



Hoopa Valley Tribal Council

HOOPA VALLEY TRIBE

Regular Meetings on the First and Third Thursday of Each Month

P.O. Box 1348 • HOOPA, CALIFORNIA 95546 • Phone 625-4211 • Fax 625-4594



Clifford Lyle Marshall
Chairman

25 March 2002

Dr. Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, OR 97201

Dear Dr. McIsaac:

RE: Tribal Representation on PFMC Advisory Committees

Last month, Mr. Michael Orcutt conveyed the concerns of the Hoopa Valley Tribe (Tribe) with regard to the status of Pacific Fishery Management Council (PFMC) appointments of California tribal representatives to the SAS. I am writing you today to reiterate the position of the Tribe. I also underscore the importance the Tribe places on its participation in the PFMC process.

The Tribe's role in contemporary management of Klamath Basin fish stocks was initiated in the early 1980s with the formation of the Klamath Fisheries Management Group, later to become the Klamath Fishery Management Council. Our concerns at that time were that the regulation of ocean fisheries did not adequately anticipate the reserved rights of California fishing tribes while providing sufficient escapement to enable our fisheries to perpetuate. Concurrently, the Tribe recognized the importance of integrating its concerns into the broader forums of regional management established by the Magnuson Fishery Conservation and Management Act. Hoopa delegations consistently attended meetings of the PFMC since the mid-1980s. During that period, a Hoopa Valley Tribal representative was appointed by the Council to serve the Salmon Advisory Subpanel as the California Tribal Seat.

As you are aware, an arrangement was made in the mid-1990s whereby the SAS California Tribal appointment would alternate between the Hoopa Valley and Yurok tribes. To my knowledge, this arrangement was agreeable to both tribes. Moreover, it acknowledged the Council's recognition of the fact that there was more than one tribe in California with similar reserved rights to the fishery. The Council took further action in 2000 which set indefinite terms to advisory body appointments. However, since the Council recognized the alternation of the two tribes for California Tribal appointments, we had expected that three-year terms would be observed by both tribes.

Our position on this issue has been consistent and in accordance with PFMC action and intent. We have submitted our nomination for Mr. Orcutt on previous occasions, most recently by letter to you on 13 October 2000. It is important to the Hoopa Valley Tribe that the California Indian Tribal Representative be experienced in

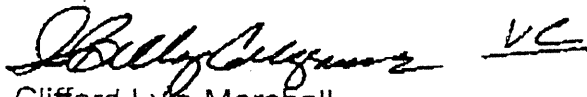


resources management and have a practical as well as technical appreciation for the complexities of salmon management. Mr. Orcutt is eminently qualified to serve the PFMC in this capacity. He attained his B.S. in Fisheries at Humboldt State University in 1984 and has served as the Tribal Fisheries Program Director since 1988. During his tenure, Mr. Orcutt has regularly attended meetings of the PFMC as technical advisor to our Tribal Council representatives.

In conclusion, the Hoopa Valley Tribe believes that Mr. Orcutt's experience, stature in our government, and willingness to work cooperatively with diverse resource user groups makes him ideally suited for appointment to the SAS. We are confident that, if appointed, Mr. Orcutt would be a strong asset to expressing California Indian concerns in salmon issues at this forum.

For the purpose of future correspondence, Mr. Orcutt's address and phone are Hoopa Tribal Fisheries Department, PO Box 417, Hoopa CA, 95546; (530) 625-4267 ext. 13.

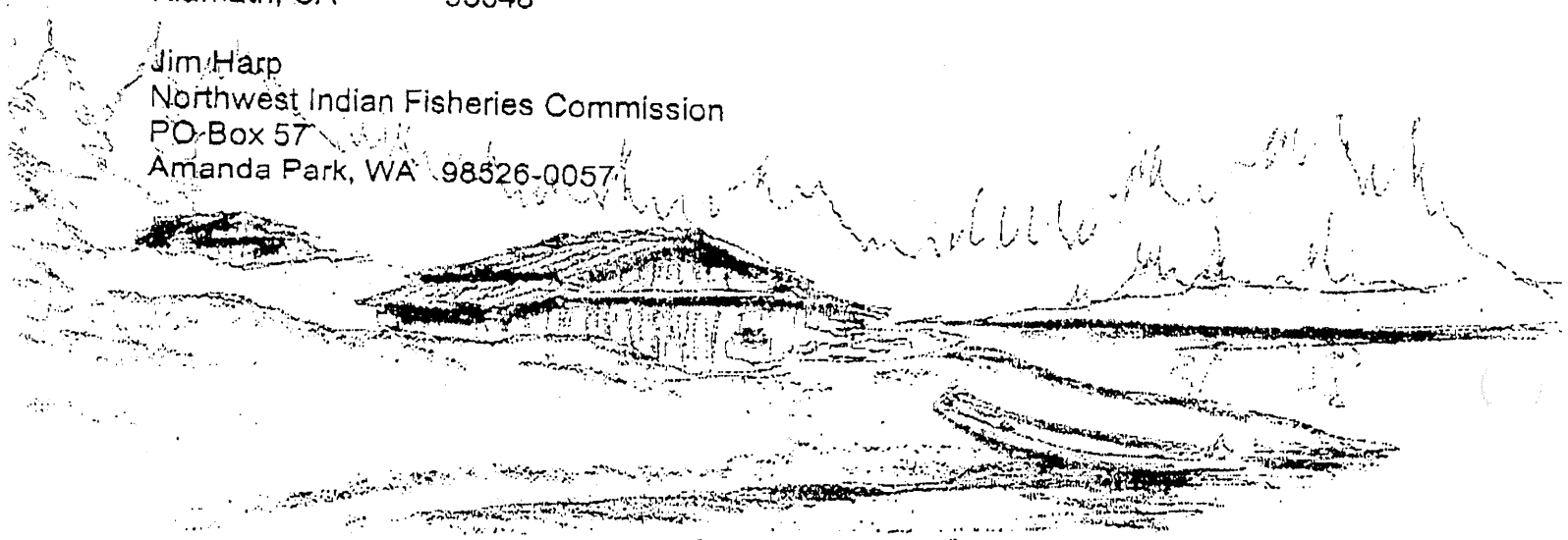
Sincerely,


Clifford Lyle Marshall
Chairman

Cc:
LB Boydston
CDGF, 1416 Ninth Street
Sacramento, CA 95814

Dave Hillemeier
Yurok Tribe Fisheries Department
15900 Hwy 101 N
Klamath, CA 95548

Jim Harp
Northwest Indian Fisheries Commission
PO Box 57
Amanda Park, WA 98526-0057





Hoopa Valley Tribal Council
Natural Resources Division
Fisheries Department
Post Office Box 417 • Hoopa, California 95548
(530) 625-4267 • FAX (530) 625-4995

11 March 2002

Dr. Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, OR 97201

Dear Dr. McIsaac:

RE: Tribal Representation on PFMC Advisory Committees

The Hoopa Valley Tribe (Tribe) is transmitting this letter in response to an inquiry initiated by Mr. LB Boydston of California Department of Fish and Game on 27 November 2001 regarding procedures for designating representatives from Yurok and Hoopa Valley tribes to the SAS and HSG (attached). The Tribe maintains that alternating these appointments between the two tribes provides the best opportunity for each to protect its interests in the PFMC process. This has been the protocol observed for several years with regard to the SAS. We support the observance of the same protocol for the HSG seat which represents Klamath Basin tribal interests.

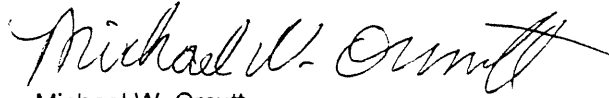
As observed by Mr. Boydston, the motion, which set indefinite terms for appointees to these subcommittees (Motion 28 of September 2000), acknowledged the concept that Klamath Basin tribes alternate their representation. In 2000, the Tribe sought to affect this rotation by appointing me, the Tribe's Fisheries Director, as the California tribal representative on the SAS for a term of three years. This appointment was not acted on by the PFMC and instead, the Yurok Tribe retained its representative's position. Similar to the alternation of appointees to the SAS between these two Klamath Basin tribes, we would support the appointment of a Yurok Tribal representative to the HSG in my place where I currently represent Klamath Basin tribal concerns. After three years, the Tribe would provide you with its nominee for the HSG and in six years, we would again recommend our representative to the SAS. This would effectively alternate California tribal representation on both subcommittees on a tri-annual basis.

The Tribe's position on this issue has been consistent and in accordance with PFMC intent. The PFMC has received the Tribe's letter of nomination identifying me as nominee to SAS (letter addressed to you on 13 October 2000). It is important to the Hoopa Valley Tribe that the California Indian Tribal Representative be experienced in resources management and have a practical as well as technical appreciation for the complexities of salmon management. As described in the nomination, my skills and experience are demonstrated. I attained my B.S. in Fisheries at Humboldt State University in 1984 and have served as the Tribal Fisheries Program Director since 1988. During my tenure, I have regularly attended meetings of the PFMC as technical advisor to our Tribal Council.

In conclusion, the Hoopa Valley Tribe has recommended me to fill this SAS appointment in recognition of my experience, stature in our government, and willingness to work cooperatively with diverse resource user groups. This letter is intended to resurface this issue and again request that PFMC act to appoint me as California Indian representative to the SAS. If appointed, I would be a strong asset to expressing California Indian concerns in salmon issues.

For the purpose of future correspondence, I may be reached at the letterhead address.

Sincerely,

A handwritten signature in black ink, reading "Michael W. Orcutt". The signature is fluid and cursive, with the first name "Michael" being the most prominent.

Michael W. Orcutt
Director

Cc:
LB Boydston
CDGF, 1416 Ninth Street
Sacramento, CA 95814

Dave Hillemeier
Yurok Tribe Fisheries Department
15900 Hwy 101 N
Klamath, CA 95548

Jim Harp
Quinault Indian Nation
PO Box 57
Amanda Park, WA 98526-0057

PFMC members

Mr. Dave Hillmeyer
Fishery Biologist
Yurok Tribe
Fisheries Department
15900 Hwy 101 N
Klamath, CA 95548

Mr. Mike Orcutt
Representative
Hoopa Valley Tribe
PO Box 417
Hoopa, CA 95546-0417

Gentlemen:

The issue of which tribe should be seated on the PFMC's SAS and HSG panels has yet to be resolved. It is my understanding that the Yurok tribe wishes to retain the SAS seat and the Hoopa tribe wishes to rotate the seat, as we have done in the past.

I have reviewed the motion that fixes the terms of agency and tribal members' indefinite tenures (attached). The motion clearly indicates the Yurok and Hoopa tribes have an arrangement to rotate their people on the panels.

This indefinite tenure situation is reflected in the Council's Operating Procedures (also attached).

I am writing to request that the tribes settle this matter before the March Council meeting. Even if the Yurok Tribe is set on retaining the seat, my recommendation to the Hoopa Tribe is to bring this matter up at the March Council meeting during the public comment period. This would likely result in Council vote to decide the matter.

Here are some options for you both to consider:

1. Rotate the SAS and HSG seats, as in the past, every cycle (now every 3 years).
2. Same as 1. but do the rotation more often.
3. Let the Council decide it.
4. Let the PFMC decide it with the tribes abstaining (or some other agreed upon procedure).
5. Let another party or group decide it (a party or group the tribes can agree on).

If the tribes have already reached an agreement, I retract this letter. If not, please begin the negotiations. Let me know if I can help. I am available to fly up and meet with you both, or whomever is empowered to make this decision. I can also arrange a meeting place and invite agreed upon individuals or representatives.

Sincerely

LB Boydston
Representative

cc: John Coon
Pacific Fishery Management Council

YUROK TRIBE

☐ Eureka

1034 Sixth Street • Eureka, CA 95501
(707) 444-0433
FAX (707) 444-0437

☐ Klamath

15900 Hwy. 101 N. • Klamath, CA 95548
(707) 482-2921
FAX (707) 482-9465

☐ Weitchpec

Hwy 96, Box 196 • Weitchpec Route
Hoopa, CA 95546
(707) 444-5606

March 13, 2002

Dr. Donald O. McIsaac, Executive Director
Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, OR 97201

MAR 13 2002

Re: Salmon Advisory Sub-Panel (SAS) Representation

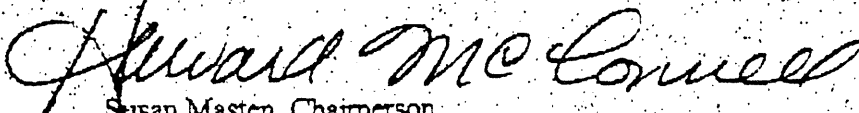
Dear Dr. McIsaac:

On behalf of the Yurok Tribe, I would like to convey to the Pacific Fishery Management Council (PFMC) the importance of retaining the Yurok Tribal representation on the Salmon Advisory Sub-Panel. As I informed Mr. LB Boydston in a January 23, 2002 letter regarding this issue, given the importance and magnitude of the Yurok Tribe's fishery, I feel strongly that the Yurok Tribe should be represented on the SAS at all meetings, and not limited to a rotation that would equate to our participation at 50% of the SAS meetings.

Of all user groups along the Pacific Coast, the Yurok Tribe is the largest harvester of Klamath Basin Fall Chinook, which is often a stock that drives the establishment of ocean fishing seasons set by the Pacific Fisheries Management Council. Preseason, the Yurok Tribe targets 80% of the Tribal allocation, which equates to 40% of the overall harvest of Klamath Fall Chinook, substantially more than any other use group.

The Yurok Tribe is aware of no other group that harvests such a large portion of a key salmon stock managed by the PFMC that has been requested to limit their participation on the SAS to part time. If you have any questions or would like to discuss this matter, please contact me at the Eureka Tribal Office.

Sincerely,



VICE CHAIRMAN

Susan Masten, Chairperson
Yurok Tribal Council

Cc: Jim Harp, PFMC Tribal Representative
Mike Orcutt, Hoopa Valley Tribe Fisheries Department

MOTION 26: Adopt Amendment 9 to the CPS FMP Exhibit I.1, Attachment 1, including the bycatch with the preferred options as noted (Options 2, 3, and 4) and including the section on treaty Indian fishing rights. She included the changes to Appendix C as specified in supplemental CDFG comment and include a recommendation to the CPSMT to work with the CPSAS to make modifications to the language in section 4.2.1 about bycatch in reduction fisheries; the motion does not include the section on OY or MSY for market squid.

Moved by: Patty Wolf
Motion 26 passed.

Seconded by: Don Hansen

MOTION 27: Extend the terms of the subpanels, SSC, and HSG from two to three years.

Moved by: Phil Anderson
Motion 27 passed.

Seconded by: Burnie Bohn

* [MOTION 28: Make the terms of all agency and tribal advisory members (subpanels, SSC and HSG) indefinite in length to reduce the staff workload of soliciting new nominations each term with the understanding that there are arrangements in the panels that the tribes rotate their people (i.e., the Klamath [Hoopa Valley] and Yurok tribes).] *

Moved by: Phil Anderson
Motion 28 passed.

Seconded by: Jim Harp

MOTION 29: Appoint Mr. Dell Simmons to the STT.

Moved by: Bill Robinson
Motion 29 passed.

Seconded by: Burnie Bohn

MOTION 30: Appoint Dr. Paul Smith as the NMFS Southwest Region representative on the CPSMT, replacing Dr. Richard Parrish.

Moved by: Bill Robinson
Motion 30 passed.

Seconded by: Burnie Bohn

MOTION 31: Appoint Mr. Henry Yuen to the STT.

Moved by: Bill Robinson
Motion 31 passed.

Seconded by: Burnie Bohn

MOTION 32: Abolish the Halibut Advisory Subpanel.

Moved by: Phil Anderson
Motion 32 passed.

Seconded by: Hans Radtke

MOTION 33: Abolish the Ad Hoc Legal Gear Committee.

Moved by: Ralph Brown
Motion 33 passed.

Seconded by: Bob Alverson

3. *The GAP recommends a member be allowed to be replaced with an alternate once each year upon prior notification of the Council Chair, and the alternate be compensated for his/her expenses.*
4. *The Council should make clear to applicants for advisory bodies what their responsibilities are including the number of meetings they will be required to attend.*

The majority of the GAP discussed GAP composition and recommends no changes be made at this time. A minority requested greater representation from the open access sector.

In response to questions, Mr. Moore indicated that it would be up to the discretion of the Council chair whether or not to dismiss a member after two meetings, taking into account any special circumstances.

Public

Mr. Gary Smith requested increased representation of open access fishermen on the GAP, providing for three open access seats (southern, central/northern California, and Oregon).

Council Action

The Council extended the terms of the subpanels, SSC, and HSG from two to three years (Motion 27 by Mr. Anderson; seconded by Mr. Bohn). To more clearly address the issue of removing members for lack of attendance, the Council modified page 2 of COP 2 by changing the second clause under "Termination of Members" to read: "absent from two meetings in any 12 month period". . . and striking the rest of the clause (i.e., the Council would have discretion to remove a member after two absences in any 12 month period). In this same action, the Council made the terms of all agency and tribal advisory members (subpanels, SSC and HSG) indefinite in length to reduce the staff workload of soliciting new nominations each term (Motion 28 by Mr. Anderson; seconded by Jim Harp). Mr. Harp noted that the Council action was with the understanding that there are arrangements in the panels that the tribes rotate their people (i.e., the Klamath [Hoopa Valley] and Yurok tribes).

F.4. Council Action: Appointments to Advisory Groups (CPS, Highly Migratory Species, and Salmon Technical Team)

Dr. McIsaac corrected a typographical error on page 3 of Exhibit F.4: the HMSAS has 13 rather than 12 members and four commercial at-large positions rather than one. The Council needs to take action on two issues under this agenda item. The first is to deal with current vacancies and the second is the solicitation of nominations for the next advisory body term.

In considering current vacancies, Mr. Anderson proposed the Council take no action with regard to the vacancies on the HMSAS (Mr. Vuoso and Mr. Hansen) and the GAP (Mr. Hansen). He did not believe the Council should start making waivers to the operating procedures just to appoint members for the limited time remaining in this term. The meetings are open to the public and in most cases Mr. Fletcher and others will be at those meetings and can participate without the need to appoint and pay for alternates. The Council concurred.

The Council appointed Mr. Dell Simmons to the STT (Motion 29 by Mr. Robinson, seconded by Mr. Bohn); Dr. Paul Smith as the NMFS Southwest Region representative on the CPSMT, replacing Dr. Richard Parrish (Motion 30 by Mr. Robinson, seconded by Mr. Bohn); Mr. Henry Yuen to the STT (Motion 31 by Mr. Robinson, seconded by Mr. Bohn).

In further efforts toward more efficient administrative management, the Council considered abolishing panels which do not meet or have a current function. The Council abolished the Halibut Advisory Subpanel (Motion 32 by Mr. Anderson, seconded by Mr. Radtke); the Ad Hoc Legal Gear Committee (Motion 33 by Mr. Brown, seconded by Mr. Alverson); and the north and south habitat panels (Motion 34 by Mr. Anderson, seconded by Mr. Brown). The Council also considered abolishing the Groundfish Permit Review Board. However, since it is still included in the federal regulations, action to abolish this board was delayed until the issue has been studied more closely.

APPOINTMENTS TO ADVISORY BODIES, STANDING COMMITTEES, AND OTHER FORUMS

Situation: Council guidance and action on appointments to advisory bodies are required as follows below.

1. **Appointment to the vacant Alaska Fishery Science Center (AFSC) position on the Scientific and Statistical Committee (SSC)** - Dr. Gary Stauffer (appointed since March 1986) has resigned from the position, and the AFSC has nominated Dr. Martin Dorn as his replacement. The SSC will review Dr. Dorn's qualifications and provide an assessment to the Council during the closed session (see Closed Session Exhibit A., Attachment 1).
2. **Clarification of the Council's intent with regard to sharing of the California Tribal positions on the Habitat Committee (HC) and Salmon Advisory Subpanel (SAS) between the Hoopa Valley and Yurok tribes** - In years past, the Hoopa Valley and Yurok tribes rotated the representatives on these two advisory bodies every two years (the standard term at that time). The Hoopa Valley Tribe wishes to continue this practice or some similar sharing arrangement (see Exhibit G.2, Supplemental Attachment 1). The Yurok Tribe prefers to maintain the SAS seat permanently (see Exhibit G.2, Supplemental Attachment 2). At its September 2000 meeting when the Council approved indefinite terms for the agency and tribal seats on all advisory bodies, the Council recognized the special sharing arrangement of the two California tribes for the HC and SAS positions (see Exhibit G.2, Supplemental Attachment 3).

Council Action:

1. **Appoint a replacement to the AFSC position on the SSC.**
2. **Clarify Council intent with regard to sharing of the California tribal positions on the HC and SAS.**

Reference Materials:

- ✓ 1. Nomination Letter and Curriculum Vitae for Dr. Martin Dorn (Closed Session Exhibit A., Attachment 1).
- ✓ 2. Hoopa Valley Tribal Council Letter (Exhibit G.2, Supplemental Attachment 1).
- ✓ 3. Yurok Tribal Council Letter (Exhibit G.2, Supplemental Attachment 2).
- ✓ 4. Excerpts from Council Motion Log and Minutes, September 2000 (Exhibit G.2, Supplemental Attachment 3).

5. Supplemental Attachment 4
Agenda Order:

2. Appointments to Advisory Bodies, Standing Committees, and Other Forums
 - a. Appointments to Advisory Bodies
 - i. Scientific and Statistical Committee
 - ii. Clarify California Tribal Appointments to the Habitat Committee and the Salmon Advisory Subpanel
 - b. Reports and Comments of Advisory Bodies
 - c. **Council Action:** Appoint New Members

Hans Radtke
John Coon

PFGC
04/03/02

Council Staff Officer Workload, April 15 through June 21, 2002		49 work days each for 6; 34 for 1.	
		328 FTE days	
		Total Work	
		Days	%
392 hr for 6			
272 hr for 1			
Tasks			
INTERNAL COORDINATION & CORE ADMINISTRATIVE DUTIES		65.2	20%
(general office & record keeping tasks, staff mtgs, work plans, training, etc.)			
COMMUNICATIONS & CLIENT SERVICES		78.0	24%
(newsletter, routine phone & email, website, resp to cmts, special assignments)			
COUNCIL MEETING			18%
Participation in June Mtg		39.5	
Meeting Prep (June Briefing Book, coordination, spec. assessments)		13.3	
Minutes (Mar & Apr)		7.5	
GROUND FISH MANAGEMENT			28%
GMT mtgs outside Council mtgs (prep & att; includes team pln mtg)		8.0	
Amendment 16 (Rebuilding Plans) - Adopt Draft in June & Final in Sept		18.0	
Rebuilding Plan - POP, Lingcod		8.0	
Rebuilding Plan - Cowcod		3.0	
Rebuilding Plan - Widow		4.0	
Rebuilding Analysis - Canary & Bocaccio		0.0	
FMP EISs		21.0	
Annual Specs & Mgmt measures - EA (incl. Coord w/NMFS)		13.0	
Multiyear Mgmt Amendment		2.5	
Groundfish Strategic Plan Implementation		0.0	
First Two-year Report Card		0.0	
Trawl permit stacking (min. effort)		0.5	
2002 GF Inseason Mgmt		1.0	
SAFE Document Closeout for 2001		3.3	
STAR Planning Process for 2002		0.5	
Litigation Response		5.0	
Allocation Committee mtg		3.0	
COASTAL PELAGIC SPECIES			2%
CPS Meetings (Apart from Council Mtgs)		2.0	
Amendment 10		2.0	
Pacific Mackerel Harvest Guideline		1.0	
SAFE		2.5	
HIGHLY MIGRATORY SPECIES			2%
HMS Meetings (Apart from Council Mtgs)		2.0	
Liaison and Coordination		5.0	
Draft FMP		1.0	
SALMON MANAGEMENT			4%
SAFE Doc (Review; Pre I, II, & III; EA) & STT staffing		12.0	
SSC Salmon Subcommittee Methodology Review		0.3	
Inseason Management		1.0	
HABITAT (prep outside Council Mtgs & quick response letters)		2.5	1%
HALIBUT MANAGEMENT (including sablefish)		0.5	<1%
MARINE RESERVES (continued tracking & CA CEQA documents)		3.5	1%
SEABIRDS (JDG)		0.8	<1%
SSC STAFFING		2.0	1%
MRFSS (minimal staffing)		1.0	<1%
Total Estimated Work Days		333.2	102%
Overtime (undertime)		5.2	

BELOW THE LINE	
TASK	TOTAL DAYS*
GROUNDFISH MGMT	
Amendment 16 (Rebuilding Plans)	
Rebuilding Plan - Dark Blotched	4.0
Rebuilding Analysis & Plan - Whiting	5.0
Groundfish Strategic Plan Implementation	
Open Access Permitting (Committee mtg & cont. progress)	2.0
Full Retention Analysis (continued progress)	4.0
Scoping of Amendment for delegation of nearshore mgmt auth.	3.0
2002 GF Inseason Mgmt	
2002 SAFE Document Prep	
STAR Planning Process for 2002	
B ₀ MSY Workshop Planning	1.0
AFA Draft FMP (Adopt for public review _____)	15.0
Whiting regulatory amendment	5.0
Fixed gear stacking program (review and clarify ownership caps)	3.0
Technical Subcommittee Mtg; May 7-8 Pt. Lobos	3.0
COASTAL PELAGIC SPECIES	
Update CPS FMP	3.0
SALMON	
Reformat Data in Salmon Review	10.0
Update Salmon FMP (JCC- 4 days)	6.0
FMP Amendments	32.0
HABITAT National EFH Mtg (Apr. 29-May 1)	5.0
HALIBUT MANAGEMENT (including sablefish fishery)	
MARINE RESERVES	
Expanded Processes	10.0
MRFSS (staff attendance at San Diego Mtg)	4.0
COMMUNITY DOC - PROCESSORS, COMM & REC FISHERS	20.0

* Estimated total work days to complete task.

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, JUNE 17-21, 2002

TIME	AGENDA TOPICS/COMMENTS	REVIEW PRIORITY		
		SSC	HC	Other
Tuesday				
1	Closed Session: Personnel & Litigation			
	Consider Eliminating Tribal SAS Seats			
	Approve and Appoint New SSC & GMT Positions			
0.4	Call to Order: Opening, Roll Call, ED Rpt, Agenda, Min			
	Salmon:			
0.3	NMFS Rpt			
0.3	Status of Fisheries			
1.5	Scoping of FMP Amendments - OCN Conserv. Goal;			
	S. of Falcon Coho Allocation; Puget S. Chinook Conserv.			
	Goal Changes; Conserv. Goals for Stocks with None			
.5	Mitchell Act update?			
	Essential Fsh Habitat (EFH):			
0.5	HC Rpt			
0.5	EFH EIS			
	Marine Reserves:			
2	Comments on CINMS			
0.5	Update on other Processes			
	Groundfish:			
0.5	NMFS Rpt			
1	Inseason Mgmt			
0.5	4pm Public Comment Period			
9				
Wednesday				
	HMS:			
0.3	NMFS Rpt			
2	HMSPDT Rpt on Draft FMP			
	Ground Fish (cont):			
1	Stock Assessments			
3	Adopt RB Plans for Pub. Review - POP, Lingcod, Cowcod			
0.5	Rebuilding Analysis for Bocaccio & Canary			
3	Annual Specs: Adopt Preliminary ABCs & OYs			
9.8				
Thursday				
	Groundfish (cont):			
2.5	Multiyear Mgmt Amendment			
1.5	FMP Programmatic EIS			
2	Clarification of Ownership Cap on Sablefish Caps			
	For Amendment 14			
0.8	Tribal Whiting Share			
4	Annual Specs: Proposed Mgmt Measures			
1	Whiting Rebuilding Analysis & Plan			
11.8				

ANCILLARY MEETINGS		
Starting		Continuing Through
Sunday:		
GMT	1 pm	Fri.
GAP	1 pm	Thur
SSC	1 pm	Tue
Monday:		
SSC	8 am	Tue.
GAP	8 am	Thur.
HC	10 am	Mon.
Legislative	10 am	Mon.
STT	10 am	Mon.
SAS	1 pm	Mon.
Budget	1 pm	Mon.
Chair's Brief	2:30 pm	Mon.
Tuesday:		
HC EIS Sub	8 am	Tue.
HMSAS	10 am	Tue.
EC	5:30 pm	Fri.
Wednesday:		
CPSAS	10 am	Thur.

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, JUNE 17-21, 2002

TIME	AGENDA TOPICS/COMMENTS	REVIEW PRIORITY		
		SSC	HC	Other
	Friday			
	Groundfish (cont):			
0.5	Consideration of EFPs			
1.5	Scoping for Delegation of Nearshore Mgmt. Authority			
	Strategic Plan			
0.5	Open Access			
0.5	Trawl Permit Stacking			
0.5	MRFSS			
0.2	CPS			
1.5	NMFS Rpt			
0.8	Amendment 10			
	Pac Mackerel HG (rev. stock assess.; adopt HG)			
	Admin:			
0.5	Legislation			
0.3	Budget Committee Rpt			
0.5	Appointments			
	Consider Eliminating Tribal SAS Seats			
	Approve and Appoint New SSC & GMT Positions			
0.5	Review of COPs			
0.5	Workload Planning			
0.5	DraftAgenda			
8.8				

PFMC
4/12/02



*Conserving Ocean Fish and Their Environment
For Over 25 Years*

March 22, 2002

Dr. Hans Radtke, Chairman
Pacific Fishery Management Council
2200 NE Ambassador Place, Suite 200
Portland, OR 97220

Dear Dr. Radtke:

The National Coalition for Marine Conservation is gravely concerned about the direction the Council appears to be moving with regard to a pelagic longline fishery within the west coast EEZ. Last week, during the Highly Migratory Species meeting, which I attended, the Council nearly adopted a preferred alternative for the draft HMS FMP that would have allowed an exploratory longline fishery. While this measure failed by one vote, the Council did vote to change it's preferred alternative.

The Council switched its preferred alternative from an outright ban on longline gear to another option that the Council evidently intends as an entrée for a future longline fishery. We and others in the Ocean Wildlife Campaign helped draft the very language of the option that is now the preferred alternative. Stemming from our concerns about the bycatch problems of longlines, this option was developed to make those proposing to use longlines prove that the gear could be fished selectively before a fishery would be allowed. Unfortunately, this is not the premise under which the Council adopted this option. The majority of people who voted for this new preferred alternative also voted to allow a 10-vessel exploratory longline fishery. The Council now seems much more in favor of a longline fishery within the EEZ than the unanimous November vote to make the preferred alternative an outright ban indicated.

It appears the Council adopted this new option not out of a genuine concern about the future problems a longline fishery would create, but for a desire to facilitate the introduction of a longline fishery within the EEZ. My organization staunchly opposes the introduction of longline gear into the west coast EEZ, as the problems created by this gear are well documented and would only have a negative impact on many marine species, from striped marlin to juvenile sharks, turtles, sea birds and others. The Council seems to be backsliding on this issue. We are highly concerned that if the trend of Council action continues, the preferred alternative may be weakened in the future to accommodate a longline fishery.

My organization has been working on highly migratory species issues for nearly 30 years. Throughout this time, we have witnessed the devastating effect of longlines and seen no effective means of minimizing longline bycatch other than to get the gear out of the water. I am baffled that the Council would ignore decades of hard-learned lessons about the bycatch of longlines, not to mention literally thousands of letters from the public opposing longlines, then seek to weaken its preferred alternative to potentially permit them.

Many people, myself included, have lauded the open, transparent process used thus far in the development of this plan. The public has been provided extensive opportunities to comment. However, we're not sure what the value is of public participation if the Council blatantly ignores it. It is my understanding that of the thousands of comments the Council has received on this plan, all but a small handful expressly opposed a longline fishery. After presumably taking into account the overwhelming public support for a ban on longline gear, nearly half of the Council members voted for an exploratory longline fishery, with virtually no justification given.

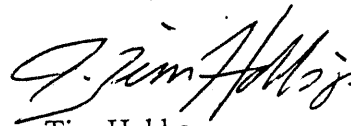
The Council is wavering—from proposing an outright ban toward allowing an exploratory fishery—and the public deserves a clearer indication of the Council's intent with respect to this important decision.

If the Council permits the introduction of this gear within the EEZ, it will spend the next twenty years trying to get it out. Do not be fooled by misguided arguments from the drift gillnet industry that falsely claim longlines are a solution to gillnet bycatch problems. Introducing longlines will only increase bycatch problems.

Taking an extremely modest management action now—prohibiting a gear where no one is currently using it—will avoid problems down the road. I urge the Council to remain committed to a ban on longline gear and not weaken the preferred alternative.

Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Hobbs", written in a cursive style.

Tim Hobbs
Fisheries Project Director

cc: Governor Gray Davis
Robert Hight, CA Dept of Fish and Game
Don McIsaac, PFMC Executive Director
PFMC members



*Conserving Ocean Fish and Their Environment
For Over 25 Years*

RECEIVED

March 22, 2002

Dr. Bill Hogarth
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

MAR 28 2002

PFMC

Dear Bill:

I just returned from a disappointing meeting of the Pacific Fishery Management Council. The Council was scheduled to take final action on the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species. Instead, finalization of the plan was derailed by the failure of NMFS to provide adequate legal guidance as this plan was being developed. Detailed comments submitted by your agency—mere days before the Council was to finalize the plan—ultimately forced the Council to postpone final action for 8 more months, until next November. The Council and the Plan Development Team felt several months would be required to incorporate all the changes necessary for the plan to comply with the Magnuson-Stevens Act and other applicable law as suggested by NMFS.

Throughout the last year and a half, NCMC and other members of the conservation community have expressed concern that 1) certain portions of the draft plan may be inconsistent with the Magnuson Act, and 2) more guidance from NMFS and NOAA General Counsel should be provided to ensure the plan was being written consistent with applicable law. Our concerns were ignored, but we were content to allow the Council to finalize the plan nonetheless, believing that if serious problems indeed existed, NMFS would surely have spoken up. Then, days before the Council was to finalize the plan—which has now been under development for over two years—the agency informs the Council that certain portions of the plan are inconsistent with the law.

Why did NMFS wait until the last minute to review this plan in depth? Why wasn't the agency making these suggestions over the last two and a half years as the plan was being developed? Why did NMFS allow the Council to take this plan out for public comment before ensuring it complied with the law? Isn't the purpose of having NMFS representatives serve on the Council, and attend Plan Development Team meetings, to provide legal and other necessary guidance?

Incidentally, this delay will also allow a fleet of longline vessels to evade Pacific sea turtle conservation measures and to fish on the high seas with impunity. By landing fish in California instead of Hawaii, these vessels are not subject to the suite of sea turtle conservation measures imposed in the Pacific as a result of the March 2001 Biological Opinion. We urge NMFS to implement emergency rulemaking to rectify this situation.

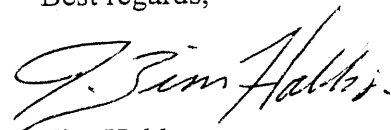
Similar situations, where the failure of NMFS to provide adequate guidance results in excessive delays of management measures, have occurred in other parts of the country as well, notably in the jurisdiction of the South Atlantic Council with regard to Sargassum and dolphin.

We know you are aware of these problems, and we strongly support your recent statements in regard to improving coordination with the Councils and streamlining the NMFS decision-making process. But this latest situation underscores the urgency with which this problem must be resolved.

These delays are avoidable. In fact, NMFS might even reduce the heavy burden of litigation it is under if adequate legal guidance is provided as these plans are being drafted, not to mention expediting our ability to manage fisheries and to respond in a timely fashion to pressing issues. I urge you to work to correct this glaring flaw in our management system, as these delays are wholly unacceptable. Specifically, I sincerely hope NMFS will commit sufficient resources to assist the Pacific HMS FMP Plan Development Team to complete all the required alterations and additions in a timely fashion to prevent any further delays.

Thank you for your attention to this matter.

Best regards,

A handwritten signature in black ink, appearing to read "J. Tim Hobbs", written in a cursive style.

Tim Hobbs
Fisheries Project Director

cc: Scott Gudes, NOAA
Jack Dunnigan, NMFS Office of Sustainable Fisheries
Rebecca Lent, NMFS Deputy Assistant Administrator
Rod McInnis, NMFS Southwest region
Svein Fougner, NMFS Southwest region
Hans Radtke, Chair, Pacific Fishery Management Council
Don McIsaac, Executive Director, Pacific Fishery Management Council

Supplemental

General Info
April 2002

National Marine Fisheries Service
Office of Enforcement

Received
4-10-02

NORTHWEST REGION ENFORCEMENT DIVISION

QUARTERLY REPORT

MODIFIED FOR COUNCIL DISTRIBUTION



First Quarter FY2002
October 1, 2001 - December 31, 2001

To report fisheries violations,
call our National Hotline at 1-800-853-1964.

NORTHWEST REGION ENFORCEMENT DIVISION

Quarterly Report October 1, 2001 - December 31, 2001

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Significant Actions

CIVIL

ESA Investigations

Case Number Withheld - This case is currently suspended, pending the completion of a three-phase project at the end of 2003. At the request of the Oregon Economic and Community Development Department (OECDD), NOAA Office for Law Enforcement (OLE) and biologists, and a General Counsel attorney prepared a letter outlining the unauthorized taking of Southern Oregon/Northern California (SONC) coho at an Oregon water intake facility. This request was required for the city to secure a \$2 million grant to relocate their water intake system. Officials from the city were subsequently denied their \$2 million grant by the OECDD due to a previous grant approval in 1999, and based on the new one-grant-every-five-years rule, the city is not eligible until the end of 2003. The city is currently seeking alternative funding sources. Thus, the scheduled project completion date of 2003 will likely be delayed.

NW010018 - The West Coast Coordinator forwarded a complaint regarding an alleged gravel bar scalping operation being conducted without a Washington State Hydraulic Project Approval (HPA) which resulted in the possible take of ESA-listed salmon. NOAA OLE contacted NOAA Fisheries habitat biologists who determined that no take of listed salmon occurred. This case was closed due to lack of evidence.

NW010026 - This case involved degradation due to construction activity at Thornton Creek, which is habitat for ESA-listed chinook salmon. Even though the modification of habitat was significant, it had taken place before Puget Sound chinook were listed under ESA, thus the damage to the habitat's baseline as it stood the day of the listing has not been altered enough for a strong take statement according to a NOAA fisheries biologist. Citizens of the surrounding community met with NOAA Habitat and OLE representatives and asked that the case be reopened but OLE explained that a violation of the ESA could not be substantiated. Case closed as unfounded.

Case Number Withheld - This case involves electrocution of adult salmon. On April 11, 2001, a bird caused a short in an electricity transmission line resulting in high levels of electricity moving through the metal draft tubes of a hydroelectric project and into the water at Willamette Falls. NOAA OLE collected dead and dying adult chinook and necropsies confirmed electrocution. The exact number of fish killed is unknown but numbers could have ranged over several hundred. NOAA OLE conducted a joint investigation with the Oregon State Police (OSP) and coordinated with other Divisions within NOAA Fisheries as well as the Oregon Department of Fish and Wildlife (ODFW). OSP ran the case through the Clackamas County district attorney's office which determined that they do not have a criminal case. NOAA OLE, NOAA Fisheries Hydro Division, and ODFW agreed to a unified approach on this matter. NOAA OLE will lead an interest-based negotiation. The group identified four main items sought

in a settlement agreement: 1) notification procedures for any future fish kills (quicker notification), 2) ESA section 7 consultation on the hydroelectric project, 3) compensation for the fish killed, and 4) modifications to the project to prevent or reduce the possibility of a similar event in the future. A settlement was reached on February 20, 2002. The agreement addressed the four main issues identified above, including a \$225,000 compensation package to pay for improvements at the ODFW Willamette Falls fish ladder.

Case Number Withheld - This case involves a ditch company diversion project on the Applegate River and Williams Creek in Josephine County (tributaries of the Rogue River) which is critical habitat for SONC coho. To support their diversion, the ditch company created a push up berm annually in each waterway. The Williams Creek berm has historically been a barrier to juvenile fish passage. ODFW fish screen technicians reported the death of 125 juvenile SONC coho during April and May. NOAA OLE collected 16 dead juveniles in May and June. Sixteen fin clips were submitted to the NW Fisheries Science Center for species determination. One of the 16 fin clips was from SONC coho. The remaining 15 fin clips were a combination of Southern Oregon/California Coast chinook and Klamath Mountains Province steelhead (listings not warranted). The fish bypass plugs up on a regular basis and impinges the juvenile fish against the screen. The screen does not meet current NOAA Fisheries standards for bypass and mesh size. NOAA OLE will continue to work cooperatively with the ditch company, state and federal agencies to replace the screen as soon as possible. A site visit is scheduled for January 15 with a Bureau of Reclamation (BOR) geomorphologist to incorporate the flow characteristics of the Applegate River with the recommendations for placement of a new point of diversion and fish screen. This case remains open pending an identifiable solution.

Case Numbers Withheld - Numerous cases were brought to NOAA OLE in Boise by two Idaho Department of Fish and Game (IDFG) Officers from Stanley and Salmon, ID. Multiple tribal members fishing under the tribal regulations attempted to kill and killed ESA-listed spring/summer chinook salmon. The Tribe and its members are not exempt under the ESA and do not possess a permit from NOAA Fisheries to fish directly for chinook salmon in that area. IDFG has directed its officers not to cite Tribal members but to document suspected violations. In all four cases Tribal members were documented fishing for ESA-listed chinook salmon. In all, five chinook were killed and documented by the IDFG Officers. This case has been forwarded to NOAA Office of General Counsel.

NW010126 -This case was referred to NOAA OLE in Boise, ID by two IDFG Officers from Salmon, ID. Four individuals were caught attempting to catch and ultimately killing two ESA protected chinook salmon. With guidance from NOAA GC, the Assistant US Attorney in Boise offered a plea agreement to two members of the four person party. The details of the plea agreement included probation for a period of one (1) year; a fine of \$1,000.00 payable at the time of sentencing; and revoking the defendant's hunting and fishing privileges while on probation. Additionally, the defendants are prohibited from accompanying any individuals in the field who are participating in any hunting and fishing activities. On October 29, both defendants appeared in front of Judge Williams. They pled guilty and signed the plea agreement.

NW010169 - This case involved the investigation of a complaint that an individual was dredging a creek with heavy equipment and was causing the take of ESA-listed salmon. Further investigation with NOAA Fisheries habitat biologists determined that no listed salmon were present in the creek where the activity took place and no take could be determined. This case was closed due to lack of evidence.

Case Number Withheld - This case involves neighbors who live next to each other on the river bank of the Columbia River in Rainier, OR. The complainant reported to NOAA OLE, that his neighbor had conducted an unauthorized dredge operation next to his waterfront property and damaged the habitat for juvenile salmon. A preliminary investigation and contact with the Army Corps of Engineers (COE) revealed that the neighbor had in fact received enforcement action from them in the past. NOAA OLE referred this case to the COE for further action.

Case Number Withheld - This case involves a potential fill operation in Warrenton, OR, which may affect the rearing of juvenile salmon and their habitat. A motion to halt the operation has been filed in County Court following the issuance of a permit by the Oregon Department of State Lands (ODSL) to proceed. The watershed council is contesting the ODSL's initial report showing the area as a freshwater wetland when in fact, the council can provide evidence the area is brackish and can support juvenile salmon. A hearing has been scheduled for early January 2002. The COE is withholding any permits until an outcome is reached.

NW010211 - This case involved a complaint from IDFG that 26 juvenile chinook were found dead because of the watermaster's failure to follow proper ramp down procedures. A letter dated September 10, outlining the specific events surrounding this situation was sent to the Lemhi Irrigation District. A response was received by NOAA Fisheries from the Lemhi Irrigation District representative claiming to have no responsibility for the actions of the watermaster or for water management on the Lemhi River. The state of Idaho conducted its own investigation of the event and concluded the State of Idaho acted in accordance with the 2001 Lemhi Agreement and the Federally protected fish died due to circumstances beyond anyone's control. NOAA OLE agreed with the state's findings and closed the investigation.

NW010212 - This case involved an incident documented by the IDFG in which a bow hunter drove his four-wheeler across salmon redds in Johnson Creek. A NOAA OLE Agent contacted the Tribe to gather additional information. The Tribe provided a statement but the Tribal redd counter could not describe any physical disturbance to redds and estimated the path of the crossing to calculate the number of redds allegedly harmed. IDFG located and contacted the suspect who cooperated with the investigation. NOAA OLE contacted and referred the incident to US Forest Service (USFS) Officers in Cascade, ID. The suspect violated a USFS closure rule (operating a motor vehicle in a restricted area) and was cited by the USFS.

NW010213 - This investigation involved the suspected taking of an ESA-listed chinook salmon. An article appeared in a local newspaper regarding an investigation by a local police department into the possible intentional killing of an adult chinook salmon in a local stream. The police detective investigating the incident stated that a group of neighborhood juveniles had built a

make-shift dam in the stream and were harassing salmon that were migrating upstream. The police contacted a local high school biologist teacher who is also the area fish hatchery manager and he removed the dam. The teacher noticed a dead adult wild chinook salmon that appeared to have died of unnatural causes and informed the police. The police questioned youths in the neighborhood but no suspect was located. The investigation was referred to OLE but no further evidence could be developed and the case was closed.

NW010222 - This case involves an unauthorized boat ramp on a side slough of the Rogue River in Jackson County. The slough is critical habitat for SONC coho salmon. Spawning fall chinook salmon were observed in the slough downstream of the boat ramp. The property owner failed to obtain the required Corps of Engineers (COE) and Oregon Department of State Lands (ODSL) permits in compliance with section 404 of the Clean Water Act and the Oregon Revised Statutes. NOAA Fisheries and Oregon Department of Fish and Wildlife biologists determined that the impacts from the boat ramp were minimal. The NOAA OLE case was transferred to the EPA, COE, Oregon State Police, and ODSL for prosecutorial review.

Case Number Withheld - This case involves the unauthorized take of four Endangered Upper Columbia River steelhead. The Army Corps of Engineers (COE) at Chief Joseph Dam called NOAA OLE to ask how to dispose of four dead anadromous fish that may be listed under the ESA. Chief Joseph Dam is located on the Columbia River at approximately river mile 545.5 near Bridgeport, WA. The COE had blocked off water at a turbine and drained the area for maintenance work. As the water level dropped, they could see fish swimming in an area described as 50 feet underneath a turbine. Eventually the area was drained killing two of the four fish. The COE staff decided that they could not salvage the remaining fish alive so they killed the other two. NOAA OLE is working with NOAA Fisheries' Hydro Division in Portland, OR and the COE to ensure an appropriate de-watering plan that includes measures for salmon protection and that safe removal is implemented at Chief Joseph Dam during any future turbine work.

NW010230 - An anonymous source contacted a NOAA habitat biologist and reported that a salmon bearing stream was about to be dredged without a Hydraulic Project Approval (HPA). NOAA OLE responded to the scene with a habitat biologist before the dredging began. The habitat biologist felt it was unlikely that the stream was used by ESA-listed salmon; however, the dredging operator decided to obtain a HPA before proceeding. This case was closed as unfounded.

Case Number Withheld - This case involves the sale of cowboy boots apparently made from sea turtle leather. Working together, NOAA OLE and NOAA Office of General Counsel decided OLE will contact the internet auction site and ask the site to remove items that are visually identified as sea turtle to avoid potential ESA and Lacey Act violations. Many of the sea turtle boots advertised for sale on the site have been identified as being produced prior to the 1976 ESA listing of sea turtles making them expensive (up to \$3500/pair). According to the Justin Boot Company in El Paso, TX, they quit making the boots after the 1976 listing. The US

Fish and Wildlife Service (USFWS) forensic laboratory in Ashland, OR stated that once the leather has gone through the processing treatment it is impossible to positively identify the species. The internet site has agreed to remove all sales of sea turtle boots at our request. Once the items are removed from sale, these investigations will be closed due to lack of evidence .

NW010236 - Bonneville Power Administration - This investigation involves constructed hatchery facilities at Yoosa and Newsome Creeks (in the Clearwater River basin). The facilities were identified by passage experts as barriers that have problems with fish passage including improper screening. Consultation was completed on the facilities before the construction plans were complete. According to NOAA Fisheries officials, two intake screens violate NOAA Fisheries juvenile fish screen criteria. At least one of the intake structures is an impassable barrier to upstream migration. Both hatcheries have the potential to completely dewater the streams on which they are located. NOAA Fisheries engineers and habitat biologists are currently working on the problem. There has been no evidence of take documented. The facilities are supposed to be operated May 1 through November 1. Juvenile and adult steelhead are thought to be present January thru June each year. If the facility operates as designed, take of listed species will most likely occur in the months of May and June.

NW010240 - This case involves a complaint from an Oregon Department of Transportation (ODOT) environmental project manager regarding the cutting of more than fifty, fire-killed cottonwood trees along 1/4 mile of Bear Creek, near Central Point, OR. Bear Creek is critical habitat for Southern Oregon Northern California (SONC) coho salmon. The impacted 20 acre site is owned by the ODOT. A heavily used public hiking and biking trail are adjacent to the fire-killed trees. Following the arson wildfire, a restoration meeting was held in September, with Jackson County, ODFW and ODOT officials. The agency's representatives decided to have the fire-killed trees cut down for public safety. Because ODFW biologists authorized the removal of the fire-killed cottonwood trees, and evidence of adverse habitat modification was not forthcoming from NOAA Fisheries biologists, the case was closed.

LACEY Investigations

Case Number Withheld - This case involves an investigation into the illegal harvest of approximately 900,000 pounds of red king crabs in Russia that were imported into the United States. The U.S. Department of Justice received a request for legal assistance from the Russian government regarding the investigation of this case and the investigation continues regarding the subject company's involvement in and knowledge of the illegal harvest and importation of the crabs into the United States.

Case Number Withheld - This case was an investigation of an illegal pending sale of Canadian subsistence herring roe in Bellingham, Washington. A surveillance was conducted and documented movement of approximately \$20,000 worth of product from the Blaine truck crossing onto an Indian Reservation. After several hours of observation, the receiver of the product contacted tribal authorities to inquire about donating the product to the tribe. Information gained will be used for intelligence purposes in tracking future shipments of herring roe. This case was closed due to lack of evidence.

MAGNUSON ACT Investigations

NW000035 - This case involved the failure to maintain copies of Washington State fish tickets for two landings made during the March-April cumulative trip limit period for West Coast groundfish. This case was originated by the United States Coast Guard and referred to the Northwest Region. The case was investigated and no additional violations were found. A summary settlement penalty of \$300.00 issued for the violation, was subsequently appealed and the case was forwarded to the Northwest General Counsel. It was decided the summary settlement would be dropped in place of a written warning and the case was closed.

Case Number Withheld - This case was referred from the Washington Department of Fish and Wildlife (WDFW) and involves the retention of five halibut on board a fishing vessel. The fish were retained during a federal hook-and-line groundfish fishery when halibut season was closed. The crewman stated that he kept the halibut for take home use. A summary settlement penalty of \$300.00 per fish was offered. The summary settlement offer was declined and a NOVA with a \$2000 penalty, subsequently reduced to \$1500 was issued by Northwest General Counsel. During this quarter a hearing was requested and has been scheduled with the administrative law judge on March 26, 2001.

NW010195 - This investigation involved an overage of groundfish. The captain of the vessel landed an overage of 32 pounds of lingcod at a local fish processing plant. The owner agreed to voluntarily abandon the value of the overage - \$19.20. This case was closed.

NW010196 - This case involved an 841 pound overage of Arrowtooth Flounder. The captain of the vessel landed a total of 5,841 pounds of Arrowtooth Flounder at Pacific Coast Seafoods in Warrenton, OR. The subject had a remainder of 5,000 pounds available on his 30,000 pound monthly limit. He exceeded this amount by 841 pounds and was offered the opportunity to abandon the overage without penalty, which he accepted. A check in the amount of \$109.33, the proceeds from the sale of the overage fish, was forfeited to the US Treasury.

NW010203 - This case involved a groundfish overage of 295 pounds of shortraker/rougheye rockfish. The overage, worth \$44.40 was abandoned and the case was closed.

NW010204 - This case involved a groundfish overage of 70 pounds of shortspine thornyhead rockfish. The self reported overage, worth \$52.50, was settled via a summary settlement for fair market value and the case was closed.

Case Number Withheld - This case involves a groundfish overage of 989 pounds of sablefish. The overage, worth \$1,679.98, was not self reported and a summary settlement for twice the value of the overage was issued.

Case Number Withheld - This case involves violations of the Alaskan groundfish reporting requirements and failure to submit a quarterly report and three discard reports for fishing activity conducted on a fishing vessel. A summary settlement for \$750.00 was issued for one count of failure to submit the discard report.

NW010216 - This investigation involved an overage of IFQ halibut. The captain of the fishing vessel landed an overage of 1,214 pounds of IFQ halibut at a local fish processing plant. The owner received a Summary Settlement for the value of the overage, \$2,852.90, and the case was closed.

NW010217 - This investigation involved an overage of groundfish in which the vessel captain landed an overage of 363 pounds of dover sole at a local fish processing plant. The owner voluntarily abandoned the overage worth \$130.68 and the case was closed.

NW010226 - This case involved a groundfish overage of 2,931 pounds of yellowtail rockfish. The self reported overage, worth \$1,406.88, was abandoned and the case was closed.

NW010227 - This case involved a groundfish overage of 385 pounds of yellowtail rockfish. The self reported overage, worth \$184.80, was abandoned and the case was closed.

Case Number Withheld - This case involves violations during the new 2001 Primary Sablefish Fishing Season. The captain of a fishing vessel landed halibut as an incidentally taken by-catch during this season and landed the fish in Warrenton, OR. According to the regulations governing this new fishery, halibut may only be landed by vessels making landings north of Point Chehalis, WA. Warrenton, OR is south of Point Chehalis, WA, thus making any halibut landed a prohibited species. The captain of the vessel and the seafood processor where the catch was landed were issued Enforcement Action Reports for violations involving two unlawful halibut landings. This case was forwarded to the NOAA GC for prosecution.

Case Number Withheld - This case involves the reporting of violations by a former deckhand onboard a fishing vessel in Alaskan waters. The deckhand notified the NOAA OLE in Astoria, OR and claims to have witnessed his employer shoot and kill Albatross sea birds and has information regarding the subject's attempted taking of marine mammals as well. The FWS was notified of the violations pertaining to the sea birds. Many interviews of deckhands (former and current) will occur as this investigation continues.

NW010244 - This case involved violations of the Alaskan groundfish reporting requirement in which the operator failed to submit two discard reports for fishing activity conducted on his vessel. A written warning was issued for one count of failing to submit the discard report and the case was closed.

NW010247 - This case involved an IFQ overage of 120 pounds. The overage, which had no remaining commercial value, was abandoned and donated to a local mission and the case was closed.

NW010249 - This case involved a groundfish overage of 191 pounds of yellowtail rockfish. The self reported overage, worth \$91.68, was abandoned and the case was closed.

NW010330 - This case involved a groundfish overage of 3,331 pounds of widow rockfish. The self reported overage, worth \$1,598.88, was abandoned and the case was closed.

Case Number Withheld - This case involves the subject vessel landing in excess of its' shortspine thornyhead trip limit on October 4, 2000. The initial complaint was received from ODFW port samplers in Charleston, OR who reported that on the day after the vessel made the landing in question, they sampled two 1,000 pound totes labeled longspine thornyhead. The sampling disclosed that the totes contained from 60% to 70% shortspine thornyhead, a species with a significantly lower trip limit than the longspine thornyhead. Calculating the poundage of shortspine thornyhead in the two sampled bins and adding to that the 1,000+ pounds of shortspine in another tote offloaded from the vessel revealed that the vessel landed approximately 2,500 pounds of shortspine thornyhead. This exceeded the 1,000 pound shortspine thornyhead trip limit then in effect by approximately 1,500 pounds or 150%.

Case Number Withheld - This case involves a vessel offload on October 4, 2000. Based on samples of shortspine thornyhead taken by ODFW port samplers, the vessel company failed to properly sort and separate shortspine and longspine thornyhead as required by regulation. In addition, the sampling revealed that the vessel had landed an overage of shortspine thornyhead which the company subsequently purchased in violation of Magnuson regulations.

Alaska Observer Cases Investigated by the Northwest Enforcement Division

All of the following investigations with Alaska case numbers are being investigated by a NW OLE special Agent. Each of these cases was initiated based on affidavits from NOAA Fisheries Observers.

Case Number Withheld - The affidavit alleged that the subject failed to properly release halibut (prohibited species) while he was aboard the small stern trawler in Alaska. The NOAA OLE is assisting in this case and will interview the subject when he returns to his home in Oregon.

AK014079 - The affidavit alleged a crewmember harassed an observer creating an offensive environment on a long line fishing vessel. The operator of the vessel took immediate steps to stop the harassment against the observer and no further incidents were reported while the observer was aboard. A written warning was issued to the operator for the offense.

AK0140801 - The affidavit alleged the subject failed to retain a marine mammal for observer sampling. Only after the dead animal was thrown overboard by a crewmember did the observer notify the subject that he wished to inspect it. The subject told the observer that any future marine mammals would be personally brought to him during the remaining course of his observing on the vessel. An Enforcement Action Report (EAR) written warning was issued for the offense.

MARINE MAMMAL PROTECTION ACT Investigations

Case Number Withheld - A report was received from a Senior Trooper of the Oregon State Police, who responded to a complaint of a male subject shooting at seals with a rifle from the shores of the Columbia River near Beacon Rock. Upon arriving in the vicinity (Oregon side of Columbia River near McCord Creek), the Senior Trooper encountered two white males. One of the individuals possessed an illegal salmon and was cited for the violation. The trooper also obtained statements from both the subject and a friend confirming the subject had shot at a seal in the Columbia River. On August 8, 2001, the reporting party was interviewed and agents attempted to interview an informant. The informant refused to discuss the matter. On August 10, 2001, special agents conducted an interview with the subject in which he admitted to shooting at the seal. The case package is with the Northwest General Counsel.

Case Number Withheld - This case involves the investigation into the take of a harbor seal. The subject gave a written confession admitting to taking the harbor seal without authorization and the case has been forwarded to the Northwest General Counsel with two possible NOVAs expected to be issued in the near future.

Case Number Withheld - This case involves the importation of 18 sperm whale teeth (endangered) through the port of Blaine, WA, en route to Boca Raton, FL. The teeth had been carved into Inuit tupilak figurines and declared as walrus ivory by the exporter, in violation of the Convention on International Trade in Endangered Species (CITES). A preliminary examination by the USFWS laboratory in Ashland, OR, reported the teeth as either killer whale or sperm whale. The teeth have been returned for further testing and definitive species identification. A NOAA OLE agent in the Miami, FL area determined that the suspect has no commercial activities involving marine mammals or their parts.

NW010225 - This case involves a hotline report of tribal members shooting seals while fishing onboard their vessel. The investigation revealed their actions did not constitute a violation of federal laws, however, it did constitute a violation of tribal law. The case was transferred to the Tribal Fisheries Officers and the NOAA OLE case was closed.

NW010231 - This case involved the investigation of a complaint referred to NOAA Fisheries OLE from U.S. Representative Norm DICKS' office. A constituent had observed several headless seals on the Dungeness National Wildlife Refuge and had reported the alleged violations to the National Park Service, but no follow-up was conducted nor was the information forwarded to NOAA Fisheries OLE. After receiving the inquiry from Representative DICKS, the reporting party and National Park Service personnel were contacted regarding the incident and an independent investigation was conducted by NOAA Fisheries OLE. No violations were substantiated however National Park Service personnel have designed a research program for next summer in which the deaths of harbor seal pups will be tracked and investigated to determine if human take is a cause of death.

Other Statutes Investigations

NW010219 - This case was initiated on information received from a fishing vessel captain regarding an individual that approached him and had offered to sell plastic explosives while in Alaska. The captain was given a demonstration of the explosive's power and was assured that a large quantity of the explosive was available. The captain declined to buy the explosive and left the area but never reported the incident to the authorities in Alaska. This information was referred to the ATF in Alaska. This case has been closed.

Federal Air Marshal Detail - NOAA OLE Special Agents have been assigned to the Federal Air Marshal Program for about six months, with approximately four months completed. The Federal Air Marshal Program consists of federal agents flying on commercial aircraft. Since the September 11th terrorist attacks, security on commercial aircraft has greatly increased. These Special Agents attended a course of advanced Federal Air Marshal training.

Joint Terrorism Task Force - A Seattle OLE Special Agent has been assisting the FBI's Joint Terrorism Task Force, sponsored by the Office of the U.S. Attorney, in Seattle. The OLE Agent has assisted in conducting interviews, locating crew members on vessels, and conducting search warrants and arrests directly linked to current terrorist activity.

CRIMINAL

Lacey Act Investigations

Case Numbers Withheld - The master of a foreign flagged vessel documented a transshipment of Russian crab on a Canadian Import Landing License at coordinates within the Canadian Exclusive Economic Zone (CEEZ). Further investigation revealed that the vessel may have transported crab taken in excess of a quota and that the crab had not been accurately reported to the Russian government. Subsequent investigation has lead to a Washington State company. These cases were accepted by the U.S. Attorney's Office for criminal prosecution under their Organized Crime Unit. The United States Customs Service has also been included in the investigation but NOAA Fisheries OLE has been the lead agency investigating the allegations. Search warrants were executed at the subject business and at the residence of the business owner. A Mutual Legal Assistance Agreement (MLAA) requesting information to the Office of International Affairs was prepared and is now being fulfilled by the Russian Federation. Meetings with investigators and the prosecutors in Russia have been successful as the sharing of information will strengthen both the U.S. and Russian prosecutions. The business owner is expected to stand trial in Russia in the next few months and the Seattle Office of the U.S. Attorney is awaiting the outcome of the Russian trial to determine whether or not to proceed with criminal prosecution and/or civil penalties and asset seizures. This investigation continues.

NW010019 - This case involved the alleged unlawful harvests of geoduck clams and dungeness crabs aboard a fishing vessel. The product was then allegedly sold in and transported to Canada in violation of the Lacey Act. Initial surveillance of the vessel's activities was conducted with the

Washington Department of Fish and Wildlife (WDFW), but no further evidence was uncovered so the investigation was transferred to the WDFW.

Case Number Withheld - This case involves a conspiracy to submit false statements and land groundfish and halibut overages in Neah Bay, Washington. The case has been accepted by the Office of the U.S. Attorney in Seattle and the investigation continues with several interviews of subjects and witnesses conducted during this quarter. The AUSA met with the attorney for two of the subjects involved and was informed that both individuals desired a plea arrangement and were willing to cooperate in the investigation. A final draft of the alleged violations committed by the subjects is underway to prepare for the plea arrangement.

Magnuson Act Investigations

Case Number Withheld - This case is related to the case above and involves the falsification of three fish tickets for landings conducted by the owner of another vessel involved. The false tickets resulted in the under reporting of \$8,796.20 of groundfish, in addition to overages of black cod, yellowtail rockfish, and lingcod. This individual will either be criminally prosecuted as a co-conspirator or will be assessed a civil penalty.

C. COPPS

Community Relations Team (CRT) Activities

The CRT Team Leader transferred to the Alaska Region during the Quarter and no meetings were held. During the second quarter a new CRT will be formed and placed into action.

Endangered Species Act

Lemhi River

The Lemhi River basin has been a focus for NOAA OLE due mainly to the large number of irrigation operations significantly impacting the Lemhi River habitat for listed spring/summer chinook salmon and steelhead. Inadequate water conditions combined with water withdraws for irrigation, and equipment in streams have the potential of creating fish kill incidents. Since 2000, NOAA enforcement has investigated three incidences of take of ESA-listed chinook salmon in the Lemhi River basin. We have worked to prevent potential problems and find solutions to avoid the take of listed species by officially addressing fish kill incidents through offense investigative reports. Once an investigation is complete and a take has been documented, representatives from the NOAA Fisheries Habitat Office, NOAA OLE, and NOAA General Counsel work to resolve the violation by asking for improvements to the irrigation or traditional ranching practices that caused the violation in the first place. The case of the complete dewatering of the Lemhi River brought about the creation of legislation for a minimum stream flow, as well as, allowing for a water bank to be established enabling ranchers to sell water they normally would use for irrigation. NOAA OLE stays involved with the Lemhi River

stakeholders and the fisheries experts from the NOAA Habitat Office through personal contacts and meetings. NOAA OLE offers assistance in helping prevent violations or the potential violations of the ESA, in addition to maintaining an enforcement presence. Our progress will be measured through the number of recurring complaints and investigations opened in the Lemhi River basin. The summer of 2001 was the first year in many that the Lemhi River did not become dry. This success is a highlight for NOAA OLE because the summer of 2001 was one of the worst drought years in recent history.

Training

The West Coast ESA Coordinator conducted three training seminars in Washington State geared toward teaching participants to recognize and understand their responsibility under the ESA when conducting a transportation construction project conducted on Federal lands or which has a Federal nexus. Nearly 100 employees received the training. A similar training program is currently being developed for the state of Oregon in cooperation with Oregon Department of Transportation (ODOT). NOAA OLE has met with ODOT officials and identified the elements and participants of the proposed training targeted for implementation in the spring of 2002. In addition, enforcement officials also gave a presentation to ODOT managers on ESA enforcement efforts in the Northwest at an ODOT-sponsored law enforcement symposium. Over 100 ODOT supervisors and managers were in attendance. OLE was one of nine state and Federal agencies participating in the symposium.

City of Walla Walla, WA

The West Coast ESA Coordinator attended a meeting in Walla Walla, WA of all the participating agencies in the Mill Creek effort to maintain adequate flows for steelhead in the Mill Creek Corps of Engineers project which flows through downtown Walla Walla. This meeting is a continuation of the efforts which were initiated by OLE in June of 2001. The focus now is to identify short-term measures which can be employed in 2002 with the goal to identify long-term measures which could be incorporated into a Habitat Conservation Plan.

Oregon State Police and Oregon Department of Fish and Wildlife

NOAA OLE participated in a 2002 cooperative enforcement planning meeting with OSP Fish and Game Troopers and ODFW biologists. Species protection for the Oregon Coast coho salmon was again ranked high. Special emphasis patrols by the OSP and increased public education by the ODFW have been scheduled for the summer along the coast and inland during fall spawning.

Rogue River Interagency Meeting

NOAA OLE and biologists participated in an interagency meeting and site visit with the Rogue River Basin Fish Passage Technical Team (FPTT) and members of a local ditch company. The FPTT is made up of biologists, engineers, hydrologists, and facilitators from the following agencies: BOR (Chair), FWS, USFS, BLM, NOAA Fisheries, Natural Resources Conservation Service, Oregon Water Resources Department, Oregon Watershed Enhancement Board, ODFW, Applegate Watershed Council, Rogue Basin Coordinating Council. The company has entered

into an MOU with the FPTT for engineering and technical assistance and presented their concerns. Following the meeting, the FPTT and company members met on the diversion site and continued their discussions on solutions. The Bureau of Reclamation has initiated a survey and preliminary engineering studies and will present a report to the FPTT on January 24. To date, the ditch company continues to show a good faith effort to work with NOAA Fisheries and the FPTT to eliminate the "take" issues of Southern Oregon/Northern California (SONC) coho salmon.

Magnuson-Stevens Act

Fish Expo

The Northwest Division worked with the Alaska Division at the commercial fishing 'Fish Expo' at the Washington State Convention Center in Seattle, WA. Special Agents from Seattle and Alaska staffed a NOAA OLE exhibit booth and answered questions from the public.

Coastal Fisheries

NOAA OLE met with ODFW and OSP Wildlife Division staffs in Newport and Charleston, OR to discuss marine resource and enforcement issues relating to federally managed fisheries on the central and south Oregon coasts. Among the issues raised were salmon identification and discards in both the commercial and sports fisheries, sorting and "weighbacks" in the commercial groundfish fishery, and the handling of "routine" overages in the groundfish fishery. Also discussed were concerns about the expanding live fish fishery and its connection to the San Francisco Bay area. The activities of several processing plants were noted, particularly by the ODF&W port samplers, as needing surveillance and possible surveillance methods were contemplated.

NOAA Fisheries Observer Training at Observer Program Office, Seattle, WA

This on-going training course is presented to newly hired and prior NOAA Fisheries observers to recognize, try to solve, and document problems they may encounter while conducting observer-related duties aboard fishing vessels or at shoreside processing facilities in Alaska. The course gives examples of situations prior observers have encountered, how it was handled, and how observers should conduct themselves in hostile situations involving operators and processor employees. Through the inception of this course, fewer affidavits have been filed by observers against vessel operators or processor employees because of the training they received prior to entering the field.

COPPS Partnerships - General

Interagency Contacts

NOAA OLE is initiating and maintaining positive relationships with all law enforcement agencies in the region, especially those that have a common mission. USFS, Bureau of Land Management, USFWS, the State of Washington and the Oregon State Police all have a resource protection mission. Meetings were conducted this past quarter with law enforcement personnel in all of these agencies to foster a closer working relationship for joint investigations, private land/trespass concerns and radio communications. The effectiveness of these partnerships will become critical in the years to come for OLE to meet its goals under its statutes. The number of referrals from these and other agencies will serve as a guide for evaluating our efforts.

NUMBER OF CASES OPENED BY INVESTIGATION TYPE
FY01 and FY02

Investigation Type	FY01 1st Quarter	FY01 Total	FY02 1st Quarter	FY02 Total
ESA	18	79	32	32
Lacey Act	7	14	1	1
Magnuson Act	23	90	20	20
MMPA	3	40	5	5
Intl. Pac. Halibut Conv.	0	1	0	0
Other Federal Regulations	1	2	6	6
State Regulations	0	7	1	1
Tribal Regulations	0	1	0	0
TOTAL	52	234	65	65