the review of the sardine allocation from June to September. Ms. Culver agreed that would be appropriate. Mr. Lockhart asked about evaluating the new Council meeting schedule. Dr. McIsaac stated that would come after we had a few meetings under the new schedule.

[Under Agenda Item G.7, the Council indicated its desire to put a report on unidentified rockfish catches in the recreational fishery on the September agenda.]

ADJOURN

The 197th Council meeting was adjourned at 2:30 p.m. on Friday, March 13, 2009.

DRAFT

Council Chairman

DRAFT

Date

PFMC
6/2/2009

Motion 6: Adopt for public review the options for incidental catch regulations in the non-Indian salmon troll fishery as shown in Agenda Item F.2.b, Supplemental SAS Report:

Option 1: Status quo: Beginning May 1, license holders may land no more than one Pacific halibut per each three Chinook, except one Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut per open period.

Option 2: Beginning May 1, license holders may land no more than one Pacific halibut per each two Chinook, except three Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut per open period.

Moved by: Phil Anderson
Motion 6 passed unanimously.

Seconded by: Dale Myer

Motion 7: Adopt for public review a range of landing restrictions for Pacific halibut retention in the non-Indian commercial sablefish fishery as listed in Agenda Item F.2.b, Supplemental GAP Report; with the addition of a third option limiting landings to no more than 100 pounds dressed weight per trip.

Moved by: Phil Anderson
Motion 7 passed unanimously.

Seconded by: Dale Myer

Motion 8: Adopt, consistent with the SSC's recommendation for management of Pacific whiting in 2009, the SS3 based Pacific whiting assessment as representing the best scientific information for managing the 2009 whiting fishery.

Moved by: Phil Anderson
Motion 8 passed unanimously.

Seconded by: Frank Lockhart

Motion 9: Adopt the coastwide ABC for Pacific whiting of 253,582 mt.

Moved by: Phil Anderson
Motion 9 passed unanimously.

Seconded by: Rod Moore

Motion 10: For Pacific Whiting, adopt a coastwide OY of 184,000 mt.

Moved by: Phil Anderson
Motion 10 passed unanimously.

Seconded by: Marija Vojkovich

Motion 11: For the 2009 whiting fishery, adopt a set-aside of 4,000 mt for research fish and incidental catch of whiting in non-tribal, nontreaty fisheries.

Moved by: Rod Moore
Motion 11 passed unanimously.

Seconded by: Frank Warrens

Motion 18: Instruct Council staff to present at the April meeting, options for defining what a CFA is for the purpose of soliciting comments from advisory bodies and public; with possible final action in June.

Moved by: Rod Moore
Motion 18 not voted on.

Seconded by: Dave Hanson

Motion 19: Substitute motion to direct Council staff to define CFAs and the guidelines under which the CFA would operate and use the proposal that is in public comment from The Nature Conservancy as a baseline to start with; with the intent that the definitions and guidelines are completed by the time the whole program is adopted in the final rule.

Moved by: Marija Vojkovich

Seconded by: Dan Wolford

Amdnt #1: Include the guidance contained in the NOAA technical memorandum on design and use of LAPPs.

Moved by: Frank Lockhart
Amendment to Motion 19 passed unanimously.
Main Motion 19 passed unanimously.

Seconded by: Dale Myer

Motion 20: Using Agenda Item G.4.b, Supplemental WDFW Report 1, adopt the following to clarify Motion #4 from the November meeting: 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”.

Moved by: Michele Culver
Motion 20 passed unanimously.

Seconded by: Rod Moore

Motion 21: Adopt for the at-sea whiting sectors, the species requiring IFQ would be: whiting, widow, canary, and darkblotched rockfish, and Pacific ocean perch. The catches of all other groundfish species would be accounted for and tracked against the overall OY.

Moved by: Michele Culver
Motion 21 passed unanimously.

Seconded by: Dale Myer

Motion 22: Use one latitudinal area south of 40°10' N. latitude to make a finer area bycatch rate for the initial allocation of overfished species.

Moved by: Marija Vojkovich
Motion 22 passed unanimously.

Seconded by: Kathy Fosmark

Motion 23: Relative to the allocation of Pacific halibut south of 40°10' N. latitude, establish a geographic set-aside and monitor the catch accordingly.

Moved by: Marija Vojkovich
Motion 23 passed unanimously.

Seconded by: Kathy Fosmark

Motion 24: Adopt a similar action for halibut south of 40°10' N. latitude to specify a set-aside for the at sea whiting sectors; and have staff look at an appropriate poundage set aside to accommodate sector catches vs. single sector catches.

Moved by: Michele culver
Motion 24 passed unanimously.

Seconded by: Dale Myer

Motion 25: Using page 2 of Agenda Item G.3.c, Supplemental WDFW Report 1, Motion # 5 from November 2008 Council meeting, to clarify the intent of Option 2 – that it is 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 . This would include all A permit holders in the shoreside and mothership sectors, but not the catcher/processor sector.

Moved by: Michele Culver
Motion 25 passed unanimously.

Seconded by: Mark Cedergreen

Motion 26: Using Agenda Item G.3.c, Supplemental Revised WDFW Report 2, relative to the halibut IBQ, establish a limit for total Pacific halibut bycatch mortality (legal-sized and sublegal fish) through the use of an IBQ in the trawl fishery. The initial amount for the first two years of the trawl rationalization program would be calculated by taking 15% of the Area 2A Total Constant Exploitation Yield (CEY) as set by the International Pacific Halibut Commission (IPHC) for the previous year not to exceed 130,000 lbs per year for total mortality. Beginning with the third year of implementation, the maximum amount set aside for the trawl rationalization program would be reduced to 100,000 lbs per year for total mortality. This amount may be adjusted downward through the biennial specifications process for future years. The motion would be preliminary action, brought up through the intersector allocation process.

Moved by: Michele Culver
Motion 26 passed unanimously.

Seconded by: Mark Cedergreen

Motion 27: Approve a Preliminary Preferred Alternative on accumulation limits for final action in June as follows:

Non-whiting Groundfish Species Aggregate Limit

- Set the Control Limit to 2.7% (GAP recommended)
- Set a Vessel Limit of 3.2% to ensure a minimum number of boats (this is the mid-point of the available options).

Control Limit for Non-overfished species

- Adopt GMT recommended control limits; where a range is present, adopt the low end of the range, except for the following

Species	Control Limit	Species	Control Limit
Lingcod – coastwide	2.5%	Minor rockfish (n) -slope	5%
Pacific cod	12%	Minor rockfish (s) -shelf	9%
Pacific whiting (Shoreside)	15%	Minor rockfish (s) -slope	6%
Sablefish (s 36)	10%	Dover sole	2.6%
Shortspine (s 34'27)	6%	Arrowtooth flounder	10%
Minor rockfish (n) -shelf	5%	Other fish	5%

Vessel Limit for Non-overfished species

- 1.5 times the control limit with the following exceptions

Species	Vessel Usage Limit	Species	Vessel Usage Limit
Pacific cod	20%	Arrowtooth flounder	20%
Pacific whiting (Shoreside)	15%	Starry Flounder	20%

Halibut IBQ

- Analyze a control limit range for quota share from 1-8%
- Analyze a vessel usage limit equal to control, up to 1.5 times control with a maximum of 10%

Overfished species

For vessel limits, analyze:

- Set vessel limit (QP) = control limit (QS)
- Set vessel limit (QP) greater than control limit (QS); with vessel limits 1.5 times the control limit but not to exceed 10%

Control limits:

- POP = 3.3% (GAP)
- Darkblotched rockfish = 2.0% (GAP)
- Widow = 2.5% (GAP)
- Canary rockfish = 5.2% (GAP)
- Bocaccio rockfish = 7.5% = 50% of GAP
- Yelloweye rockfish = 2.6% = 50% of GAP
- Cowcod = 10% = 50% of GAP

Task the GMT with analyzing the options in the GMT reports under Agenda Item G.4 and with exploring any additional options for control and vessel limits, with results to be made available for the May GAC meeting.

Species Category	Preliminary Preferred Alternative		GMT	GAP	
	Vess Lim*	Cntrl Lim	Control Limits Identified in GMT Report	GAP Vessel Limit Option	GAP Control Limit Option
Nonwhiting Groundfish Species	3.2%	2.7%		None	2.7%
Lingcod - coastwide	3.2%	2.5%		3.8%	2.5%
Pacific Cod	20.0%	12.0%	20%	20.0%	12.0%
Pacific whiting (shoreside)	15.0%	15.0%		15.0%	10.0%
Pacific whiting (mothership)					
Sablefish					
N. of 36° (Monterey north)	4.5%	3.0%	3%	4.5%	3.0%
S. of 36° (Conception area)	15.0%	10.0%		15.0%	10%
PACIFIC OCEAN PERCH*	5.0%	3.3%		3.3%	3.3%
WIDOW ROCKFISH*	3.8%	2.5%		2.5%	2.5%
CANARY ROCKFISH*	7.8%	5.2%		5.2%	5.2%
Chilipepper Rockfish	15.0%	10.0%	10%	15.0%	10.0%
BOCACCI*	10.0%	7.5%			15.0%
Splitnose Rockfish	15.0%	10.0%	10%	15.0%	10.0%
Yellowtail Rockfish	7.5%	5.0%	5%	7.5%	5.0%
Shortspine Thornyhead					
N. of 34°27'	9.0%	6.0%	6%-10%	9.0%	6.0%
S. of 34°27'	9.0%	6.0%		9.0%	6.0%
Longspine Thornyhead					
N. of 34°27'	9.0%	6.0%	6%-10%	9.0%	6.0%
COWCOD*	10.0%	10.0%		20.0%	20.0%
DARKBLOTCHED*	3.0%	2.0%		2.0%	2.0%
YELLOWEYE*	3.9%	2.6%		5.2%	5.2%
Minor Rockfish North					
Shelf Species	7.5%	5.0%		7.5%	5.0%
Slope Species	7.5%	5.0%	6%-10%	7.5%	5.0%
Minor Rockfish South					
Shelf Species	13.5%	9.0%		13.5%	9.0%
Slope Species	9.0%	6.0%	6%-10%	13.5%	9.0%
Dover sole	3.9%	2.6%	5%+	3.9%	2.6%
English Sole	7.5%	5.0%	5%+	7.5%	5.0%
Petrale Sole	4.5%	3.0%	3%	4.5%	3.0%
Arrowtooth Flounder	20.0%	10.0%	10%+	20.0%	10.0%
Starry Flounder	20.0%	10.0%	10%+	30.0%	15.0%
Other Flatfish	15.0%	10.0%	10%+	15.0%	10.0%
Other Fish	7.5%	5.0%		7.5%	5%

Moved by: Rod Moore

Seconded by: Frank Warrens

Amdmnt#1: Make this the final adoption of the accumulation and control limits as shown in Agenda Item G.4.d, Supplemental Motion in Writing, with the exception of the halibut IBQ, which should be forwarded for determination in June and drop the tasking of the GMT for analyzing other options.

Moved by: Marija Vojkovich

Seconded by: Dan Wolford

The vote on Amendment #1 to Motion 27 was a roll call vote with the following people voting no: Mr. Sones, Mr. Moore, Ms. Fosmark, Ms. Culver, Mr. Steve Williams, and Mr. Warrens. The vote was 7 yes and 6 no; Chairman Hansen voted yes, so Amendment #1 to Motion 27 passed with Chairman Hansen's yes vote.

Amdmnt#2: Analyze impacts of accumulations on CFA and communities and include a divesture period of 3 years.

Moved by: Kathy Fosmark

Seconded by: Frank Warrens

Amendment #2 withdrawn and not voted on.

Amdmnt#3: Identify canary rockfish as a preliminary preferred alternative and not a final alternative.

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Amendment #3 to Motion 27 passed; Mr. Wolford voted no.

Amdmnt#4: Under the category of pacific whiting shoreside strike 15% and replace it with 10% in the column of **control limits**.

Moved by: Dale Myer

Seconded by: Mark Cedergreen

Amendment #4 to Motion 27 passed, Mr. Warrens and Mr. Moore voted no.

Main Motion 27 passed as amended. Mr. Moore voted no.

[This motion later reconsidered and amended see Motions 41 and 42]

Motion 28: Adopt the following: that the Council declare its intent to allow CFAs to own or control more QS and/or QP than may otherwise be allowed under the ownership control and accumulation limits of the non-whiting trawl rationalization program and direct Council staff to develop mechanisms for Council consideration. Analysis of various mechanisms should proceed only for CFAs and final adoption of that mechanism and or any limits for CFAs will take place at the June Council 2009 meeting. In the analysis the Council staff should take into consideration how the CFA definition might assist in preventing "excessive control". The intent of this motion is to have all of the provisions governing CFAs implemented along with all of the other provisions of the trawl rationalization program and at the same time.

Moved by: Marija Vojkovich

Seconded by: Kathy Fosmark

Amdmnt#1: Change the wording to say "to consider allowing CFAs" in the first sentence.

Moved by: Michele Culver

Seconded by: Dale Myer

Amendment #1 to Motion 28 passed unanimously.

Main Motion 28 as amended passed unanimously.

Motion 29: Adopt as a final measure, whiting catcher vessel (CV) ownership limits in the mother ship (MS) sector of 20% and a usage limit in the MS sector of 30%.

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Motion 29 passed. Ms. Vojkovich voted no. Mr. Myer recused.

Motion 30: Set a period of 3 years for permit holders to divest themselves of quota share that exceeds accumulation limits, and that divestiture can take place in any of the first 3 years following implementation of the program.

Moved by: Kathy Fosmark

Seconded by: Marija Vojkovich

Amdmnt#1: Add the language that says “QP associated with QS that are in excess of accumulation limits cannot be used or transferred”.

Moved by: Rod Moore

Seconded by: Phil Anderson

Amendment #1 to Motion 30 passed unanimously.

Amdmnt#2: Have the Council take Dr. Hanson’s advice and defer the action on this motion until after the GAC has had time to deal with it and bring to the June meeting (table the motion).

Moved by: Frank Warrens

Seconded by: Steve Williams

Amendment #2 to Motion 30 passed. Mr. Moore, Ms. Vojkovich, Mr. Wolford, and Ms. Fosmark voted no.

Motion 31: Apply control limits to QS and vessel use limits to QP. This had been recommended by both the GMT and GAC.

Moved by: Dave Hanson

Seconded by: Rod Moore

Motion 31 passed unanimously.

Motion 32: Fix the weighting schemes of trawl allocations of the 2010 OYs for the aggregate limit.

Moved by: Dave Hanson

Seconded by: Dan Wolford

Motion 32 passed unanimously.

Motion 33: Recommend staff include in an FMP amendment the major elements in Agenda Item D.6.a, Attachment 2 and the three advisory body reports, Agenda Items D.6.b, Supplemental SSC Report, Supplemental STT Report, and Supplemental SAS Report, and in addition, address the issue of the conservation alert requirement to completely close fisheries impacting the stock by including a *de minimis* fishery provision. The process should follow the moderate schedule in Attachment 2 with a target completion date of November 2010.

Moved by: Phil Anderson

Seconded by: Mark Cedergreen

Motion 33 passed unanimously.

Motions 34 through 36 were made utilizing the Document “Agenda Item D.7.b, Supplemental STT Report, March 12, 2009.”

Motion 34: Adopt options for the area north of Cape Falcon as listed for the recreational and non-Indian commercial salmon fisheries in D.7.b, Supplemental STT Report.

Moved by: Phil Anderson

Seconded by: Mark Cedergreen

Motion 34 passed unanimously.

- Allow both a lingcod and a sablefish endorsement to be affixed to a B permit if the vessel qualifies for both endorsements;
- Affix species endorsements permanently to and for sole use with the original B permit and allow directed fishing for the endorsed species in addition to other B species groundfish;
- The endorsement provision is intended to preclude non-endorsed vessels from directly fishing for (targeting) endorsed species, but allow B permitted vessels without endorsements to land incidental amounts of the endorsed species under cumulative landing limits identified during the normal specifications process;
- Vessels that apply for and receive B permits, including any associated species endorsements, would be allowed to take and land B species groundfish using open access gear in amounts specified in Federal groundfish regulations;
- Vessels that do not receive a B permit and that do not possess a Limited Entry (A) permit will be allowed to take and land B species groundfish incidental to fishing for non-groundfish species in amounts specified in Federal groundfish regulations;
- Permits and associated species endorsements are transferable between vessels, including transfer during the first year;
- Allow A and B permits to be used alternately on the same vessel in the same year, but not in the same cumulative limit period. A declaration process is required as part of the A and B provision;
- Establish a process for initial issuance appeals;
- Remove C permit program provisions and provide a mechanism to account for and manage incidental catch of groundfish in these fisheries.

Moved by: Rod Moore
Motion 39 not voted on.

Seconded by: Frank Warrens

Motion 40: Substitute that the Council adopt, with one exception, Alternative 2 (the vessel registration alternative on page 35 of Agenda Item G.5.a, Attachment 3) which establishes an annual federal license requirement for vessel owners that intend to participate in the open access groundfish fishery. The one exception would be in the last sentence of the paragraph under Alternative 2 which should read: “However, a vessel owner may apply for an open access license for the following year at any time during the year.”

Moved by: Dan Wolford

Seconded by: Kathy Fosmark

Motion 40 passed on a roll call vote. Mr. Moore, Mr. Warrens, Mr. Lockhart, Mr. Williams, and Mr. Ortmann voted no. Mr. Jerry Mallet abstained. 5 no, 7 yes, 1 abstention.

Motion 41: Reconsider the final vote on Motion 27 pertaining to overfished species.

Moved by: Steve Williams

Seconded by: Frank Warrens

Motion 41 passed unanimously.

Motion 42: Amend Motion 27 by stating that the vessel limits and control limits of the main motion for overfished rockfish be viewed as preliminary amounts and that the GMT do an analysis of these amounts relative to how they could affect prosecuting an efficient viable groundfish trawl fishery; report back in June the effects of these amounts along with recommendations it may have for other amounts. For purposes of the Council action, the GMT should focus

Motion 48: Appoint Dr. Thomas Helser to replace Mr. Dell Simmons on the MEW.

Moved by: Frank Lockhart
Motion 48 passed unanimously.

Seconded by: Kathy Fosmark

Motion 49: Appoint Mr. Thomas Libby to replace Ms. Heather Mann as the processor representative on the GAP.

Moved by: Dale Myer
Motion 49 passed unanimously.

Seconded by: Rod Moore

Motion 50: Appoint Mr. Larry Giese to replace Rhett Weber as the Washington Charter Boat representative on the GAP.

Moved by: Mark Cedergreen
Motion 50 passed unanimously.

Seconded by: Rod Moore

Motion 51: Appoint Mr. Andrew Bornstein as the non-voting Processor representative on the GAC.

Moved by: Rod Moore
Motion 51 passed unanimously.

Seconded by: Dale Myer

Motion 52: Appoint Mr. Joe Schumacker to the EFHRC. Ms. Culver seconded the motion.

Moved by: David Sones
Motion 52 passed unanimously.

Seconded by: Michele Culver

Motion 53: Approve the March 2008 and November 2008 Council meeting minutes with changes as discussed.

Moved by: Rod Moore
Motion 53 passed unanimously.

Seconded by: Frank Warrens