

## LEGISLATIVE MATTERS

Situation: The Legislative Committee will meet Monday, March 8, 2004 to review federal legislative issues.

Two bills related to reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act will be discussed. S. 2066 was introduced February 11, 2004 by Senator Snowe (Exhibit B.2.a, Attachment 1). The second bill is a discussion draft distributed by Congressman Gilchrest (Exhibit B.2.a, Attachment 2). Both bills approach reauthorization broadly and contain provisions related to essential fish habitat, individual fishing quotas, peer review of management science, and rebuilding time horizons, among other things. Congressman Gilchrest has invited input from the regional councils about his discussion draft (Exhibit B.2.a, Attachment 3).

S. 1953, legislation to protect deep sea corals, was introduced by Senator Lautenberg in November 2003 (Exhibit B.2.a, Attachment 4).

In October 2003, the Council requested guidance from National Marine Fisheries Service (NMFS) about a Department of Justice finding on the issue of processor quota shares in the North Pacific crab fishery. NMFS responded on December 16, 2003. The response letter is included as Exhibit B.2.a, Attachment 5.

HR 2654 (Exhibit B.2.a, Attachment 6) deals with artificial reefs in Southern California, and is relevant to Agendum G.3.

Other issues could arise after the advance briefing book deadline, such as further congressional activity on fishing quota-related matters and the report of the U.S. Commission on Ocean Policy.

The Legislative Committee will provide a summary report to the Council, which might include recommendations for Council actions.

### **Council Action:**

#### **1. Consider recommendations of the Legislative Committee.**

### **Reference Materials:**

1. Exhibit B.2.a, Attachment 1, S. 2066.
2. Exhibit B.2.a, Attachment 2, Gilchrest Discussion Draft.
3. Exhibit B.2.a, Attachment 3, Gilchrest Request.
4. Exhibit B.2.a, Attachment 4, S.1953.
5. Exhibit B.2.a, Attachment 5, NMFS Response Letter.
6. Exhibit B.2.a, Attachment 6, HR 2654.
7. Exhibit B.2.b, Supplemental Legislative Committee Report.

Agenda Order:

- a. Agendum Overview
- b. Legislative Committee Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Consider Recommendations of the Legislative Committee

Dan Waldeck  
Dave Hanson

PFMC  
02/23/04

**Meeting Record and Summary Minutes  
Pacific Fishery Management Council  
June 16-20, 2003**

The full record of the Pacific Fishery Management Council (Council) June 16-20, 2003 meeting is available at the Council office, and consists of the following:

1. The draft agenda.
2. The approved agenda with notations as to the time each agenda item was addressed, with summary minutes of Council proceedings and key Council documents inserted in the relevant agenda item. The summary minutes consists of a narrative (1) on particularly noteworthy elements of the gavel to gavel components of the Council meeting, including the Call to Order segment at the onset of the Council meeting, and (2) summaries of pertinent Council discussion during each Council Guidance, Discussion, or Action item in the Agenda. The summary narrative of Council Guidance, Discussion, or Action items includes detailed descriptions of rationale leading to a motion (or leading to a consensus to not make a motion) and discussion between the initial motion statement and the final vote.
3. A set of audio recordings of the actual testimony, presentations, and discussion that occurred at the meeting. Recordings are labeled so as to facilitate tape review of a particular agenda item, by cross referencing with the time labeled agenda.
4. All written documents produced for consideration at the Council meeting, including (1) the pre-meeting briefing book materials, (2) all pre-meeting supplemental documents for the briefing book, (3) all supplemental documents produced or received at the Council meeting, validated as labeled by the Council Secretariat and distributed to Council Members, and (4) public comments and miscellaneous visual aids or handout materials used in presentations to Council Members during the open session.
5. A copy of the Council Decision Log, a document distributed immediately after the meeting which contains very brief descriptions of Council decisions.
6. A copy of the Winter 2003 Council Newsletter.

# DRAFT MINUTES

## Pacific Fishery Management Council

Crowne Plaza Hotel  
 1221 Chess Drive  
 Foster City, CA 94404  
 (650) 570-5700  
 June 16 - 20, 2003

|   |    |
|---|----|
| A. Call to Order .....  | 3  |
| A.5 <b>Council Action:</b> Approve March 2003 Minutes .....   | 3  |
| B. Groundfish Management .....  | 4  |
| B.1.d Council Discussion on NMFS Report on Groundfish Management .....  | 4  |
| B.2.e Council Discussion and Guidance on Observer Data Implementation Status .....  | 6  |
| B.3.d <b>Council Action:</b> Approve Stock Assessments and Rebuilding Analyses .....  | 7  |
| B.4.f <b>Council Action:</b> Adopt a Preliminary Range of Harvest Levels for 2004 Management ...  | 9  |
| B.6.d <b>Council Action:</b> Adopt Criteria and Standards for Approving EFPs .....  | 18 |
| B.7.e <b>Council Action:</b> Consideration of EFP Proposals and Recommendations to NMFS .....   | 21 |
| B.8.d <b>Council Action:</b> Consider and Adopt Inseason Adjustments, if Necessary .....  | 22 |
| B.9.d <b>Council Action:</b> Consider the Environmental Assessment, Proposed Rule, and<br>Next Steps in the Process–Make Recommendations as Necessary ..... | 29 |
| B.10.d <b>Council Action:</b> Approve Process and Terms of Reference .....  | 31 |
| B.11.e Council Discussion on Status of the Groundfish EFH Environmental Impact Statement ..   | 35 |
| B.12.e Council Discussion on Programmatic EIS Process .....   | 37 |
| B.13.d <b>Council Action:</b> Adopt FMP Amendments 16-1 and 16-2 for Implementation<br>by NMFS .....  | 39 |
| B.14.f <b>Council Action:</b> Adopt a Proposed Range of 2004 Management Measures<br>for Public Review .....   | 42 |
| B.15.d. Council Discussion and Guidance on Alternative Long-term Groundfish<br>Management Strategies .....  | 46 |
| C. Salmon Management .....  | 46 |
| C.1.c Council Discussion on Salmon Fishery Update .....   | 47 |
| C.2.e Council Discussion on Mitchell Act Update .....   | 48 |
| C.3.d Council Discussion and Guidance on Progress Report on the Establishment of<br>the Model Evaluation Work Group .....                                   | 49 |
| D. Habitat .....  | 49 |
| D.1.e <b>Council Action:</b> Consider HC Recommendations .....  | 50 |
| E. Coastal Pelagic Species Management .....   | 50 |
| E.1.d Council Discussion on CPS Update .....  | 51 |
| E.2.d <b>Council Action:</b> Adopt Pacific Mackerel Harvest Guideline for the 2003<br>through 2004 Season .....   | 51 |
| F. Highly Migratory Species Management .....  | 52 |
| F.1.d Council Discussion on NMFS Report on Highly Migratory Species Management .....  | 52 |

|       |   |    |
|-------|---|----|
| F.2.e | <b>Council Action:</b> Adopt a Modified Alternative for High Seas Longline Fishing,<br>If Necessary .....   | 55 |
| G.    | Marine Reserves .....   | 56 |
| G.1.e | <b>Council Action:</b> Consider and Comment on CINMS Proposal .....   | 57 |
| G.2.e | Council Discussion on Central California Sanctuary Processes Including Krill Ban .....  | 59 |
| H.    | Administrative Matters .....  | 60 |
| H.1.e | <b>Council Action:</b> Consider Recommendations of the Legislative Committee .....  | 61 |
| H.2.e | <b>Council Action:</b> Consider Recommendations of the Budget Committee .....   | 61 |
| H.3.e | <b>Council Action:</b> Consider Appointing New Members and Addressing Other<br>Membership Issues as Necessary .....                               | 62 |
| H.4.d | <b>Council Action:</b> Identify Priorities for Advisory Body Consideration and Adopt<br>Draft Agenda for the September 2003 Council Meeting ..... | 63 |
| 4 PM  | Public Comment .....  | 63 |

## A. Call to Order

### A.1 Opening Remarks, Introductions

The 169<sup>th</sup> meeting called to order, by Dr. Hans Radtke Chairman

### A.2 Roll Call

Dr. Donald McIsaac called the roll.

Bob Alverson  
Phil Anderson  
Neal Coenen  
Marija Vojkovich  
Ralph Brown (not present on Monday)  
Jim Caito  
Mark Cedergreen  
Donald Hansen  
Kevin Duffy (Absent)  
Dave Hanson (Absent)  
Jim Harp  
Jerry Mallet  
Greg Casad  
Dave Ortmann  
Hans Radtke  
Tim Roth  
Bill Robinson  
Roger Thomas  
Stetson Tinkham (Absent)

### A.3 Executive Director's Report

Dr. Radtke stated that the meeting had a full agenda and expects it to go through 5 pm on Friday.

Dr. McIsaac provided opening comments.

### A.4 **Council Action:** Approve Agenda

Mr. Phil Anderson moved and Mr. Bob Alverson seconded a motion (Motion 1) to approve the agenda as shown in Exhibit A.4, June 2003 Council Meeting Agenda. Motion 1 passed.

### A.5 **Council Action:** Approve March 2003 Minutes

Mr. Anderson moved and Mr. Harp seconded a motion (Motion 2) to delay the approval of the March minutes until Friday. Motion 2 passed.

Mr. Harp moved and Mr. Neal Coenen seconded a motion (Motion 18) to approve the March 2003 Council meeting minutes as shown in Exhibit A.5, Supplemental March 2003 Council Meeting Minutes with the corrections stated by Mr. Fougner. Motion 18 passed.

## **B. Groundfish Management**

### **B.1 NMFS Report on Groundfish Management (06/13/03; 4:26 pm)**

#### **B.1.a Regulatory Matters**

Mr. Bill Robinson noted the regulatory filings which happened since the April meeting. He also referenced Exhibit B.1, Supplemental Attachment 1 (preliminary report #2 on the 2003 Pacific whiting fishery).

Mr. Robinson talked about the National Bycatch Plan and a comprehensive review of the bycatch issue. That review is part of the agencies national bycatch strategy which includes an initial report card to be done by the end of July. There is a national bycatch working group within NOAA Fisheries who are looking at observer programs and bycatch methodologies to develop standardized efforts.

#### **B.1.b Reports and Comments of Advisory Bodies**

None.

#### **B.1.c Public Comment**

Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California  
Mr. Dan Fink, United Anglers of Southern California, Huntington Beach, California

#### **B.1.d Council Discussion on NMFS Report on Groundfish Management**

### **B.2 Observer Data Implementation Status (9:15 am; 06/17/03)**

#### **B.2.a Agendum Overview**

Dr. Ed Waters provided the situation summary.

#### **B.2.b NMFS Report**

Dr. Jim Hastie and Dr. Elizabeth Clarke of the Northwest Fisheries Science Center (NWFSC) reported on the status of incorporating data from the West Coast Groundfish Observer Program into fishery management decision making, and related issues. They also gave a brief summary of findings from analysis of the observer data and resulting changes made to the trawl bycatch model since the April Council meeting.

Summary of key changes to the trawl bycatch model since April:

- 2000-2001 landings were updated with 2002 landings data.
- 1999 logbook data were replaced with 2000-2002 logbook data.
- Model was tuned to replicate 2003 period 1 and period 2 QSM landings data.
- Choice of when/whether vessels use small footrope was revised (differential limits apply if small footrope is used during a period).
- There were no changes made to bycatch rates or model stratifications.
- Began investigating discard rates for target species (DTS and whiting).

Questions and Answers re. NWFSC Report:

Mr. Donald Hansen asked if the preliminary target species discard rates were higher or lower than assumed in the current model. Dr. Hastie responded that he wasn't sure yet. Current work on discard rates is preliminary. Findings on this topic will be presented to the Council in September.

Ms. Vojkovich asked if new observer data will change the bycatch rates in the model. Dr. Hastie responded that he doesn't anticipate changes in the model to the overfished species bycatch rates until the new (2002-2003) observer data is incorporated early next year.

Ms. Vojkovich asked if there is a plan or timeline in place for incorporating new observer data. Dr. Clarke responded that the 2002-2003 observer data will be available in January 2004. Dr. Hastie added that the 2005-2006 groundfish management measures will be finalized April 2004. He expects that the 2002-2003 observer data will be used for modeling 2005-2006 trawl management measures, and also, to the extent possible, fixed gear and open access management measures.

Mr. Anderson asked if the schedules for incorporating bycatch rates for the overfished species and discard rates for target species would remain different in the future. Dr. Clarke and Dr. Hastie responded that the schedules would coincide beginning 2004.

Mr. Anderson asked if the next version of the bycatch model would include limited entry fixed gear. Dr. Clarke and Dr. Hastie responded yes.

Mr. Bob Alverson asked Dr. Clarke if she would be able to keep up the level of observer coverage necessary to fuel increasing management information needs. Dr. Clarke responded that she thought that should be possible, although costs would rise over time as the observers became more experienced and more senior. There is also a limit imposed by NMFS on the number of FTEs that can be used for the observer program.

Mr. Neil Coenen said he was still unclear on how the multiyear management process would fit with the scheduled release of observer data, stock assessments, etc. Dr. Hastie responded that some preliminary thoughts on this would be presented to the Council in November.

Mr. Brown asked if it was known how long we need to be in a consistent management regime before we can collect enough data to know the effects of that management regime. Dr. Hastie responded he didn't know, but that the presence of closed areas will help focus data gathering on the areas remaining open.

#### B.2.c Reports and Comments of Advisory Bodies

##### **GMT**

Mr. Brian Culver provided Exhibit B.2.c, Supplemental GMT Report.

##### **SSC**

Mr. Tom Jagielo provided Exhibit B.2.c, Supplemental SSC Report.

##### **GAP**

Dr. Edward Waters read Exhibit B.2.c, Supplemental GAP Report.

#### B.2.d Public Comment

None.

#### B.2.e Council Discussion and Guidance on Observer Data Implementation Status

Mr. Brown asked Dr. Hastie about the statement in the GAP report regarding time/area/depth stratification in the bycatch model. At the last meeting, the SSC determined there was only enough observer data to support shallow and deep strata. Mr. Brown was concerned whether there is enough information to support creation of finer strata in the model. Dr. Hastie replied that there are more observations in the north than in the south, and the RCA depth lines are somewhat different between the two areas. In April the SSC discussed alternative stratification schemes. NWFSC is hoping to finish that analysis this summer and come forward with alternatives for the SSC to consider, possibly including seasonal strata.

Mr. Donald Hansen asked if there is a minority report on the GMT report. Dr. Radtke ruled there is no minority report, but if the states feel they need to bring something forward they can.

Mr. Anderson asked Dr. Hastie: Is it correct that the only observer data used in the analysis is the information from the first twelve months of the program (9/01 to 8/02)? The subsequent analysis using the log books and fish tickets did not involve updating with observer data from the 09/02 through 08/03 timeframe. Dr. Hastie said yes, that is correct.

Ms. Vojkovich recalled an item in the SSC report concerning the fact the 3 states used different methods for adjusting hail weights. She recommended that the states get together and discuss whether it is possible to standardize these methods. She would like the Council to direct the GMT to see if the procedures could be standardized.

Mr. Brown said the issue of stratification is going to be critical. We need to make sure our management regimes lend themselves to collecting enough information to allow us to manage.

Ms. Vojkovich asked for the observer program to lay out a timeline that gives us a clearer idea of when new information would be available and when it would be used. It would be valuable to have a conversation that gets into these data issues. That conversation should start in November.

#### B.3 Stock Assessments and Rebuilding Analyses for 2004 Groundfish Management (06/17/03; 10:12 am)

##### B.3.a Agendum Overview

Mr. John DeVore provided the situation summary and walked the Council through the attachments. Council direction is to consider the new assessments, rebuilding analyses, and STAR Panel reports, as well as the advice of the SSC, other advisory bodies, and the public before adopting the new stock assessments and rebuilding analyses for use in 2004 groundfish management.

##### B.3.b Reports and Comments of Advisory Bodies

#### **GMT**

Ms. Michele Robinson provided Exhibit B.3.b, Supplemental GMT Report.

## SSC

Mr. Tom Jagielo and Dr. Steve Ralston provided Exhibit B.3.b, Supplemental SSC Report.

The Council discussed details of the widow rockfish rebuilding analysis and the implications of using either models 7, 8 or 9 in deciding management measures. There was some discussion of the relative depletion of the stock spawning biomass. Given that some model runs suggest the stock never exceeded the overfishing threshold, if those models were approved, what are the legal ramifications? Would the overfishing declaration be rescinded? Ms. Cooney did not know and said such a result would have to be discussed with Headquarter's staff. Dr. Ralston indicated that model 8 was the base model used in the widow rockfish assessment and rebuilding analysis. It is the preferred model and it indicates the stock is overfished. He said that models 7 and 9 bracket the base case and provide the range of outstanding scientific uncertainty in the assessment. Dr. McIsaac asked for the Council interim rebuilding probability for widow and Mr. DeVore answered 60%.

The Council then discussed widow rockfish assessment uncertainty. Mr. Robinson summarized the three major uncertainties: lack of fishery-independent information, lack of fishery-dependent information, and stock-recruitment steepness. Dr. Ralston agrees there was much uncertainty in the assessment; however, there was a good amount of age data in the assessment, much like the yellowtail assessment. Mr. Brown asked if the Santa Cruz midwater survey was a larval survey? Dr. Ralston said no, it is a young-of-the-year age 1 juvenile survey used to index recruitment.

The Council then discussed the Pacific ocean perch rebuilding analysis. Mr. Anderson asked if the recommended range of 2004 OYs in the rebuilding analysis comporting to the SSC's recommendations was 318-664 mt? Mr. Jagielo said yes. Dr. McIsaac asked the Council interim rebuilding probability for Pacific ocean perch and Mr. DeVore said 70%.

## GAP

Mr. DeVore read Exhibit B.3.b, Supplemental GAP Report.

### B.3.c Public Comment

None.

### B.3.d **Council Action:** Approve Stock Assessments and Rebuilding Analyses

Mr. Anderson commented that the GAP statement to fill data gaps in assessments is a very important recommendation. The wide range of rebuilding OYs speaks to the uncertainties in these assessments. He is concerned data gaps will get wider due to funding issues and diminished fishery sampling. He said the OY range is extreme this year and he appreciates the scientists revealing assessment uncertainties.

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 3) that the Council approve the following stock assessments for use in 2004: Pacific ocean perch, widow rockfish, bocaccio, black rockfish, cowcod, yellowtail rockfish and darkblotched rockfish. Mr. DeVore asked if the motion is to only approve the stock assessments or the rebuilding analyses? Mr. Anderson said this is only for the stock assessments. Ms. Vojkovich said she supported Mr. Anderson's statements on the "state of the data" and how difficult it is to make decisions when the data seemed to be questionable. Mr. Coenen said we need to reflect in our action the quality of the SSC report and keep in mind the last paragraph of the GMT report relative to Ms.

Vojkovich's and Mr. Anderson's comments. The assessments need to include the parameters and projections listed in the terms of reference to make our job easier.

Motion 3 passed.

Mr. Anderson noted the action contemplated is to approve rebuilding analyses to specify the ranges and preferred alternatives in planning for the 2004 fishery. Mr. DeVore said they would also be used for future rebuilding plans. Mr. Anderson moved and Mr. Caito seconded a motion (Motion 4) that the Council approve rebuilding analyses for 2004 fishery management and long-term rebuilding plans for Pacific ocean perch, widow rockfish, bocaccio, darkblotched rockfish, and the cowcod rebuilding review. Mr. Brown asked about the darkblotched rebuilding scenarios A, B, and C referred to in the STAR Panel report. Dr Ralston said Table 15 on page 32 of the STAR Panel report (Exhibit B.3, Attachment 13) summarizes these three scenarios.

Motion 4 passed.

#### B.4 Preliminary Range of Harvest Levels for 2004 (06/17/03; 11:20 am)

##### B.4.a Agendum Overview

Mr. DeVore provided the situation summary and reviewed the attachments. The Council task at this meeting is to adopt a range of 2004 harvest levels and specifications for public review and analysis. Council staff will prepare an Environmental Impact Statement (EIS) this summer to analyze the effect of alternative harvest levels as well as alternative management measures for 2004 groundfish fishery management. A preliminary draft EIS containing relevant environmental analysis of alternatives will be available to aid the Council in deciding final harvest levels, specifications, and management measures at the September meeting.

##### B.4.b Preliminary Estimates of Acceptable Biological Catch and Optimum Yield (06/17/03; 12:47 pm)

Ms. Michele Robinson provided Exhibit B.4, Supplemental Revised Attachment 1.

##### B.4.c Recommendations of the States, Tribes, and Federal Agencies

Mr. Robinson reiterated the point made by Mr. DeVore that selecting the ranges and identifying the preferred alternatives, the Council should keep in mind the alternatives as presented in 16-2 to make sure the numbers are aligned together (consistent decisions are made between the harvest levels and rebuilding plans).

##### B.4.d Reports and Comments of Advisory Bodies

#### SSC

Mr. Jagielo provided Exhibit B.4.d, Supplemental SSC Report.

#### GAP

Mr. Rod Moore provided Exhibit B.4.d, Supplemental GAP Report.

Mr. Brown asked Mr. Moore if the same Medium OY alternative recommended by the GMT for sablefish is recommended by the GAP? Mr. Moore said yes, although the Medium OY is based on a density-dependent hypothesis when the GAP believes that environmental regime shift is the true state of nature.

However, the 2004 OY under the Medium OY alternative is higher than the 2003 OY.

### **Allocation Committee Report**

The Allocation Committee Report under Exhibit B.14.b, page 5 was referenced at this time as it contained items pertinent to this agenda item. Dr. McIsaac explained that the initial range of OYs recommended by the Allocation Committee are now moot given new scientific information.

#### **B.4.e Public Comment**

Mr. Chris Dorsett, Ocean Conservancy, San Francisco, CA

Mr. Phil Kline, Oceana, Washington, DC

#### **B.4.f Council Action:** Adopt a Preliminary Range of Harvest Levels for 2004 Management

Mr. Anderson moved and Mr. Alverson seconded a motion (Motion 5) that the Council adopt a preliminary range of harvest levels for 2004 as represented in Exhibit B.4, Supplemental Revised Attachment 1, and that we identify, under the preferred alternative, harvest levels for the following four species:

- Pacific ocean perch- 444 mt,
- widow rockfish- 284 mt,
- bocaccio- 306 mt, and
- darkblotched rockfish- 272 mt.

Mr. Anderson said there is a significant range of OYs which have resulted from the stock assessments and he feels it is important to try to identify preferred alternatives for the four species subject to rebuilding. There may be additional species others would like to add in terms of identifying the preferred alternative. Relative to POP, referring to the rebuilding analysis page 7, the 444 mt value is consistent with the rebuilding probability of 70%. It is also consistent with the model recommendation we heard from the SSC. For bocaccio, referring to page 6 of the rebuilding analysis, the 306 mt alternative is representative of the STATc model which includes all of the data which was available relative to the recreational catch per unit effort index as well as the triennial survey index. Also, the 70% rebuilding probability is consistent with our rebuilding strategy of previous years. For darkblotched, referring to page 32 of the stock status update rebuilding document, 272 mt is consistent with model 6, scenario B, which includes recruitment estimates through 2000, but not 2001, which had been characterized as highly uncertain. This alternative also has an 80% rebuilding probability, which is consistent with earlier Council decisions. For widow, referring to page 7 of the rebuilding analysis, the 284 mt value is derived from model 8 which is the base model recommended by the stock assessment team and includes a power function of 3 and a 60% rebuilding probability, which is consistent with previous Council decisions. On page 8 of the widow rockfish assessment, it indicates an OY of 284 mt has a 100% probability of no further decline in the next 100 years. The High OY value of 501 mt has only a 31% probability of no further decline in 100 years. This is the primary reason he did not select a higher OY for widow rockfish.

Mr. Brown explained this is a generally reasonable approach. He asked if the preliminary whiting OYs were part of the motion? Also, why was a preferred alternative for canary rockfish left out of the motion? Mr. Anderson explained the range of whiting OYs is included in the motion, but he had purposely left canary rockfish out of the motion due to OY variation depending on the recreational and commercial allocation and the management regime that would evolve from these numbers. Therefore, he did not think it was necessary to identify a preferred alternative for canary rockfish at this time.

Ms. Vojkovich asked for a friendly amendment to motion 5 regarding bocaccio. Right now the range is 199,

306, and 710. She proposes the High OY alternative reflect the STARb1 model which would be an OY of 526 mt. She said both of the STARb1 and STARb2 models leave data out of the assessment and, since it only uses one source of data, she would prefer to analyze the value at the 80% rebuilding probability level. Mr. Anderson accepted the friendly amendment as did Mr. Alverson. Ms. Vojkovich reiterated the Low and Medium OY alternatives would stay the same.

Mr. Alverson asked if the NEPA analysis for 2004 specifications would specifically address constraining situations in other fisheries that take widow rockfish? Dr. McIsaac said the assessment of these options would take into account the entire mix along with constraints and Mr. DeVore agreed.

Mr. Coenen supported the motion and asked if it would be useful to have an extended footnote on the harvest level alternatives table explaining the effect of alternative catch shares for canary rockfish? Mr. Anderson took that as a friendly amendment and agreed, as did Mr. Alverson.

Motion 5 passed.

B.5 Status of Groundfish Fisheries and Initial Policy Consideration of Inseason Adjustments (06/17/03; 2 pm)

B.5.a Agendum Overview

Mr. Mike Burner provided the situation summary and reference materials. The Council is to consider advice from Advisory Bodies and the public on implementation of observer program data, inseason use of stock assessment results prepared for 2004, and recommended inseason adjustments to the 2003 groundfish fishery, then adopt tentative changes as necessary. Review of the tentative changes and final adoption of inseason adjustments to 2003 groundfish management measures is scheduled for Wednesday, June 18 under agenda item B.8.

B.5.b Groundfish Management Team Report

Ms. Michele Robinson reviewed an updated summary of fishery impacts provided in Exhibit B.5.b, Supplemental GMT Report. Updates primarily reflect changes made to the bycatch model since April and updated catch estimates in ongoing EFPs. Current estimates for canary rockfish project an annual mortality of roughly 40.5 metric tons of an OY of 44 metric tons. Many of the proposed inseason actions discussed in the GMT and the GAP centered on 3.5 metric tons of available canary rockfish impacts. Dr. Hastie and Mr. Moore provided the proposed inseason adjustments in Exhibit B.5.b, Supplemental GMT Report. Projected canary rockfish impacts, the new bocaccio assessment information, and potential buffers in DTL trip limits in anticipation of forthcoming information from the observer program on discard of target species were major issues considered by the GAP and GMT when drafting recommendations.

B.5.c Reports and Comments of Advisory Bodies

**GAP**

Mr. Rod Moore provided Exhibit B.5.c, Supplemental GAP Report. Mr. Moore reported that the GAP had a thorough discussion of the new bocaccio assessment and was generally sympathetic to the restricted California fisheries. However, the GAP voted 13-3 to not increase the 2003 bocaccio OY but voted unanimously to allow additional recreational opportunity in depths out to 30 fathoms south of Point Conception.

Mr. Caito asked if the GAP discussed rescinding Period 4 trawl closures south of Cape Mendocino when considering recommended inseason action. Mr. Moore responded that the GAP considered trawl changes but noted that absent an increase in the bocaccio OY there were not enough available bocaccio impacts to consider reopening the trawl opportunity. GAP members representing the trawl industry were present and familiar with the issue when the GAP voted 13-3 to maintain the bocaccio OY.

Mr. Brown asked for clarification from Dr. Hastie relative to the recommended trip limit increases for Dover sole and decreases for sablefish when their respective catch levels through the QSM system suggested the opposite may be appropriate. Dr. Hastie responded that it was largely due to the seasonality of the fishery.

Mr. Robinson asked for clarification on bocaccio impacts resulting from opening the area south of Point Conception between 20 and 30 fathoms to recreational fishing. Dr. Hastie reported that the GMT has not had time to discuss the details of that analysis as it is a complicated assessment involving a new estimate of bocaccio CPUE as well as an estimate of how much additional effort, if any, the regulation change would generate.

Mr. Brown highlighted the difference in recommended DTS limits between the GAP and the GMT statements. Mr. Brown asked if the reduced limits in the GMT statement are based on current estimates of projected landing in 2003 or if there is a buffer included in the landing limits. Dr. Hastie reported the limits in the GAP statement, at the upper end of the trip limit considerations would be adequate given our current understanding to target species discard. The GMT was concerned about preliminary raw data from the observer program that suggests that discard rates for sablefish and shortspine thornyheads are higher than currently assumed. Substantial analysis of these data will occur this summer and will be brought forward in September. Preferably these data could have been analyzed and presented earlier in the year. There is considerable uncertainty about the results of this upcoming analysis as well as what the Council policy choice will be for using the results in groundfish management. The GMT felt it was prudent to present a more conservative approach for DTS species until the results of the analysis were presented in September. This would allow the greatest flexibility in reacting to the new information. If the new information suggests the fishery is ahead of projected impacts a conservative approach now could create some stability in the fishery later in the year and, conversely, if the new information suggests that the fishery is tracking behind expectations, the Council could increase trip limits in Periods 5 and 6 accordingly.

Mr. Moore stated that the GAP was aware of the potential tradeoffs as summarized by Dr. Hastie and felt that reducing trip limits at this time was unwarranted. Reduced discard of DTS occurs in the summer months as these species move into shallower water and the GAP felt that limits could remain at the high end of the presented range while providing a full year of opportunity. The GAP preferred to react to any new information when it is available in September.

Dr. McIsaac asked for clarification on the potential gross range of additional bocaccio impact that could result in opening the area south of Point Conception between 20 and 30 fathoms to recreational fishing. For example, could values such as zero or greater than 10 metric tons be ruled out at this time. Dr. Hastie reported that the GMT has not had time to discuss the details of that analysis and stated that at this time nothing has been ruled out. New estimates of bocaccio CPUE as well as an estimate of how much additional effort would occur could fall within a wide range of estimates.

Mr. Anderson asked about canary rockfish impacts as presented in the Exhibit B.5.b, Supplemental GMT Report. Dr. Hastie reported that all three options presented are estimated to fall below the canary rockfish OY but anticipated adjustments to recreational fishery impacts in Oregon only leaves one viable option without fishery reductions.

Mr. Anderson asked if the commercial non-trawl nearshore trip limit changes north of Cape Mendocino were intended to attain OYs for nearshore rockfish other than black rockfish or blue rockfish. Dr. Hastie responded that for areas in California north of Cape Mendocino the increases are intended to increase the harvest of black rockfish and blue rockfish and it is anticipated that Oregon will take state action to decrease commercial nearshore landing limits to remain on track. Lacking regional OYs for black rockfish, this was the best available regulatory approach at the federal level.

Mr. Coenen stated that Oregon recreational fisheries were originally anticipated to take 10 metric tons of canary rockfish in 2003. That figure was reduced to 9.3 metric tons in response to the large salmon fishery off the Oregon coast this summer, drawing effort away from groundfish. The current inseason estimates range from 8.15 to 9.6 metric tons. HE asked how the team settled on 9.3 metric tons at this meeting. Ms. Robinson stated that GMT intent in the scorecard was to present the best estimates of mortality, not a range. None of the values should be considered hard bycatch caps for recreational fisheries. If the best estimate for Oregon recreational impacts has changed, the GMT should be presented with those figures and analyses as soon as possible.

Mr. Alverson asked for the current trawl and fixed-gear fishery discard rate assumptions. Dr. Hastie responded that assumed discard mortality rates are 22% for trawl and 8% for fixed-gear fisheries. Mr. Anderson asked if the value from the observer data was as high as 48%. Dr. Hastie concurred that preliminary results suggest rates that high across all depths and need further analysis.

Dr. Hastie clarified that the GMT did not include any reference to the DTL changes as proposed by the GAP because the GMT cannot assess this fishery from the existing PacFIN QSM report. Dr. Hastie pledged to get the required data by phone from PacFIN before the end of the week.

Mr. Robinson clarified that so long as there is a buffer between the sum of best estimates for canary rockfish impacts across fisheries and the OY, there is room for adjusting or updating best estimates upward. However, if there is no buffer, any increase in the best estimates would result in exceeding the OY. Ms. Robinson concurred.

## EC

Captain Mike Cenci provided Exhibit B.5.c, Supplemental EC Report.

### B.5.d Public Comment

Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California  
Mr. Pete Leipzig, Fisherman's Marketing Association, Eureka, California  
Mr. Darby Neil, Virg's Landing, Morro Bay, California

### B.5.e **Council Action:** Establish Guidelines for Consideration of Inseason Adjustments and Adopt Tentative Adjustments, if Necessary

Mr. Coenen suggested that the Council consider actions on three separate items, inseason recommendations, and the two policy decisions on use of observer data and stock assessment information. He also provided Exhibit B.5.e, Supplemental ODFW Report.

Ms. Vojkovich expressed concerns about discussing inseason actions separately from the decision of inseason use of new stock assessment data as the two are very closely related from a California perspective.

Dr. McIsaac reviewed the Council tasks at hand and suggested that the Council first consider the observer data issue as Mr. Coenen had suggested and then move into the issues of stock assessment information and inseason adjustments. He stated that unlike April, this round of observer data implementation has relatively little impact on fishery modeling.

Mr. Brown agreed with Mr. Coenen and Ms. Vojkovich that we should proceed issue by issue and cautioned that the policy decisions on using new information go beyond inseason adjustments for 2003 and could carry increased importance under multi-year management.

Mr. Anderson commented on the dynamic nature of the groundfish fishery and noted we have made major changes from season to season with little information to make those decisions. One of the pieces of information we have lacked for changing or developing management strategies, is knowledge about what has been transpiring on the fishing grounds relative to total fishing mortalities. Responding to this criticism, the Council and NMFS got an observer program started in August of 2001 with an initial report four or five months after the last data was collected for the first twelve month period. While there might be further analyses needed, we decided the observer program results were ready for use for management decisions. In April we made the decision to use the new information and made modifications in our 2003 management strategies. We heard from Dr. Clarke and Dr. Hastie on the observer program. Reports included a schedule for receiving analysis from future years' data and the challenges of the analysis of the initial year data. They also told us about personnel limitations which prevent NMFS from bringing on an additional staff person. In looking at the ODFW requests for additional cooperation and personnel for more timely delivery of observer program results, he thinks that the GMT and NMFS have already come before the Council to help in these regards, utilizing all available resources. He concurs with ODFW that NMFS should work to identify additional resources for the observer program. Mr. Anderson also stated that if the ODFW statement intends to imply that inseason decisions in April were made with incomplete information, he does not agree. He also stated concern about statements in the ODFW report stipulating deadlines for inseason use of observer data results. These deadlines could impair the Council's ability to use the information as Dr. Clarke reported the difficulties of meeting such time lines. The Council is left with the difficult policy decision of using the information from the observer data as it becomes available for inseason management or holding it and applying it to the year ahead. Mr. Anderson said there has been significant efforts from NMFS to analyze observer program data for timely use but there is a difficult balance between using the best available information while providing stability to the fishery.

Mr. Alverson on the ODFW proposal, in reading the second paragraph he noted five "shoulds". This paragraph suggests the author does not understand the problem. The observer data is not the problem. The current bi-monthly trip limit regime is the problem. Trip limits of 12,000 pounds for sablefish do not make sense when 7,000 - 10,000 pounds can be caught in a tow, it creates regulatory discard problems. We need to look at it using observer data on an annual basis rather than in increments inseason.

Mr. Robinson said Dr. Clarke and the science center should be commended for implementing a complex and sophisticated observer program with few resources while developing and refining a peer reviewed bycatch model. Before the Council's policy decision in April, Dr. Clarke and Dr. Hastie stated that they felt the analysis of the observer data was complete enough at that time that no substantial changes were expected upon further analyses. Prior to this meeting there is the issue of bycatch rates on some of the target species. In preparation for this meeting, Mr. Robinson asked Dr. Clarke and Dr. Hastie the same question that was posed in April concerning the status of the analysis of bycatch rates for target species. The answer was very different and the science center staff stated that current analyses are preliminary and the results could change the outcome significantly as more work is completed in the future. The collective decision at this time is not to use the preliminary results. The science center has pledged to work on a schedule for the implementation

of observer data under multi-year management. Given the resources we have and the level of coverage in the program, he did not feel we could ever have the real time collection and analysis in the short time frames we are talking about.

Mr. Brown said there are problems in using the data a year or more after it was collected as the fishery has changed. This may well be the worst time for using the data inseason because it is the first use. It is not a problem for the next two year cycle, it is this year's problem (2003). How are we going to use new information that has not been fully analyzed to manage fisheries and affect peoples' lives.

Mr. Robinson offered an expression of frustration with the complexity of management regime and the Council's efforts to manage to finer resolution (utilizing 0.6 metric tons of canary by moving lines). He seriously doubts that the precision of the available information is sufficient to make these tight decisions.

Mr. Coenen asked how many months of observer data were included in the analysis that lead up to the action in April. Mr. Robinson replied twelve months, August 2001 - August 2002. Mr. Coenen said that August to August scheduling was discussed under agenda item B.2. as an intended time frame with a proposed transition process. He also asked how many years of data were used to update the bocaccio assessment. Mr. DeVore responded that two new data points or two new years of data went into the stock assessment.

Ms. Vojkovich addressed the subject of whether we use new stock assessments for inseason management. In 2003 the California fisheries are highly restricted by bocaccio as a result of the last assessment. The OY proposed for 2004 ranges from 2 to 100 times the existing management goal of less than 20 metric tons. She asked if NOAA Fisheries could provide additional guidance on what possibilities exist for exploring an inseason increase in the bocaccio OY for 2003. Specifically, have we ever had an OY situation like this one for bocaccio in the past and whether there have been changes inseason to OYs that any regional Council's manage?

Mr. Robinson said he is not aware of the situation where this has been such a radical change from one stock assessment to another as we have seen in bocaccio within the Pacific Council process. He did not know of any actions taken by other regional councils. He is not aware of any inseason changes in OY. The current groundfish fishery FMP does not contemplate inseason OY changes. Although action may be taken under emergency authority of the MSA with adequate justification.

Ms. Vojkovich referred to the public suggestion of borrowing OY from next year's bocaccio OY for this year, has that ever been addressed? Mr. Robinson said it is not something the Council has ever done, but has been discussed in terms of amending the FMP according to long-term strategies and multi-year management. Ms. Vojkovich recalled that salmon management has a similar mechanism in place. Mr. Robinson said this is done in the preseason process for salmon when impacts in the fall of one year are applied to fisheries in the next year.

Ms. Vojkovich asked if there was any other means or mechanism to address the issue of allowing more fishing opportunity because of the bocaccio assessment that does not involve changing the OY inseason. Mr. Robinson said if any change we discuss resulted in a total mortality of bocaccio that exceeded the OY it would be appropriate to request an emergency rule. The key criteria is any action that would result in a total mortality in excess of the 20 metric tons would require an emergency rule.

Ms. Vojkovich asked for clarification on the emergency rule. Would the action be to change the OY? Mr. Robinson stated that it is somewhat a matter of semantics, but the emergency rule would implement the fishery changes and provide rationale for any change in OY.

Dr. McIsaac offered an assignment to the GMT to get estimated bocaccio impacts as a place to start prior to making a motion on the subject.

Ms. Vojkovich asked for clarification on the scope of inseason management changes the GMT analyze. Dr. McIsaac suggested a motion from the Council that directs the GMT to do a preliminary analysis of tentative inseason adjustments with a final motion to follow later in the week when the results are available.

Ms. Vojkovich said she was interested in pursuing a GMT analysis of impacts of adjusting the management lines in two areas, south of Lopez Point and south of Point Conception. This would provide a comparison of bocaccio and canary impacts in these two areas. She so moved Motion 6, seconded by Chairman Donald Hansen. Mr. Ralph Brown requested a friendly amendment to include the suggestion by Mr. Leipzig to include removing the April inseason action on the trawl fleet south of 40° 10' N latitude. The friendly amendment was accepted.

Dr. McIsaac reviewed the motion including the request to analyze the impacts of moving the recreational management line south of Lopez Point and Point Conception to 30 fathoms. He also asked for clarification on the specific management line adjustments being requested for the trawl fleet.

Ms. Vojkovich said the motion included moving the management lines out to 60 fathoms for trawl sector.

Mr. Anderson repeated the motion just for clarification and assumed that there would be canary rockfish impacts associated with these suggested changes. He noted some concerns about reopening the issue of canary rockfish impacts as it has coastwide implication. He can understand accessing increased opportunity south of Point Conception in response to new bocaccio results, but is concerned that additional opportunity north of Point Conception could require canary rockfish impacts that have already been allocated to other fisheries.

Dr. Hastie replied that he could not commit to a specific estimate at this time but expects that the flatfish fishery inside 60 fm would have a fairly small impact on canary rockfish, perhaps 0.1 to 0.3 metric tons.

Dr. McIsaac restated the motion (06/17/03; 4:05 pm)

Ms. Vojkovich requested that Mr. Tom Barnes be given the opportunity to address the Council relative to recreational fishery impacts in southern California. Mr. Barnes reported that data from the late nineties, when the fishery was not restricted by depth, was open all year and the bag limits were higher than current limits, estimated canary impacts in the San Luis Obispo catch area at approximately 3 metric tons. Therefore, it is likely that the estimate for canary impacts south of Point Lopez well result in some fraction of 3 metric tons as the fishery is restricted to six months within 30 fathoms.

Mr. Robinson clarified that the Council is not voting on an emergency rule or a proposed set of regulation changes, rather we are voting to forward a suite of regulatory actions for GMT analysis.

Mr. Anderson asked if there is a 30 fathom line defined in the areas in California being considered. Ms. Vojkovich responded that there was not.

Dr. Radtke clarified that the Council will take a vote on this motion, move on to public comment, and then return to this agenda item.

Mr. Anderson asked if California was going to provide a 30 fathom line to the GMT. Ms. Vojkovich responded that California will provide all available information to assess the impacts as requested by the Council.

Mr. Robinson stated previous inseason line changes were possible because the new lines were previously specified and considered in the EIS for 2003 groundfish fisheries. If a 30 fathom line has not been established and therefore was not considered in the EIS, implementation of such a line would require an emergency rule and a corresponding NEPA analysis.

Vote on Motion 6. Roll call vote. 9 yes, 5 no. Motion 6 passed.

Mr. Anderson asked for some clarification on the status of the canary scorecard to help determine which one of the trawl options we have room for.

Mr. Anderson asked Ms. Patty Burke for the best estimate of canary rockfish in the Oregon recreational fishery. Ms. Burke replied that 9.6 metric tons is the best estimate at this time but, as Ms. Robinson explained, this is a moving target. Mr. Anderson asked Dr. Hastie if the slight change from 9.3 to 9.6 metric tons allow room to do Option C in the GMT report which includes trawl line changes in periods 4 and 6. Dr. Hastie replied that alternative would utilize all but 0.1 metric tons of the canary rockfish OY.

Mr. Brown stated we did not make a decision on the earlier motion, but asked only for analysis. He stated his support for the motion as a matter of fairness, to see the tradeoffs between opening previously closed areas and expanding areas that are currently open.

Mr. Anderson requested clarification on what Council business was required to complete this agenda item.

Mr. Brown said with regard to the DTS limits, we should go toward the middle of the GMT recommendations.

Dr. McIsaac stated that final action on inseason actions is scheduled under another agenda item later in the week. It is important for the Council to give the GMT a complete package for analysis so that final action can be taken the next time inseason action comes before the Council. There is considerable work to complete on the 2004 management specifications this week so it would be undesirable to take more than two sessions to complete inseason adjustments for 2003.

Mr. Anderson asked Mr. Brown for clarification of his recommendation for the DTS fishery. Mr. Brown referred to the values the GAP presented on the back of their report, he recommends splitting those values for Dover sole and thornyheads and leaving sablefish at status quo.

Mr. Moore requested Council direction on the need for the GAP to revisit their inseason recommendations so that the GAP could do so overnight, thus expediting tomorrow's business..

Mr. Anderson asked Mr. Brown about DTS limits south of 40° 10' N Latitude.

Dr. Radtke requested any motions from the Council before adjourning.

Mr. Anderson thought the GAP was looking for Council guidance on inseason recommendations and was not offering a motion at this time. He just wanted to put on the record, for GAP consideration, Option 1C (shallow opportunity in periods 4 and 6) for the trawl fleet north of 40° 10' N Latitude, recognizing the increase in canary impacts; the trip limit changes in the DTS fishery as recommended by Mr. Brown and

would like to hear some discussion, if necessary, on nearshore open access/fixed gear adjustments that would require Oregon to restrict their commercial nearshore fisheries by state action to avoid exceeding black rockfish harvest caps. South of 40° 10' N Latitude, the values as represented in the GMT report with the addition of the values where there is a range represented. Fixed gear south of 40° 10' N Latitude, Option 1A.

Ms. Burke said Oregon nearshore open access and limited entry non-trawl fisheries are tracking as expected but would support increasing the trip limit to 4,000 pounds. However, Oregon would likely take state action at 3,000 pounds. Oregon would like to maintain this increase as an inseason component as part of the analysis to provide flexibility.

Mr. Caito asked Mr. Anderson if he wanted the GMT to take a look at the open access DTL sablefish fishery recommendations in the GAP statement. Mr. Moore said they hope to work closely with the GMT on these issues to get a joint statement.

Ms. Robinson said that while considering the analyses requested by Council action the GMT requests a change in the Council's schedule. We would prefer to come back on Thursday morning. In the meantime, the GMT and GAP can get started on 2004 management measures.

Dr. Radtke expressed concern about adjusting the agenda. Dr. McIsaac recommended that the GMT proceed and brief the Council on progress Wednesday giving the Council the opportunity to adjust the schedule at that time. Dr. Hastie reported that the GMT is unable to complete the requested analyses until CDFG provides some data that will not be available before Wednesday afternoon.

Dr. Hastie, speaking to the sablefish DTL fishery said he was able to get an update on landings from PacFIN and based on the data, would support an increase in cumulative limits. The data will be made available at the next GMT report. Dr. Hastie also provided clarification on DTS trip limit expectations that will also be provided in upcoming GMT reports.

Dr. Radtke confirmed that the GMT and the GAP have adequate direction on this issue from the Council and we will assess progress on inseason adjustments on Wednesday afternoon.

## B.6 Standards and Criteria for Approving Exempted Fishing Permits (EFPs) (06/18/03; 3:20 pm)

### B.6.a Agendum Overview

Mr. DeVore provided the agendum overview and noted there were three GMT reports.

### B.6.b Reports and Comments of Advisory Bodies

## GMT

Ms. Robinson provided an overview of the following GMT Reports: Exhibit B.6.b, GMT Report 1; Exhibit B.6.b, GMT Report 2; and Exhibit B.6.b, Report 3.

Mr. Brown noted that, if EFPs are to be judged successful, we need to understand the results. He recommended that expected results should be included in EFP applications with standards for assessing how results are evaluated. Ms. Robinson noted the recommended Council Operating Procedure (COP) presented in Exhibit B.6.b, GMT Report 3 has a requirement for report contents. She stated this section of the COP could be refined.

There was a question regarding the GMT recommendation for how to release OY set-asides during the off-year of a biennial management period. Ms. Robinson was asked if the recommendation was to set aside EFP OYs for two years at a single meeting, but consider releasing unused OY set-asides every year during a biennial management period? Ms. Robinson responded yes.

## **GAP**

Mr. Moore provided Exhibit B.6.b, GAP Report.

Mr. Brown asked if the GAP was recommending a definite timetable for considering release of EFP OY set-asides? Mr. Moore replied it would be in time for inseason actions.

Mr. Coenen asked Ms. Robinson where universities apply under these recommended protocols? Ms. Robinson explained universities are considered Non-Governmental Organizations. Mr. Brown asked if there was a difference between research and EFPs? Ms. Robinson said yes, research requests fall under a Letter of Acknowledgment (LOA) process.

Mr. Robinson asked if all EFP set-aside releases be considered coincident with inseason actions (i.e., during the April, June, and September meetings)? Mr. Moore said that was the intent of the GAP recommendation. Ms. Robinson stated the GMT agrees with this recommendation as well.

### **B.6.c Public Comment**

Mr. Joe Easley, Oregon Trawl Commission, Astoria, Oregon  
Mr. Gary Frederic, fisherman; El Granada, California

### **B.6.d Council Action: Adopt Criteria and Standards for Approving EFPs**

Mr. Coenen asked if we are providing enough guidance for EFPs? He would not want to establish the precedence that this is a "come one, come all" open process; but would like a more focused productive strategy. He suggested that we request the SSC and GMT to recommend the more productive lines of inquiry (i.e., top priorities of the Council) for EFPs. Mr. Anderson believes we have addressed important areas in our EFP process. Good examples include the Washington Arrowtooth Trawl, Oregon Selective Flatfish Trawl, Washington Dogfish Longline, and Washington Yellowtail Trawl EFPs. The peculiarities of fishing in each region require different EFPs. We could do a better job of considering more comprehensive EFPs, but he believes we have not been ignoring important areas and priorities. Mr. Coenen said his concern is the large workload due to a proliferation of EFPs and a more significant review process. He recommended consideration of some sideboards for the EFP review process.

Mr. Brown said we don't have to adopt anything then. Mr. Brown moved (Motion 9) to not adopt the COP. Ms. Vojkovich seconded the motion.

Mr. Brown suggested we need a better discussion of how to achieve EFP goals in EFP applications. The future of the groundfish fishery depends on well-designed EFPs to test new strategies. The Arrowtooth Trawl EFP is a good EFP, but this is the third year of conducting this EFP and some are anxious for the results to be applied fleet-wide. Other past EFPs have not been well-designed. One valuable EFP strategy would be to mount cameras on gears to study fish-gear interactions. We should look beyond the next EFP to design innovative studies. He recommended adding to "Proposal Contents" (in the draft COP included in Exhibit B.6.b, GMT Report 3) a stated objective and how long the EFP is expected to last.

Recognized there are some people that have concerns with using

Mr. Anderson recommended the Council be specific as to what to add to/subtract from the COP. He also expressed concern with using observers as EFP compliance monitors. Mr. Brown thought the GMT had done a good job drafting the COP, but needs to go a step further. The COP needs a statement of how we judge when the EFP is complete and perhaps some discussion of how it is integrated into our fishery management. Concern arises with two EFPs (Arrowtooth Trawl and Oregon Selective Flatfish Trawl) with 12 fishermen participating who have as much canary rockfish impacts set aside as the rest of the coastwide fleet. He appreciates that we have to collect this valuable information, but we need to know where the EFPs are going and how and when to apply results.

Mr. Mallet asked for clarification on the motion. Mr. Brown withdrew motion 9. Ms. Vojkovich agreed.

Mr. Anderson said Ms. Robinson was the principal author of the document and wanted to give her the opportunity to ask for clarification. He felt we could just give her additional direction; not a motion. Ms. Robinson suggested we add a bullet under "Proposal Contents" mandating a timeline (duration) of the EFP. Also, under GMT and SSC review, add "assess how the EFP is to be integrated into management". Mr. Brown also wanted consideration in the COP for testing new gears and how those results would be integrated in management. He suggested there may not be a definitive answer. Mr. Robinson suggested changing the word "duration of the EFP" in the draft COP to "expected lifespan of the EFP".

Mr. Coenen thought there was sufficient time between now and April 2004 for the Council to consider guidance and finalize the EFP COP. Ms. Robinson said the GMT took a stab at Council priorities under "Review and Approval" (page 2 in Exhibit B.6.b, GMT Report 3). The GMT could refine this section prior to the April meeting. Dr. McIsaac said the Council should consider the timeline for release of EFP set-asides. While it would be attractive to have an off-year in the process, the GAP felt release of set-asides should be considered more than once a year.

Mr. Anderson explained that EFP implementation is a huge workload. Mr. Robinson expressed concern with the possibility of waiting until April 2004 to finalize the EFP COP. He preferred adopting the COP at the September meeting, but no later than the November meeting. Mr. Anderson said if we are going to ask them to do that, then the Council should provide better guidance on prioritization. Dr. Radtke noted there is a real cost with workload for both the states and the Council. As the GAP stated, weigh the costs/benefits of setting aside OY for EFPs versus the fisheries. Mr. Coenen suggested the GMT examine the bycatch scorecard and evaluate the benefits of allocating OY to the directed fishery versus the potential benefits of EFPs. Ms. Robinson said the GMT would take a shot at incorporating the changes made today and bring it back to the Council at the September meeting.

Mr. Robinson suggested that EFPs should be prioritized with the highest priority for those with a focus on bycatch reduction in existing fisheries using gear modifications or new strategies. The next highest priority should be EFPs that focus on improved utilization of groundfish resources and development of new fish marketing opportunities.

Ms. Robinson said she felt she had enough guidance.

#### B.7 EFP Update and New Proposals for 2004 (06/18/03; 4:23 pm)

##### B.7.a Agendum Overview

Mr. DeVore provided the agendum overview.

## B.7.b Agency and Tribal Proposals

### **WDFW**

Mr. Phil Anderson provided Exhibit B.7.b, Supplemental WDFW Report. Two EFPs that Washington is proposing for 2004 include the Arrowtooth Trawl and Dogfish Longline. In 2003 the Arrowtooth Trawl EFP was designed to test gear modifications that exclude rockfish and retain flatfish. In 2004 this EFP will require adherence to successful gear modifications. The 2003 Dogfish Longline EFP was recently concluded. There was one participant who was successful in targeting dogfish while avoiding canary and yelloweye rockfish in one particular area off the north Washington coast. They plan to repeat this EFP in 2004 but confine fishing activities to this particular area. Both EFPs will require 100% observer coverage and full retention of rockfish. The proposed bycatch caps are listed in the Supplemental WDFW Report. The funding mechanism for observers still needs to be worked out. The 2003 Arrowtooth Trawl EFP was done with participants subsidizing observer costs. This may be considered again.

### **ODFW**

Mr. Coenen said their proposals are encapsulated in Exhibit B.14.b, Supplemental Ad Hoc Allocation Committee Report. Oregon may not repeat the Selective Flatfish Trawl EFP, but may want the Council to consider applying the results in fleet-wide management measures for 2004. Oregon will sponsor the 2004 shoreside whiting EFP if the Amendment 10 rulemaking is not completed.

### **CDFG**

Ms. Vojkovich said California has one EFP to test a modified trawl design for nearshore flatfish scheduled to start in July this year. This EFP is different than last year's and similar to the Oregon Selective Flatfish Trawl EFP. They also have a request for an EFP to test Bycatch Reduction Devices (BRDs) in ridgeback prawn trawls starting in October 2003. The intent is to test a variety of different BRDs to more effectively avoid rockfish while targeting ridgeback prawns. There is a request for a CPFV Sampling EFP in the San Luis Obispo area in 2004 to determine rockfish encounter rates by depth. There was a request to conduct a brown rockfish selectivity EFP, which CDFG may not support.

### **Tribes**

Mr. Harp explained the tribes do not have any EFP proposals for 2004.

## B.7.c Reports and Comments of Advisory Bodies

### **GAP**

Mr. Moore noted the GAP was not given information for upcoming EFPs. They will look at it in September.

## B.7.d Public Comment

Mr. Gary Frederic, fisherman, El Granada, California  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, Oregon

**B.7.e Council Action:** Consideration of EFP Proposals and Recommendations to NMFS

Council concurred we would flesh out the standards and criteria for the proposals and take the proposals to the September meeting. Mr. Robinson noted that by September we will need information for the set-asides with the actual approval of the EFPs in November. If the intent of selective flatfish gear studies in all three states is to ultimately put them into regulations, it would be NMFS preference that we ultimately settle on one design if that is feasible for the entire coast. He asked the state EFP sponsors to consider this request and coordinate their efforts.

Mr. Brown remarked that the selective flatfish trawl studies may reveal that one fishing gear design may not work along the entire coast. He suspects we will end up with area-specific gears. Gear standards could be developed and certified before you go on. He then questioned how the Dogfish Longline EFP results would be applied? Is it to ultimately keep vessels fishing in that one area? The long-term objective needs to be considered.

**B.8 Final Action on Groundfish Inseason Management (06/18/03; 4:45 pm)**

**B.8.b Reports and Comments of Advisory Bodies**

Mr. Moore and Dr. Hastie provided Exhibit B.8.b, Supplemental GMT Report.

Mr. Brown asked if the anticipated impacts from the recreational changes in southern California are going to vary enough with further analysis that the Council cannot make final recommendations at this time. Dr. Hastie reported that it was unclear if the estimated impacts would be large enough to exceed the OY in conjunction with the increased areas open to the trawl fleet south of 40° 10' N Latitude.

Dr. McIsaac recommended that the Council continue with any questions of the GMT or the GAP and anticipate a complete analysis for final consideration in the morning.

Ms. Vojkovich asked for clarification on the GAP statement on review in September. Mr. Moore stated the GAP was not in favor of adjusting the OY but was in favor of moving the 20 fathom line in California to 30 fathoms. In today's discussion, the GAP agreed that if there is any flexibility in bocaccio management due to an emergency rule between now and September, the GAP would be in favor of considering additional recommendations for inseason adjustments in September.

Mr. Brown added that even with an emergency rule on bocaccio, canary rockfish management is not likely to change between now and September.

Mr. Anderson requested clarification on the canary impacts associated with moving the nearshore line north of 40° 10' N Latitude. Dr. Hastie confirmed that the line could not be moved through period 6 because the OY would be exceeded by roughly 100 pounds. It would be possible to reconsider this action in September when we have a better understanding of actual mortality.

Mr. Robinson spoke against recommending an emergency rule to implement a new OY followed by a management process to determine the best way to utilize the increase. Rather, he recommended that the Council first determine if an emergency rule is necessary to achieve a specific management purpose. There should be a proposal for regulatory changes that includes rationale for changing the bocaccio OY.

Mr. Moore responded that the only management proposal reviewed by the GAP in detail was to move the 20 fathom line south of Point Conception to 30 fathoms. Following the analysis of this action and any

subsequent inseason adjustment or emergency rule, the GAP only expects to be able to reassess in September.

Mr. Robinson stated that he does not see any rationale for increasing the bocaccio OY and would like to see a fully analyzed package of proposed management measures. Mr. Moore explained that the GAP recommendation only speaks to the suite of management measures that have been presented. The GAP is only hopeful that the analysis will show that moving the line to 30 fathoms is achievable. If these adjustments do occur, the GAP presumes that there would be an opportunity to assess the results of such actions and make appropriate changes. Mr. Robinson concurred.

## **Tribal**

Mr. Jim Harp provided Exhibit B.8.b, Supplemental Tribal Comments.

### **B.8.c Public Comment**

Mr. Kenyon Hensel, Hensel's, Crescent City, California  
Mr. Bob Fletcher, Sportfishing Association of Southern California, San Diego, California  
Mr. Gary Frederic, fisherman, El Granada, California

**B.8.d Council Action:** Consider and Adopt Inseason Adjustments, if Necessary (06/19/03; 11 am)

**GMT (06/19/03; 11:02 am)**

Dr. Jim Hastie and Mr. Tom Barnes provided and reviewed Exhibit B.8.b, Supplemental GMT Report 2. They also referenced Exhibit B.8.b, Supplemental GMT Report which was previously provided.

## **GAP**

Mr. Rod Moore reported that Mr. Tom Barnes briefed the GAP on the CDFG and GMT analyses of bocaccio and canary impacts resulting from moving the management line out to 30 fathoms south of Point Conception. Because these impacts were greater than anticipated, there is no longer consensus in the GAP for this inseason adjustment. Several members in the GAP suggested that there were flaws in the analysis due to angler misidentification of vermilion rockfish as canary rockfish, recent fishery closures in marine sanctuaries, and uncertainties in the MRFSS estimates.

Dr. McIsaac asked the GMT if their analysis takes into account the state closures in the Channel Islands that were implemented more recently than the 1993-1999 period the analysis is based on. Mr. Barnes stated that the team did not attempt to adjust the estimated impacts for recent reduced fishing opportunities and therefore, CDFG considers these estimates to be maximum estimates.

Dr. McIsaac asked about total effort. Were there any adjustments to total effort estimates to reflect current trends. Mr. Barnes stated that the analysis assumes that effort would remain similar to that observed in the 1993-1999 period.

Mr. Hansen asked how many fish the reported impact of 0.07 metric tons of canary represents. Mr. Barnes replied around 100 pounds.

Mr. Thomas reminded the Council that the rockfish bag in this area during the base period was 15 and is currently 10. Mr. Barnes added that the number hooks that can be used has also been reduced.

Dr. Hastie added that the GMT has not presented a revised scorecard at this time and intends to update the scorecard following Council action on this item for presentation tomorrow.

**Public Comment** (06/19/03 11:19 am)

Mr. Darby Neil, CPFV owner, Morro Bay, California

Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California

Mr. Robert Fletcher, Sportfishing Association of California, San Diego, California

**Council Action** (06/19/03; 11:26 am)

Ms. Vojkovich stated the data just presented on bocaccio and canary rockfish in California for the combined impacts for the entire area that was analyzed provide an expected canary impact of 0.64 metric tons and a bocaccio impact of 2.53 metric tons. The scorecard indicates there are less than 20 metric tons of bocaccio at this stage, leaving her to believe there is room for discussion of additional bocaccio impacts. Canary rockfish impacts are a little harder to find especially if we consider management options north of 40° 10' N Latitude to restore fishing in period 4.

Dr. McIsaac suggested the GMT come forward to further clarify bocaccio and canary rockfish impacts as these values were not available when the earlier motion under agenda item B.5 was passed..

Dr. Hastie said the only substantial update not included in the B.5.b presentation is the change in estimates of the Oregon recreational fishery impacts. This results in available bocaccio impacts of 1.3 metric tons with trawl adjustments and 0.5 metric tons without the trawl adjustments.

Dr. McIsaac asked for clarification on canary rockfish impacts. Dr. Hastie confirmed that, after the adjustment to the Oregon recreational numbers and before any inseason action, the scorecard estimate for canary rockfish is 40.8 metric tons.

Dr. Hastie reported if we move the lines for period 4 for trawl fisheries, the canary impact total for the trawl fleet would be 11 metric tons. We have 11.3 metric tons of canary available. In summary, he stated that the current analysis suggests that including the recommended trawl line changes coastwide and the 20 fathom to 30 fathom line change for recreational and fixed gear fisheries south of Point Conception would result in a canary rockfish impact estimated below the OY. However, the addition of a 20 to 30 fathom line change north of Point Conception in the Morro Bay area would add sufficient additional canary rockfish impacts to exceed the OY.

Referring to Exhibit B.5.b, Supplemental GMT Report, Mr. Robinson stated the scorecard shows 18.9 metric tons of bocaccio taken. Dr. Hastie said the value has been revised to 18.7 metric tons. Mr. Robinson then noted the combined area from Point Lopez south for bocaccio is 2.53 metric tons. Dr. Hastie confirmed that the bocaccio impact associated with the trawl line changes coastwide and the recreational and fixed gear line change to 30 fathoms south of Point Conception would result in bocaccio impacts of 21.72 metric tons.

Ms. Vojkovich said that Mr. Robinson's number is greater than the 20 metric ton OY at this stage. This number is only arrived at by providing limited additional opportunity to fisheries south of Point Conception from September through December. The recreational fishery has been closed and is closed today until July 1. She thinks it would be extremely important to open up that small bit of opportunity in the south at least to have more access to deeper waters than 20 fathoms. It means asking for a change in bocaccio OY since the current estimate is greater than 20 metric tons. She cited the stock assessment as justification for additional impacts to bocaccio and mentioned Dr. McCall's assessment of limited risk. She moved for an emergency rule to allow recreational and fixed gear fisheries south of Point Conception to operate out to 30 fathoms.

(Motion 14) Mr. Donald Hansen seconded the motion.

Mr. Robinson asked if the motion assumes an effective date of September 1, 2003. Ms. Vojkovich said we cannot begin earlier than September without exceeding the canary rockfish OY. Mr. Robinson said the canary rockfish OY issue is more constraining at this point. The bocaccio issue is one where we have a new assessment and we are aware it will lead us to higher harvest opportunity next year and the understanding that the southern California fleet is unnecessarily restricted. Mr. Robinson stated that he is not convinced that a series of inseason changes like this resulting in 21.7 metric tons of bocaccio would lead to an emergency rule and suggested the terms of the motion say "if necessary". Even under an inseason action, a 30 fathom line was not analyzed in the EIS and there are no established coordinates. He suspects the line crosses between state and federal waters and that it would take some time to develop an accurate description of the line. There would need to be an analysis to support the inseason action. He said he was under the directive to vote no on any request for an emergency rule, but that is not a reflection on how the agency would decide to move. Therefore he would like to leave the door open for an emergency rule (if necessary) or to make the change through the inseason management process. Either way, the effective date would be September 1.

Mr. Caito requested a friendly amendment to include the phrase "if necessary" when requesting an emergency rule and both the maker and seconder agreed.

Dr. McIsaac confirmed with Ms. Vojkovich that the motion included a 30 fathom line south of Point Conception for both recreational and commercial fixed gear fisheries.

Mr. Brown offered a friendly amendment to include the analyzed trawl changes in Washington, Oregon, and California as recommended by the GMT.

Ms. Vojkovich replied that is tough issue for her because the GAP was split on this issue. There are people north of Point Conception that would like to have those fishing opportunities. However, negotiating a few hundredths of a ton of canary rockfish is not productive; so she and the seconder agreed to the friendly amendment.

Mr. Alverson expressed concerned about the observer program results for target species discard rates and asked about how the Council will proceed in September.

Mr. Robinson said he did not instruct the Council to use the observer data the Council recommended that in April. There were some risks with these decision. He said he thinks the obligation is to manage for the OY and the Council's purpose is to wrestle with the issue of regulating for the OYs sector by sector or in total.

Mr. Alverson still did not understand why the observer data is good enough to use for the overfished species and why it is not good enough to use for the other species. He thinks that NMFS put itself in a difficult box by not embracing the data we had in May, we should be using the observer data. He is concerned that NMFS should put greater consideration on bycatch issues and that the DTS OYs and fisheries are in jeopardy. We have National Standard 9 to manage for bycatch and allocate for the clean fisheries.

Mr. Robinson said he is not presuming anything about the use of the observer data. We heard from the science center that the data will be analyzed by September and we will have to consider actions then. There is some risk of the circumstance you described. He did not suggest that the solution was to reallocate. Under the current regulations each sector can be held responsible for its bycatch.

Mr. Anderson said Mr. Alverson brought up some very good points and the risks he identified are very real.

There are at least two important policy calls we may yet need to make given what circumstances may come up in September. One is if the observer data analysis on target species bycatch is completed and if we can use that data. He is not going to presume that we are going to make the same decision for target species relative to inseason that we did for inseason changes for overfished species. That will be taken up in September. Mr. Anderson then said the second policy call, if the data is ready for use, involves decisions on how the results will be applied to the various fishing sectors. Mr. Anderson stated that he is not going to presume how those policies will be decided upon by the Council.

Mr. Anderson noted the tribes brought forward a concern yesterday relative to the 50 fathom line for trawl fisheries north of 40° 10' N Latitude. The issue is the potential affects on the Dungeness crab resource from having increased trawling or trawling at all in shallow areas. There are state regulations in place to close areas and times to crabbing to protect molting crab and to put the trawl fishing in the same area we 're closing the crab is a problem. That is at least, in part, the issue the tribes were bringing to us. He spoke in favor of trawl changes contained in this motion to go out to 75 fathoms for period 4. He requested that the Council and GMT consider ways to continue this extension into periods 5 and 6 to alleviate concerns about Dungeness crab. He suggested that if the data and the model has the specificity, to leave the area north of Umatilla Reef open out to 75 fathoms while closing the area from there south to Grays Harbor down from the beach out to 200 fathoms.

Mr. Brown stated the issue of how we are going to deal with new information will have to be made when it becomes available. We cannot presuppose what the results will be at this meeting. We did make a policy call to treat the sectors bycatch issues separately and hopes we stay with that.

Mr. Harp concurred with Mr. Anderson's comments about the area off the Washington coast. He is in favor of moving the boundary line from 50 to 75 fathoms and considering nearshore closures south of the Umatilla Reef alleviates many of his concerns.

Mr. Brown stated that the GAP would also like the opportunity to speak to crab issues as we move closer to the crab seasons.

Ms. Vojkovich stated that she had spoken to enforcement personnel and requested clarification on wether weigh points for the 30 fathom curve needed to be developed or if a 30 fathom depth curve would be adequate.

Mr. Robinson said this is an issue he needs to talk over with the Enforcement Consultants and NMFS General Council.

Mr. Burner asked for Dr. McIsaac to restate the motion (06/19/03; 12:16 pm see tape). Mr. Burner noted the motion does not include the items on the first or second page of Exhibit B.8.b, Supplemental GMT Report 2. Mr. Anderson requested a friendly amendment to add the remainder of the recommendations of the Exhibit B.8.b, Supplemental GMT Report 2. Ms. Vojkovich and seconder agreed to the friendly amendment.

Dr. Radtke asked for a roll call vote. Motion 14 passed (see voting log).

Dr. McIsaac asked Ms. Vojkovich whether the intent of the motion was to open any of the areas currently closed in the Cowcod Conservation Area when the fishery is opened out to 30 fathoms. Ms. Vojkovich responded that was not the intent.

Dr. McIsaac also brought forward an issue relative to canary rockfish. He stated that the current assessment for canary rockfish is only inclusive of the population south to 36° N Latitude and therefore does not include

the areas south of Point Conception. He stated that if canary impacts south of Lopez Point are not counted, estimated impacts fall below the OY. He asked Mr. DeVore for clarification.

Mr. DeVore confirmed the situation stating that the assessment was for the Monterey INPFC area and north only.

Ms. Vojkovich asked about the implications for canary impact accounting and management of fisheries south of Point Conception.

Mr. DeVore stated that he felt the OY was based only on the assessed portion of the stock but recommended deferring to the GMT.

Dr. McIsaac stated that there are also policy implications to be considered as canary rockfish impacts north of the U.S./Canada border are also not considered against the OY. Mr. Robinson offered the policy suggestion of leaving any available canary impacts that could result from this consideration as a buffer against future inseason developments.

Ms. Robinson said there is some confusion on this issue and reported that the GMT has determined that even though the stock is assessed north of 36° N Latitude, the OY is coastwide. The GMT will prepare a new scorecard as updated with the inseason recommendations.

## B.9 Implementation of a Vessel Monitoring System (06/19/03; 8 am)

### B.9.a Agendum Overview

Mike Burner provided the situation summary and reviewed the reference materials for this agenda item. As requested by the Council in April, NMFS has extended the public comment period for a proposed rule for the implementation of a Vessel Monitoring System (VMS) to include this Council meeting. The primary focus of this agenda item is for Council, advisory body, and public review and comment on the proposed rule.

### B.9.b Reports and Comments of Advisory Bodies

#### **GAP**

Mr. Moore summarized Exhibit B.9.b, Supplemental GAP Report. The main idea was to make sure the comments to the proposed rule and requests be submitted to NMFS along with any other comments prepared by the Council or its advisory bodies. The GAP also requested that the Council develop a time line for its consideration of expanding the VMS program to other sectors.

Dr. McIsaac requested that Mr. Moore highlight any controversial items. Mr. Moore highlighted items 8 and 9 in the report. The GAP has requested some exemptions to VMS requirements for vessels that are not going to be in the RCAs due to extended periods fishing in Alaska or during times the vessels are out of the water for maintenance or storage. Additionally, the GAP has requested that implementation of the VMS program be postponed until the results of the buyback program are known. A long standing issue between the industry and NMFS has been over costs. NMFS has paid for VMS units in other fisheries around the country but has not identified funds for this program.

#### **EC**

Messrs. Dayna Matthews and Joe Albert of NMFS, offered verbal updates on the VMS program. The VMS committee has not met since the last meeting. The proposed rule was published and the comment period is underway (July 21 deadline). The earliest that rule would be approved is September 1 with implementation expected December 1 or shortly thereafter.

The declaration system is ahead of schedule and an automated phone system is being developed to log and report declarations. The system will be operational on September 1 allowing time for testing. Hardware is being tested now with three VMS units approved. NMFS is working with equipment manufactures to ensure that units are tested and available once the program is ready for implementation.

Mr. Matthews provided some clarifications on some of the items presented by the GAP. The cost analysis reports a range of costs of \$2,000 - \$6,000 for existing programs around the country but expected costs for this program are in the \$800 to \$3,800 range. Revenue analyses consider VMS as a mitigative response to depth-based management, in other words, without VMS, depth-based management would be difficult. Concerning the Newport Dory fleet and turning the unit off when the vessel is out of the water, NMFS is working with that fleet to identify a unit that will work for them. NMFS is also experimenting with creating a geofence that would turn the signaling off when the vessel crosses onto land. If it works for them, they will expand it to other fleets as necessary.

Finally, on the future of the VMS program, Mr. Matthews and Mr. Albert will be glad to continue to work with the committee as Steve Springer has retired. He sees the committee as an integral part of any potential expansion of the program.

Mr. Donald Hansen asked if NMFS pays for all the VMS in the country as stated by the GAP. Mr. Matthews reported that as an overstatement citing programs in New England, Hawaii, and Alaska where industry has paid some or all the costs.

Mr. Brown asked about the boundary line issue, especially for the dory fleet. Currently most trawl vessels are fishing a few days a month and if you don't have the provision for those boats sitting at the dock, you will be tracking many docked vessel which does not seem like a good use of their time.

Mr. Anderson said another issue not addressed by the GAP is the issue of state enforcement personnel's access to the information coming from this system once it is up and running. We have up to 10 enforcement personnel in our two marine detachments who have responsibilities along the coast of Washington. Most of their time is spent outside 3 miles enforcing federally managed fisheries. One fishery in particular, Dungeness crab, has time/area closures that are difficult to enforce and there are concerns about the lack of enforcement personnel being able to access the data. Mr. Matthews responded that NMFS intended to give states access to this proprietary information but discovered that the MSA prohibits that from occurring. NMFS is looking into being able to give states access but this may require a reauthorization of the MSA. In the meantime, the states would be able to get information as it relates to federal violation investigations but the states would have to be careful, under the rules of evidence, about using that data if it is strictly a state violation.

Mr. Anderson asked if the limitation of sharing information only if it is associated with a federal violation is in the current language in the MSA. Mr. Matthews responded it was. Mr. Anderson asked in the case of the dungeness crab, if there was a way to work with NMFS to put those particular state regulations also under federal regulations to allow VMS in the enforcement of those state management plans.

Ms. Cooney said she did not know, they could look into it.

Mr. Anderson asked for language drafted by NMFS relative to the amendments to the MSA so we can go to our state congressional delegation for support. Mr. Matthews said there are situations around the country where other countries or states implement VMS as part of a state regulation. Mr. Anderson asked if the states would have to purchase their own terminals. Mr. Matthews replied that could be explored and said hardware on vessels is really the costly part of the system.

Mr. Alverson asked about the installation requirements in the GAP statement. Mr. Matthews stated that NMFS is prepared to engage the Ad Hoc VMS Committee in developing a time line for VMS expansion and would look to the Council for guidance on that issue. Mr. Matthews stated that provisions for equipment breakdown will be incorporated as the program moves into a procedural phase.

Mr. Joe Albert stated that it was recommended a certified third party does the installations for security reasons, etc. NMFS is interested in consistent and proper installation of units nationwide.

Mr. Anderson asked about security issues. Mr. Albert stated there have been incidences of tampering with the units and false GPS signals being transmitted. Mr. Anderson said that if someone installed the unit professionally, would that insure that someone else couldn't tamper with it later. Mr. Albert responded no, but it would be a good first step.

Mr. Anderson asked what access the Coast Guard would have to VMS data. Mr. Matthews stated that the USCG is one of the agencies mandated to enforce the MSA so they will have ready and primary access to that data.

Dr. Radtke asked about transmission costs. Mr. Matthews stated that the costs are about a nickel per pulse and that the declaration system would be about 25 cents a minute. Costs of declaration system is picked up by a NMFS toll free number.

Mr. Coenen asked about time frame for VMS implementation in the context of the new groundfish year. Mr. Matthews stated that the implementation date is a policy call and enforcement has no stance on that situation. Mr. Coenen said the most common complaint he hears about the VMS program is the timing of it. Mr. Coenen recommended a January 1, 2004 implementation date to coincide with the new fishing year and the completion of the trawl buyback program.

Mr. Brown disagreed with the security issues surrounding installation requirements. He spoke in favor of a January 1, 2004 implementation date.

Mr. Anderson understands why you would want to have the unit checked once it is installed to make sure it is installed properly. The situation on the Washington coast is that the demise of the fleet has resulted in a decrease in the availability of electronic shops and technicians in those communities. Mr. Anderson stated that he would like to find a way to allow vessel owners to install their own units. Mr. Matthews stated he sat in on the session with the GAP and learned many good ideas on security and keeping the costs down and that NMFS would take these concerns into account.

Mr. Cedergreen asked how the signal costs would add up in a day. Mr. Matthews said about one signal per hour or about \$1.20 per day of actively fishing, 5 cents a day docked.

#### B.9.c Public Comment

Ms. Janice Baker, Newport Dory Fleet, California

#### B.9.d **Council Action:** Consider the Environmental Assessment, Proposed Rule, and Next Steps in the Process—Make Recommendations as Necessary

Mr. Brown moved and Mr. Cedergreen seconded a motion (Motion 10) to forward the comments by the GAP as contained in Exhibit B.9.b, Supplemental GAP Report to NMFS. Motion 10 passed.

Mr. Anderson said he would like to see the language that NMFS GC has developed to allow state agencies to access the federal VMS information so we can be working with our congressional delegations during the MSA reauthorization process.

Mr. Robinson said they have a call into HQ and will provide that language as soon as the agency allows us to. Mr. Anderson asked if they find out they cannot give it to us please let us know. He also wants to know if the language is going to be part of the recommendations from NMFS so they can take the appropriate actions at the state level. Mr. Robinson said my would get that.

Mr. Coenen moved and Mr. Anderson seconded a motion (Motion 11) to propose to NMFS that they declare January 1, 2004 as the VMS implementation date.

Mr. Anderson said the GAP recommendations included a provision #11 that the rule not go into effect until NMFS provides a means for purchase and is interested in finding a way to reconcile this and the new motion.

Mr. Brown said this motion is a policy decision and the previous motion (Motion 10) is simply our comments to NMFS on the proposed rule.

Motion 11 passed.

Mr. Burner asked about the next steps in the VMS program, it might be helpful to discuss the next meeting of the ad hoc VMS Committee. Mr. Hansen stated that he will defer to Mr. Matthews and Mr. Albert regarding the timing of the next meeting.

Mr. Anderson said the expansion of the VMS program should be the committee's focus and that the VMS program should extend to most all vessels subject to closed areas.

Mr. Hansen and Dr. McIsaac agreed with Mr. Anderson and will consider a meeting schedule.

Mr. Anderson said we need to develop those next steps and waiting until our march Council meeting to figure out what additional vessels need these units will not work. Dr. McIsaac said that might be sufficient direction and revisited during the Council workload planning agenda item later in the week.

Mr. Burner, suggested that the Council consider expanding the representation on the committee to include those sectors being considered for VMS program expansion. Mr. Anderson asked the committee chair to consult with the other members and bring back a recommendation. Mr. Hansen said he agreed with Mr. Anderson.

B.10 Groundfish Stock Assessment Review Process for 2005 through 2006 (06/19/03; 1:39 pm)

B.10.a Agendum Overview

Mr. DeVore provided the agendum overview.

B.10.b NMFS Report

Dr. Elizabeth Clarke provided the NMFS NWFSC report in a PowerPoint presentation. (06/19/03; 1:41 pm)

Ms. Vojkovich asked Dr. Clarke how long are STAR Panels? Dr. Clarke replied the last two have been four days. When asked whether that provided enough time for an adequate review, Dr. Clarke responded the review should be longer to be more robust.

Dr. Radtke, dwelling on the point made by Dr. Clarke that reviews are compromised when assessment scientists miss deadlines, asked her opinion of the best way to enforce these deadlines? Dr. Clarke thought a reminder letter to the NWFSC and assessment scientists would suffice.

Mr. Brown asked how the data workshops proposed by the NWFSC would be structured? He noted the last were simply data/analysis presentations. Dr. Clarke thought we need something more robust in this process with independent reviewers and a broader audience to look at all data details.

Dr. McIsaac noted that page 9 of the SSC Terms of Reference addresses schedules, but what about whiting? Dr. Clarke revealed the plan for delivery of the whiting assessment is January 2004. The timing of this is driven by analysis of new acoustic survey data.

Mr. Brown noted that data conditioning for assessments is important. Would the data workshops focus on data inputs? Dr. Clarke said yes and provided an acoustic survey data example.

Ms. Vojkovich asked about the September 15-19, 2003 STAR Panel and noted those assessments are for use

in 2005-2006. Would results also be used for 2004 management? Dr. Clarke said she didn't know, she was just presenting the assessment schedule. Dr. McIsaac said the draft assessments will be available in September when the Council decides final 2004 management measures. The decision could be responsive to this new information. Ms. Vojkovich asked if only new assessments for cabezon and lingcod are to be reviewed in September and Dr. Clarke said yes.

Mr. Alverson asked when widow rockfish would be re-assessed? Three years from now? Dr. Clarke said that depends on whether assessments are done annually or every two years. She said up to 18 stocks could be assessed in 2005-2006. Do assessments sit on the shelf? Are they done every other year? Dr. McIsaac noted that Amendment 17 outlines this. No assessments would be done in the off year under biennial management. Otherwise, this would challenge the wall of science. A large load of assessments would be adopted in November 2005 for the 2007-2008 management period. The off year could be used to refine assessments.

#### B.10.c Reports and Comments of Advisory Bodies

##### **GAP**

Mr. Marion Larkin provided Exhibit B.10.c, Supplemental GAP Report.

##### **SSC**

Mr. Tom Jagielo provided Exhibit B.10.c, Supplemental SSC Report. Mr. Jagielo made the point that the SSC could deliver better products/reviews if STAR-lite members had the ability to go to a full assessment with good justification.

Mr. Anderson asked if the SSC discussed the ability to review up to 18 assessments in one year? Mr. Jagielo replied yes and the SSC is concerned. This many assessment reviews is a bottleneck and could compromise the level of scrutiny. To be effective, we would need to have more assessment updates reviewed by a STAR-light Panel. Dr. McIsaac noted that the most recent STAR-light review was delayed until May 28-29. Dr. Ralston made a heroic effort to get the STAR-light Panel report in the June briefing book; however, this was difficult. Did the SSC discuss the timing of STAR-light reviews? Mr. Jagielo said no, but this is an issue.

#### B.10.d **Council Action:** Approve Process and Terms of Reference

Ms. Vojkovich moved to adopt the Terms of Reference as presented in Exhibit G.10, Attachment 1, along with the suggestions contained in the SSC statement (the page 2 recommendation regarding the STAR-light process and the full STAR process recommendations- items 3 and 4), the recommendations in the GMT report (Exhibit B.3.b, Supplemental GMT Report) that assessments include quantities such as ABC projections,  $T_{MID}$ , etc. (last paragraph in that exhibit), and the GAP recommendations in Exhibit B.10.c, Supplement GAP Report regarding the need to do assessments on overfished species every two years (Motion 15). Mr. Donald Hansen seconded the motion.

Mr. Brown asked if other items were included in the motion? Dr. McIsaac said, for example, the Center for Independent Experts (CIE) reports? Mr. Brown asked for a friendly amendment to provide the CIE reports to the SSC for their final review. Dr. Clarke said the NWFSC could provide a summary of CIE comments to the SSC. Ms. Vojkovich and Mr. Hansen accepted the friendly amendment.

Mr. Brown encouraged continued development of the data workshop process. It is where we need to focus.

Mr. Anderson broached the issue of the timing and frequency of assessments. Does this motion, if passed, lock us in to doing them all every other year? Dr. McIsaac said this action is to adopt the Terms of Reference and the process only for the upcoming management cycle that begins in November and covers the 2005-2006 management period. Mr. Anderson said he is uncomfortable not having a new canary rockfish assessment in the timeframe that won't allow us to react until 2007. He is also concerned with the concept of assessing up to 18 stocks in one year. If voting on this motion does not lock us in, then he would be in favor. Mr. Brown said the list of proposed assessments for 2007-2008 is due in September. Dr. McIsaac said today's action only pertains to the upcoming management cycle (2005-2006). There would be a Terms of Reference forthcoming for subsequent assessments and management periods. This Terms of Reference would not be binding for these later assessments. Ms. Vojkovich asked if this discussion implies that canary rockfish would next be assessed for the 2007-2008 management period? Dr. McIsaac said that is correct. Mr. Anderson asked if the decision of when to next do a canary assessment would be before the Council in September? Dr. McIsaac said this is still an open question, but an earlier canary assessment (than November 2005) would be disruptive under multi-year management. The Council further debated this issue before asking Dr. Clarke to clear this up. She said the way to get a canary stock assessment would be to do it by November along with cabezon and lingcod. You would have to add another stock assessment now; which means you would have to find an author that can get it done by November. That would be the smoothest way, but no scientists from the NWFSC are available. Mr. Anderson asked if it was acceptable to anybody else to wait four years for the next canary assessment? (Heads nod no).

Ms. Vojkovich asked, if we vote no on the motion, what effect does that have on the Terms of Reference for upcoming STAR Panels? Dr. Clarke said the lingcod and cabezon STAR Panels would operate under the old Terms of Reference if this one is not adopted. Mr. Brown said he assumed that voting down this Terms of Reference would not provide a new canary rockfish assessment any sooner; that is a separate issue. Mr. Anderson suggested we go ahead and take action on the motion and then give some thought on how we can deal with the canary issue. Mr. DeVore noted that Terms of Reference is silent to the Pacific whiting assessment schedule.

Dr. Radtke asked for the vote on motion 15. Motion 15 passed on a voice vote.

Mr. Anderson suggested we should try to adopt a new canary assessment by April 2004. Otherwise, let's figure out how to modify Amendment 17 to get it done in time for 2006. It is not acceptable to wait until 2007. Dr. McIsaac recommended the Council consider the whiting assessment schedule as well. The Council could provide guidance to the NWFSC rather than consider a formal motion and vote. Mr. Brown said that the widow rockfish assessment schedule is similar in that it is data-poor. He would like to move up the widow assessment schedule, although canary is more important.

Mr. DeVore said Mr. Anderson's recommendation to adopt a new canary assessment by April 2004 could conceivably work. This agenda item could be an opportunity to consider that. Ms. Cooney remarked that, under Amendment 17, preliminary OYs are decided in November with final harvest specifications decided (as best you can) in April. The real final decisions are not made until June (just in case something comes in for that timeframe for canary).

Mr. Anderson asked the entities and agencies who have stock assessment authors to try to identify a team to perform the canary rockfish assessment and give a timeframe for that. Maybe these discussions can occur this week before we leave so we can have some idea on a possible new canary assessment.

B.11 Status of the Groundfish Essential Fish Habitat (EFH) Environmental Impact Statement (EIS)  
(06/19/03; 3:05 pm)

B.11.a Agendum Overview

Dr. Kit Dahl gave the agendum overview.

B.11.b NMFS Report

Mr. Steve Copps, Senior Policy Analyst and the team involved in developing the risk assessment model for EFH gave a presentation. (Team members Alison Bailey and Waldo Wakefield were on hand to answer questions. Mr. Marion Larkin was available to address the fishing effort study, see Attachment 4.) Mr. Copps described the last meeting of the Ad Hoc Technical Review Committee and summarized the recommendations of the Committee. The main outcome was a recommendation to proceed with the risk assessment modeling project and validate the results.

Mr. Graeme Parkes, a consultant from MRAG America, Inc., described progress to date on developing the risk assessment model. He summarized the report labeled Attachment 5, Pacific Coast Groundfish EFH Analytical Framework Version 1 (28 May 2003).

Mr. Ralph Brown commented on the difficulty in assigning probabilities to different components of the model. He expressed a concern that the model results will be used as "propaganda" by different groups and asked how model results will be validated. Mr. Parkes responded by noting that this question had to do with the fishing impacts component of the model, which is still in an early development stage. Validation would occur by wide circulation and review by different bodies involved in the Council process. He also provided more detail on how the specific issue Mr. Brown raised, as far as trawl impacts on habitat, would be addressed. Mr. Brown responded that there is a danger various assumptions will be buried in the model, making it difficult for the public to know what they are. Mr. Parkes responded that the Bayesian statistical approach would help to make these assumptions explicit.

Dr. McIsaac asked Mr. Parkes to expand on the SSC's role in the model validation. Mr. Parkes responded that the Ad Hoc Technical Review Committee would have the primary role in reviewing and validating the model. In addition, the model development team will also circulate model outputs among experts, including fishermen, as part of validation. He noted that the model allows evaluation at the species level and the overall composite of habitats for different species. This approach makes updating the model easier as well.

Mr. Robinson emphasized the impacts on Council activities that flow from the settlement agreement that revised the timeline (see Attachment 1, Joint Stipulation..., and Attachment 2, Draft Timeline and Major Milestones...). The longer timeline allows the EFH/HAPC designation process to be based on real data. This will require the Council to extend the life of the Ad Hoc Technical Review Committee. Second, one alternative will be developed by the plaintiffs in the case. Third, under this new timeline the EIS process and the FMP amendment process are concurrent so that the alternatives that the Council adopts in the EIS will also be the alternatives the Council would take action on in terms of adopting and FMP amendment. Therefore, in June 2004 the Council selects a preliminary range of alternatives, and in September 2004 they approve the final alternatives and development of an FMP amendment. Then in March 2005 the Council makes a final recommendation for FMP amendment to the Secretary.

Dr. McIsaac asked Mr. Robinson to clarify whether, for example, as part this process the Council would vote on an FMP amendment with geographic boundaries for HAPCs and maybe MPAs. Mr. Robinson responded

that he wasn't sure what the actual content of the alternatives would be, but the opportunity for that level of detail would be there. Dr. McIsaac asked the technical team whether the model output would be a specific geographic description of an MPA or HAPC. Mr. Parkes replied that the model will be designed to produce information needed to produce a problem statement. When policy choices are available the model can be updated to determine the risk of different choices. Experience in the Gulf of Mexico and Caribbean regions is that the Councils prefer to retain the ability to designate specific areas even if the model can produce designation-type results. Mr. Robinson said he didn't think model results will be used to draw specific lines without further policy input by the Council; instead the model will help the Council when it sits down to develop alternatives.

#### B.11.c Reports and Comments of Advisory Bodies

### HC

Exhibit B.11.c, Supplemental HC Report provided by Mr. Michael Osmond.

*The HC received a presentation on the groundfish EFH EIS that summarized the data gathering, GIS work, and modeling that is being done. This project represents a significant step forward in making new information available to the Council, including information on benthic substrates. The searchable databases and GIS-based maps also represent a major step forward in making the enormous quantity of existing groundfish data useable. This project will result in a useful tool not only for the EFH EIS process, but for many other Council applications.*

*A data quality layer for benthic substrates is an important component of the GIS data used in the modeling. This component is complete for Oregon and Washington. To increase the consistency and reliability of the model, it is important to complete this data quality layer for California. This will cost about \$10,000. The Habitat Committee recommends that the Council ask NMFS to provide those funds.*

Mr Anderson asked what other types of applications the HC thought this tool might be useful for. Dr. Waldo Wakefield responded that the HC was thinking about further application of the Bayesian approach and the use of the tools for visualizing data with GIS, such as overlaying information from trawl surveys over habitat maps.

Dr. McIsaac noted that the Ad Hoc Technical Review Committee report was in the briefing book.

### SSC

Mr. Tom Jagielo provided Exhibit B.11.c, Supplemental SSC Report.

*The Scientific and Statistical Committee (SSC) heard a presentation from Mr. Steve Copps, Dr. Graeme Parkes, and Ms. Allison Bailey who gave an overview of methodologies being developed to analyze West Coast groundfish essential fish habitat (EFH).*

*The SSC was impressed by the scope of the work in progress; however, due to time limitations at this meeting, the SSC was not able to delve into the details of the analyses to be performed. In order to provide useful advice, the SSC would like to schedule a longer, more in-depth discussion with the analytical team members to gain a better understanding of the methodologies to be employed.*

*During the short time available for discussion, the SSC raised the following points.*

1. *When using the NMFS triennial trawl survey data, the analysis should incorporate the latest updates, which reflect adjustments for "water hauls."*
2. *In the construction of fishing sensitivity indices, factors such as fishing strategies and gear type interactions should be considered.*
3. *When employing expert opinions to evaluate fishing effort, the analysis should strive to ensure consistency and should be representative on a coastwide basis.*

#### B.11.d Public Comment

Mr. Peter Huttilla, PMCC, Astoria, Oregon  
Mr. Jeff Shester, Oceana, Seattle, Washington

#### B.11.e Council Discussion on Status of the Groundfish EFH Environmental Impact Statement

Mr. Alverson asked Mr. Robinson whether there will be an economic analysis of the impacts of closing areas, citing sablefish distribution as an example. Mr. Robinson said that the Council will have the opportunity to develop a wide range of alternatives. Once those alternatives are identified, the DIES would analyze the economic impacts.

Mr. Anderson asked Mr. Robinson whether the Council is being led to an outcome of designating MPAs. Mr. Robinson said that the Council will have to consider the establishment of MPAs very carefully since the litigation shows that these options have not yet been carefully evaluated.

Mr. Brown emphasized the value of the modeling approach and other applications of it. However, this depends on the quality of the data and assumptions in the model. Therefore, it is very important to groundtruth the assumptions and data. He also cautioned against early release of results because they could be used in a lot of other disputes before they are fully validated.

Mr. Alverson asked, first, when the final version of the analytical framework (risk assessment model) would be completed and Mr. Copps responded in March 2004. Second, he asked Mr. Robinson whether information on biological substrate is being incorporated into the model in as sophisticated a fashion as physical habitat. Mr. Robinson couldn't answer the question but said he would ask the Science Center.

Dr. McIsaac asked Mr. Robinson about the timing of the implementation of any FMP amendments and its relation to the multi-year management schedule. Would regulations be in effect for the balance of 2006 stemming from the EFH EIS? (They would then come into effect in the middle of the 2005-2006 multi-year cycle.) Mr. Robinson responded that it depends on the process, but the intent is that the Secretary will complete the review process and be ready to implement any provisions no later than that date.

#### B.12. Update on Groundfish FMP Programmatic EIS

##### B.12.a Agendum Overview

Dr. Dahl provided the agendum overview.

## B.12.b NMFS Report

Mr. Glock discussed the change in the scope of the PEIS to focus on bycatch issues and presented a revised set of alternatives for Council consideration. He also summarized the results of a scoping session held earlier in the week.

Ms. Vojkovich asked about the goal of reducing all unobserved fishing mortality of all fish. She wanted to know if there is an example of how it is covered in the alternatives. Mr. Glock said he wasn't sure it was addressed in the alternatives directly, but it is part of National Standard Guidelines addressing unseen bycatch.

Mr. Robinson added that both testimony at the scoping session and a letter from NRDC strongly opposed the change in scope. He wanted to point out to the Council that the concept of a broader programmatic EIS is still alive as far as NMFS is concerned. But the resources available didn't allow preparing three major EISs simultaneously. The EFH EIS and bycatch reduction are mandated by the Court so they take precedence. Hopefully, NMFS can prepare a programmatic EIS in the future once resources were made available.

Mr. Alverson noted that there are components of all of these alternatives that are already being done. It would be helpful to indicate those components in some way, such as by means of italic or boldface type.

Mr. Brown asked about the name, "bycatch management program." He recommended such a change since the analysis is not programmatic anymore. Mr. Glock said that was a consideration, but the bycatch EIS will still qualitatively evaluate program policies rather than specific management measures (e.g., gear regulations). For this reason Mr. Glock said he wasn't sure what the most appropriate title should be.

## B.12.c Reports and Comments of Advisory Bodies

### GAP

Dr. Dahl read Exhibit B.12.c, Supplemental GAP Report:

*The Groundfish Advisory Subpanel (GAP) received a briefing from Mr. Jim Glock on the groundfish fishery management plan (FMP) programmatic environmental impact statement (EIS). Six alternatives focusing on how to monitor and control bycatch of groundfish species were presented.*

*While the GAP agrees that achieving a sustainable and economically viable groundfish fishery depends on effective bycatch accounting and control, there are concerns with draft alternatives 4, 5, and 6 which focus on the use of bycatch caps. The concerns include the implications of using bycatch caps which will require increased observer coverage; there is no indication of who will bear the cost of this coverage, what that cost might be, or what benefits might offset the cost. The vessel-based bycatch cap alternatives (alternatives 5 and 6) would probably require 100% observer coverage, and alternative 4 would probably, at least require enhanced observer coverage. It is also unclear whether these alternatives would apply to the recreational fishery. Having vessel owners bear the cost of increased observer coverage is not a viable option for an industry already on the economic edge due as a result of current groundfish management decisions.*

*Alternative 6 also focuses on the use of "broad, long-term Marine Protected Areas (MPAs) encompassing primary habitat areas of all overfished groundfish stocks" as a means to control groundfish bycatch. The GAP believes that, due to a lack of compelling scientific information on*

*the efficacy of MPAs to control groundfish bycatch, this strategy should only be considered as a last resort. The GAP also notes that we already have one of the largest MPAs in the continental United States off the West Coast - an area approximately the size of the states of Vermont, New Hampshire, Rhode Island, and Delaware combined.*

*Other alternatives that are not considered, but should be included in the programmatic EIS are gear modifications, full retention strategies, and alternative fishing strategies. The GAP recommends a refined analysis of current bycatch control strategies such as depth-based management which has not been adequately evaluated. The GAP also recommends there be a complete analysis - including social and economic impacts - of the individual sub-alternatives contained within the main alternatives.*

#### B.12.d Public Comment

Mr. Peter Huttala, PMCC, Astoria, Oregon  
Mr. Chris Dorsett, Ocean Conservancy, San Francisco, California  
Ms. Karen Garrison, NRDC, San Francisco, California  
Mr. Phil Kline, Oceana, Washington, DC

#### B.12.e Council Discussion on Programmatic EIS Process

Mr. Brown suggested a name change for the EIS. The key point is that the name should be something more definitive so the public doesn't think it is a broader programmatic EIS.

Mr. Donald Hansen asked Dr. Dahl what the Council action should be. Dr. Dahl noted that there was a list of items for Council action in Mr. Glock's presentation; these were:

1. State any disagreement with NMFS about the intent to refine the PEIS scope.
2. Clearly articulate any suggestions about the draft proposed alternatives.
3. Schedule time at September 2003 meeting for discussion of the analysis and also approve the release of a preliminary draft EIS for public comment.
4. Schedule adoption of preferred alternative for November 2003 meeting.

Dr. McIsaac said that the last two items would be addressed under Agendum H.4 (Staff Workload Priorities and September 2003 Council Meeting Agenda)..

Mr. Anderson concurred with the recommendation that the scope be narrowed to bycatch, and the alternatives presented by Mr. Glock should be included in the EIS. However, closed area proposals would fit better under the EFH EIS. He recommended analyzing practical bycatch cap systems, citing the arrowtooth flounder EFP as an example. In his presentation, Mr. Glock discussed an assessment of the bycatch mortality and particular actions that could be taken to reduce it. However, the current draft language gives a general overview and doesn't really provide suggestions as to how mortalities might be reduced. He would like those alternatives fleshed out in the document with specific examples.

Ms. Vojkovich wondered whether Mr. Robinson's recommendations for the inclusion of bycatch reduction measures ("clean fishing") would be part of a bigger package of measures in an alternative, such as the incentives statement in Alternative 4 (see Attachment 2, page 4). Mr. Anderson asked if he could request Ms. Garrison to address that in terms of what she had in mind on this issue. Ms. Garrison said she thought

that Alternative 4 is going in the right direction, but should be expanded to an annual allocation rather than an inseason allocation. An annual, sector-wide allocation—versus individual vessel, inseason allocations—could be done more easily (e.g., for less money, investment of observers, etc.).

Ms. Vojkovich said that brings up the issue of whether Alternative 4 locks in controls by sector, because in some fisheries it might be more appropriate to have vessel-level caps or an inseason adjustment rather than an annual cap. Flexibility should be maintained, although she was unsure how to structure an alternative for this flexibility.

Mr. Anderson said these were not necessarily stand alone alternatives. You might choose different elements from different alternatives in the decision. Ms. Vojkovich asked if that meant the Council could choose elements from the different alternatives to craft a preferred alternative. Mr. Anderson concurred. Ms. Vojkovich emphasized that even after a particular approach was adopted there should still be some flexibility to apply different measures to implement the overall approach. Mr. Anderson said that was possible in crafting a preferred alternative.

Mr. Robinson said that whichever preferred alternative is identified, elements of different alternatives could be adopted as part of a regulatory proposal. He then noted that the "clean fishing" proposal could be worked into Alternative 4 and requested Mr. Glock do so.

Mr. Coenen asked Mr. Glock if full-retention is a component of one of the alternatives. Mr. Glock said it is in Alternative 6, and is not necessarily excluded from the other alternatives. He hopes to evaluate the available tools, including full-retention. This could also address Ms. Vojkovich's concerns because the EIS would analyze the full suite of available tools.

Mr. Anderson asked whether there was a request to release the preliminary document. Mr. Glock responded that this would occur at the September meeting. A preliminary draft EIS would then be available for the Council to release for public review between the September and November 2003 meetings.

#### B.13. Final Adoption of FMP Amendment 16-1 and Amendment 16-2 (06/19/03; 5:46 pm)

##### B.13.a Agendum Overview

Mr. DeVore provided the situation summary.

##### B.13.b Reports and Comments of Advisory Bodies

#### **GAP**

Mr. DeVore read Exhibit B.13.b, Supplemental GAP Report.

#### **SSC**

Mr. Jagielo provided Exhibit B.13.b, Supplemental SSC Report.

##### B.13.c Public Comment

Mr. Chris Dorsett, The Ocean Conservancy

**B.13.d Council Action:** Adopt FMP Amendments 16-1 and 16-2 for Implementation by NMFS  
(06/19/03; 6:05 pm)

Mr. Brown said he had trouble understanding the long term tradeoffs of rebuilding alternatives when he referred to the Amendment 16-2 EIS. He provided an example by comparing the Mixed Stock Exception (MSE) alternative to the Maximum Conservation alternative. While the projected economic returns from the fishery look good after stocks are rebuilt, the "costs" of rebuilding are not immediately evident. Mr. DeVore referred Mr. Brown and the Council to a table on page 5-12 of the EIS, which depicts estimated OYs under the MSE and long term MSY harvest levels. He also referred to the table on page 5-15 and also the OY trajectories starting on page 4-28 and continuing through that section to understand the tradeoffs in terms of the length of rebuilding and value of fisheries once rebuilding has been achieved. Mr. Brown requested additional economic analyses to understand the tradeoffs of alternative rebuilding timelines. Dr. Radtke explained this would be a net present value analysis. Mr. Anderson agreed with Mr. Brown's point that there are still a lot of social concerns with rebuilding alternatives, even if the analysis came out from an economic perspective.

Mr. Anderson moved that we adopt Amendment 16-1 (motion 16) and for issue 1, we adopt option 1d; issue 2 - option 2b; issue 3 - option 3e; issue 4 - option 4b. Mr. Bob Alverson seconded the motion.

Mr. Anderson said under issue 1, option 1d is similar to 1c, but it provides additional information on stock status and gives us flexibility to respond appropriately to new stock assessments. It also provides for two circumstances to change the target rebuilding year. The Issue 2, option 2b alternative would allow us to review rebuilding goals every two years. Issue 3, option 3e specifies standards for determining process. He felt Issue 4, option 4b was the only valid choice since he did not think option 4a was an option. He felt we could not have a rebuilding plan which did not meet the minimum requirements of the ESA if that species was listed. Mr. Brown agreed with all the points made by Mr. Anderson, but didn't understand the rationale for proposing Option 4b. Mr. Anderson said if we had a rebuilding plan and the specifications under a Biological Opinion for an ESA-listed species were met or exceeded by the rebuilding plan, then our parameters would stand as adopted. If the species was ESA-listed and the Biological Opinion specified stricter restrictions than the rebuilding plan, then we would have to adopt the stricter standards. Mr. Brown agreed but thought it very likely ESA standards would be less restrictive than those specified in a rebuilding plan. Dr. Radtke noted the SSC's support of the range of alternatives in the Amendment 16-1 EA.

Motion 16 passed.

Mr. Anderson moved (Motion 17) and Mr. Alverson seconded a motion to adopt Amendment 16-2 as shown in Exhibit B.13, Attachment 2, consistent with the Council Interim alternative, which includes an 80% rebuilding probability for darkblotched rockfish, a 70% rebuilding probability for Pacific ocean perch, a 60% rebuilding probability for canary rockfish, and a 60% rebuilding probability for lingcod.

Mr. Brown asked about the justification for specifying different rebuilding probabilities for the two trawl species (darkblotched rockfish and Pacific ocean perch) compared to the rest of the species analyzed in the Amendment 16-2 EIS? Mr. Anderson said he did not differentially consider different fishing gear sectors. He felt the Council should consider fishing opportunities and rebuilding risks. Mr. Brown pointed out there were many people not fishing due to the darkblotched rockfish closure. This is a particular problem north of Cape Mendocino where additional canary rockfish constraints make it hard to fish. Ms. Cooney noted many of these tradeoffs and considerations are discussed in the Amendment 16-2 EIS.

Motion 17 passed. Mr. Brown voted no.

Mr. Robinson said, now that we have adopted Option 1d in Amendment 16-1, what are the starting parameters that are specified in the FMP? He was not sure whether to specify the new stock assessment parameters (i.e., for POP) or specify the original parameters analyzed in the Amendment 16-2 EIS. It may be we have to think about putting the most recent parameters into the FMP. Ms. Cooney said the Council needs to decide how to mesh the OYs just adopted with the new assessments with the existing parameters specified in rebuilding plans. She then referred to the framework adopted under Amendment 16-1, Option 3e, which says, "a specific standard for determining when progress has been adequate is established for each plan" and asked where these review standards were specified in Amendment 16-2 rebuilding plans? Mr. DeVore explained the language on page 1-8 of the Amendment 16-2 EIS (bullet #4) specifies the review standard for the four species' rebuilding plans analyzed under Amendment 16-2. Ms. Cooney said she was comfortable with that review standard.

#### B.14 Adoption of a Proposed Range of 2004 Groundfish Management Measures (06/20/03; 10:45 am)

Chair and Council recognized Mr. Caito for his service on the Council as this was his last meeting.

##### B.14.a Agendum Overview

Mr. DeVore noted that the GMT has produced two supplemental reports (Supplemental GMT Report 3 and Supplemental GMT Report 4) under Exhibit B.8.b, including a revised bycatch scorecard and an itemized accounting of the expected take of bocaccio and canary rockfish under the inseason actions the Council decided on Thursday. These reports were for the record.

Mr. DeVore proceeded with the situation summary for this agendum. The Council task is to propose a range of 2004 groundfish management measures for public review and analysis prior to final decisions in September.

##### B.14.b Reports and Comments of Advisory Bodies

###### **GMT** (06/20/03; 10:55 am)

Ms. Robinson read pages 1-5 from Exhibit B.14.b, Supplemental GMT Report and Dr. Hastie reviewed pages 6-11 from the same report which focused on modeling trawl bycatch.

###### **GAP** (06/20/03; 11:20 am)

Mr. Moore read Exhibit B.14.b, Supplemental GAP Report. While most of the GAP recommendations were consistent with those from the GMT, the GAP disagreed with the GMT recommendation to eliminate the trawl B platoon and the proposal to amend the FMP to allow trawlers to take their quota using fixed gears. Mr. Moore also highlighted a problem with considering bycatch caps in the commercial fishery. The GMT Bycatch Scorecard does not account for the occasional disaster haul where significant bycatch can occur. The scorecard uses average bycatch rates observed by fishing sector and is therefore a poor basis for allocating bycatch caps across sectors.

###### **EC**

Captain Cenci provided Exhibit B.14.d, Revised Supplemental EC Report.

Mr. Brown asked Captain Cenci if someone was suggesting not using latitude/longitude waypoints to specify lines deeper than the nearshore lines currently used to manage recreational fisheries? Captain Cenci said the

issue arose during inseason adjustment discussions and he understood a proposal to use only depth contours for some of the deeper lines was forthcoming from California. The Enforcement Consultants believe this will erode their ability to effectively enforce depth-based management measures.

Mr. Brown asked Dr. Hastie how he envisions modeling and implementing selective flatfish trawls on a fleet-wide basis next year (as per the GMT and GAP recommendations)? What kind of regulations would be needed? Dr. Hastie stated that we are in the exploratory stages of considering this measure. We could use this summer's EFP results to evaluate the effectiveness of this gear. While we may not have all the results analyzed by September, it may be possible to implement larger shelf flatfish trip limits and Rockfish Conservation Area (RCA) exemptions using this type of gear inseason next year.

Mr. Brown referred to the two trawl scenarios in the GMT report and asked if the differential canary rockfish impacts projected were due to the period 4 line changes? Dr. Hastie said that was correct and referred to the projected impacts for period 4 in tables 2b and 3b.

Mr. Alverson asked about an option for a new fixed gear line at 125 fm. Is there new information that suggests this management line needs to be deeper? Ms. Robinson said yes, there was limited information to evaluate a new fixed gear line. The GMT wants to evaluate this line for the commercial Pacific halibut fishery as well. Dr. Hastie added that it is important to analyze new lines in the 2004 Specifications EIS to have the ability to make a routine inseason adjustment next year when observer data for the fixed gear fleets becomes available.

Mr. Anderson referred to page 6 of the GMT Report and asked for clarification of the GMT request for Council guidance on trawl distributions of bocaccio, canary, and lingcod for analysis. Dr. Hastie replied that there are recommendations regarding commercial and recreational catch shares for analysis. However, it would be helpful to receive guidance on how much of the commercial catch should be used in analyses to specify a trawl target. He could use the catch shares from 2003 catch projections in the bycatch scorecard which would be considered the default without specific advice from the Council. There is also the darkblotched question of whether to model 2004 specifications using the entire OY.

Mr. Alverson asked whether the RCA fixed gear line alternatives were for Oregon only or the entire coast north of 40°10' N. lat.? Ms. Robinson said the recommendation was for the coast north of 40°10' N. latitude. The reference to Oregon was because the state of Oregon proposed fixed gear line alternatives for analysis.

Mr. Brown returned to the GMT request for guidance on bocaccio catch distributions. He suggested Dr. Hastie could look at alternative RCA boundaries in California, determine the impacts in recreational and commercial hook and line fisheries, then use whatever bocaccio impacts are left over to model the trawl fishery. Dr. Hastie said this could theoretically work, but there is a time constraint to get trawl modeling done by mid-July and the California public hearing process will not be concluding until the end of July. He was also unclear how quickly the fixed gear analysis would come together. Although a host of catch sharing options can be modeled, it would be preferable to limit the options since the size of the NEPA document would increase exponentially. The other option is to hit a spread of trawl targets within a reasonable range.

#### B.14.c Tribal Comments and Recommendations (06/20/03; 11:49 am)

Mr. Harp provided Exhibit B.14.c, Supplemental Proposed Treaty Indian Management Measures.

Mr. Anderson asked Mr. Harp if the full retention of rockfish measure the tribes propose pertains to the Makah trawl fisheries? Mr. Harp thought the measure only pertained to the open competitive halibut fishery in 2003 and was not sure about the trawl fishery. He deferred to Mr. Steve Joner for clarification. Mr. Joner

said the whiting fishery requires full retention of all rockfish which is forfeited to the tribe for charitable contribution. The other trawl fisheries (bottom and midwater) also require full retention with overages of rockfish forfeited to the tribe. The open competitive halibut fishery allows full retention of rockfish which tribal fishers are allowed to sell.

#### B.14.d Agency Comments and Recommendations

##### **WDFW**

Mr. Anderson remarked that the GMT and GAP have done an outstanding job with their recommendations and that he had nothing to add.

##### **ODFW**

Mr. Coenen repeated Mr. Anderson's appreciation for the GMT and GAP efforts this week. He recommended changes to the GMT Report as follows: 1) page 3, under Commercial Management Measures-Oregon, the RCA in bullet #2 should include a 30 fm line; and 2) under Recreational Management Measures include a minimum size length of 10-12 in. for greenling (status quo is 12 in.). He also referred to page 2 of Exhibit B.14.d, Supplemental ODFW Report and highlighted the proposed 2004 harvest guidelines for black rockfish, other nearshore rockfish, cabezon, and greenling. The harvest guideline for other nearshore rockfish would equal a modified 2003 guideline which now includes shore and estuary catch in addition to ocean boat catch. The greenling and cabezon modified guideline would be 10-20% greater than the 2003 harvest guideline.

##### **CDFG**

Ms. Vojkovich made some corrections and slight additions to Exhibit B.14.b, Supplemental GMT Report as follows: 1) page 3 under "Options for Sharing of Bocaccio", change the wording to reflect commercial and recreational catch sharing options ranging from 50:50 to 56 recreational and 44 commercial; 2) page 5, maintain a status quo option for the California recreational fishery; and 3) page 5, bullet 6 regarding RCA exemptions for shore-based anglers should also include recreational divers.

##### **NMFS**

Mr. Robinson had no agency comments.

#### B.14.e Public Comment

Mr. William Smith, fisherman, Birkenfeld, Oregon  
Mr. Joe Easley, Oregon Trawl Commission, Astoria, Oregon  
Ms. Karen Garrison, Natural Resources Defense Council, San Francisco, California  
Mr. Phil Kline, Oceana, Washington, DC  
Mr. Peter Huhtula, Pacific Marine Conservation Commission, Astoria, Oregon  
Dr. Rod Fujita, Environmental Defense, San Francisco, California  
Mr. Kenyon Hensel, Hensel's, Crescent City, California  
Mr. Pete Leipzig, Fishermen's Marketing Association, Eureka, California

#### B.14.f **Council Action:** Adopt a Proposed Range of 2004 Management Measures for Public Review

Mr. Brown asked either Mr. Robinson or Ms. Cooney whether we should be managing for the set optimum

yield (OY)? This is an issue the GMT raised with darkblotched rockfish. Mr. Robinson said the answer generally would be yes absent constraints imposed for overfished species. Ms. Cooney agreed and added there is flexibility in setting OY, but the proposal was to keep OY as low as possible. Using the 2003 darkblotched example, the OY was set as a hard cap and the management measures were conservative enough to buffer unexpected inseason events. Mr. Anderson concurred with Mr. Brown's view on this question and the GMT should model fishing opportunities to take the available OY. We did not use the 2001 recruitment for selecting 2004 darkblotched OY alternatives, which is a conservative action. Therefore, it is appropriate to model management measures that use the entire OY to the extent possible given other constraints. Mr. Brown added that the uncertainty in the darkblotched assessment is no worse than the uncertainty in all other groundfish stock assessments.

Mr. Coenen moved (Motion 27) to adopt the GMT report as modified by state and tribal reports for the 2004 management measures. Mr. Anderson seconded the motion.

Mr. Anderson asked for a friendly amendment to analyze an option to eliminate the Trawl "B" platoon. This was accepted by the maker and seconder.

Ms. Vojkovich asked for a friendly amendment to include an Oregon/California black rockfish catch sharing option (option 2 on page 5 of Exhibit B.14.b, Supplemental GAP Report). This was accepted by the maker and seconder.

Mr. Brown said there was a specific GMT question about the sharing of bocaccio, canary, and lingcod - is the NEPA analysis to assume status quo sharing? Mr. Coenen said he intended to defer the catch sharing options until after the range of management measures was adopted. The narrative on page 6 of the GMT report addresses the issues of sharing, allocation, shaping, modeling, etc. and he hoped this motion did not speak to the management modeling issues and catch sharing policies.

Motion 27 passed.

Mr. Anderson raised the issue of EFP set-asides as they relate to the general management measures. He asked to consider them in totality as they did last year. That is, do not set-aside EFP caps as a portion of the OY before analyzing what the tradeoffs are in terms of foregone directed fishing opportunities. Mr. Coenen said the GMT was seeking guidance on modeling trawl limits. Maybe we should hear from Dr. Hastie on how he proposes to model trawl impacts. The Council could use recent experience on a proportional basis to shape the impact model and bycatch scorecard accordingly and take that as guidance. Mr. Anderson said he thought the GMT was recommending at least two of the EFPs. They could model fishery impacts after setting aside OY for those EFPs. We could then look at the costs and benefits of using the fish for an EFP or for the general fishery.

Mr. Anderson addressed the GMT request for guidance on how to divide the OY of the three overfished species (bocaccio, lingcod and canary) among sectors. He supports the suggestion by Mr. Leipzig to use recent year catch history proportion of these species to assign to each sector. Mr. Brown suggested that, if it turns out the particular limit for each gear sector encourages targeting, he would ask the GMT to flag it for us. Ms. Vojkovich said assigning sector shares of bocaccio is less of an issue since it only affects California fisheries. However, as we look at canary impacts, this is a significant problem for California since fisheries in 2003 were restricted inside of 20 fm and were not able to get out where canary and bocaccio mix. She proposed we look at some time frame when we didn't have restrictions on shelf fishing or retention. She was encouraged by the options for recreational fisheries in the state of Oregon that showed a willingness to restrict their fishery to provide canary impacts so California could have a fishery. We need to have some fishing opportunity in 2004. Mr. DeVore asked if it was adequate to exclude 2003 from the analysis or did

she have a more refined range? Ms. Vojkovich said she has RecFIN catch estimates for all three states going back to 1980. After 2001 we had considerable bag limit and retention restrictions which don't reflect less restrained fishing. She suggested using the data in the 1990s. (Motion 28) Mr. Thomas seconded the motion.

Ms. Vojkovich recommended using catch histories from 1993 to 2001 to determine catch shares. Mr. Anderson said we adopted voluntary canary restrictions back in 2001 or 2000 and therefore wouldn't want to use those years. Mr. Coenen asked for a friendly amendment to use RecFIN data from 1998-2001. The maker and the seconder did not agree to the friendly amendment. Ms. Cooney suggested you may want more than one number, maybe a couple of different options. Mr. Coenen asked for a friendly amendment to ask the GMT to shape the time periods of catch histories in the same fashion they did for black rockfish (1990-1999). Ms. Vojkovich asked if the friendly amendment was for the GMT to set the time period? Mr. Coenen said yes, the GMT could recommend catch sharing options much as they did for black rockfish. Ms. Vojkovich said she would rather make the decision of what years we are going to analyze; therefore, the friendly amendment was not accepted. Dr. McIsaac clarified the motion: use the canary rockfish catch history for the years 1993-1999 as sector allocations solely for modeling purposes. Mr. Anderson asked for clarification of the term sector in this context? Ms. Vojkovich said her motion was for apportioning canary impacts for recreational fisheries between states. There was some further discussion relative to the motion and what to analyze for the other non-recreational sectors and for the other species (bocaccio and lingcod) highlighted in the GMT report. The motion stood for the canary rockfish analysis in coastwide recreational fisheries alone. Dr. Radtke called for the vote. Mr. Brown and Mr. Coenen voted no. Dr. Radtke abstained. (Motion 28 passed).

Mr. Anderson recommended analysis proportional shares of lingcod and canary between all the sectors and use those shares to determine the respective catch targets or harvest guidelines for those sectors. When they get the recreational portion of canary, they would use the proportions from the 1993-1999 average to distribute the recreational portion of the canary harvest guideline between the 3 states. Mr. DeVore asked Mr. Anderson if he was supporting using recent year proportional catch distributions or have the GMT consider this? Mr. Anderson said relative to canary we need to use the year or years we had a similar OY. He would use that same proportional approach for lingcod. Mr. DeVore said that would leave this year for the canary historical catch profile.

Mr. DeVore asked if the Oregon spot prawn trawl fishery would be eliminated or converted to a trap fishery? Mr. Coenen said yes. He then asked whether seasonal recreational options/California recreational options would be decided by the state representatives to the GMT or by the Council at this time? Mr. Coenen said he preferred having the GMT members decide how to structure these alternatives and do the modeling. The Washington and California Council representatives agreed with this approach.

Mr. DeVore asked if all the states were considering a nearshore management line of 30 fm for 2004? He also wanted to know whether the waypoints for the 30 fm line would be specified? Ms. Vojkovich said that in order to be responsive to the EC recommendation to specify waypoints for the 20 fm line in southern California, we would need 1400 waypoints. That is the same situation we are faced with in specifying a 30 fm line and, until we get to a depth of 50 fm, does it become more realistic to specify waypoints rather than a depth contour. The same problem does not exist north of Pt. Conception. That is why CDFG is proposing depth contours instead. Mr. Robinson asked how to enforce a fm line without coordinates? Ms. Vojkovich said California has a lot of on-the-water enforcement unlike the other states. California enforcement operates adequately using specified depth contours. Mr. Anderson said Washington would be developing the waypoints for a 30 fm line. Mr. Brown disagreed with the remark of not having problems specifying waypoints north of Pt. Conception. It bothers him that the issue is being construed as "too complicated" for recreational fishermen. Ms. Vojkovich said she did not mean to imply that, but rather many

of the boats in the recreational fleet are small and don't have GPS. Dr. McIsaac noted this is the time to specify options for analysis; this is not the September final vote.

Mr. DeVore asked Mr. Harp if the tribes are recommending safeguards in their proposed tribal management measures to avoid exceeding harvest guidelines? It would be important to have these safeguards specified. He asked if someone from the tribes could provide that. Mr Harp said yes, Mr. Jones will provide that information to the GMT over the summer.

Mr. DeVore asked whether to assume vessel-funded observer coverage (similar to the Arrowtooth Trawl EFP) when analyzing the option of converting the selective flatfish trawl EFP into regulations in 2004? Mr. Coenen said no; assume the current observer coverage rate from the NMFS program.

Dr. Radtke asked about analyzing bycatch caps. Mr. Brown expressed concern with analyzing bycatch caps as noted in the bycatch scorecard. This concept is premature since observer data is only available for the trawl fleet at this time. Mr. Anderson said this particular concept should be developed when the Trawl ITQ Committee meets this winter. We don't have the ability to manage with bycatch caps in 2004. Mr. Brown agreed with Mr. Anderson that we need to make sure the ITQ discussion includes bycatch caps and full catch accounting through the observer program. Mr. Robinson said the programmatic bycatch EIS will now focus on examining the issue of bycatch caps; therefore, this analysis should be deferred to that EIS.

Mr. DeVore asked how to calculate the bocaccio distributions? Ms. Vojkovich moved that we use the ranges in the GMT report for commercial/recreational catch sharing. Use recent year's catch sharing for apportioning trawl/nontrawl gear impacts and maximize opportunities by assuming the entire OY will be attained. (Motion 29) Mr. Donald Hansen seconded the motion.

Ms. Vojkovich suggested these catch shares should be construed as guidelines, not hard allocations. Mr. Caito asked Ms. Vojkovich to define "recent years"? Ms. Vojkovich suggested the analysis focus on years when there was a similar bocaccio OY range as considered for next year. Mr. DeVore thanked the Council for this guidance.

Motion 29 passed. Mr. Brown voted no.

#### B.15 Alternative Long-term Groundfish Management Strategies (06/20/03; 8:19 am)

##### B.15.a Agendum Overview

Dr. McIsaac provided the agendum overview.

##### B.15.b Reports and Comments of Advisory Bodies

#### **GMT**

Dr. McIsaac read the report of the GMT.

##### B.15.c Public Comment

Dr. Rod Fujita, Environmental Defense

#### B.15.d. Council Discussion and Guidance on Alternative Long-term Groundfish Management Strategies

Mr. Alverson mentioned that there are one or two species managed with hard bycatch caps in the Canadian IFQ program. He noted an upcoming meeting in Canada to discuss the Canadian IFQ program and asked if we have someone going up there. Dr. Radtke said there are about six people from the Council family who plan to attend, including Mr. Marion Larkin. Dr. Rod Fujita said they are also planning a larger meeting that would probably take place in the fall. Dr. McIsaac noted Mr. Jim Seger will be attending that meeting as well.

Mr. Brown said that part of the ITQ discussion would be such things as managing bycatch (i.e., hard bycatch caps) and that discussion really ends with redesigning the entire groundfish management system. We may want to have discussion on these other things regardless if we have the discussion on ITQs or not. He sensed that this fall or early winter is a good time to start that discussion (time to think about future); any pre-notice of the discussion has to include items such as observer programs and bycatch caps. Dr. McIsaac noted that under the administrative matters legislative item, there is some ITQ information for the Council to consider.

Mr. Anderson supported the GMT's recommendation to convene a meeting to focus solely on alternative long-term management strategies. He realizes it is a budget issue, but feels we need to provide the GMT the opportunity to do this. Mr. Mallet concurred with Mr. Anderson's comments and asked Dr. McIsaac if we could find the funds to do this. Dr. McIsaac said currently there is not an additional GMT meeting funded; but he could take a look at that. Mr. Anderson said the states would be willing to make sure the costs are held down or shared. Mr. Brown asked if the meeting could encompass more than the GMT. Mr. Anderson said the GMT would like to talk about some of these items as a team; with the meeting being open to the public.

Dr. McIsaac stated that, in Council staff discussions, there is little time devoted to long-term management approaches. He encouraged the Council to consider allotting time for such long-term planning when developing workload plans and future agendas.

### C. Salmon Management

#### C.1 Salmon Fishery Update (06/17/03; 8:01 am)

Mr. Chuck Tracy presented an agendum overview. He noted the only inseason conference call to date was on June 5<sup>th</sup> regarding the north of Cape Falcon non-Indian commercial troll fishery. That fishery was closed effective June 6 as the 40,000 chinook quota was approached.

Mr. Dell Simmons, Salmon Technical Team Chairman, provided Exhibit C.1, Supplemental Attachment 1.

##### C.1.a Reports and Comments of Advisory Bodies

None.

##### C.1.b Public Comment

None.

### C.1.c Council Discussion on Salmon Fishery Update

Dr. Radtke inquired about the price for salmon this year. Mr. Caito noted the prices started out fairly high with more product available, and a larger than average size.

Mr. Alverson asked if there was an increasing market opportunity for wild salmon as opposed to farm raised salmon. Mr. Caito replied that a lot of good publicity of wild salmon has increased market opportunity, primarily for the East Coast and the Seattle area, although the San Francisco market is still primarily using farmed fish.

### C.2 Mitchell Act Update (06/17/03; 8:08 am)

#### C.2.a Agendum Overview

Mr. Tracy presented an agendum overview.

#### C.2.b NMFS Report

Mr. RZ Smith, NMFS, noted the Mitchell Act program has been moved from the Sustainable Fisheries Division to the new Salmon Recovery Division.

For FY 2003, the Mitchell Act spending allocation was received in May. He referenced Exhibit C.2.b, Supplemental NMFS Report. The same funding level was received as FY2002, minus some minor revisions. In the NMFS portion of the 2003 Omnibus Bill, the Oregon salmon recovery program received \$1.1 million for mass marking in the Columbia River basin. This covered marking expenses that were covered in FY2002 under Monitoring, Evaluation and Reform. Procurement of automated marking trailers was also included in the language. The base Mitchell Act budget includes only the Hatchery Operation and Maintenance, and Facilities (screens and fishways); Monitoring, Evaluation and Reform, Marking, and Marking Trailers are not part of the base funding.

For FY 2004, the projection is the President's budget, level funding with the caveat that the \$1.1 million for marking in the Oregon salmon restoration funds is not included, and the \$1.6 million for tagging trailers may not be included. NMFS plans to continue to mass-mark the majority of coho, steelhead and spring chinook releases working within the available funds in O&M, which equates to a \$1.1 million reduction, and could result in closing two or three hatcheries or eliminating two or three hatchery programs. Eggs for spring chinook will be taken in July, which is the first irreversible decision. In addition, the mass marking requirement included in the USFWS portion of the FY2003 Omnibus bill could increase demand for marking funds.

The best chance for change is in FY2006 and beyond. Agency input into the FY2005 budget is complete. NMFS has been working on a bottom up budget for Mitchell Act programs, and as a rough figure has come up with \$25-\$26 million to support a full program for current production. After completion of the budget, it will be available for review by the states and tribes.

Over the last 11 years, the base funding has increased only from \$10.3 million to \$11.457 million. One year actions by congress have increased funding for special projects.

Mr. Roth asked if given level funding through FY2005, have the tribes and agencies given any indications as to what kind of program levels and marking reductions would result. Mr. Smith said he has not had time to do that as he had been concentrating on 2003. He will inform the agencies of their funding levels and ask

what their priorities are. Past efforts to prioritize programs across all agencies have been unsuccessful, primarily because it is difficult to plan ahead when budgets are year to year.

Dr. Radtke asked if a cost-benefit analysis was being conducted. Mr. Smith replied no, that NMFS is basically reacting to a crisis. The only way left to maintain programs is to cut overhead. Hatchery maintenance has been put off for years.

Dr. McIsaac asked for an explanation of NOAA reprogramming represented on the Exhibit for FY2003. Mr. Smith replied there were two adjustments to funding in FY2003: the recision was an across the board 0.645% reduction in all government programs mandated by Congress; the reprogramming was an internal (within NOAA) redistribution of funds to cover other program shortfalls. The agency is allowed to take up to 5% of a program budget for internal reprogramming without going back to Congress.

Dr. McIsaac noted that the Council's effort regarding FY2004 funding suffered from a lack of a unified position on program goals, and asked for an update on the goal setting process. Mr. Smith replied that no progress has been made. Congressman Dicks has been working on an add-on for FY2004 to increase the budget by about \$3 million, but again, as a one year fix. The bottom up budgeting needs to occur for a long term solution, which needs direction from Secretary Evans and Admiral Lautenbacher.

Dr. McIsaac asked if there were any plans for developing priorities and goals, and presenting the bottom up budget along a unified front. Mr. Smith said yes, and to impact the FY2006 budget they need to have that done by the end of this summer. Bob Lohn could use the budget to request funding within the agency, and the rest of the participating agencies and interested parties could use it to respond to inquiries from congress, etc.

#### C.2.c Reports and Comments of Advisory Bodies

None.

#### C.2.d Public Comment

None.

#### C.2.e Council Discussion on Mitchell Act Update

Mr. Anderson stated that part of the problem in the past has been not having a single person or entity responsible for bringing people together to address both the budgeting aspects and the political/policy issues. Stakeholders should be included in the latter issues. Mr. Roth asked if Mr. Anderson was recommending the Council facilitate the process. Mr. Anderson replied that the Pacific States Marine Fisheries Commission could fill the role since they could assist in the political strategy.

Mr. Robinson supported having PSMFC facilitate a meeting that NMFS could participate in as an advisor. The group could then develop and move forward with a strategy.

Mr. Anderson recommended a two step process to acquire the necessary funds. First, a group should meet to develop a bottom up budget; second a meeting with the first group and policy representatives from agencies, tribes and stakeholders should be held to hear the results of the first meeting and to develop an implementation strategy.

Dr. McIsaac suggested following up with a letter to NMFS and PSMFC detailing the Council recommendation.

C.3 Progress Report on the Establishment of the Model Evaluation Work Group (06/17/03; 8:51 am)

C.3.a Agendum Overview

Mr. Tracy provided the situation summary.

C.3.b Reports and Comments of Advisory Bodies

None.

C.3.c Public Comment

None.

C.3.d Council Discussion and Guidance on Progress Report on the Establishment of the Model Evaluation Work Group

Mr. Anderson summarized previous Council discussions, indicating the MEW should identify and prioritize the projects that need to be completed. The STT and SSC recommended that the documentation of the Chinook FRAM be the first priority. He recommended the MEW identify the amount of manpower necessary, and the individuals that would do the work of documenting the Chinook FRAM, once the group is appointed.

## D. Habitat

D.1 Current Habitat Issues (06/18/03; 8:02 am)

D.1.a Agendum Overview

Ms. Jennifer Gilden provided the agendum overview.

D.1.b Report of the Habitat Committee (HC)

Mr. Stuart Ellis provided Exhibit D.1.b, Supplemental HC Report, Exhibit D.1, Supplemental Revised Attachment 2, and Exhibit D.1, Supplemental Attachment 3.

D.1.c Reports and Comments of Advisory Bodies

None.

D.1.d Public Comment

Mr. Phil Kline, Oceana, Washington, DC. (Gave a brief presentation on sponge and coral habitats).

Dr. McIsaac asked Mr. Kline whether there was a source paper on the mapping of corals that the Council could use.

Mr. Kline said he had seen a draft map created by NOAA Fisheries. There is a map done with a “raised data set” that includes data from the survey trawls over the years. MCBI and Ecotrust have mapped that data. He said the most complete map is the draft map that NOAA Fisheries has developed that hasn’t been released yet. He encouraged NOAA Fisheries to make the information available to the Council.

Dr. McIsaac asked whether two photos presented during the presentation - one of pre-trawled habitat and one of post-trawled habitat - were “before and after” pictures or whether they were taken in different places.

Mr. Kline said the photos were not “before and after” photos, but were representative of before and after. It’s difficult to get “before and after” photos. He said the NRC report said that it was relevant to use comparable sites in comparable habitats to see effects of trawling.

D.1.e **Council Action:** Consider HC Recommendations (06/20/03; 8:12 am)

Mr. Anderson asked for some suggested changes to the FERC letter. He noted the relicensing of this project is under negotiation, and has been for several years. This is a sensitive subject and he wants to ensure that the letter does not disrupt or negatively influence the negotiations. This hydro project alone is not responsible for the problems associated with salmon survival and production in the Columbia River system. The Grand Coulee Dam probably plays as big a role as any other project on the surges in water. There were a few items in the letter that suggested that these particular hydroprojects were solely responsible for the problems, and he did not want to leave that impression. He also did not want a particular negotiating position reflected in the letter, which is why he developed the edits he proposed. (Exhibit D.1, Supplemental Revised 2 Attachment 2).

Mr. Anderson moved the Council approve the draft letter to Ms. Salas, FERC, as shown in Exhibit D.1, Supplemental Revised 2 Attachment 2 (Motion 19). Dr. Radtke abstained from the vote due to conflict of interest (he has a FERC license). Motion 19 passed.

Ms. Vojkovich moved that we accept the comments on the Klamath letter as shown in Exhibit D.1, Supplemental Attachment 3. (Motion 20) Mr. Roger Thomas seconded the motion. Motion 20 passed.

## **E. Coastal Pelagic Species Management**

### **E.1 NMFS Report**

#### **E.1.a Informational Update**

Mr. Fougner informed the Council that the proposed rule for the Pacific sardine allocation regulatory amendment would be published the week of June 22<sup>nd</sup>.

#### **E.1.b Reports and Comments of Advisory Bodies**

None.

#### **E.1.c Public Comment**

None.

E.1.d Council Discussion on CPS Update

None.

E.2 Pacific Mackerel Harvest Guideline for 2003 through 2004 (06/18/03; 8:35 am)

E.2.a Agendum Overview

Mr. Daniel Waldeck provide a brief overview of the matter at hand, reports that would be presented to the Council, and materials in the briefing book.

E.2.b Reports and Comments of Advisory Bodies

**CPSMT**

Dr. Kevin Hill presented a summary of the Pacific mackerel assessment (Exhibit E.2, Att. 1, App. 2).

Dr. Sam Herrick summarized Exhibit E.2.b, the CPSMT Report.

The Council discussed with Dr. Hill and Dr. Herrick the issue of increased harvest in Mexican CPS fisheries, which have risen dramatically in recent years. Dr. Radtke suggested the CPSMT prepare a background document to help the Council better understand the issues.

**SSC**

Mr. Tom Jagielo provided Exhibit E.2.b, Supplemental SSC Report.

**CPSAS**

Mr. John Royal provided Exhibit E.2.b, CPSAS Report.

E.2.c Public Comment

Ms. Karen Reyna, Ocean Conservancy, San Francisco, California

E.2.d **Council Action:** Adopt Pacific Mackerel Harvest Guideline for the 2003 through 2004 Season

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 7) to set the 2003-2004 Pacific mackerel harvest guideline at 10,652 mt for the fishery starting July 1, 2003. Based on this harvest guideline, the directed fishery would be set at 7,500 mt to begin on July 1, 2003. After the directed fishery is reached, the fishery will revert to an incidental-catch-only fishery. The set-aside for the incidental fishery will be 3,152 mt. Ms. Vojkovich also included the recommendations of the CPSAS for a 40% incidental catch rate when mackerel are landed with other CPS, except that up to 1 mt of Pacific mackerel could be landed without landing any other CPS.

Motion 7 passed by voice vote.

Ms. Vojkovich spoke to the need to engage Mexico in cooperative management of CPS fisheries. She asked if NOAA Fisheries had considered or planned for formal cooperative arrangements with Mexico, specifically, in terms of staff, resources, and funding.

Mr. Fougner stated that he was not aware of formal preparation by NOAA Fisheries. He noted the current cooperative working relationship between Mexican and U.S. fishery scientists, but that cooperative management has not been welcomed by Mexico. He stated he would look into the matter and provide information to the Council at a later meeting.

It was also noted that the Council had sent a letter previously (April 2003) to the U.S. Department of State asking for initiation of formal science and management arrangements.

## **F. Highly Migratory Species Management**

### **F.1 NMFS Report on Highly Migratory Species Management (06/18/03; 9:38 am)**

#### **F.1.a Regulatory Matters**

Mr. Fougner provided Exhibit F.1.a, NMFS Report, which he summarized for the record.

He also discussed preparations for international meetings related to Pacific ocean tuna fisheries.

Finally, Mr. Fougner noted that NOAA Fisheries had submitted a final rule relative to the drift gillnet fishery. The most recent biological opinion required a regulatory action in the event of a declared El Nino event, including an area closure during January and August 15 through 31. Recent discussions among the ESA-mandated "take reduction team" and industry indicate a modification of the closed period might be advantageous. NOAA Fisheries is considering this information and it could be included in the final rule for the HMS FMP.

#### **F.1.b Reports and Comments of Advisory Bodies**

None.

#### **F.1.c Public Comment**

Mr. Wayne Heikkila, Western Fishboat Owners Association,

#### **F.1.d Council Discussion on NMFS Report on Highly Migratory Species Management**

None.

### **F.2 Potential Modification of FMP Preferred Alternative for High Seas Longline Fishing in Response to Sea Turtle Impact Analysis (06/18/03; 9:46 am)**

#### **F.2.a Agendum Overview**

Mr. Waldeck provided an agendum overview and reviewed the sequence of events leading up to this action. When the Council adopted the HMS FMP the preferred alternative for the high seas pelagic longline fishery, if implemented, would allow swordfish-style sets on the high seas in waters east of 150° W longitude. NOAA Fisheries expressed concern that this action could result in a jeopardy determination relative to sea turtles. At the March 2003 meeting, NOAA Fisheries requested the Council delay submission of the FMP to provide time for NOAA Fisheries to complete analysis of observer data comparing sea turtle interactions with the high seas long line fishery east and west of 150° W longitude. The HMSPDT, HMSAS, and SSC

were provided a report on the results of this analysis. At this meeting, the Council will hear from NOAA Fisheries, review the results of the NOAA Fisheries analysis comparing turtle interactions, and receive reports from the SSC, HMSPDT, and HMSAS. After considering this information and public comment, the Council will consider taking action to modify the previously adopted preferred alternative for the high seas longline fishery.

The Council briefly discussed procedural elements for reconsidering a previously adopted motion. It would first require passage of a motion to reconsider. Second, a motion to modify or amend the previous preferred alternative would need to be approved. Finally, there would be a vote on the amended alternative. It was also noted that the motion passed by the Council at the March meeting, which delayed submission of the FMP and set the stage for reconsideration, specified that reconsideration would be isolated specifically to the preferred alternative for the high seas pelagic longline fishery.

#### F.2.b NMFS Report

Mr. Fougner reviewed Exhibit F.2.b, Supplemental NMFS Report, which provided the context for the matter at hand and information for the Council to consider in their decision making. It was noted that the comparison of sea turtle interactions east and west of 150° W longitude is based on pooled observer data from the Hawaii-based and California-based fisheries.

Mr. Brown asked about the NOAA Fisheries conclusion that there was no difference in turtle take rates east and west of 150° W longitude. Mr. Fougner explained that there is no clear difference in fishing strategies used by the two fleets and, therefore, no basis to conclude the interaction rates would not be similar.

Mr. Brown opined that the two fleets would likely fish in different areas, notably because of product quality. That is, California-based vessels would fish farther east of 150° West longitude (closer to the Pacific coast) to protect the quality of the products they were delivering into California ports.

The Council asked for clarification about how “jeopardy” (under the ESA) is determined for sea turtles. Mr. Mallet noted that, for salmon, jeopardy is based on a review of impacts relative to population size of the affected stock.

Ms. Kathy Campbell, NOAA Fisheries–Protected Resources, noted that the status of the population is considered as well as all types of takes, including both domestic and international fishery and non-fishery impacts. This information is used to derive an “environmental baseline” from which jeopardy to the population from additional impacts is determined.

Mr. Anderson asked how the turtle take rates shown in the NMFS report (Exhibit F.2.b) related to a determination of jeopardy. Mr. Fougner responded that the numbers in the report did not guarantee that jeopardy would occur under the Council’s preferred alternative, but that a jeopardy determination was more likely because the rates east and west of 150° W longitude are similar. Turtle take rates east of 150° W longitude resulted in a jeopardy determination for the Hawaii-based pelagic longline fishery. Given that takes rates east and west of 150° W longitude are comparable, NOAA Fisheries believes it is very likely that an analysis of the Council’s proposed action (which would allow a swordfish targeting longline fishery east of 150° West longitude) would result in a determination of jeopardy.

Presently, it is not possible to say with certainty if jeopardy will be determined, because the biological opinion and section 7 consultation have not been completed. After the Council decides what proposed action for the high seas longline fishery they will recommend to NOAA Fisheries, the consultation and biological opinion will be completed based on the proposed action.

Mr. Jim Carretta provided a PowerPoint presentation comparing sea turtle take rates.

Mr. Brown asked if he was correct that there were seasonal and areal patterns of sea turtle encounter rates, which might be used as a basis for area and seasonal management of the fishery to reduce sea turtle takes.

Mr. Carretta stated, yes, there are sub-area and seasonal differences, especially for loggerhead turtle. The data indicate higher takes in the 1<sup>st</sup> and 4<sup>th</sup> quarters.

The Council discussed how turtle mortality is determined. Mr. Fougner described studies conducted by NOAA Fisheries that are the basis for differential mortality rates depending on how a turtle is hooked, captured, and released. The average mortality rate is 27%.

#### F.2.c Reports and Comments of Advisory Bodies

##### **HMSPDT**

Dr. Dale Squires and Mr. Steve Crooke provided the team's recommendations (Exhibit F.2.c, Supplemental Second Revision of the HMSPDT Report, June 2003). The HMSPDT recommendations include:

1. *Relative to the swordfish target fishery, shift line from 150° W to 140° W longitude, with appropriate management measures applying east and west of this line.*
2. *Direct HMS Plan Development Team to initiate a plan amendment process for limited entry of the pelagic longline fishery.*
3. *Request NOAA Fisheries conduct a common Biological Opinion with the Western Pacific Fishery Management Council.*

##### **HMSAS**

Mr. Bob Fletcher provided Exhibit F.2.c, HMSAS Report.

##### **SSC**

Mr. Tom Jagielo provided Exhibit F.2.c, Supplemental SSC Report. Dr. Kevin Hill joined him at the podium as he is the HMS subcommittee chairman of the SSC.

#### F.2.d Public Comment (06/18/03; 1 pm)

Mr. Liem Thanh Truong, Vietnamese Community Fishermen, California

Mr. Tony H. Nguyen, fisherman, San Jose, California

Ms. Nalani Kito-Ho, community support (Vietnamese fisherman), Pearl City, Hawaii

Mr. Quang D. Nyugen, fisherman, California

Ms. Nina Tran, representing her fishing family, Pearl City, Hawaii

Ms. Tina Hoang, F/V Captain David, Hon, Hawaii

Mr. Thompson Hah, F/V Lady Karen, Honolulu, Hawaii

Ms. Madeline Agau, longline fishery, San Ramon, Washington

Mr. Tom Raftican, United Anglers of Southern California,

Ms. Kate Wing, NRDC, San Francisco, California

Mr. Tim Hobbs, National Coalition for Marine Conservation,

Mr. Russell Nelson, Billfish Foundation, Oakland Park, Florida

Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California

Mr. Pete Dupuy, Ocean City Seafood, Tarzana, California  
Mr. John Gibbs, commercial fisherman, San Diego, California  
Mr. Chris Dorsett, Ocean Conservancy, San Francisco, California  
Mr. Bob Osborn, United Anglers of Southern California,  
Mr. Lillo Augello, Western Fish Company, Terminal Island, California  
Mr. Andrew Jacobson, Bay Oak Law, Oakland, California  
Mr. John LaGrange, longline fisherman, Solana Beach, California

F.2.e **Council Action:** Adopt a Modified Alternative for High Seas Longline Fishing, If Necessary

Mr. Waldeck explained the possible Council action. He described the current proposed alternative in the HMS FMP. The Council discussed whether to amend the current proposed alternative for the high seas pelagic longline fishery.

Ms. Vojkovich commented that, in developing the HMS FMP, the Council has considered the individuals involved in the fisheries as well as the affected fish and protected resources. There is a need to balance these issues, but the lack of data makes it difficult. Ms. Vojkovich opined that we as a nation need to set an example for fisheries management. We need to take responsibility in bringing pressure to bear on the fishery management of other countries so the U.S. is not carrying all of the resource conservation burden, especially in the Pacific ocean. Since the turtles are distributed throughout the Pacific ocean; all activities need to be taken into account in developing management policy. She noted the studies currently being conducted by NOAA Fisheries on the East Coast to minimize sea turtle catch. Initial results show promise, which might be applicable to the West Coast-based longline fishery. Public comment conveyed a desire to maintain the fishery; and she felt fishery participants would embrace changes to eliminate turtle interactions. Ms. Vojkovich wants to see the FMP implemented because there are other issues that would be addressed through the FMP.

Given the available information, she supports the current proposed action. She also supports limiting entry in the high seas pelagic longline fishery, notably to provide a sustainable fishery with limited impacts to seabirds and sea turtles. Finally, Ms. Vojkovich supports increased observer coverage to provide more information for decision making.

Mr. Alverson was not convinced of the biological impacts based on the information provided. Information presented does not provide a basis for closing the current fishery.

In addition to Mr. Alverson's comments, Mr. Brown noted the need to consider the food supply to the nation.

Mr. Anderson said one of the primary reasons he did not feel it would be responsible to make a motion for reconsideration is because no information was provided to show that the current proposed action would cause jeopardy. The information presented, which included the estimate of the effort that would be expended in the longline fishery east of 150° W longitude and using current mortality rate estimates, estimated 53 mortalities of loggerhead turtles and 14 leatherback turtles. But there is not information about what the impact would be on the sea turtle population and whether jeopardy would result. Nor was information provided that would lead him to the conclusion that the Council needs to close the fishery.

Based on the preceding discussion and no motion to reconsider, Mr. Donald Hansen noted the November 2002 decision about the proposed action for the high seas pelagic longline fishery stands.

Ms. Vojkovich moved and Mr. Caito seconded a motion (Motion 8) to instruct the HMS PDT to look at a limited entry program for the California-based high seas pelagic longline fishery and report their findings

to the Council at the November 2003 meeting. The scope of the initial work should include a control date, qualifying period, qualifying landings, the issue of capacity goal, and permit transferability issues. Motion 8 passed by voice vote.

Mr. Waldeck asked the Council if the transmittal letter should include a request for a joint biological opinion?

Mr. Anderson answered yes. The Council concurred.

Mr. Waldeck also asked if the HMSPDT recommendation for an increase in observer coverage of 20% should also be included in the transmittal letter?

Ms. Vojkovich answered yes. The Council concurred.

### **G. Marine Reserves**

G.1 Planning for Federal Waters Portion of the Channel Islands National Marine Sanctuary (CINMS)  
(06/19/03; 9:15 am)

G.1.a Agendum Overview

Ms. Jennifer Gilden provided the agendum overview.

G.1.b Scoping Presentation by CINMS Staff

Mr. Chris Mobley and Mr. Sean Hastings gave a presentation on planning for marine reserves in the federal waters of CINMS.

Ms. Burke noted that there were two processes for changing the designation document - through the management plan review and through this marine reserves process. She asked Mr. Mobley to clarify how that would occur.

Mr. Mobley said that CINMS is getting ready to release a draft EIS later this summer or in early fall for the management plan review. That process relates to non-fishing changes, such as research and outreach priorities and bringing regulations up to date, and it may require a change to the designation document. The marine reserves process is on a parallel track. If implementing the preferred action requires a change to the designation document, they will send out another consultation letter. So the designation document could be changed twice.

Dr. McIsaac asked about the timeline for the management plan review.

Mr. Mobley said a draft EIS is being internally reviewed now, and eventually will be released to the public (probably this summer); then there will be a comment period, and by spring 2004 they expect to have a final EIS and issue a final rule. For marine reserves, a draft EIS isn't expected until spring 2004 at the earliest. Some components may be ready by September and November, but he is doubtful that they will have a complete preliminary DEIS by then.

Mr. Hastings noted that there are specific steps that must be built into the timeline, including consultation on any proposed amendments to the designation document. They may know whether the designation

document will need to be changed by September, and would come to the Council in November with a consultation letter about changes to the designation document, and requesting assistance in drafting any potential regulations that relate to fisheries. Then they would look at the statutory timeframes and the Council schedule and see how well they can be coordinated.

#### G.1.c Reports and Comments of Advisory Bodies

##### **HC**

Mr. Michael Osmond provided Exhibit G.1.c, Supplemental HC Report.

##### **GAP**

Ms. Kathy Fosmark provided Exhibit G.1.c, Supplemental GAP Report.

##### **SSC**

Mr. Tom Jagielo provided Exhibit G.1.c, Supplemental SSC Report.

##### **EC**

Cpt. Mike Cenci provided Exhibit G.1.c, Supplemental EC Report.

#### G.1.d Public Comment

Ms. Kathy Fosmark, Seeadler, Pebble Beach, California

Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California.

Mr. Duncan MacLean, President, Half Moon Bay Fishermen's Marketing Association.

#### G.1.e **Council Action:** Consider and Comment on CINMS Proposal

Ms. Patty Wolf moved to forward the comments of the advisory bodies to CINMS in response to the invitation to consult on scoping for the marine reserves draft EIS. Mr. Bob Alverson seconded the motion. (Motion 12).

Dr. McIsaac wanted to clarify that those comments include the comments received by the Council today, and the comments prepared on the state process over the past couple of years. Ms. Wolf said yes, and said to specifically include the Council's April 24<sup>th</sup> letter (Exhibit G.1 Attachment 1), as there is reference to changes in the designation document.

Motion 12 passed.

Ms. Wolf asked about the ad hoc committee that was put together last year to look at marine reserves in state waters. Dr. McIsaac explained its composition and said that it has not yet been disbanded.

Ms. Wolf moved, and Mr. Donald Hansen seconded, a motion (Motion 13) to instruct the ad hoc marine reserves committee to review the documents that CINMS is producing regarding the marine reserves draft EIS, and to have the committee provide recommendations to the Council regarding the Council's response

to that document. She would also ask the committee (as a secondary task) to look at CINMS' draft management plan. Some of the changes proposed may affect fisheries indirectly (for example, limiting take of marine mammals, seabirds, etc.). The committee would also look at the scoping documents that would be provided by CINMS.

Motion 13 passed.

Dr. McIsaac asked whether the Council wanted to respond to the Dept. of Commerce on the non-fishing changes to the CINMS management plan. Also there is the issue of asking the chair of the SSC Marine Reserves Subcommittee to be available to clarify any SSC statements to CINMS.

Ms. Wolf suggested that the Council wait and respond to the draft plan when it becomes available. Dr. Radtke said that would be taken as Council direction.

Ms. Wolf said it was her understanding that a representative from the SSC [Ms. Cindy Thomson] was on the ad hoc marine reserves committee. Would that suffice for SSC involvement? Mr. Jagielo asked that Ms. Thomson be authorized to interact with CINMS and clarify any questions they might have about SSC comments. Dr. McIsaac pointed out that this would take place outside the ad hoc committee. Ms. Wolf said that would be productive; Dr. Radtke noted that was taken as Council direction.

Mr. Brown brought up fishermen's concerns about the "promise" of sanctuaries not to get involved in fisheries management. Mr. Fougner emphasized that the FR notice for the scoping clearly says the intent is to "consider" marine reserves; the decision has not been made.

## G.2 Central California Sanctuary Processes Including Krill Ban (06/19/03: 10:14 am)

### G.2.a Agendum Overview

Ms. Gildea provided the agendum overview.

Mr. Bill Douros, Superintendent for the Monterey Bay National Marine Sanctuary, gave a brief overview of activities in the Monterey, Gulf of the Farallones, and Cordell Bank Sanctuaries. Dan Howard of Cordell Bank, and Maria Brown of Gulf of the Farallones, also briefly summarized their activities.

### G.2.b Brief Overview and Question and Answer Session

Mr. Fougner asked whether working documents were posted on the sanctuaries' web sites. They are.

Mr. Donald Hansen asked whether there were fishermen on the Sanctuary advisory councils. Mr. Douros said there are. The Monterey Bay SAC has one fishing seat; the working groups related to fishing also have fishing representatives.

Dr. McIsaac wanted to clarify that at this point they are not considering changes to their designation documents, but there is some discussion of fishing-related changes. How would that be done?

Mr. Douros said that the proposed action plans do not contain recommendations to change the designation document. However, there are recommendations that could lead to that. For example, a krill harvest ban could be proposed to the Council. If the Council agrees, and can implement the ban through its regulatory processes, that would accomplish the goal without making changes to the designation document. If the Council cannot resolve that, we could theoretically change the designation document to only allow a

regulation banning krill harvest in one or more sanctuaries. As far as marine reserves go, there are years of work that would need to occur before we talk about whether and where to locate marine reserves. We intend to collaborate with CDFG, the Council, and fishermen on this.

Ms. Brown clarified that the three sanctuaries are addressing changes to their management plans both independently and jointly.

Ms. Wolf said that in California there is an existing ban on landing of krill for commercial purposes that is in effect until 2011. There is a bill in the works to make it more permanent. (Mr. Brown noted that there is also a rider on an Oregon bill to prohibit krill fishing in Oregon).

Dr. Radtke asked Ms. Wolf why a krill harvest ban was being discussed if it is already prohibited by California.

Ms. Cooney noted that in the absence of a federal FMP, state regulations apply to state vessels wherever they fish. So if California bans krill fishing, that applies to all California vessels. But if Oregon doesn't ban krill harvesting, Oregon vessels could conceivably fish in California federal waters and land in Oregon or elsewhere.

#### G.2.c Reports and Comments of Advisory Bodies

### HC

Mr. Michael Osmond provided Exhibit G.2.c, Supplemental HC Report.

#### G.2.d Public Comment

Ms. Kaitilin Gaffney, The Ocean Conservancy, Santa Cruz, California

Ms. Kathy Fosmark, Seaddler, Pebble Beach, California

Mr. Duncan MacLean, President, Half Moon Bay Fishermen's Marketing Association.

#### G.2.e Council Discussion on Central California Sanctuary Processes Including Krill Ban

Mr. Cedergreen noted that the HC Report suggested they continue to monitor the krill ban issue. He suggested that they do so.

Mr. Anderson said he was not sure what they would monitor. The states don't have a ban yet. What is the issue?

Mr. Coenen said he understood the HC was planning to look at krill as a bycatch or habitat issue. He wasn't sure if either are appropriate. If there is a market on krill, ought not we treat it as a managed species? Do we have the authority? He asked the HC and possibly the SSC to just scope out the issue for now. He felt that the Oregon legislature's response was emotional. Our delving any further into this is a waste of our time (for the next couple of years).

Mr. Brown said that in Oregon if somebody wanted to fish krill they would need a developmental fishery permit. A couple of boats have made overtures in that direction, but he suspects they will not be approved. In response to that, Senator Joan Dukes from Astoria has introduced this amendment. This started as a discussion about krill fishing in the Monterey Bay area (there is concern that boats could fish in Monterey Bay and land in Oregon). He personally felt the fishery would not happen.

Dr. McIsaac said in terms of what the HC might monitor, the Council does not have a crustacean FMP, so the reason this issue is before us is because the Sanctuary may request that the Council deal with it under the NMSA. So the HC may monitor the Sanctuary process. It may not go anywhere.

Mr. Coenen said in Oregon, krill fishing *would* be legal under any available legal gear. There is a small fishery under a developmental fishery permit that allows some krill fishing for aquarium food. This is not a high priority.

B.10 Groundfish Stock Assessment Review Process for 2005 through 2006 (06/19/03; 1:39 pm)

## H. Administrative Matters

### H.1. Legislative Matters

#### H.1.a Agendum Overview

Mr. Waldeck provided the agendum overview.

#### H.1.b Legislative Committee Report

Mr. Alverson provided Exhibit H.1.b, Supplemental Legislative Committee Report. He also noted the legislation (SB 1106) put forward by Senator Olympia Snow (R, Maine) eliminates the double referendum provision. The bill also proposes a transfer fee for individual fishing quota shares. He noted the elimination of perceived duplicative requirements that were included in previous legislation.

Mr. Hansen asked about the Senate bill related to the Capital Construction Fund (SB 1193). Mr. Alverson said that because the bill is related to tax law it has to pass through several committees not familiar with fisheries, which could delay its passage into law.

Mr. Robinson states that, relative to Vessel Monitoring Systems, NOAA Fisheries will provide language related to data confidentiality.

Mr. Brown asked if Mr. Leipzig could give an update on the trawl buyback proposed rule, notably the schedule for completion and public comment. The chairman allowed it.

Mr. Leipzig said the public comment period is open on the proposed regulations until June 26<sup>th</sup>. After the comment period ends, it could take several weeks for the final regulations to be published and bid packages to be sent to all permit holders. After the bidding process, NOAA Fisheries will mail out referendum ballots to groundfish trawl, shrimp, and Dungeness crab permit holders in Oregon, Washington, and California about how many permits will be retired; how much production those permits caught; and estimates of the costs and fees into the future, which would be repaid by the trawl sector. The referendum would ask permit holders to vote for or against the buyback program. To pass, a simple majority (with votes weighted by sector) is required. He anticipates the process will be completed during Fall 2003.

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

None.

H.1.d Public Comment

None.

H.1.e **Council Action:** Consider Recommendations of the Legislative Committee

Mr. Alverson moved and Ms. Vojkovich a motion (Motion 21) to approve the report of the Legislative Committee as shown in Exhibit H.1.b, Supplemental Legislative Committee Report. Motion 21 passed.

H.2. Fiscal Matters (06/20/03; 9:15 am)

H.2.a Agendum Overview

Dr. John Coon provided the agendum overview.

H.2.b Budget Committee Report

Mr. Harp provided Exhibit H.2.b, Supplemental Budget Committee Report.

H.2.c Reports and Comments of Advisory Bodies

None.

H.2.d Public Comment

None.

H.2.e **Council Action:** Consider Recommendations of the Budget Committee

Mr. Brown moved and Dr. Radtke seconded a motion (Motion 22) to approve the report of the Budget Committee as shown in Exhibit H.2.b, Supplemental Budget Committee Report.

H.3. Appointments to Advisory Bodies, Standing Committees, and Other Forums (06/30/03; 9:19 am)

H.3.a Agendum Overview

Mr. Chuck Tracy provided the agendum overview.

H.3.b Appointments to the Highly Migratory Species Advisory Subpanel, Scientific and Statistical Committee, Salmon Technical Team, Salmon Model Evaluation Workgroup, and Other Membership Issues

H.3.c Reports and Comments of Advisory Bodies

None.

H.3.d Public Comment

None.

H.3.e **Council Action:** Consider Appointing New Members and Addressing Other Membership Issues as Necessary

Mr. Coenen moved (Motion 23) to appoint Craig Foster to the ODFW seat on the STT. Mr. Ralph Brown seconded the motion. Motion 23 passed.

Mr. Harp moved (Motion 24) appoint to the following persons to the Model Evaluation Workgroup (MEW):  
Mr. Larrie LaVoy representing the Washington Department of Fish and Wildlife;  
Mr. Andy Rankis representing the Northwest Indian Fisheries Commission;  
Mr. Curt Melcher representing the Oregon Department of Fish and Wildlife;  
Mr. Dell Simmons representing the National Marine Fisheries Service;  
Mr. Henry Yuen representing the U.S. Fish and Wildlife Service;  
Mr. Rishi Sharma representing the Columbia River Intertribal Fish Commission; and  
Mr. Allen Grover representing the California Department of Fish and Game.  
Mr. Anderson seconded the motion. Motion 24 passed.

Mr. Tracy noted that the STT and SSC seats on the MEW were not yet filled and asked if the selection of representatives could proceed without formal Council action. Mr. Harp responded that there were three STT members on the MEW and that one of them could fill the STT seat, and that the SSC could select their representative without additional Council action.

Mr. Anderson moved (Motion 25) that the HMSAS northern processor and the HC at-large positions not be advertised for the remainder of the 2001-2003 term, but wait until this fall and advertise them for the 2004-2006 term. For the SSC social scientist position, although the Council appreciates the interest and carefully reviewed backgrounds of the three nominees, none of the individuals have the particular skill set desired for this position, additional nominees should be solicited for the 2004-2006 term. Mr. Alverson seconded the motion. Motion 25 passed.

Mr. Hansen moved (Motion 26) to include the following persons on the Ad Hoc VMS Committee:  
Mr. Dayna Matthews representing NMFS enforcement;  
LTJG Gregg Casad and LTJG Jordan Balduenza representing the U.S. Coast Guard;  
CPT Mike Cenci representing the Enforcement Consultants Committee;  
Mr. Marion Larkin, Mr. Kelly Smotherman or Bill Hunter representing the limited entry trawl sector;  
Mr. Tom Ghio or Mr. John Crowley representing the limited entry fixed gear sector;  
Mr. Rod Moore representing fish processors.  
Ms. Becky Renko representing the NMFS Northwest Region;  
Mr. Kenyon Hensel or Ms. Kathy Fosmark representing the open access commercial sector; and  
Mr. Don Hansen representing the California charter boat sector.  
Mr. Caito seconded the motion. Motion 26 passed.

H.4 Staff Work Load Priorities and September 2003 Council Meeting Agenda (06/20/03; 9:51 am)

H.4.a Agendum Overview

Dr. McIsaac provided the agendum overview and referred the Council to the documents containing the three meeting outlook, the timeline for groundfish amendments and annual specifications, the draft September agenda, and Council Staff workload priorities (Exhibit H.4.a (1-4)).

H.4.b Consider Workload and Agenda Options

The Council reviewed the pertinent documents and provided comments which included having only informational reports for CPS and HMS in September and keeping habitat and MPA's together on the agenda.

#### H.4.c Reports and Comments of Advisory Bodies

##### **GAP**

Mr. Moore provided Exhibit H.4.c, Supplemental GAP Report. The GAP is frustrated with the increasing workload and decreasing amount of time to do its work and propose the September agenda include only those groundfish items that are essential to completing the 2004 management process.

#### H.4.d **Council Action:** Identify Priorities for Advisory Body Consideration and Adopt Draft Agenda for the September 2003 Council Meeting

Council members provided comments on structuring the September and future Council agendas for the staff to incorporate into the final agendas. Council staff also suggested the possibility of utilizing a 2 hour lunch break on some days to allow Council members time to interact with advisory bodies, staff, etc. The Council was not in favor of the suggestion.

#### **4 PM Public Comment** (06/17/03; 4:15 pm)

Public Comments on fishery issues not on the agenda are accepted at this time.

Mr. Steve Joner, Makah Tribe, introduced the subject of marine stock enhancement and asked for an opportunity to give a formal presentation to the Council at the November meeting.

Mr. David Jincks, Mr. Dale Myer, and Mr. Vidar Westepad, talked about the issue of Pacific whiting management and individual quotas. They would like the Council to find space on the September agenda to discuss this issue.

Ms. Jennifer Bloesser, PMCC and Ms. Kye Russell, Institute for fisheries resources, invited all to the website launch/reception outside the Council chambers in the lobby at 6 pm on Wednesday.

Ms. Kate Wing, NRDC, San Francisco, California, provided information for addition to the minutes of the March 2003 PFMC meeting. She also noted there were a couple of bills in Congress to form the capital construction fund. She made that memorandum available to the Legislative Committee.

Mr. Gary Frederic, commercial fisherman, California, talked about the issue of the water flow necessary to the estuary in San Francisco Bay.

#### **ADJOURN**

The meeting was adjourned on Friday, June 20, 2003.

**DRAFT VOTING LOG**  
**Pacific Fishery Management Council**  
June 16 - 20, 2003

MOTION 1: Approve the agenda as shown in Exhibit A.4, June 2003 Council Meeting Agenda.

Moved by: Phil Anderson                      Seconded by: Bob Alverson  
Motion 1 passed.

MOTION 2: Delay the approval of the March minutes until Friday.

Moved by: Phil Anderson                      Seconded by: Jim Harp  
Motion 2 passed.

MOTION 3: Approve the following stock assessments for use in 2004: Pacific Ocean perch, widow rockfish, bocaccio, black rockfish, cowcod, and the STAR lite panel reports that include yellowtail and darkblotched.

Moved by: Phil Anderson                      Seconded by: Marija Vojkovich  
Motion 3 passed.

MOTION 4: Approve the rebuilding analysis for 2004 fishery management and long-term rebuilding plans for POP, widow, bocaccio, darkblotched, and the review of the cowcod rebuilding plan.

Moved by: Phil Anderson                      Seconded by: Jim Caito  
Motion 4 passed.

MOTION 5: Adopt a preliminary range of harvest levels for 2004 as represented in Exhibit B.4, Supplemental Revised Attachment 1, and to assist us in planning, identify the preferred alternative harvest level for preliminary action for the following four species as:

Pacific Ocean Perch: 444 mt  
Widow Rockfish: 284 mt  
Bocaccio: 526 mt  
Darkblotched: 272 mt  
Whiting: low OY of 74,000 mt, med OY of 148,200 mt, high OY of 222,000 mt.

Moved by: Phil Anderson                      Seconded by: Bob Alverson  
Motion 5 passed.

MOTION 6: Instruct the GMT to analyze the following fishery changes so we have some idea of what the bocaccio and canary impacts might be: move the recreational and fixed gear fisheries out

to 30 fathoms south of Lopez Pt. and Pt. Conception, and reinstate the nearshore trawl inside 60 fathoms south of 40° 10' N latitude for period 4 (removes April inseason action).

Moved by: Marija Vojkovich      Seconded by: Donald Hansen  
Motion 6 passed.

Roll call vote. (06/17/03; 4:06 pm) 9 yes, 5 no. Motion 6 passed.

MOTION 7: Set the 2003-2004 Pacific mackerel harvest guideline at 10,652 mt, opening July 1, 2003. Based on this harvest guideline, the directed fishery would be set at 7,500 mt to begin on July 1, 2003. After the directed fishery is reached, the fishery will revert to an incidental-catch-only fishery. The set-aside for the incidental fishery will be 3,152 mt. Also include the recommendations of the CPSAS for a 40% incidental catch rate when mackerel are landed with other cps, except that up to 1 mt of Pacific mackerel could be landed without landing any other CPS.

Moved by: Marija Vojkovich      Seconded by: Roger Thomas  
Motion 7 passed.

MOTION 8: For the HMS FMP, instruct the HMSPDT to look at a limited entry program for the California-based high seas pelagic longline fishery and report their findings to the Council at the November 2003 meeting. The scope of the initial work should include a control date, qualifying period, qualifying landings, the issue of capacity goal, and permit transferability issues.

Moved by: Marija Vojkovich      Seconded by: Jim Caito  
Motion 8 passed.

MOTION 9: Do not adopt the criteria and standards for approving EFPs.

Moved by: Ralph Brown      Seconded by: Marija Vojkovich  
Motion 9 not voted on, withdrawn.

MOTION 10: As comments to NOAA Fisheries on the VMS proposed rule, forward the comments made by the GAP as contained in Exhibit B.9.b, Supplemental GAP Report.

Moved by: Ralph Brown      Seconded by: Mark Cedergreen  
Motion 10 passed.

MOTION 11: Propose to NOAA Fisheries that they declare January 1, 2004 as the VMS implementation date.

Moved by: Neal Coenen      Seconded by: Phil Anderson  
Motion 11 passed.



MOTION 17: Adopt Amendment 16-2 as shown in Exhibit B.13, Attachment 2, consistent with the Council Interim alternative, which includes an 80% rebuilding probability for darkblotched rockfish, a 70% rebuilding probability for Pacific ocean perch, a 60% rebuilding probability for canary rockfish, and a 60% rebuilding probability for lingcod.

Moved by: Phil Anderson                      Seconded by: Bob Alverson  
Motion 17 passed; Mr. Brown voted no.

MOTION 18: Approve the March 2003 Council meeting minutes as shown in Exhibit A.5, Supplemental March 2003 Council Meeting Minutes with the corrections stated by Mr. Fougner.

Moved by: Jim Harp                              Seconded by: Neal Coenen  
Motion 18 passed.

MOTION 19: Approve the draft letter to Ms. Salas, FERC, as shown in Exhibit D.1, Supplemental Revised 2 Attachment 2.

Moved by: Phil Anderson                      Seconded by: Mark Cedergreen  
Motion 19 passed.  
Dr. Radtke abstained from the vote (conflict of interest).

MOTION 20: Accept the comments on the Klamath Basin Area office letter as shown in Exhibit D.1, Supplemental Attachment 3.

Moved by: Ms. Vojkovich                      Seconded by: Roger Thomas  
Motion 20 passed.

MOTION 21: Approve the report of the Legislative Committee as shown in Exhibit H.1.b, Supplemental Legislative Committee Report.

Moved by: Bob Alverson                      Seconded by: Marija Vojkovich  
Motion 21 passed.

MOTION 22: Approve the report of the Budget Committee as shown in Exhibit H.2.b, Supplemental Budget Committee Report.

Moved by: Ralph Brown                      Seconded by: Hans Radtke  
Motion 22 passed.

MOTION 23: Appoint Mr. Craig Foster to the ODFW seat on the STT.

Moved by: Neal Coenen                      Seconded by: Ralph Brown  
Motion 23 passed.

MOTION 24: Appoint to the following persons to the Model Evaluation Workgroup (MEW):  
Mr. Larrie LaVoy representing the Washington Department of Fish and Wildlife;  
Mr. Andy Rankis representing the Northwest Indian Fisheries Commission;  
Mr. Curt Melcher representing the Oregon Department of Fish and Wildlife;  
Mr. Dell Simmons representing the National Marine Fisheries Service;  
Mr. Henry Yuen representing the U.S. Fish and Wildlife Service;  
Mr. Rishi Sharma representing the Columbia River Intertribal Fish Commission; and  
Mr. Allen Grover representing the California Department of Fish and Game.

Moved by Jim Harp  
Motion 24 passed.

Seconded by Phil Anderson

MOTION 25: That the HMSAS northern processor and the HC at-large positions not be advertised for the remainder of the 2001-2003 term, but wait until this fall and advertise them for the 2004-2006 term. For the SSC social scientist position, although the Council appreciates the interest and carefully reviewed backgrounds of the three nominees, none of the individuals have the particular skill set desired for this position, additional nominees should be solicited for the 2004-2006 term.

Moved by: Phil Anderson  
Motion 25 passed.

Seconded by: Bob Alverson

MOTION 26: Include the following persons on the Ad Hoc VMS Committee:  
Mr. Dayna Matthews representing NMFS enforcement;  
LTJG Gregg Casad and LTJG Jordan Balduenza representing the U.S. Coast Guard;  
CPT Mike Cenci representing the Enforcement Consultants Committee;  
Mr. Marion Larkin, Mr. Kelly Smotherman or Bill Hunter representing the limited entry trawl sector;  
Mr. Tom Ghio or Mr. John Crowley representing the limited entry fixed gear sector;  
Mr. Rod Moore representing fish processors.  
Ms. Becky Renko representing the NMFS Northwest Region;  
Mr. Kenyon Hensel or Ms. Kathy Fosmark representing the open access commercial sector;  
and  
Mr. Don Hansen representing the California charter boat sector.

Moved by Mr. Hansen  
Motion passed.

Seconded by Mr. Caito

MOTION 27: Adopt Exhibit B.14.b, Supplemental GMT Report, as modified by state and tribal reports, for the 2004 management measures with the following changes: analyze an option to eliminate the Trawl B Platoon and include an Oregon/California black rockfish catch sharing option (option 2 on page 5 of the GMT report).

Moved by: Neal Coenen  
Motion 27 passed.

Seconded by: Phil Anderson

MOTION 28: Use catch histories from 1993 to 1999 to apportion coastwide canary impacts for recreational fisheries between states

Moved by: Ms. Vojkovich                      Seconded by: Roger Thomas  
Motion 28 passed; Mr. Brown and Mr. Coenen voted no; Mr. Ragtke abstained.

MOTION 29: Use the ranges in the GMT report for commercial/recreational catch sharing (shares would be guidelines, not hard allocations). Use recent year's catch sharing for apportioning trawl/nontrawl gear impacts and maximize opportunities by assuming the entire OY will be attained.

Moved by: Ms. Vojkovich                      Seconded by: Donald Hansen  
Motion 29 passed; Mr. Brown voted no.

**Meeting Record and Summary Minutes  
Pacific Fishery Management Council  
September 7-12, 2003**

The full record of the Pacific Fishery Management Council (Council) September 7-12, 2003 meeting is available at the Council office, and consists of the following:

1. The draft agenda.
2. The approved agenda with notations as to the time each agenda item was addressed, with summary minutes of Council proceedings and key Council documents inserted in the relevant agenda item. The summary minutes consists of a narrative (1) on particularly noteworthy elements of the gavel to gavel components of the Council meeting, including the Call to Order segment at the onset of the Council meeting, and (2) summaries of pertinent Council discussion during each Council Guidance, Discussion, or Action item in the Agenda. The summary narrative of Council Guidance, Discussion, or Action items includes detailed descriptions of rationale leading to a motion (or leading to a consensus to not make a motion) and discussion between the initial motion statement and the final vote.
3. A set of audio recordings of the actual testimony, presentations, and discussion that occurred at the meeting. Recordings are labeled so as to facilitate tape review of a particular agenda item, by cross referencing with the time labeled agenda.
4. All written documents produced for consideration at the Council meeting, including (1) the pre-meeting briefing book materials, (2) all pre-meeting supplemental documents for the briefing book, (3) all supplemental documents produced or received at the Council meeting, validated as labeled by the Council Secretariat and distributed to Council Members, and (4) public comments and miscellaneous visual aids or handout materials used in presentations to Council Members during the open session.
5. A copy of the Council Decision Log, a document distributed immediately after the meeting which contains very brief descriptions of Council decisions.
6. A copy of the Fall 2003 Council Newsletter.

**DRAFT MINUTES**  
**Pacific Fishery Management Council**

DoubleTree Guest Suites  
16500 Southcenter Parkway  
Seattle, WA 98188  
(206) 575-8220  
September 7 - 12, 2003

|   |    |
|---|----|
| <b>A. Call to Order</b> .....   | 3  |
| <b>A.5 Council Action: Approve Agenda</b> .....   | 3  |
| <b>B. Administrative and Other Matters</b> .....  | 4  |
| B.1.b <b>Council Action: Elect Chair and Vice Chair</b> .....   | 4  |
| B.2.b <b>Council Action: Approve April 2003 Minutes</b> .....   | 4  |
| B.3.d <b>Council Action: Consider Submitting Formal Input Into the NOAA Fisheries</b><br>Constituent Survey .....   | 7  |
| B.4.e <b>Council Action: Consider Recommendations of the Legislative Committee</b> .....  | 10 |
| B.5.e <b>Council Action: Consider Recommendations of the Budget Committee</b> .....   | 10 |
| B.6.d <b>Council Action: Consider Current Composition of Advisory Bodies and Direct</b><br>Staff to Request Nominees for the 2004-2006 Term .....               | 11 |
| B.7.c <b>Council Guidance on Workload, Draft Agenda for the November 2003</b><br>Council Meeting, and Identify Priorities for Advisory Body Consideration ..... | 12 |
| <b>C. Groundfish Management</b> .....   | 13 |
| C.1.d <b>Council Discussion on NMFS Report on Groundfish Management</b> .....   | 15 |
| C.2.e <b>Council Action: Provide Guidance on Observer Data Implementation</b> .....   | 16 |
| C.3.f <b>Council Action: Adopt Final Harvest Levels for 2004 Groundfish Management</b> .....  | 19 |
| C.4.e <b>Council Action: Consider and Adopt Groundfish Inseason Adjustments as Needed</b> .....   | 22 |
| C.6.m <b>Council Action: Guidance and Direction as Needed on Groundfish Management</b><br>Measures for 2004 .....   | 30 |
| C.6.s <b>Council Action: Adopt Final Proposed 2004 Groundfish Management Measures</b> .....   | 33 |
| C.7.e <b>Council Action: Adopt Alternatives for Public Review on the Proposed Monitoring</b><br>Program for the Shore-based Pacific Whiting Fishery .....       | 36 |
| C.9.e <b>Council Action: Adopt Options for the Groundfish Bycatch Program EIS for</b><br>Public Review .....  | 42 |
| C.10.h <b>Council Action: Plan Future Council Action Regarding Groundfish IQ Development</b> .....  | 44 |
| D.1.e <b>Council Action: Consider Habitat Committee Recommendations</b> .....   | 46 |
| <b>E. Marine Reserves</b> .....   | 47 |
| E.1.e <b>Council Discussion on Update on Marine Reserves Issues</b> .....   | 48 |
| <b>F. Salmon Management</b> .....   | 49 |
| F.2.f <b>Council Action: Establish Final Prioritization and Schedule for Review of</b><br>Salmon Methodology Changes for the 2004 Season .....                  | 51 |
| F.3.f <b>Council Action: Provide Guidance on Mitchell Act Issues</b> .....  | 52 |
| <b>G. Pacific Halibut Management</b> .....  | 53 |
| G.2.e <b>Council Action: Provide Guidance on Pacific Halibut Bycatch Estimation Issues</b> .....  | 54 |

**NOAA Fisheries 2003 Constituent Sessions** ..... 55  
**4 PM Public Comment for Items not on the Agenda** ..... 55

## **A. Call to Order**

### **A.1 Opening Remarks, Introductions 09/08/03; 4:47 pm**

The 170<sup>th</sup> meeting of the Pacific Fishery Management Council was called to order. The Council held a closed session prior to the general session.

### **A.2 Council Member Appointments - Swearing in of New Members**

Dr. Bill Hogarth swore in new members Messrs. Darrell Ticehurst and Frank Warrens. He confirmed reappointments for Messrs. Jim Harp, Bob Alverson, and Donald Hansen.

### **A.3 Roll Call (09/08/03; 4:54 pm)**

Dr. Donald McIsaac called the roll.

Bob Alverson  
Phil Anderson  
Neal Coenen  
Marija Vojkovich  
Ralph Brown  
Mark Cedergreen  
David Gaudet  
Donald Hansen  
David Hanson  
Jim Harp  
Jerry Mallet (Absent)  
Lt. Greg Casad  
Dave Ortmann  
Tim Roth  
Bill Robinson  
Roger Thomas  
Darrell Ticehurst  
Stetson Tinkham (Absent)  
Frank Warrens

### **A.4 Executive Director's Report**

Dr. McIsaac

### **A.5 Council Action: Approve Agenda**

The Council approved the agenda as shown in Exhibit A.5, September 2003 Council Meeting Agenda. (Motion 1)

## **B. Administrative and Other Matters**

### **B.1 Election of Council Chair and Vice Chair**

#### **B.1.a Agendum Overview**

Mr. Chuck Tracy presented the agendum overview.

#### **B.1.b Council Action: Elect Chair and Vice Chair**

Mr. Phil Anderson moved (Motion 2) to appoint Mr. David Ortmann for the term beginning September 8, 2003 through December 31, 2004, to Council Vice-Chairman. Mr. Bob Alverson seconded the motion. Motion 2 passed.

Ms. Marija Vojkovich moved (Motion 3) to appoint Mr. Donald Hansen for the term beginning September 8, 2003 through December 31, 2004, to Council Chairman. Mr. Roger Thomas seconded the motion. Motion 3 passed.

### **B.2 April 2003 Council Meeting Minutes**

#### **B.2.a Council Member Review and Comments**

Provided under B.2.b.

#### **B.2.b Council Action: Approve April 2003 Minutes**

Mr. Brown moved to approve the April 2003 minutes with Mr. Anderson's correction. Ms. Vojkovich seconded the motion (Motion 4) Mr. Anderson made one correction as follows: on page 21 where it says "We need to wait to make the decision on whether or not to use the new rates", add after that sentence the phrase "for target species". Motion 4 passed with the one correction by Mr. Anderson.

### **B.3 Council Input into NOAA Fisheries Constituent Survey (09/09/03; 10:14 am)**

#### **B.3.a Agendum Overview**

Dr. McIsaac provided the agendum overview. He welcomed Dr. Hogarth and noted for the Council that this was an opportunity to convey issues and concerns to Dr. Hogarth. Dr. McIsaac outlined several topics that might be discussed, including suggestions for how to improve the process in general, regional council funding and other budget-related matters, NMFS staffing levels and resources, coordination with and support for state management agencies, National Standard guideline revision, Magnuson-Stevens Act reauthorization, incorporation of ecosystem and oceanographic regime dynamics into management, ways to improve fishery data – observer program, resource surveys, logbooks, "card swipe," implementation of the Groundfish Strategic Plan, coordinated management of coastal pelagic species with Mexico and Canada, individual fishing quota programs, and cooperation in response to litigation. Dr. McIsaac stated Council staff could be directed to draft a letter conveying the Council's input to Dr. Hogarth.

#### **B.3.b Reports and Comments of Advisory Bodies**

## HC

Mr. Stuart Ellis provided Exhibit B.3.b, Supplemental HC Report.

*From a habitat perspective, the most important issues facing fisheries in our region are the lack of knowledge about the offshore habitat on which Council-managed species depend and the lack of action to address **known** problems such as pollution; degradation and loss of wetlands and estuaries; and freshwater habitat loss.*

*To address the lack of information on our offshore areas, a consistently funded, long-term research program needs to be established.*

*Regarding the better-known problems, essential fish habitat consultation requirements need to be strengthened when the Magnuson-Stevens Act is reauthorized so that agencies seriously consider the effects of their actions on fish species and habitat, and respond to comments made by the Council in a detailed and effective way. For example, the Council has made detailed comments on issues such as Klamath and Trinity River flows and hydropower relicensing and has received only limited responses that do not address the Council's specific comments.*

*NMFS is currently developing an environmental impact statement addressing EFH in the Pacific region. As we move forward with this effort, agencies need to acknowledge the impacts of their actions on living habitat such as sponges, kelp, and coldwater corals. These non-fish species play an important and often unrecognized role in the health of the ecosystems that support our fish populations.*

## SSC

Mr. Tom Jagielo provided Exhibit B.3.b, Supplemental SSC Report.

*The Scientific and Statistical Committee (SSC) identified three broad areas that we consider important to the quality and effectiveness of West Coast fishery management in the near future.*

### Capacity Reduction

*Capacity reduction is the highest priority for the West Coast groundfish fishery. If an aggressive groundfish capacity reduction program is implemented many of the problems facing the West Coast groundfish fishery could be reduced or eliminated. The fishing industry has taken the initiative on this issue but considerable support from the Council and NOAA Fisheries is needed to make this successful. Additional measures such as permit stacking and fishing quota programs may be necessary for long-term effective management of capacity.*

### Data Collection

*Given the intensity of current management and the high economic and social stakes of fishery closures, it is important to have high quality and consistent long-term data sets. Stock assessments, species rebuilding plans, by-catch estimates, and economic assessments all have specific data requirements. To address these needs, the SSC encourages NOAA Fisheries to conduct and expand fisheries sampling and fishery independent data collection. This applies to all species that are managed by the Council including groundfish, coastal pelagic species, salmon, and highly migratory species. The need for independent sampling is especially important for monitoring rebuilding of stocks that have severely restricted fisheries.*

### Marine Reserves

*Marine reserves are an important and contentious issue. There are differences and potential conflicts in the objectives of the Magnuson-Stevens Act and National Marine Sanctuary Act. Lines of authority and responsibility among NOAA Fisheries, the Council, and the National Marine Sanctuary Program are not clear.*

*Clarification of each agency's role is needed to facilitate communication and coordination.*

## **GAP**

Mr. Tom Ghio provided Exhibit B.3.b, Supplemental GAP Report.

*The Groundfish Advisory Subpanel (GAP) appreciates your visiting the West Coast and conducting a constituent listening session during the Council meeting. Although GAP members may have individual comments, we would also like to offer these collective points of view.*

*One of the highest priorities of the GAP is improvement of the science that is used to assess and manage Pacific groundfish. As you know, groundfish research has long been the poor stepchild of NMFS funding on the West Coast in spite of the tremendous contribution of groundfish to our commercial, recreational, and tribal fisheries, as well as coastal communities. We continue to assign harvest levels on the basis of three to four-year-old data. Our observer data, which is supposed to provide real-time management, is over one year old and doesn't reflect current management situations. As a result, we have seen precipitous economic declines to the point where one segment of the fleet sees a buyback as the best way to maintain a sustainable fishery.*

*While some of these problems are funding related, there are also operational research improvements that can be made to improve the amount, precision, and timeliness of data collection.*

*We recommend the following:*

- \* the administration needs to request funding for the level of groundfish research needed;*
- \* additional full time employees need to be assigned to the groundfish observer program so that observer data can be analyzed in a more timely manner;*
- \* data collection needs to be conducted using means that are appropriate for the species and location; using swept-area trawl surveys for rockfish that are primarily found in un-trawlable areas makes no sense;*
- \* consideration needs to be given to natural functions, including, but not limited to, changes in ocean productivity, the impacts of lunar cycles and tides, population cycles, and predator/prey relationships, when collecting and analyzing data;*
- \* data sources need to be centralized to ensure higher quality stock assessments; assessment authors should not have to spend their time searching for obscure sources of data, or trying to figure out which state or federal office has the data needed for an assessment;*
- \* additional peer review of stock assessments which precludes full analysis by the Council's Stock Assessment Review Panels should be questioned; and*
- \* a card-swipe system to record landings, which would provide better real-time data, should be initiated.*

*In addition to concerns about science, the GAP believes that improvements can be made to management. Far too often, management measures are changed without determining whether they have met their goals. This not only represents a cost to the taxpayers but creates significant instability among participants in the fishery. Processes are started and then faced with premature termination due to end of funding, such as the essential fish habitat EIS now being conducted. The National Standard 1 Guideline review needs to be completed as quickly as possible.*

*Finally, the GAP has some general comments about NMFS. There is concern about lack of communication, when efforts to get general information are stymied, due to fears of lawsuits. There is concern that NMFS does not do enough to defend itself when lawsuits are filed; it is worth noting that NMFS lost three lawsuits in a row on groundfish management measures and only won the fourth lawsuit when industry groups intervened. Of special concern to the West Coast is the continued erosion of fisheries management authority within National Marine Sanctuaries, where NMFS appears to be willing to let the National Ocean Service assume management over important commercial and recreational fisheries in vast stretches of the ocean. Current language in many designation documents reference fishing regulatory authority now and in the future as under NMFS and state control, not the Sanctuaries. That includes those regulations that directly or indirectly affect fishing.*

*We hope that these comments and recommendations are helpful to you as you seek to improve fisheries conservation and management. GAP members are interested in working with you and your staff to ensure achieve a groundfish fishery that is sustainable for users and the coastal communities in which they live.*

### B.3.c Public Comment

None during the course of the Council session. Public comment was provided directly to Dr. Hogarth during the NOAA Fisheries Constituent Survey, Monday evening (September 8, 2003) and Tuesday morning (September 9, 2003).

### B.3.d Council Action: Consider Submitting Formal Input Into the NOAA Fisheries Constituent Survey

Mr. Alverson raised several issues in response to Dr. Hogarth's presentation. He noted the large difference reported in economic value between recreational and commercial fisheries. Recreational value is based on many inputs, whereas commercial value is solely based on ex-vessel value of catch. He suggested the commercial value presented does not include the total value realized from commercially harvested fish. He opined the commercial industry, historically, has been undervalued. Dr. Hogarth agreed that the commercial value represented ex-vessel value. He noted it was difficult to represent the total value of U.S. commercial catch, notably accounting for imports and aquaculture. He stated that in the future he would clarify how the different values were derived.

Mr. Alverson thanked NMFS for the support of the West Coast groundfish observer program. He encouraged NMFS to provide additional funding.

Mr. Alverson spoke to the issue of IFQs and the recent letter to regional councils from Congressman Gilchrist. Mr. Alverson stated that regional councils should be provided the flexibility to deal with regional issues in a way best suited to the needs of the specific region, and noted the Pacific Council's intent to move forward on IFQ program development.

Dr. Hogarth acknowledged he understood the concern. He noted current discussion about developing national standards for IFQ programs, and that he would relay Mr. Alverson's comments.

Mr. Anderson thanked Dr. Hogarth for taking the time to listen to the Council's concerns. He appreciated partnerships between the states, Council, and federal agencies; for example, Dr. Hogarth's meeting with state directors. Mr. Anderson also acknowledged the good relationship between the Council and NMFS, notably the West Coast regional offices and the science centers. He discussed cooperative efforts and partnerships, including fisheries conducted under Exempted Fishing Permits and submersible survey research on rocky reef habitat.

Mr. Anderson expressed concern about funding for salmon hatcheries under the Mitchell Act, noting the level funding since 1996. He was concerned about a chronic erosion of the ability to produce salmon at those facilities. With the increased demands on the limited Mitchell Act funds, some facilities might be closed. He recommended increased and secure funding for Mitchell Act hatchery facilities, which is necessary to maintain quality fisheries derived from salmon production at those facilities.

Mr. Anderson also noted funding issues for the Pacific Fisheries Information Network (PacFIN). Staff impacted by budget shortfalls do work that is critical to the federal and state fishery management and assessment science. For example, there are seven ports in Washington where groundfish are landed, yet there are only three port samplers for collecting information from catch landed at those ports. Current port sampling levels would be lower without cooperative funding between WDFW and northwest tribes. Continued level funding for PacFIN will result in loss of critical abilities to collect, compile, and manage necessary data.

In sum, funding for PacFIN and Mitchell Act hatcheries is a critical concern.

Dr. Hogarth responded that, indeed, federal/state partnerships are extremely important and should be fostered. Relative to Mitchell Act funding, he understands the concern and NMFS is working to find solutions. He also noted that NMFS recognizes the need for sufficient levels of port samplers, this is a problem in many regions. NMFS is working on increasing their numbers.

Ms. Vojkovich thanked Dr. Hogarth for the work of NMFS staff. She agrees with Mr. Anderson's remarks about PacFIN, and noted funding for RecFIN and jurisdictional and enforcement agreements is also important. Effective enforcement is critical to the success of regulations developed by the Council and NMFS.

She noted concern about the need to balance funding for current programs with the need for new or expanded programs, e.g., new initiatives for Essential Fish Habitat and Marine Protected Areas (MPAs).

Ms. Vojkovich also supported the SSC's comments about the relationship between NMFS and the marine sanctuary program, as well as the issue of MPAs and the roles of federal agencies. The Council needs assistance and guidance on how to address competing issues.

Dr. Hogarth stated that NMFS will continue to push for funding for enforcement. He noted that in response to the September 11 tragedy, the U.S. Coast Guard priorities have shifted away from fisheries enforcement. This has increased the burden on state and NMFS enforcement. On jurisdictional issues related to National Marine Sanctuaries and MPAs, he suggested it would be useful to get the parties together to discuss the issues.

Mr. Ticehurst, from the standpoint of recreational angling, a more careful economic analysis of fish by species and geographic area would help in management. For example, the value of salmon in the commercial fishery relative to the recreational fishery.

Dr. Hogarth said that was in the works.

Mr. Coenen also thanked Dr. Hogarth. He felt optimistic that the issues raised by others would see improvement in the future. He agreed with Mr. Alverson about proceeding on fishing quota program development. He noted the need to address core issues through long-term solutions, and the need for increased Council resources. Relative to Mitchell Act funding, he noted that the hatchery programs were critical to the U.S. v. Washington agreement for Columbia River salmon fisheries.

Dr. Hogarth commented that NMFS intends to maintain its close working relationship with the U.S. Coast Guard. This is in recognition of the critical role of enforcement. And stressed that reducing capacity and fishery rationalization are key to many systemic issues and fishery sustainability. He also appreciated the positive comments about the NMFS staff.

Mr. Brown echoed the comments of the other Council members. He spoke to the need to heed the fundamental management philosophy guiding U.S. fisheries. That is, marine resource policy aims to manage for long-term sustainable fisheries, which includes sustaining harvest opportunities, not simply conserving fish. Fishermen need stable management to be able to plan a business, which isn't possible under the current fishery. It might be possible to attain the healthiest fish stocks in the world, but not achieve the goal of "sustainable fisheries."

Dr. Hogarth agreed that more stable management and long-term planning is needed. Fishery management has many facets—commercial harvest, recreational fishing, existence value, product to consumers, fishing communities, etc. He was encouraged by the Council's recently adopted multi-year management regime, in that it would increase stability in the fishery.

Dr. Hogarth introduced Admiral Garret from the U.S. Coast Guard. Admiral Garret noted that homeland security has been a challenge for the Coast Guard. However, fisheries enforcement remains a priority and, with new resources, some increases have been made. In the future, vessel monitoring systems will increase the efficiency of fishery enforcement. Coordination with federal and state enforcement agencies continues and is important.

Dr. McIsaac reiterated for the Council that staff was prepared to draft a letter to Dr. Hogarth highlighting issues of importance to the Council. Many of those issues were discussed by Council members during this agenda item. If there are other items to highlight in the letter this would be the time to note them.

The Council was satisfied with what had already been discussed and directed staff to draft a letter. Dr. McIsaac anticipated the letter would be sent during October 2003.

Dr. Hogarth noted the comments made by the Council were informative and positive. He thanked the Council for their time.

#### B.4 Legislative Matters (09/12/03; 8:10 am)

##### B.4.a Agendum Overview

Mr. Dan Waldeck reviewed the briefing materials.

##### B.4.b Legislative Committee Report

Mr. Waldeck provided Exhibit B.4.b, Supplemental Legislative Committee Report.

Cmdr. Fred Myer briefed the Council on the USCG automated identification system (AIS), which is being developed as part of a maritime transportation security initiative (under the U.S. Department of Homeland Security). AIS equipment would be required on vessels 65 feet or greater that transit certain waters, e.g., Puget Sound, Washington. He stated the USCG had received many comments regarding the proposed system. He anticipated that final rules would be published on or about October 24, 2003, with an effective date of approximately November 25, 2003.

Regarding the AIS proposal, Mr. Alverson asked Cmdr. Myer if there was a meeting (to be held in the Seattle, Washington area) planned for the near future, and if it would be announced soon. Cmdr. Myer said he did not know if such a meeting was planned, but would look into it and report back to Mr. Alverson.

Dr. Dave Hanson noted that the Commerce, Justice, and State appropriations bill had passed the Senate Commerce committee, but Senate floor action would likely be delayed because of several riders attached to the spending bill.

##### B.4.c Reports and Comments of Advisory Bodies

None.

##### B.4.d Public Comment

None.

**B.4.e Council Action:** Consider Recommendations of the Legislative Committee

Mr. Alverson moved and Mr. Cedergreen seconded a motion (Motion 17) to adopt the Legislative Committee's report as shown in Exhibit B.4.b, Supplemental Legislative Committee Report. Motion 17 passed by voice vote.

**B.5. Fiscal Matters**

**B.5.a Agendum Overview (09/12/03; 8:21 am)**

Dr. John Coon provided the agendum overview.

**B.5.b Budget Committee Report**

Mr. Jim Harp provided Exhibit B.5.b, Supplemental Budget Committee Report.

**B.5.c Reports and Comments of Advisory Bodies**

None.

**B.5.d Public Comment**

None.

**B.5.e Council Action:** Consider Recommendations of the Budget Committee

Mr. Alverson moved and Mr. Anderson seconded a motion (Motion 18) to adopt the recommendations of the Budget Committee as provided in Exhibit B.5.b, Supplemental Budget Committee Report. There was no Council discussion. Motion 18 passed.

**B.6. Appointments to Advisory Bodies, Standing Committees, and Other Forums for the 2004-2006 Term (09/12/03; 8:26 am)**

**B.6.a Agendum Overview**

Mr. Chuck Tracy presented the agendum overview

Dr. McIsaac noted that Dr. Kevin Hill, SSC Vice Chair, has changed jobs from CDFG to NMFS, and asked Mr. Robinson for some clarification of Dr. Hill's role in the SSC.

Mr. Robinson responded that Dr. Hill now works for the NMFS SWFSC, and that the designated SWFSC position is held by Ms. Cindy Thomson. After consultation with Dr. Tillman, director of the SWFSC, he recommended the Council approve a second designated SSC position for the SWFSC. This would provide two designated seats each for the NWFSC and the SWFSC on the SSC, and allow Dr. Hill to continue his service. CDFG would then need to nominate someone to fill their position. The two other SWFSC staff on the SSC (Drs. Ralston and Conser) hold at-large positions.

**B.6.b Reports and Comments of Advisory Bodies**

None.

B.6.c Public Comment

None.

B.6.d **Council Action:** Consider Current Composition of Advisory Bodies and Direct Staff to Request Nominees for the 2004-2006 Term

Mr. Anderson recommended eliminating the Public At-Large seat on the SAS to allow one additional Sport Fisheries seat on the GAP. The linkage of the current SAS Public At-Large representative to Council fisheries is not as strong as desired, and it has been difficult to find people willing to serve in that position. The recommendation would also be cost neutral to the Council. The diversity of interest in the recreational groundfish fishery requires more representation than currently exists with the two Sport Fisheries positions on the GAP.

Mr. Thomas agreed with Mr. Anderson's comments and recommended that there be two Charter Boat Operator seats for California on the GAP because of the diversity of the groundfish fishery within California.

Mr. Warrens asked Mr. Anderson if his recommendation for the GAP would include Sport Fisheries seats from designated areas. Mr. Anderson responded that his intent was to increase the Sport Fisheries seats, not the Charter Boat Operator seats on the GAP, and not specify a geographic area for those representatives.

Ms. Vojkovich recommended that one of the Charter Boat Operator seats on the CPSAS be eliminated, with the remaining seat representing the entire state, then add another Charter Boat Operator seat to the GAP, and specify one California seat for north of Point Conception and one for south of Point Conception. The CPS fishery is primarily commercial, and the largest impact on the recreational fisheries is in the bait sector. She also supported Mr. Anderson's recommendation regarding the GAP and SAS.

Mr. Anderson moved (Motion 19) to revise the composition of the CPSAS by combining the two California Charter Boat Operator seats into one seat covering the entire state effective January 1, 2004; add one At-Large Sport Fisheries seat on the GAP; add one At-Large Charter Boat Operator seat to the GAP; eliminate the Public At-Large seat on the SAS; change the Tribal Fisher seats on the GAP and SAS to a three year term rather than an indefinite appointment; the Tribal Representative seats (California and Washington Coast/Columbia River) on the HC would remain an indefinite appointment; and add a NMFS SWFSC seat to the SSC. Ms. Vojkovich seconded the motion.

Dr. McIsaac noted that if the HC Tribal Representative seats are appointed to indefinite terms, there will be no opportunity to rotate membership on the SAS and HC among the Klamath tribes.

Mr. Harp recommended the California Tribal Representative seat and the Washington Coast/Columbia River Tribal Representative seat on the HC be appointed for a three year terms beginning January 1, 2004 to address the rotation issue.

Mr. Anderson accepted Mr. Harp's recommendation as a friendly amendment that the two Tribal Representative seats on the HC be three year terms. Ms. Vojkovich also accepted the friendly amendment.

Mr. Thomas requested a friendly amendment to designate the additional At-Large Charter Boat Operator seat on the GAP as a northern California seat. Mr. Anderson stated his intent was to allow flexibility in appointing the additional Charter Boat Operator seat so that circumstances could dictate the best representation, but that he did not object to the friendly amendment. Ms Vojkovich also accepted the friendly amendment.

Mr. Tracy asked if there was a proposed boundary for the two California Charterboat Operator seats on the GAP. Mr Thomas responded that the boundary would be Point Conception.

Motion 19 passed.

Mr. Ticehurst suggested that when Council staff advertise the Advisory Body positions, that recreational anglers be solicited for the HC Fishing Industry position.

Mr. Anderson stated he has no problem identifying descriptions of the recreational, commercial, and at-large seats, and who may apply for them, however he was concerned that the Council not solicit one interest in favor of others. Mr. Coenen and Chairman Donald Hansen agreed with Mr. Anderson's comments.

Council consensus was to direct staff to solicit nominations for the HC Tribal Representative, At-Large, Commercial Fisheries, Sport Fisheries and Conservation Group seats, the SSC At-Large seats, and all seats on the CPSAS, GAP, HMSAS, and SAS.

B.7. Staff Work Load Priorities and November 2004 Council Meeting Agenda (09/12/03; 9:47 am)

B.7.a Agendum Overview

Dr. McIsaac provided the agendum overview, referring the Council to Exhibit B.7, Supplemental Attachments 1-4.

B.7.b Reports and Comments of Advisory Bodies

None.

B.7.c Council Guidance on Workload, Draft Agenda for the November 2003 Council Meeting, and Identify Priorities for Advisory Body Consideration

Mr. Thomas said there should be a placeholder for an earlier opening for the recreational salmon fishery in California (already have it for Oregon).

Mr. Alverson requested consideration of an early opening of the incidental halibut harvest in the sablefish fishery. Mr. Robinson said normally the Council considers the incidental catch regulations at its March/April meetings after the TAC has been established by the IPHC. If we want fishermen to have access for that amount of fish in April we would have to move the process up. That adds to the problem though when you don't know what the 2004 TAC will be since you're still operating under 2003 TAC.

Mr. Anderson said he has not heard about this interest in moving the date when incidental retention could begin from May 1 to April 1. Mr. Robinson said he understood some of the Washington longliners have approached some of the staff and asked what it would take to do it.

Mr. Anderson asked what would prevent us from making that decision? Is the sole issue that we would be looking at it in the November-March timeframe?

Ms. deReynier said there is the issue of the IPHC schedule for setting its TAC, our scheduling of a two meeting process, and the current IPHC licensing schedule - they don't issue the licenses until May 1. Dr. Coon added that normally the procedure is for proposed catches in March and then the final in April. We would have to change the framework - but don't have the number from IPHC until January. Ms. Cooney said the catch sharing plan states when people have to apply for their licenses and when they are issued; the IPHC would have to issue the licenses, we would have to know the number of licenses issued as well.

Mr. Anderson said we went from no halibut retention north of Pt. Chehalis to allocating harvest as incidentals in the sablefish fishery when the total allowable halibut harvest is above certain levels. He is having trouble recognizing the severity of the problem, given the complexities it causes for other folks like IPHC. It seems like we're creating enough opportunity for people and we have the ability to tweak that a little bit if needed and he is okay with the way we deal with it now and sees no need to change it.

Mr. Robinson said he will make a couple of comments on the open access issue in November. Ms. Vojkovich said resolving the open access problem is imperative for California. Mr. Anderson supported Marija's comments. Dr. McIsaac said this is under the "contingent" category. He suggested taking the open access limitation update and turn it into a planning session.

Ms. Vojkovich spoke to the item of proposed California nearshore management authority which is below the line. She had hoped to speak on this issue at the November Council meeting, but due to budget constraints she did not have clear direction from CDFG on that. She would be very surprised if we're able to put it on the November agenda, but would like to reserve the right pending a final decision from CDFG in the next 2 weeks. Dr. McIsaac said we could keep it in November or delay until March or April. We would add it on Friday as the 16th groundfish item if she will be able to speak to that subject.

### **C. Groundfish Management**

#### C.1 NMFS Report on Groundfish Management (09/04/03; 5:05 pm)

##### C.1.a Regulatory Matters

Mr. Robinson provided regulatory activities for groundfish management since the June Council meeting. The Council's inseason recommendations from the June meeting were implemented on July 7, 2003 with the exception of the change in management lines for fixed gear and recreational fisheries in southern California.

On July 11 the shore based whiting fishery was projected to attain its 51,000 metric ton allocation by July 14 when it was closed. NMFS issued a final notice for the fishing capacity reduction program for the groundfish fishery on July 18. Bids were received from 107 vessel owners. The referendum will be sent out around September 30 with voting to occur October 15-29 with results available November 12. If the referendum supports the buyback, the goal will be to complete the program by January 1, 2004.

On August 1, NMFS issued an exempted fishing permit to the state of California for experimental net designs for flatfish. NMFS published a Notice of Availability on August 18 to begin a 60 day secretarial review of Amendment 16-1, the standard and processes for rebuilding plans. The proposed rule for Amendment 16-1 was published on September 5 with a public comment period ending on October 6.

On August 19, NMFS sent a letter to the Council chair announcing approval of Amendment 17 setting up a biennial management cycle. On September 4, the final rule implementing Amendment 17 was published. Mr. Robinson reminded the Council that there is some unfinished business associated with biennial management. The Council needs to establish guidelines and criteria for making changes during the "off years". The Council can anticipate new information including stock assessments and observer data during a two-year management period and a plan for deciding how that information will be used is needed.

On September 2, NMFS promulgated the emergency rule requested by the Council that moved the RCA boundary south of Point Conception from 20 to 30 fathoms for fixed gear and recreational fisheries. The emergency rule was published in the *Federal Register* on September 6. The proposed rule to implement

mandatory observers in the at-sea whiting fishery will be published on September 10. On September 1, NMFS promulgated the final rule implementing the Council's recommended change to sardine allocation under the Coastal Pelagic Species FMP.

The final rule implementing a Vessel Monitoring System as well as a rule identifying approved units are expected to be published in early October. NMFS intends to follow the GAP recommendation to implement the VMS program on January 1, 2004. Finally, NMFS is reviewing the Environmental Impact Statement for Amendment 16-2, the first four rebuilding plans, and expects to submit the document for publication later this week.

Mr. Alverson asked if the vessel owner's will know if their bid has been accepted with an accompanying cost-benefit analysis before voting on the referendum. Mr. Robinson reported that they will not know. Mr. Alverson asked if the aggregate landings from the vessels being bought out would be available. Dr. Hogarth responded that they have calculated and published the percent pounds and percent value removed from the various fishing categories. This information is based on approximately 91 vessels that are anticipated to be removed under the programs 46 million dollar budget. A total of 107 bids were received totaling roughly 60 million dollars. At Mr. Brown's request, Dr. Hogarth will provide all available information to the Council.

Ms. DeReynier referred the Council to Exhibit C.1, Supplemental NMFS Report, and briefed the Council on the National Bycatch Plan and Strategy. This program is an agency effort to look at internal and external ways of monitoring and managing bycatch. The Council was last briefed in June and you can see the six steps the agency is following under this strategy. There is a draft plan for a national bycatch plan (Step 2) that will be available for review later this autumn. Step 3 involves the development of regional bycatch plans. NMFS Northwest Region is working on federally managed groundfish, salmon, and halibut fisheries while the Southwest Region is working on coastal pelagic species and those highly migratory species currently managed by NMFS. I am organizing the efforts for the Northwest Region and Mr. Dan Viele is doing the same for the Southwest Region. Ms. DeReynier stated that she will be available throughout the week to hear any comments, suggestions, or ideas from Council members. She announced her intent to utilize the recommendations in the Bycatch Programmatic Environmental Impact statement as Council guidance for a regional bycatch strategy for groundfish fisheries. The regional plan is scheduled to be available for review at the November Council meeting.

Dr. McIsaac asked about step number six, identify new funding requirements to support the bycatch strategy and asked if Ms. DeReynier could provide any examples. Ms. DeReynier cited a likely review of bycatch monitoring programs including an assessment of the associated costs.

Dr. Elizabeth Clarke brought a presentation on the Northwest Fisheries Science Center (NWFSC) activities. The slope survey is in its second pass and has been operating since June and will continue through October on four vessels. The survey has been expanded to include some shelf locations this year and is proceeding very well with an intense data collection effort. In the first pass alone, the survey has collected 15,000 otoliths. Additionally, a pilot pot survey for sablefish was conducted this summer as well as a cooperative acoustic whiting survey with DO Canada. The observer program has recently completed its second year for trawl and fixed gear fisheries and efforts are underway to summarize and analyze the information. Additionally, observers have also participated in the ODFW EFP testing bycatch reduction gear. Stock assessment authors will be presenting cabezon and lingcod assessments at next weeks STAR panel in Seattle. Finally, the NWFSC would like to invite everyone to the October 3 open house at the Barry Fisher building in Newport.

#### C.1.b Reports and Comments of Advisory Bodies

None.

C.1.c Public Comment

None.

C.1.d Council Discussion on NMFS Report on Groundfish Management

None.

C.2 Observer Data Implementation Status (09/09/03/ 11:21 am)

C.2.a Agendum Overview

Dr. Ed Waters provided the agendum overview.

C.2.b NMFS Report

Dr. Elizabeth Clarke and Dr. Jim Hastie of the Northwest Fisheries Science Center (NWFSC) provided a powerpoint presentation summarizing findings from analysis of the observer data and resulting changes made to the trawl bycatch model since June. The main piece of new information is the incorporation of observer-based discard rates for trawl target species, and the effect this has on preseason 2004 management measures and implications for 2003 inseason management.

Summary of key points:

If observer-based discard rates are applied to the 2003 fisheries, then:

- total catch OYs may be exceeded for some DTS species before the end of the year, and
- the ABC may be exceeded for shortspine thornyheads (SST) sometime during period 5.

Questions and Answers re. NWFSC Report:

Mr. Anderson asked if the trip limit for SST is reduced to 1,500 pounds, what would total mortality be at the end of period 6? Dr. Hastie responded that he couldn't say for sure without doing the model runs.

Mr. Brown asked how likely is it that the QSM data used to drive these results will change. Dr. Hastie responded that QSM data through period 3 are pretty solid. Data for period 4, though, is still considered "soft".

Mr. Brown asked how comfortable the analyst was with the results of this analysis. Dr. Hastie responded that he would be more comfortable if there were sufficient data to increase model stratification. But unfortunately that was not the case.

Mr. Coenen asked whether a reduction in trip limits for periods 5 and 6 would alleviate the inseason problem. Dr. Hastie responded that it is too late to affect period 5, so period six is the only opportunity remaining to make adjustments.

Mr. Alverson asked if it were possible to open the fishery for only the first month (November) of period 6 and then close for the remainder of the year. Dr. Hastie responded that the trip limits are cumulative over the two-month period, so announcing early closing would probably cause fishers to accelerate harvests in order to make their limits during the first month of the period.

Mr. Brown asked if the analyst were comfortable with using this model for modeling 2004 management measures. Dr. Hastie responded yes, but that additional data would be incorporated before the model would be used for finalizing the 2005-2006 preseason management measures next April.

#### C.2.c Reports and Comments of Advisory Bodies

##### **GMT**

Ms. Michele Robinson provided Exhibit C.2.c, Supplemental GMT Report and Exhibit C.2.c, Supplemental GMT Attachment 1.

##### **GAP**

Mr. Rod Moore provided Exhibit C.2.c, Supplemental GAP Report.

##### **SSC**

Mr. Tom Jagielo provided Exhibit C.2.c, Supplemental SSC Report.

#### C.2.d Public Comment

Ms. Kathy Fosmark, Fisherman's Association of Moss Landing, Moss Landing, California  
Mr. Barry Cohen, Olde Port Fisheries,  
Mr. Joe Easley, Oregon Trawl Commission, Astoria, Oregon  
Mr. Gerry Richter, Point Conception Groundfish Fishermen's Association, Santa Barbara, California  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, Oregon  
Mr. Bill James, commercial fisherman, Keizer, Oregon  
Ms. Karen Garrison, NRDC, San Francisco, California  
Mr. Chris Dorsett, The Ocean Conservancy, San Francisco, California  
Mr. Kelly Smother man, trawler, Hammond, Oregon  
Mr. Hugh Thomas, Port San Luis Fishermen's Association, Paso Roblas, California  
Mr. Rod Moore, West Coast Seafood Processors Association, Portland, Oregon  
Mr. Tom Ghio, Ghio Fish Company, Moss Landing, California  
Mr. Allan Hightower, troller, Washington  
Mr. Daniel Platt, Salmon Trollers Marketing Association, Fort Bragg, California  
Mr. Pete Leipzig, Fishermen's Marketing Association, Eureka, California

#### C.2.e **Council Action:** Provide Guidance on Observer Data Implementation

Mr. Coenen moved (Motion 5) to not use these new discard rates for inseason management for 2003 but to use it for 2004, and that we schedule a discussion on the use of that data as an issue at the November Council meeting. Mr. Warrens seconded the motion.

Mr. Brown asked did you mean for a group to meet before the November meeting? Mr. Coenen said he would hope that in the interim a subcommittee of the Council, aided by GMT and SSC representatives, have a discussion on the use of the data as an inseason management tool during 2005-2006. He is troubled at several levels. In the long term we have both a policy gap and an observer program that is evolving and developing - there is no policy to link the observer data as it becomes available to the stock assessments, to the rebuilding plans and the evolution of rebuilding plans themselves. The other issue is whether we feel confident enough with the data to apply these discard rates inseason in 2003. We heard from the GMT that the effect of exceeding the ABC may be lost in the uncertainty incorporated in the models. Exceeding the target by a few percent one year won't affect the viability of SST. Mr. Coenen said that we add data to the

observer program each year but he is troubled by the lack of socio-economic analysis here. There is not enough confidence to use this for inseason management.

Mr. Alverson did not support the motion - but did support the use of the data for the 2004 season. National Standard 2 says that we should use the best scientific information available. In April the SSC and GMT did tell us this is the best available. We applied it to the overfished species then but not to the nonoverfished species now. There were indications back in April that this would happen. He felt our SSC and GMT have had the meetings and the opportunities to discuss this. If we implement this based on Drs. Clarke and Hastie's scenario NMFS would be lucky to shut it down by mid-October. So we would be out the Nov-Dec timeframe (period 6), not four months shutdown (period 5 and 6). Why bother to build a better mouse trap for industry if we are going to ignore the science? We have \$2-3 million funding for this program. He felt we should use the data.

Mr. Brown said this information was not available in April. In April we had the bycatch information for overfished species and we chose to use it. What Mr. Alverson said was not an accurate statement.

Mr. Anderson said the central question is when do we incorporate new information in our management decisions. He thinks we need to consider the socio-economic impacts on the people and businesses affected, and is concerned about the actions taken that create instability for the industry. What did we do in the past? He thinks Mr. Coenen is exactly right that we have an incomplete policy - there is a recognition we are in transition of replacing the old observer information. This is not the only time we will be presented with this. There will be 21 stock assessments next year. The point is we are going to have a lot of new information coming to us during our 2-year management cycle and we need to have a policy to follow of how and when we are going to use that new information. The action taken in April was specific to overfished species and we had info in front of us with a much more specific time period to react. In this case we are dealing with target species that are in a different state of health compared with overfished species. We can take actions under inseason to reduce the mortalities on shortspine and think we should do that. He would like to add to the motion that this group of people that would be assembled would be developing a recommendation of criteria for when new information is incorporated into our management decisions, not just new information that comes out of the observer program. We will need that guidance. Also include the suggestion of giving them some time - the group could give their recommendation in March rather than November.

Mr. Coenen accepted the friendly amendment. Mr. Warrens accepted too.

Ms. Vojkovich agreed with the concepts Mr. Anderson and Mr. Coenen spoke to. She was the seconder of the motion in April to use the bycatch data for overfished species. The consistent application of the bycatch rates in the past she felt would greatly impact those stocks. The issue today is not the same in her eyes. She felt that the risks to the target species are not as great and the timing of this action would have greater risks for the communities. She feels we need better guidance for the use of our data - especially with multi-year management. She finds it difficult to be put into this position - it was rather sudden. She did not feel she could vote to use this data for the rest of 2003.

Mr. Robinson said that Mr. Alverson made some good points. He also agreed with the SSC that the bycatch trawl assumptions are the best available data. But, the issue before us at this time is the issue of when and how to use the best available data. What is our process for incorporating this data? We are in transition to multi-year management. He's comfortable using the information for the 2004 management measures - by April we will have a second years' worth of observer data. Also it would be early enough in 2004 that with two full years of data and a more robust bycatch model that if the model indicates the need to make changes - April would be early enough to make those changes. We need to make it clear to the fleet to expect some adjustments to be made in April if it could be done. He did not intend to oppose the motion. He felt it was important to get to multi-year management with rules and procedures in place for considering new information.

Mr. Brown reminded everyone of the statement by Dr. Hogarth - careful we don't slip back into annual management as we "knee jerk" every little piece of information. Mr. Brown also noted there was a statement made that all of the DTS are overfished. Mr. Brown said none of the DTS are overfished. We are not dealing with DTS as overfished, contrary to what was said in public testimony.

Mr. Alverson, regarding the bycatch data available for the different resources, he understands it has been published on the NMFS website in January. The motion he made in April was for all species, but amended to just include the overfished species.

Dr. McIsaac called the role. 9 yes and 4 no. Motion 5 passed.

### C.3 Final Harvest Levels for 2004

#### C.3.a Agendum Overview (09/09/03; 3:28 pm)

Mr. John DeVore provided the agendum overview. He corrected some of the GMT-proposed harvest specifications depicted in Exhibit C.3, Attachment 1.

#### C.3.b Groundfish Management Team (GMT) Report on Estimates of Acceptable Biological Catch and Optimum Yield

Mr. DeVore noted the GMT recommended that the decision on the canary harvest specifications should be deferred until the Council deliberates Groundfish Management Measures for 2004 under agendum C.6. They said the OY does change relative to the recreational/commercial catch sharing and the team wanted to flesh out the allocation issues before the Council adopts a final canary rockfish OY.

#### C.3.c Recommendations of the States, Tribes, and Federal Agencies

WDFW - None.

CDFG - Ms. Vojkovich brought several issues to the California Fish and Game Commission (CFGC) last week and asked for guidance relative to 2004 harvest specifications for bocaccio and canary rockfish. The CFGC is involved in nearshore fishery management and they take great interest in Council discussions that affect California nearshore fishery management. The commissioners indicated they were interested in a conservative approach for 2004 management and wanted to conserve bocaccio to hasten rebuilding. They asked us to select a conservative OY for both bocaccio and canary rockfish. They spoke about black rockfish allocation in 2004 and gave some guidance. Since this stock is healthy, they did not give definite guidance on a preferred OY.

ODFW - Mr. Coenen said that the Council's preferred OYs are the way to go. A few stocks stand out and they do agree with deferring the canary rockfish OY decision until C.6. He would like to see some discussion on preferred harvest specifications for sablefish and widow rockfish. He specifically wanted to receive guidance and rationale for the sablefish Medium OY that assumes density-dependance as the state of nature affecting recruitment versus the High OY that assumes environmental regime shift. He was not clear on the issues surrounding the widow rockfish harvest decision and would like to discuss this further.

Tribes - Mr. Harp said the tribes recommend adopting the Council preferred OYs as in Table 2.1.1-1 (Exhibit C.3, Attachment 1) with the changes provided by Mr. DeVore. They also recommend the Medium OY or High OY for sablefish.

NMFS - Mr. Robinson noted that we need to make sure all the ABCs/OYs are consistent with the process and rebuilding plans adopted under Amendments 16-1 and 16-2, respectively.

Mr. DeVore noted that Amendment 16-1 anticipated there would be changes in rebuilding plans based on new stock assessments. In fact, we have new assessments for darkblotched rockfish and Pacific ocean perch, which could lead to a change in the Council's choice of  $T_{TARGET}$  (the target rebuilding year) or the harvest control rule. Those actions were anticipated in Amendment 16-1 and will be discussed in the EIS which will accompany the action.

#### C.3.d Reports and Comments of Advisory Bodies

##### **GAP**

Mr. Rod Moore provided Exhibit C.3.d, Supplemental GAP Report.

Mr. Coenen asked Mr. Moore if the GAP's recommendation for sablefish was at the high end of the environmental regime shift projections? Mr. Moore answered no, the recommendation was within the range of projections.

Dr. McIsaac noted the GAP is recommending a 400,000 mt whiting ABC for the High OY alternative and asked Mr. Moore what happens if the U.S. ABC is greater than 400,000 mt? Mr. Robinson stated it would be best if the final harvest specification was within the range analyzed in the EIS, but the sideboards of the range do not need to be absolute. Mr. Moore stated that advisors to the GAP thought 400,000 mt would be adequately high.

##### **SSC**

Mr. Jagielo provided Exhibit C.3.d, Supplemental SSC Report.

Mr. Coenen asked Mr. Jagielo about the High OY alternative for sablefish and whether the SSC addressed this issue and had a recommendation? Mr. Jagielo said no, but the 2002 stock assessment update and the 2001 assessment had competing density-dependent and environmental regime shift hypotheses. The regime shift hypothesis appears to be validated in last year's assessment update. Mr. Coenen remarked that recent strong recruitment also validates the regime shift hypothesis. There was some further discussion on which state of nature hypothesis is the correct determinant of sablefish recruitment. However, Mr. Jagielo concluded that this question cannot be resolved with the scientific evidence available. The next assessment may put this issue to rest. Dr. Steve Ralston explained that the 2002 assessment update did not focus on the competing state of nature hypotheses, but on the differential results of the 2001 shelf survey and the 2002 slope survey. The 1999 year class was observed in the 2001 shelf survey but not in the 2002 slope survey. The assessment model therefore recalculated the catchability coefficient ( $q$ ) for the slope survey which resulted in higher estimated biomass. Dr. Ralston agreed with Mr. Jagielo that the true state of nature affecting sablefish recruitment is uncertain.

#### C.3.e Public Comment

Ms. Karen Garrison, NRDC, San Francisco, California  
Mr. Chris Dorsett, Ocean Conservancy, San Francisco, California  
Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California  
Mr. Denny Burke, F/V Timmy Boy, South Beach, Oregon

#### C.3.f. **Council Action:** Adopt Final Harvest Levels for 2004 Groundfish Management

Mr. Anderson moved to adopt the harvest specifications as shown in Exhibit C.3, Attachment 1 with the spoken changes as made by Mr. DeVore with the following additions/changes:

whiting: maintain the current range with no stated preferred alternative;  
sablefish: adopt the Medium OY specifications as the preferred alternative;  
canary rockfish: no specific OY yet; defer the decision to agenda C.6;  
bocaccio: adopt the Low OY specifications as the preferred alternative;  
darkblotched rockfish: adopt the Medium OY specifications (ABC and OY of 240 mt) as the preferred alternative;  
black rockfish (in Oregon and California): defer to others

(Motion 6) Mr. Alverson seconded.

Mr. Anderson noted that last year's conservative sablefish decision was a wise choice given the information we had at the time. We don't have any new information that has been reviewed by the scientific community. On the other hand, the 7,786 mt OY assumes an  $F_{45\%}$  harvest rate with the 40-10 adjustment that is based on a density-dependent hypothesis. This species is important to our commercial fishing sectors (fixed gear and trawl) and it is in the precautionary zone. Taking a conservative approach to keep this stock healthy will provide a more stable fishery over time. Mr. Anderson said he was open to considering a broader harvest range for whiting if arguments warrant that. He understands that if we need to go outside the analyzed range next March, we could. His rationale for the preferred alternative for darkblotched rockfish was that using Model 6 in the assessment/rebuilding analysis with an 80% rebuilding probability represented a conservative approach.

Mr. Coenen asked for a friendly amendment to the motion to raise the High OY alternative for whiting to a 325,000 mt ABC and a 250,000 mt OY? Mr. Coenen suggested this would give us room to maneuver if rockfish bycatch can be minimized and the new assessment is optimistic. Mr. Coenen then asked to adopt the Medium OY alternative for the black rockfish stock occurring off California and Oregon as preferred? Mr. Anderson and Mr. Alverson accepted both amendments.

Mr. Ticehurst asked for a friendly amendment to the motion to raise the preferred bocaccio OY to 250 mt (intermediate to the OY under the Low OY and Medium OY alternatives) to provide more management flexibility. Mr. Anderson did not understand the need for more management flexibility for this species. Ms. Vojkovich explained the recreational fishery has exceeded its allocation for four of the last five years. Mr. Ticehurst is trying to avoid a situation where the allocation for the recreational fishery would be exceeded and the entire fishery would be subject to premature closure. Mr. Anderson understood this was consistent with the proposal Mr. Fletcher put forward under public comment. Mr. Anderson asked whether the intent was to develop a management strategy targeting a catch of 199 mt (the OY under the Low OY alternative), but specify an OY of 250 mt as a buffer against recreational catch estimation uncertainty? Ms. Vojkovich said yes. Mr. Anderson accepted the friendly amendment. Mr. Alverson requested the rebuilding probability associated with a 250 mt OY. Mr. DeVore referred to Volume I of the current SAFE document. Table 3 in the bocaccio rebuilding analysis indicated a 250 mt OY in 2004 was consistent with a range of rebuilding probabilities of 70% to 96% depending on which assessment model represented the true state of nature. Mr. Alverson then accepted the friendly amendment by Mr. Ticehurst.

Motion 6 passed.

Mr. Alverson asked for the concurrence of the Council to have the GMT look at the applicability of developing a fixed gear logbook prior to the November Council meeting. Chairman Donald Hansen said that can be taken up under the workload agenda on Friday.

Ms. Vojkovich asked the GMT and GAP to structure 2004 management options that are designed to attain but not exceed the bocaccio OY of 199 mt under the Low OY alternative.

## C.4 Status of Groundfish Fisheries and Inseason Adjustments (09/09/03; 5:22 pm)

### C.4.a Agendum Overview

Mr. Mike Burner stated that this was the Council's third opportunity in 2003 to review and consider adjustments to the 2003 groundfish fisheries. He briefly reviewed Council action under C.2 on the inseason use of new observer data as there were some preliminary results on potential inseason adjustments presented then. The Council's decision to utilize new information on target species discards when considering 2004 management measures but not for 2003 inseason adjustments provided a key policy determination for completing this agenda item. Mr. Burner noted the GMT has a final report on inseason adjustments. The GAP has a verbal report on that agenda item.

### C.4.b GMT Report

Dr. Jim Hastie provided Exhibit C.4.b, Supplemental GMT Report.

### C.4.c Reports and Comments of Advisory Bodies

Mr. Robinson asked if the recommended DTS trip limit increases south of 40° 10' N Latitude result in any increases in estimated bocaccio or canary rockfish impacts. Dr. Hastie reported that the canary rockfish and bocaccio impacts presented in the scorecard for this fishery assumes full attainment of the DTS OYs, so increasing trip limits to reach the OYs should not increase impacts to overfished species. Currently, these fisheries are tracking at about 30% of their target.

Mr. Brown asked about the existing trip limits for the large footrope and south of 40° 10' N Latitude trawl fisheries in period 6. Dr. Hastie reported the following two month cumulative limits: shortspine thornyheads 2,400 pounds, longspine thornyheads 11,500 pounds, sablefish 9,000 pounds, and Dover sole 34,000 pounds.

Mr. Anderson reviewed the trip limit changes for the trawl fleet and asked if the reductions by species take their relative contribution to the fishery into account. Dr. Hastie replied that the GMT typically tries to maintain a fixed relationship between the longspine and shortspine thornyhead limits when managing the DTS fishery. It has been a longstanding policy to increase Dover sole limits in the winter as it has been demonstrated that larger amounts of that species can be taken in winter in relative isolation from the other deep water species. Therefore Dover sole limits were not reduced as much as the other species. The GMT did not have any information on the relationship between shortspine thornyhead and sablefish. The GMT felt that the relationship between longspine and shortspine thornyhead would be tighter. Mr. Anderson stated that his concern is that the proposed reduction for sablefish is less than the reduction for shortspine thornyhead and is looking for some assurance that this action would not create additional shortspine thornyhead discards. Dr. Hastie replied that the GMT did consider this issue when developing these trip limits using the best available information.

Ms. Vojkovich asked if the recommended trawl trip limit reductions could be implemented in period 5 and six instead of only period six, like the increased limits for the deeper nearshore fishery. Dr. Hastie replied that the decreased limits could be implemented in period 5, but the expectation would be that it would take several weeks to publish the changes in the *Federal Register*. The GMT usually works on the assumption that vessels that had not yet attained the cumulative trip limits for the current period would do so during the time between Council recommendation and regulatory implementation. There could be some reduction in landings if people were busy with other things in September and planned to take period 5 limits in October. It is much easier to raise limits in the middle of a period as that allows time between publication of the new regulation and the end of the period for attainment of the increased limits. The GMT did not see an opportunity for significant savings by implementing reductions during period 5. Additionally, implementing a reduction in the middle of a two month period would likely cause a large amount of fish to be delivered to

processors in a short period of time which is less desirable than delivering over the full two months of the period.

Dr. McIsaac asked about references to the low release mortality rate on shortspine thornyheads and whether or not assumed survivability of released shortspine thornyheads combined with these recommended trip limit reductions would result in attaining but not exceeding the ABC even if the Council had chosen to implement new observer data for target species. Dr. Hastie replied that when estimating landings, the GMT considered the new survival rates and the proposed trip limit reductions in period six when assessing the effect of the new observer data and if new observer data for target species were used, these recommended trip limits would be expected to exceed the ABC.

## **GAP**

Mr. Rod Moore stated that the GAP had a brief opportunity to discuss the recommendations from the GMT. The GAP did not have the opportunity to put anything in writing. The GAP does not object to the GMT recommendations.

### C.4.d Public Comment

Ms. Karen Garrison, NRDC, San Francisco, California

Mr. Chris Dorsett, The Ocean Conservancy, San Francisco, California

### C.4.e **Council Action:** Consider and Adopt Groundfish Inseason Adjustments as Needed

Mr. Anderson asked for further clarification on Ms. Vojkovich's interest in implementing trip limit reductions as soon as possible. He asked Mr. Robinson how long it is anticipated to take to implement these recommended inseason actions.

Mr. Robinson said that if what we are talking about are a simple set of inseason changes, they could be done fairly quickly, perhaps submitted to HQ by the end of this week. It would then just be a matter of how long it would take for HQ to process and although he cannot speak for HQ, normally it does not take more than one week. Therefore, recommended changes could be implemented by the end of next week. However, this action would reward vessels that chose to fish in early September while penalizing those who planned to fish later in the period.

Mr. Brown understands Mr. Anderson and Ms. Vojkovich's thoughts on these issues. However, by reducing limits in the middle of a period, we are sending the clear message to the fleet to take their fish early. This contributes to an existing problem of pulses of fish delivered to the market at the start of a period followed by shortages later in the period. Plants are already implementing limits on deliveries to try to spread out the catch.

Mr. Brown moved and Mr. Harp seconded a motion (Motion 7) to adopt the values as shown in Exhibit C.4.b, Supplemental GMT Report with the following changes. Under Coastwide Recommendations, change the text to read "Remove midwater yellowtail/widow trawl opportunity in period 6." and the deeper nearshore limits south of 40° 10' N Latitude should be changed to 400 pounds per two months instead of one month. Motion 7 passed.

**C.5 Final Criteria for Exempted Fishing Permits (EFPs) and Consideration of Proposals for the 2004 Season  
(09/10/03; 1:23 pm)**

**C.5.a Agendum Overview**

Dr. McIsaac reviewed the Council business under this agenda item. First the Council is to consider and approve a final operating procedure for review and approval of exempted fishing permits. Second, the Council is to review draft EFP applications for 2004 and consider OY set-asides for these EFPs for the purpose of proceeding with the development of 2004 management measures. The Council chose to move on to agenda item C.5.c while the GMT completed its statement.

**C.5.b GMT Report on Criteria and Standards for Approving EFPs**

The GMT report on this portion of the agenda was combined with agendum C.5.d.

**C.5.c State EFP Proposals for 2004 (09/10/03; 11:09 am)**

**WDFW**

Mr. Anderson presented four EFP proposals put forth by WDFW:

Exhibit C.5.c WDFW Report 1 (Application for Issuance of an Exempted Fishing Permit for Arrowtooth Flounder).

Exhibit C.5.c, WDFW Report 2 (Application for Issuance of an Exempted Fishing Permit for Nearshore Flatfish).

Exhibit C.5.c, WDFW Report 3 (Application for Issuance of an Exempted Fishing Permit for Pollock).

Exhibit C.5.c, WDFW Report 4 (Application for Issuance of an Exempted Fishing Permit for Spiny Dogfish).

Mr. Brown asked if the various gear types tested in the arrowtooth flounder EFP will be presented separately in the final report so that trawlers will have the opportunity to consider which gears are most appropriate for bycatch reduction for the areas they fish. Mr. Anderson reported that they added a requirement this year for an excluder device for rockfish. Trawlers requested the ability to experiment with gear types of their choice. WDFW related their desire to identify a few specific gear types for testing to facilitate solid results that have the potential for future fishery benefits. The industry and agency are working on determining the exact gear types for the experiment and will report results by gear type when the program is completed.

**CDFG**

Ms. Vojkovich presented the following CDFG EFP proposals:

Exhibit C.5.c, CDFG Report 1 (Application for Issuance of an Exempted Fishing Permit for the sport harvest of rockfish from partyboats in waters deeper than 20 fathoms off the south central coast to duplicate the sampling program conducted by the Department of Fish and Game from 1988-1998).

Exhibit C.5.c, CDFG Report 2 (Application for Issuance of an Exempted Fishing Permit to Test a Selective Flatfish Trawl [including Scottish Seine] in an area otherwise closed to fishing, 2004).

**ODFW**

Mr. Mark Saelens presented the following ODFW EFP proposal:

Exhibit C.5.c, Supplemental ODFW Report 2 (Application for Exempted Fishing Permit to Test a Reduced-Discard Strategy for The Deepwater Complex Fishery).

Ms. Cooney said she is supportive of these types of innovations but to expand this concept coastwide would be difficult because we could not approve regulations that require processors to pay a particular price.

Additionally, price agreements, although not regulatory, often have anti-trust implications. The agency has talked to the Department of Justice on this issue and will provide more guidance in the future.

Mr. McIsaac reported all advisory body statements have been submitted at this time and the Council may proceed through the rest of this agenda item.

C.5.d Reports and Comments of Advisory Bodies (09/10/03; 12:01 pm)

**SSC**

Mr. Jagielo provided Exhibit C.5.d, Supplemental SSC Report.

Chairman Donald Hansen asked why the SSC report did not speak to EFPs in Washington or Oregon. Mr. Jagielo replied that the SSC emphasis on the CDFG proposal was simply in response to the GMT request. The GMT completes the initial review of proposals and requests SSC review only for those proposals for which there are scientific or statistical issues.

Dr. McIsaac asked about the SSC statement on the need to clarify the EFP time line under multi-year management. Mr. Jagielo and Ms. Robinson clarified that the GMT was tardy in its delivery of EFPs in need of SSC review and that additional review time has been built into the calendar for multi-year management. Additionally, under multi-year management, EFPs will continue to operate on an annual cycle and applicants who wish to continue and EFP in the second year of a two year cycle, they will have to reapply.

Dr. McIsaac clarified that the GMT will provide the SSC the lead time of one Council meeting when recommending SSC review of an EFP proposal. In 2004, GMT recommendations on SSC review would be presented at the April meeting, followed by SSC groundfish subcommittee review prior to the June meeting and full SSC review at the June meeting.

Mr. Alverson asked about the inclusion of economic data in the EFP proposals. Oregon included economic analyses in their proposal but there is little economic information in the other applications. Mr. Alverson also asked why only the Oregon application enumerates retained species and whether the observers are recording all the retained species during EFPs. Mr. Jagielo stated that there is considerable variation in the applications largely due to the varying objectives of the EFPs. The SSC has spent significant time figuring out what their role is in this evaluation. Ms. Vojkovich was struck by the Oregon proposal as an EFP based on economic incentive and was curious about the SSC's value in reviewing the economics of the proposal. Mr. Jagielo said that needs to be given some serious thought relative to the EFP proposal process. He stated that the SSC certainly has the economic expertise and if requested by the GMT, the SSC would be more than happy to review EFP applications on their economic merits. Ms. Vojkovich asked for clarification on specific SSC comments on the CDFG partyboat EFP. She asked if the SSC was requesting additional analyses by the applicant before assessing the merits of the proposal. Mr. Jagielo confirmed that was the case.

Lunch Break (9/10/03; 12:14 pm).

**GMT**

Ms. Michele Robinson provided Exhibit C.5.d, Supplemental GMT Report. (09/10/03; 1:15 pm)

Ms. Robinson also made note of Exhibit C.5.b, GMT Attachment 1 (Revised Proposed Council Process for Consideration of Exempted Fishing Permits for Multi-Year Management) and Exhibit C.5.b, GMT Attachment 2 (Revised Proposed Council Operating Procedure: Protocol for Council Consideration of Exempted Fishing Permits for Pacific Coast Groundfish Fisheries).

Mr. Coenen asked if yelloweye rockfish impacts in the WDFW spiny dogfish EFP were discussed by the GMT. Ms. Robinson responded that the GMT reviewed impacts to all overfished species as they reviewed the applications but focused the statement on canary rockfish due to management constraints posed by canary rockfish management for 2004. The WDFW spiny dogfish cap on yelloweye rockfish was two metric tons in 2003 and based on results of the first year, the cap for 2004 was reduced to one metric ton.

Mr. Alverson asked if the CDFG and WDFW EFPs for nearshore flatfish were targeting the same species. Ms. Robinson stated that the target species catch and non-target species bycatch are different and are detailed in the applications for these two proposals.

Mr. Anderson requested clarification on the time line for review of the CDFG partyboat EFP. Ms. Robinson stated that the GMT and SSC had several concerns and requests for analyses that warranted delaying the implementation of that EFP for one year. Additionally, she requested that language be added to the proposed COP to allow such a deferral in the future. Dr. McIsaac stated that he had made note of the request and should the COP be approved by the Council, Council staff can add the language to the COP at a latter date.

## **GAP**

Mr. Mike Burner provided Exhibit C.5.d, Supplemental GAP Report.

C.5.e Public Comment

None.

C.5.f **Council Action:** Adopt Final Criteria and Standards for Approving EFPs and Establish Harvest Set-Aside Needs for EFP Proposals

Mr. Burner reviewed the two required parts of this agenda item, adoption of the proposed COP for exempted fishing permits, and consideration of EFP proposals and their harvest set-asides.

Mr. Coenen suggested dividing the Council discussion and action into two parts, addressing the proposed COP separately.

Mr. Coenen moved and Mr. Warrens seconded a motion (Motion 9) to approve the EFP proposals as prioritized by the GMT as shown in Exhibit C.5.d, Supplemental GMT Report and use the GMT report as guidance during later discussion under Agenda Item C.6. Mr. Coenen clarified that this motion will not be used as final Council action on the proposed EFPs. Rather, the Council is merely accepting the GMT recommendations and priorities for the purposes of discussion and as a tool to look at EFPs and how they affect the groundfish scorecard.

Dr. McIsaac asked if the motion is intended to include the GMT recommendation to delay one of the EFPs and not allocate any resources to that EFP at this time. Mr. Coenen said all of the recommendations of the GMT are part of the motion, including the EFP recommended by the GMT not to proceed.

Motion 9 passed.

Mr. Anderson moved that the Council adopt the Council Operating Procedure for exempted fishing permits as proposed under Exhibit C.5.b, GMT Attachment 2, with the following modifications (1) under the section on submission, add the GAP to the list of advisory bodies in the first sentence; (2) under the section on review and approval add "Explore the use of higher trip limits or other incentives to increase utilization of

underutilized species while reducing bycatch of non-target species (this point is taken from the Strategic Plan and is consistent with the language included under the paragraph on the first page under "Purpose"); and (3) under "Proposal Contents" add "A description of how vessels will be chosen to participate in the EFP". Mr. Cedergreen seconded the motion (Motion 10).

Ms. Vojkovich said she is unclear on how the second point differs from the first bullet. Mr. Anderson stated that the first bullet is focused on resource management and bycatch reduction. He added that he was unable to interpret the desire for increase utilization of underutilized species in the first bullet.

Mr. Brown did not have a problem with the motion. He noted the GAP had suggested the addition of two required pieces of information in a completed application, a description of how vessels will be chosen to participate in the EFP and a description of the anticipated cost and known sources of funding. Mr. Anderson said he would be willing to include, as a friendly amendment, the first statement on how vessels will be chosen to participate in the EFP, but not the second part. Mr. Cedergreen accepted.

Mr. Robinson felt that the bullet on underutilizations was a good addition. However, the use of trip limits should only be considered in the short-term as he is not convinced that trip limits should be in our long-term vision of the fishery at all.

Chairman Donald Hansen asked for the vote (consensus). Motion 10 passed.

#### C.6 Groundfish Management Measures for 2004: Tentative Adoption

##### C.6.a Agendum Overview (09/10/03; 2:30 pm)

Mr. John DeVore provided the agendum overview and walked the Council through the available attachments and reports. He also noted under Exhibit C.6, Attachment 2, the table on page C-6 has some incorrect specifications. Those were brought to his attention by Mr. Rob Jones. Where it is labeled "total trawl landed", that number is the total trawl catch including discards; that will be explained more thoroughly in subsequent statements. The text in part C more accurately discusses the way the tribal catch impacts are calculated.

##### C.6.b Summary of State Hearings

#### **Oregon**

Mr. Coenen noted that Oregon held three public meetings, and held an Oregon Fish and Wildlife Commission (OFWC) meeting in August. There was no support for the 26 inch size limit for lingcod for the recreational fishery, but interest was expressed in: use of trawl longline gear to access sablefish; accelerating the timing of the next canary assessment; deepwater complex issues; keeping the Trawl B platoon; new recreational limits for cabezon and greenling; developing special management area options between Florence and Bandon (very little or no reef structure to support rockfish fishing); legalizing/expanding directed use of selective flatfish gear. The OFWC prefers other management strategies than non-retention for species that die on or after the landing (therefore, they endorse a one-fish recreational retention limit for yelloweye and canary). The OFWC did not take a position on the special area proposal (off Florence and Bandon) due to enforcement concerns. They supported the selective flatfish trawl EFP and the deepwater trawl complex EFP. They also supported the proposed caps for nearshore species (they will consider a change of ODFW regulations) and concurred with recreational size limits of 10 inches for cabezon and 16 inches for greenling. They took no position on the lingcod size limit proposal.

## California

Ms. Vojkovich reported the CDFG held four state hearings where turnout was poor. They did get a diverse representation from recreational divers to commercial fishermen. Some of the comments they heard dealt with the public process and the limited opportunity to engage in dialogue about upcoming proposals. There was little interest in changing the size limits or adopting a slot limit for cabezon. People were more concerned with keeping things stable for now. The primary desire of the recreational community was more time on the water. Both recreational and commercial fishermen would like to have consistent seasons (i.e., align closures). There was an expressed desire by commercial fishermen to increase deepwater chilipepper and other deep water opportunities. Both commercial and recreational fishermen wanted additional canary rockfish allocated to California fisheries to allow more time on the shelf to take pressure off the nearshore species. The public was interested in new stock assessments for canary rockfish and California scorpionfish. There was also interest in data improvements for recreational fishery monitoring and a precautionary approach in establishing a bocaccio OY for 2004.

## Washington

Mr. Anderson reported that Washington held workshops, not formal hearings. There was interest in Forks to adopt greater recreational bag limits for yelloweye and canary rockfish. There was a general belief the Yelloweye Rockfish Conservation Area was effective in reducing yelloweye bycatch. They were supportive of taking actions to stay within the OY for both yelloweye and canary and an interest in a new canary rockfish stock assessment. Recreational fishermen were well represented at the Olympia meeting. There was support for a new canary assessment and management measures designed to reduce the bycatch of canary rockfish. They also supported continuation of current lingcod rules.

An additional constituent's meeting in Olympia was well attended by commercial fishermen. There was support for a nearshore flatfish EFP; most people who attended the meeting had concerns about the 50 fm limitation and how it affects their ability to carry out viable fishery operations. They would like the Council to consider allowing trawl permit holders to use longline gear to access sablefish trip limits. This would help the small trawl boat fleet access their allocation without incurring a significant rockfish bycatch. They would also like the Council to move forward with development of a trawl IQ program and are interested in the effects of the buyback program and how the Council might react if the referendum passes. The Bellingham meeting was attended by trawl fishermen. Those discussions were focused on the arrowtooth flounder EFP, development of the trawl IQ program, and buyback program adjustments if the referendum passes. There was support for eliminating the trawl "B" platoon.

### C.6.c. Summary of Written Public Comments

Mr. DeVore summarized the written public comments that were in the briefing book.

### C.6.d. Report of the GMT

Ms. Robinson briefly went over Exhibit C.6.d, Supplemental GMT Report. She explained that the report contained draft information which has not been thoroughly reviewed. She also stated that the initial analyses had a 1 mt set-aside of canary rockfish for research and EFP caps had not yet been set aside. She requested further Council guidance on canary, lingcod, and black rockfish allocation.

Dr. Hastie explained the tables on pages 2 and 3. He pointed out that the Medium OY analyses in alternatives 1, 2, and 3 were consistent with the Council decision on 2004 harvest levels except for bocaccio. The trawl management lines and trip limits under the Low OY alternative are responsive to the bocaccio harvest decision. The Council needs to consider the 1999 year class effect for determining bocaccio bycatch rates. He recommended a 100% increase in the assumed bocaccio bycatch rate as a starting point for GAP

discussions. He explained there is about 40-45 mt of bocaccio available to the trawl fishery. The Council might want to start the year conservatively and increase trip limits later in 2004 if there is no increased bocaccio bycatch. He asked whether the deep trawl line should be deeper to conserve sablefish?

Mr. Brown wondered if management specifications could be shaped to allow retention of otherwise discarded groundfish? He pointed out the GMT was estimating there would be about 1,503 mt of sablefish discard mortality in 2004 (Table M2). Dr. Hastie said new discard data would be available in early 2004. The intent is to start the season conservatively and increase limits later in the year. Trawl fleet reduction scenarios are presented in Table E-17 in Attachment 2. This scenario assumed a 33% reduction in capacity with the first opportunity to increase trip limits in Period 3 after fleet reduction. Mr. Anderson asked if the estimated canary impact of 9.8 mt in Table M3 was for non-whiting trawl coastwide? Dr. Hastie said yes, and the impact would be 10.3 mt if the line is not moved from 100 fm to 75 fm during periods 1,2, 5, and 6 in the south. He said we need to buffer canary impacts if the new trawl discard data is more pessimistic.

Mr. Harp said the tribal proposal had a 25 mt lingcod allocation, but the GMT report shows a 15.9 mt impact. Ms. Robinson said the 15.9 mt impact was consistent with the tribal share of the commercial OY in 2003.

Mr. Mark Saelens referred to the table on page 5 of the GMT report and said Oregon recreational options 3-9 were being considered. Mr. Tom Barnes explained the tables on pages 6-9 of the GMT report and the California recreational options. Another option will be forthcoming later this week that better meets the EC needs. Mr. Anderson asked for the basis for the 9.1 mt and 10.5 mt of canary recommended as California recreational harvest guidelines? Mr. Barnes explained these harvest guidelines do not assume EFP cap reductions. Mr. Coenen asked if "north/south" referred to north and south of Cape Mendocino and Mr. Barnes said yes. Mr. Coenen asked how the north of Cape Mendocino impact estimates were derived? Mr. Barnes said these were the values in the 2003 bycatch scorecard.

#### C.6.e Reports and Comments of Advisory Bodies

##### **GAP**

Mr. Moore noted the GAP received the supplemental GMT report at the same time the Council did and did not have time to discuss it. He explained that as soon as this particular agenda item ends this afternoon, the GAP will meet with the GMT and come up with management options and recommendations.

##### **EC**

Captain Mike Cenci provided Exhibit C.6.e, Supplemental EC Report.

#### C.6.f Tribal Comments and Recommendations

Mr. Harp provided Exhibit C.6.f, Supplemental Proposed Treaty Indian Management Measures. Mr. Brown asked how the 100 lb yelloweye trip limit proposal corresponds to the full retention proposal? Mr. Harp explained full retention would be mandated during the open competitive halibut fishery in March-April. The Yelloweye Rockfish Conservation Area (YRCA) is in the middle of this fishery. While the tribes are trying not to fish in the YRCA, full retention and the 100 lb trip limit allows monitoring of yelloweye impacts. Mr. Anderson noted there is a significant enforcement presence in the YRCA and he would like the tribes to consider avoiding this area. Mr. Harp said he shared those concerns, but there are a lot of halibut in the YRCA. Therefore, the tribes are looking at alternative depth and bait restrictions to avoid yelloweye. Mr. Steve Joner added that bait tests started in 2002 indicated using cod instead of squid baits appeared effective in avoiding yelloweye and most rockfish.

## C.6.g Agency Comments and Recommendations

### NMFS

Mr. Robinson stressed the need for the Council to heed enforcement advice. He recommended the Council respect the proposals to eliminate the trawl B platoon and adopt more simplified depth lines. Otherwise, there is too much potential for mistakes. There are only about 29 of 250 vessels in the B platoon. Arguably, the spreading of landings can be done by agreement of the buyers and harvesters.

### WDFW

Mr. Anderson noted there has been much "staking of ground" on allocation. We need flexibility to create allocation proposals different than what was discussed in June. The Medium OY bycatch scorecard (on page 2-45 in Attachment 1) indicates the canary constraint and obviates the need to negotiate flexibly. He is less concerned with allocation than coastal equity.

### CDFG

Ms. Vojkovich supported some of the comments made by Mr. Robinson relative to enforcement. She admitted the California regulations are complex and difficult to understand and enforce. She supports making the regulations in 2004 as simple as possible while still allowing for increased fishing opportunities. She also supports Mr. Anderson's comments on allocation and equity. She recommended looking to EFPs for additional canary rockfish impacts.

### ODFW

Mr. Coenen agreed in spirit with Mr. Anderson and Ms. Vojkovich. However, he felt the Council needs to appreciate a fundamental choice: use the scorecard as a basis for decision-making or premature posturing for allocation. He supports using the scorecard to weigh assumptions and consider measures that balance the needs of our fisheries.

## C.6.h Public Comment

Mr. John Holloway, Oregon Anglers, Portland, Oregon  
Ms. Karen Garrison, Natural Resources Defense Council, San Francisco, California  
Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California

## C.6.i **Council Action:** Tentatively Adopt 2004 Groundfish Management Measures for Analysis 09/10/03; 4:40 pm)

Mr. Anderson moved (Motion 11) to direct the GMT and GAP to develop more refined 2004 management measures using the trip limits in Exhibit C.6.d, Supplemental GMT Report and develop the Medium OY scorecard on page 2-45 of Attachment 1 with the EFP actions taken earlier. Ms. Vojkovich seconded the motion.

Ms. Vojkovich asked for a friendly amendment to use a 58:42 Oregon:California black rockfish allocation. Mr. Anderson accepted the friendly amendment.

Mr. Brown expressed concern with using the scorecard on page 2-45 of Attachment 1 as it implies allocation decisions. Mr. Anderson suggested using new California recreational options, Oregon recreational option #3, and the new bocaccio OY. The GMT should try to develop management measures that leave an OY buffer for constraining stocks. Mr. Brown reiterated the need for flexibility when developing options to

provide fishing opportunities. Mr. Anderson agreed that was the intent of the motion. Mr. Coenen wanted the GMT to be clear they are not assuming that allocation decisions are based on robust data. Chairman Hansen asked if the tribal proposals were included in the motion? Mr. Anderson said yes.

Motion 11 passed.

Mr. Moore noted that there may be a way to keep the trawl B platoon that addresses the EC concerns.

C.6.j Agendum Overview - Clarify Council Direction

Dr. McIsaac gave an update. The GMT has been making progress and they appreciate not coming back to the Council this evening.

C.6.k Reports and Comments of Advisory Bodies

None.

C.6.l Public Comment

None.

C.6.m **Council Action:** Guidance and Direction as Needed on Groundfish Management Measures for 2004

None.

C.6.n Agendum Overview (09/12/03; 2:01 pm) Final Action on Groundfish Management Measures for 2004

Mr. DeVore provided the agendum overview and listed the new reports made available to the Council.

Mr. Seger provided Exhibit C.6.n, Supplemental Attachment 4.

C.6.o GMT Analysis of Impacts

Ms. Robinson provided an overview of pages 1-9 of Exhibit C.6.o, Supplemental GMT Report 3 and Dr. Hastie provided an overview of pages 10-13.

Ms. Vojkovich provided some edits to the GMT report. The proposed California scorpionfish recreational daily bag limit is 5 per person, not 10, and the minimum size limit is 10 inches. The California proposal also includes a 1 bocaccio daily bag limit with a 10 inch minimum size limit. Additionally, the Farrallon Islands recreational proposal should include, "also allows fishing in 10-30 fm only when the 30 fm fishery is open".

Mr. Brown asked if there was a discrepancy between Table C.6.o Trawl 3 and the bycatch scorecard? Dr. Hastie said yes and provided the total bycatch amounts. Ms. Robinson corrected the estimates in the bycatch scorecard. Mr. Coenen asked if the difference in the estimated Oregon recreational impact of 6.5 mt of canary in the original Medium OY scorecard and the estimate of 5.3 mt in the revised scorecard was due to non-retention? Ms. Robinson said yes, but the revision was also due to a ten percent effort shift when the fishery is restricted by depth.

Mr. Anderson referred to page 2 of the GMT report regarding selective flatfish trawl implementation and asked whether it was the GMT recommendation to choose from options in Exhibit C.6.q, Supplemental

ODFW Report now or delay this decision? Ms. Robinson said the GMT recommends choosing options now, but implementing regulations later after further analysis. This would allow industry to know what suite of regulations would apply to this fishery if it were implemented and the exact net specifications to better prepare for implementation. The GMT recommends implementation in the May through August timeframe. Mr. Robinson agreed delayed implementation would be prudent given the complexity of this regulation. He thought ODFW should assist with the NEPA analysis since NMFS and Council staff workload is an issue. After this discussion, Mr. Coenen suggested the selective flatfish trawl regulations should be considered for the 2005-2006 management period to provide more time for analysis.

Mr. Alverson asked whether the recommended one month delay in starting the primary sablefish fishery was for one year only? Ms. Robinson said the GMT discussed this relative only to the 2004 fishery. The recommendation is in anticipation of the new fixed gear discard data being available in early 2004. The GMT did not discuss 2005-06 management. Mr. Alverson asked when future bycatch data would be available? Ms. Robinson said she cannot speak for the NWFSC. However, if the Council decides to use new fixed gear data in 2004, then we will need new data, models and analyses at the March meeting. Mr. Alverson asked if the primary sablefish season would start in April or May if the new data was delivered in March? Ms. Robinson said we would need the new data in March to have an April opening.

Mr. Brown noted that darkblotched and POP specifications largely affect the trawl fishery in the north. He asked if the GMT recommended the 150 fm line north of 40°10' N. lat. with no changes? Dr. Hastie said yes, the original scenario had that line at 150 fm throughout the entire year. Mr. DeVore clarified the totals to the bycatch scorecard.

Ms. Vojkovich asked why the canary OY changed? Ms. Robinson replied the GMT totaled the projected canary impacts in commercial and recreational fisheries. New catch shares in these sectors result in the new canary OY of 47.3 mt. (09/12/03; 2:53 pm)

Dr. McIsaac asked Mr. Robinson what regulatory actions would be recommended to change the primary sablefish season start date to May 1 and set tier limits? Mr. Robinson suggested the Council could change the start date today and set the tier limits next March after the new observer data report and fixed gear bycatch model is available.

#### C.6.p Reports and Comments of Advisory Bodies

##### **EC**

Cpt. Mike Cenci provided Exhibit C.6.p, Supplemental EC Report.

##### **GAP**

Mr. Moore provided Exhibit C.6.p, Supplemental GAP Report.

Mr. Brown noted that neither the GAP nor GMT discussed the implications of the trawl buyback program. He asked Mr. Moore whether the GAP had any recommendations? Mr. Moore said the GAP did not discuss the buyback program in detail. Industry does, however, expect inseason action next year to raise trip limits.

Mr. Anderson expressed concern that a dramatic reduction in tier limits in the primary sablefish season based on new observer data would create a situation where fishermen would access higher limits early before the regulations changed. He noted that sablefish limit attainment is progressing faster than usual this year based

on the Quota Species Monitoring (QSM) report. Mr. Moore said this was discussed and it was believed by the fixed gear representatives to the GAP that the sablefish allocation would not be met. Mr. Alverson said his fishermen support this assumption due to the higher OY in 2003 and a history of some of the tier 3 fishermen not fishing at all.

Dr. McIsaac asked if the EC was aware of the GAP recommendation to move depth lines concurrently inseason for both trawl platoons before they wrote their statement? Mr. Moore said the GAP did discuss this with the EC and assumes this recommendation was understood.

Ms. Vojkovich asked about the GAP recommendation to analyze the impact of California scorpionfish mortality. Does the GAP have new numbers? Mr. Moore said the GAP does not have new numbers. Some GAP members thought the impact estimates were too high.

#### C.6.q Agency and Tribal Comments

#### **WDFW**

Mr. Anderson explained that WDFW was concerned with inshore trawling in the north and the potentially deleterious effects on molting crab. WDFW analyzed both the location and number of trawl tows in depths less than 50 fm off Washington. There were 27 tows between Umatilla Reef and Destruction Island in the last two years. Additionally there have been about 25 tows per year south of Destruction Island. Mr. Anderson believes the 2004 trawl package will not cause crab problems since the shallowest line in the GMT recommendation is 60 fm, which is coupled with a strategy to shift effort off the shelf.

#### **ODFW**

None.

#### **CDFG**

Ms. Vojkovich expressed her appreciation to the Oregon representatives for the black rockfish catch sharing agreement. The optimistic assessment will allow increased trip limits for black rockfish. A new California regulation was passed that eliminates the ability of fishermen to land more than one trip limit per vessel in the open access fishery. This should help California fisheries.

#### **Tribal**

Mr. Harp expressed his appreciation to WDFW for looking into the shallow water trawling issue. He agrees with Mr. Anderson that the 2004 GMT recommendations answer well his concerns regarding crab interactions. He noted that Exhibit C.6.q, Supplemental Makah Report presents some preliminary analysis of yelloweye catch reduction strategies tested by the Makah Tribe in 2002 and 2003.

#### **NMFS**

Mr. Robinson noted it is good to see the harvest impact buffers in the scorecard that accompany the GMT's management recommendations. He recommends the Council eliminate the trawl B platoon and adopt the EC's recommendations for VMS. Although he is not opposed to implementing the selective flatfish trawl regulations, he believes the analysis of effects needs to be better fleshed out. There needs to be a separate regulatory amendment which entails a NEPA workload.

## USCG

CDR. Myer expressed his appreciation of the VMS recommendations from the EC.

Mr. Alverson asked Mr. Robinson if the Council adopts a delay to the start of the 2004 primary sablefish season, will the start date revert back to April 1 in 2005? Mr. Robinson said yes.

### C.6.r Public Comment

Mr. Randy Fry, Recreational Fishermen's Alliance, Sacramento, California  
Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California  
Mr. Peter Huhtula, Pacific Marine Conservation Council, Astoria, Oregon  
Mr. Steve Moore, Patriot Sportfishing, Port San Luis, California  
Mr. Rod Moore, West Coast Seafood Processors Association, Portland, Oregon  
Mr. Joe Easley, Oregon Trawl Commission, Astoria, Oregon

### C.6.s **Council Action:** Adopt Final Proposed 2004 Groundfish Management Measures

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 20) to adopt the management recommendations in Exhibit C.6.o, Supplemental GMT Report 3 for the 2004 season with the following modifications: 1) the motion does not include the VMS transiting proposals; 2) the motion does not include the delay of the sablefish primary season start date; 3) the motion does not address the proposal to implement selective flatfish trawl regulations (the motion is not in opposition to the proposal; it just does not address it); 4) the motion includes the understanding that the 400 mt ABC for bocaccio does not indicate a Council endorsement of any particular model in the rebuilding analysis; 5) the motion specifically provides that the allocation outcomes between commercial and recreational sectors, as well as between states, except where they are already previously provided in previous actions, are not endorsed for future years; and 6) the motion includes a provision that the Council will revisit the issue of retention of canary rockfish under a one fish bag limit for any of the three states in April, pending the acquisition of the additional data that will come from the observer program and the outlook for the recreational salmon fisheries in the three states.

Mr. Brown offered a friendly amendment to continue the trawl B platoon. Mr. Anderson did not accept the amendment. Mr. Brown then moved to amend the motion to continue the trawl B platoon and noted this was the desire of industry. Mr. Warrens asked Mr. Brown if the amendment includes the GAP proposal to change depth lines concurrently for both platoons inseason? Mr. Brown said yes. Mr. Chairman Donald Hansen asked for a vote on the amendment to the motion. Dr. McIsaac called for a roll call vote for continuing the trawl B platoon with the line changing requirement as proposed by the GAP. The vote was 3 yes, 9 no; the amendment to the motion failed.

Mr. Anderson said, relative to the allocation decisions, the motion does not include the fixed allocations (i.e., sablefish and whiting), but does not hold the de facto allocation of overfished species as a permanent rule. He also spoke to the retention of rockfish issue that was so hotly debated. Although he desires to minimize wastage from discard, he feels it is important to change angler behavior to reduce incidental mortality. However, with such low OYs, the Council needs to do everything possible to change angler behavior. The 1.5 mt of canary impact projected in the Washington recreational fishery does not include non-retention savings. The WDFW intends to continue at-sea observations and studies to attempt to validate impact assessment and the perceived savings from non-retention regulations. Without the fixed gear observation data available, it is important to maintain a buffer when projecting canary impacts. If there is a good salmon season next year and our management decisions and fishery evaluations can still accommodate a buffer, then the Council could consider canary retention in April.

Ms. Vojkovich asked about the VMS transiting issue. She asked Mr. Anderson to reiterate the comment regarding the RCA drifting issue. Mr. Anderson said he was concerned about this issue and would like more analysis and deliberation. The waters near the shelf edge off Washington are rougher than nearshore waters. Fishermen should be allowed to drift at night in calmer waters. Ms. Vojkovich asked if the Council is directing this to be done? Chairman Donald Hansen said there was a VMS meeting scheduled in October and the issue could be addressed then.

Mr. Thomas agreed with Mr. Anderson's comments on canary retention. The California recreational industry will advertise the need to avoid canary.

Mr. Coenen noted the Council should allow the deployment of selective flatfish trawl gear outside the RCA.

Dr. McIsaac asked if the motion included the edits/additions in Exhibit C.6.o, Supplemental GMT Report 3 provided by Ms. Vojkovich? Mr. Anderson said yes, all of that is included in the motion. He is not opposing the selective flatfish trawl proposal.

Mr. Brown asked Cdr. Myer if the USCG was not concerned with safety? Cdr. Myer said safety is paramount. Chairman Donald Hansen thought the VMS meeting to be the appropriate venue since all the enforcement folks would be there. Mr. Anderson agreed it was an appropriate topic for the VMS committee. There needs to be a balance between the integrity of the VMS system and safety at sea. Cdr. Myer agreed to discuss it and then reiterated that safety is paramount. Dr. McIsaac asked how the VMS transiting issue would be decided and implemented? Mr. Robinson said this would be an amendment to the final VMS rule which could be made during the 2004 annual management specifications process. Whatever comes out of the VMS meeting that is agreed to by NMFS could become part of the final rule.

Motion 20 passed.

Mr. Anderson referred to Exhibit C.6.o, Supplemental GMT Report 2 and moved to adopt a canary OY of 47.3 mt and the EFP caps presented in the Table 2 bycatch scorecard (Motion 21). Mr. Alverson seconded the motion.

Mr. Coenen asked if the scorecard was revised with the corrections offered by the GMT and was told yes. Motion 21 passed.

Mr. Harp moved and Mr. Anderson seconded a motion (Motion 22) to adopt Exhibit C.6.s, Supplemental Treaty Indian Management Measures for tribal groundfish fisheries for 2004 (the front page of the written proposed tribal management measures). Motion 22 passed.

Mr. Harp moved and Mr. Coenen seconded a motion (Motion 24) to adopt Exhibit C.6.s, Supplemental Treaty Indian Management Measures for the Makah Pacific whiting fishery (the back page of the written proposed tribal management measures). Mr. Harp clarified that the tribes intend to adopt the trip limits in Table 3 of Exhibit C.6.o, Supplemental GMT Report 3 without the depth restrictions. Motion 24 passed.

C.7 Proposed Monitoring Program for the Shore-based Pacific Whiting Fishery (09/11/03; 11:07 am)

#### C.7.a Agendum Overview

Mr. Mike Burner provided the agendum overview. He noted a correction in the situation summary. The sentence which reads "The issue of salmon retention in the groundfish trawl fisheries was brought before the Council in 1997....." the date should read "1996".

### C.7.b NMFS Preliminary Environmental Assessment

Ms. Carrie Nordeen of NMFS Northwest Region Provided Exhibit C.7.b, Supplemental NMFS PowerPoint Presentation.

Mr. Anderson asked if there has been any analysis of the required observer coverage and stated that it seemed that 100% coverage would only be required for a short period of time with periodic sampling in the future as a means of reducing costs. Ms. Nordeen stated that the coverage rates presented are intended to capture the range of alternatives and something less than 100% coverage could be considered in the future. Mr. Robinson stated that there are two monitoring elements, full retention and species composition. Species composition monitoring could eventually be handled with a sub-sample but monitoring of full retention does require 100% coverage in some form, observers or cameras.

Ms. Burke stated that she understands the time constraints that NMFS is operating under but she is recommending that these alternatives not go forward based on several concerns. Ms. Burke asked if in view of the substantial change in salmon health, is this monitoring program overkill as a protective measure for recovering salmon populations. Mr. Robinson stated that the Biological Opinion on salmon is always under review but the other issue that bears on this program is the declaration of overfished groundfish stocks that are also a focus of the monitoring program.

Ms. Burke asked if there was any assessment of the practicality of reviewing all of the video data that would be collected by onboard cameras. Ms. Nordeen stated that one camera was tested last year. The camera is not real-time, and image is collected every few seconds reducing the amount of tape that has to be reviewed. There is also a company in Canada who provided the camera and analyses for this pilot program who felt that this fishery was a good application of their technology. Estimated costs for the program include the costs of camera leasing and installation as well as video analysis.

Ms. Burke asked if there has been any consideration of the timing of a proposed IQ system and this monitoring program. Ms. Nordeen stated that this issue was discussed briefly with the GAP. Many good ideas surfaced and further industry meetings tentatively scheduled for October could further smooth both transitions.

Mr. Robinson stated that NMFS is simply trying to move this monitoring program forward. Initially it was thought that the program could go forward on an aggressive time line for implementation in 2004. It is probably not possible at this time and NMFS is assuming that the program would operate under an EFP in 2004. NMFS really wants to start a dialogue with the states and the industry using this meeting as a starting point. Perhaps work in the fall with the states and the industry will result in more effective and less costly monitoring alternatives. NMFS also hopes to work with industry and the states to tighten up monitoring under the EFP if it is continued in 2004. NMFS feels that this is an important enough issue that progress needs to be made this fall even if these alternatives are not ready for public review at this time.

Ms. Vojkovich stated that during the presentation, only the EFP alternative (status quo) mentioned terms and conditions the fishery would operate under, and asked if this means that these types of provisions would not be required under the other alternatives. Ms. Nordeen stated, no, that these rough alternatives will be further refined and developed.

Ms. Vojkovich asked if the at-sea whiting fishery operates in a totally different part of the ocean than the shore-based fishery. Ms. Nordeen stated that they operate in similar ways and area. Ms. Vojkovich asked if data collected in the at-sea program could be applied to the shore-based sector. Ms. Nordeen stated that there is likely some information that could be shared but that it is also possible that the at-sea sector operates a little further off shore with different bycatch.

Mr. Anderson referred to Table 4 on page 41 of Exhibit C.7 Attachment 1. Mr. Anderson asked if the observers in this monitoring alternative would be collecting the same kinds of data as the observers in the West Coast Groundfish Observer Program (WCGOP). Ms. Nordeen stated that the observers with the WCGOP do not have monitoring in the fish plants like the shore-based whiting fishery so they are more focused on species composition whereas the monitors for the shore-based whiting fishery would be focused on verifying full retention to allow total mortality assessment at the plant. Mr. Anderson asked if there was a difference in the observer costs between Alternative 2 at \$900 per sea day and Alternative 3 listed as \$900 per day. Ms. Nordeen stated that the state chose values for Alternative 3 that was similar to Alternative 2 to avoid underestimation and reported costs per day but she did not feel there was significant difference between the two estimated costs. Mr. Anderson asked about the cost disparity for tracking of landings between Alternative 1 at \$150 per day and Alternative 3 at \$550 per day when the sampling coverages are similar. Ms. Nordeen stated the largest difference is in the pay rates of the people doing the sampling. Under Alternative 1, status quo, plant employees collect the data and Alternative 3 would rely on state trained and paid samplers resulting in greater costs but better information.

Mr. Brown, working from the same table questioned the estimates that the cost of the alternative monitoring programs would range from 10% to 30% of the value of the fishery and asked about the quality of the economic data used to compute the operating costs and profitability of a shore-based whiting vessel. Ms. Nordeen stated any information on the fishery economics would be helpful and that NMFS recently hired a new economist who will be helping to refine the analysis.

#### C.7.c Reports and Comments of Advisory Bodies

#### **GAP**

Mr. Burner read Exhibit C.7.c, Supplemental GAP Report.

#### C.7.d. Public Comment

Mr. David Jincks, Midwater Trawlers Cooperative, Newport, Oregon

#### C.7.e **Council Action:** Adopt Alternatives for Public Review on the Proposed Monitoring Program for the Shore-based Pacific Whiting Fishery

Ms. Patty Burke stated that Ms. Nordeen did a very good job covering the options and associated costs. However, she stated that the states have not had the chance to do an analysis of the costs associated with a state monitoring program and that for this draft the states simply matched the reported federal rates. Ms. Burke also stated that the total cost listed for the status quo alternative is not all inclusive of actual costs. Therefore, Ms. Burke felt these options need more work and stated that ODFW staff are already working with industry to draft additional, more cost effective, alternatives.

Ms. Burke moved and Ms. Vojkovich seconded a motion (Motion 14) that the Council defer choosing a range of alternatives until the November meeting at which time a better set of alternatives can be provided while anticipating an additional year of monitoring the shore-based whiting fishery under an EFP.

Mr. Brown asked if the motion includes a request that NMFS hold discussions and meetings with industry to explore other alternatives. Ms. Burke stated that she would accept that as a friendly amendment but felt that was understood and assumed based on Mr. Robinson's comments.

Mr. Robinson clarified that the meetings being discussed would include state representatives, not just NMFS and industry people.

Motion 14 passed.

Mr. Anderson commented that WDFW has been gathering considerable experience in hiring and deploying observers in the last 3 years for both the EFPs and a sardine fishery observer program. Mr. Anderson stated that WDFW has some cost information that would be important to bring to the discussion and believes Mr. Culver would be an appropriate state representative to bring that information to the meetings.

#### C.8 Stock Assessment of Canary Rockfish

##### C.8.a Agendum Overview

Mr. DeVore provided the agendum overview.

##### C.8.b NMFS Report

Dr. Elizabeth Clarke reported the NWFSC could coordinate the STAR review if the Council chooses to do a canary stock assessment. However, there are no NWFSC staff currently available to do the assessment. She reported there will be new data available from this year's survey by the end of January. However, since this is the first year conducting the cooperative shelf survey, there would have to be a calibration survey to link the old triennial survey data to the new survey results. This calibration survey cannot be done until next year.

Mr. Anderson, regarding the revised sampling protocols in the 2003 shelf survey and the need to calibrate results with the old triennial shelf survey, remarked that the new results will provide only one data point. Will there be similar issues with other species' stock assessments? Dr. Clarke remarked, with current resources, they cannot do two total surveys in the same year. There will be a workshop scheduled to figure out how to calibrate the new survey with the old triennial survey. She envisions a strategy where they could "leap frog" surveys by type, conducting a different survey protocol every other year. She does not favor breaking the old triennial survey time series to start a new survey time series. She said the proposed workshop will flesh out how to move forward. She invited the Council family to attend. Mr. Anderson asked when the workshop would be scheduled? Dr. Clarke said they preferred waiting until after January when the new survey data would be available.

Chairman Donald Hansen asked if there was a need to find a canary stock assessment author? Dr. Clarke said yes. Her scientists are busy with the whiting stock assessment and analysis of new survey and observer data. She is also an FTE short of a full assessment staff.

Ms. Vojkovich asked if there were other data sources that could be used or does everything hinge on the new survey data? Dr. Clarke said the critical data sources she is aware of are new observer and shelf survey data. She knows there has been some submersible work done by WDFW, but she was unsure of the data collected. Mr. Anderson remarked he did have some information on the new submersible data. Chairman Donald Hansen asked to defer that until Council discussion/action.

Dr. McIsaac asked how much new information will be available by November 2005 for the 2007-2008 management period? Dr. Clarke said by November 2005 they would have a calibration or survey linkage methodology in place as well as the results from the 2004 shelf survey.

Dr. McIsaac referred to a Stock Assessment Methodology workshop proposed in a letter signed by Dr. Usha Varanasi and asked about a recreational CPUE index such as the one used in the new bocaccio assessment?

Dr. Clarke said that workshop will evaluate that methodology.

#### C.8.c Reports and Comments of Advisory Bodies

##### SSC

Mr. Jagielo provided Exhibit C.8.c, Supplemental SSC Report.

Ms. Vojkovich asked about the new Delta submersible and shelf survey data and the SSC comment that these data could not be incorporated easily into an assessment. But, could it be done? Mr. Jagielo explained that one needs a data time series of many years to do an assessment, not one data point. The submersible survey was designed to survey in untrawlable habitats. These data cannot be linked or used until there is a time series. We need a workshop to focus discussion on linking the new survey with the old. If a new time series is started, it will take time before it is useful for assessment. Ms. Vojkovich asked if it was unlikely we would get a better canary assessment soon? Mr. Jagielo remarked there was not much new to be learned.

##### GAP

Mr. Moore provided Exhibit C.8.c, Supplemental GAP Report.

Dr. McIsaac asked about the GAP comment regarding the history of "out of cycle" assessments? Mr. Moore explained that the yellowtail rockfish assessment was in a once every three year cycle, but two consecutive annual assessments were done when the assessment was considered the first time. This action refined the STAR process. Questions about sablefish recruitment in 2001 led to an assessment update in 2002. The bocaccio assessment was done in consecutive years (2002 and 2003) when the assessment author admitted to needed improvements after the first assessment.

Ms. Vojkovich noted the GAP statement that they were prepared to live with scientifically valid results. Does that mean the GAP agrees with the canary STAR Panel? Mr. Moore responded no. The canary population has increased dramatically according to anecdotal evidence. The 2002 assessment does not have recent data and delay would be unconscionable.

#### C.8.d Public Comment

Mr. Steve Moore, Patriot Sportfishing Avila Beach, California

Mr. Rod Moore, West Coast Seafood Processors Association, Portland, Oregon

#### C.8.e **Council Action:** Consider Establishing a New Stock Assessment Process for Canary Rockfish for use in the 2005-2006 Biennial Management Period

Mr. Anderson explained he had Dr. Jack Taggart evaluate the potential of conducting a new canary rockfish assessment. He explored the issue of calibration of the new and old survey results and he felt it wasn't wise to go forward without that being done. He also talked with Bob Mikus, an ODFW ageing specialist. They have about 42,000 canary otoliths collected since 1999, of which 17,000 have been aged, with some sub-sampled and many left to age. Dr. Taggart recommended these structures get aged, a task which could take between four months to a year. Dr. Taggart thought that incorporating these data would be critical for a new assessment.

Mr. Anderson concluded there were three options:

- 1) We could scramble to age the otoliths in ODFW's possession, step up the process for deriving a survey calibration methodology, identify a stock assessment author, and go through the STAR process in time for the April 2004 meeting; or
- 2) Delay the assessment another year (complete by early 2005) to accomplish these tasks and obtain one more shelf survey data point. A new survey would be available in time for the 2006 fishery. This option would essentially break the new multi-year management strategy; or
- 3) Wait to adopt a new assessment in November 2005 for use in the 2007-08 management cycle.

He said each one of these options has its problems. He was uneasy about waiting until the 2007 to react to a new canary assessment. The second option breaks down the "wall of science" that is part of the multi-year management process. The first option was questionable in that he doubted we have the capacity to do all the needed steps so quickly.

Mr. Coenen mentioned the reviews and check points detailed in the canary rockfish rebuilding plan. He thought scrambling to get an assessment done (option 1) might not fit the requisite review period of once every two years decided in the canary rebuilding plan. We may want to have a new assessment prior to the year we review the canary rebuilding plan.

Ms. Vojkovich understands the need to do a new canary assessment prior to the 2007-08 management period. She questions the ability to complete a new assessment by the April 2004 meeting. She prefers option 2 although it does compromise the multi-year management process.

Mr. Brown thought it important to develop a policy on when to do assessments or else we'll get jerked around whenever new information becomes available. He is worried about breaking the new multi-year management process. He asked Mr. Anderson how many of the canary otoliths were collected in 1990 and how many collected more recently? The specific years of available ageing data is an important consideration. Mr. Anderson said he did not know.

Mr. Anderson asked Mr. Jagielo if there were any plans to continue the submersible survey? Mr. Jagielo said no, it was a pilot project. There is no ongoing plan. Mr. Anderson said he was familiar with how that project was conducted. The intent was to analyze submersible survey data to attempt a yelloweye biomass estimate in the survey area? Mr. Anderson asked if this technology could be used in a canary assessment? Mr. Jagielo explained that some species are hard to survey with a submersible. Canary and yellowtail rockfish are more pelagic and often swim out of view of the camera. We need more analysis to evaluate its potential for canary assessment. Mr. Anderson remarked this was another reason to delay.

Mr. Brown said he understands that rockfish are patchily distributed. As a consequence you need to determine densities in different habitats and adjust your survey analysis accordingly. Did the submersible survey examine density differences of rockfish in rocky vs. other habitats? Mr. Jagielo said yes, this is the type of analysis we are doing. The trawl survey is habitat-biased. We intend to compare the 2002 submersible survey results with the 2001 trawl survey results in the U.S.-Vancouver INPFC area.

Mr. Coenen noted from the SSC Report that the next regularly scheduled canary assessment will not be available until November 2005. Would the inter-calibration data be the only new data available for the next regularly scheduled assessment? Mr. Jagielo explained that any calibration effort would benefit from multiple data points. More data would be available by 2005.

Mr. Alverson wondered if we could table this action until the November 2003 meeting? Would we know more by then? Mr. Coenen said delaying a decision to scramble would be tough. We would need to plan now to make this happen.

Mr. Ticehurst asked what are the chances the current assessment is overly optimistic or overly pessimistic? He thought getting a new assessment soon would be important to avoid prolonging management mistakes.

Ms. Vojkovich asked Dr. Clarke about the risk of pulling people off of planned assignments. What current activities would be put at risk to get a new assessment by November 2004? Dr. Clarke said there are about 22 stock assessments planned in that time period. We need the off year to structure models, etc. to do this many assessments by November 2005. Since we can't do all the STAR reviews in 2005, we will have to front load a lot of that work in the first year. She said you would not get all of the stock assessments done if people are re-tasked.

Mr. Anderson responded to Mr. Ticehurst's earlier comments that the trend in recent canary assessments has been more pessimistic. He is concerned that the current assessment may be overly pessimistic. His option 1, getting a new assessment by April 2004, is not doable. There are other things that need to get done in that timeframe. He emphasized the need to establish criteria for accepting new information in this process. He suggested we could get a new canary assessment by April 2005 in time to modify 2006 management measures. However, we need to understand the consequences to the multi-year management process. Also, we need to move forward on developing criteria and policy for accepting new data by November 2003 or April 2004. Mr. Brown agreed with Mr. Anderson about the need to develop this policy very soon. Dr. Clarke said we have to know that now to get contracts for next year in place.

Mr. Robinson asked if the recommendation was to get a new full canary assessment by April 2005? He would like to preserve the multi-year management process. Canary rebuilding constraints are a keystone to our present management system. Adopting a new assessment in April 2005 would kill the multi-year management process. Mr. Anderson suggested that we ask Dr. Clarke to give us an assessment of what the consequences would be if we try to get the canary assessment done and available to the Council by April 2005. We could then better understand the tradeoffs to the multi-year management process. Dr. Clarke said we could consider this question while we develop the process and decide on the timing of a new assessment later. Ms. Vojkovich asked when would the Council develop this policy? Mr. Robinson assumed we were going to talk about that on Friday. He also assumed it would not be done by the November 2003 Council meeting. He suggested this policy should be adopted by the March or April 2004 Council meeting. Dr. McIsaac noted that his notes reflect the workgroup reporting back in March. He suggested the Council could decide to start policy development at the November Council meeting.

Mr. Anderson moved and Mr. Alverson seconded a motion to not do an assessment in time for the 2005-2006 management period (Motion 15). Motion 15 passed.

## C.9 Groundfish Bycatch Program Environmental Impact Statement

### C.9.a Agendum Overview

Dr. Kit Dahl provided the situation summary, which differs from the printed version. The preliminary draft EIS made available for this meeting is not sufficiently complete for public review. Therefore, NMFS is asking the Council to defer public review of the document until after the November meeting. A draft EIS is scheduled for publication in January 2004 for public comment; the Council review process will run concurrently from then through the April 2004 Council meeting. The Council may wish to provide further guidance on the development of the EIS document.

### C.9.b NMFS Report

Mr. Jim Glock gave an overview of bycatch reduction requirements and how they are addressed in the EIS. However, the Council is not expected to choose a preferred alternative at that time. Instead, the Council should evaluate the document at the November meeting and decide whether it is ready for the public comment period required by NEPA. The draft EIS will be published in mid-January and the Council can make additional comments and receive public comments during that period. At the April meeting the Council may choose the preferred alternative. Both the public comment period required by NEPA and the review under Council procedures will occur concurrently.

#### C.9.c Reports and Comments of Advisory Bodies

#### HC

Dr. Dahl read Exhibit C.9.c, Supplemental HC Report:

*The Habitat Committee received a briefing from Mr. Jim Glock on the Groundfish Bycatch Program Environmental Impact Statement (EIS). We felt the document was highly informative, useful, readable, and reflected the hard work of its authors. According to the Magnuson-Stevens Act, "bycatch" includes nearly all species of marine organisms except seabirds and marine mammals. This means bycatch includes biogenic species that are important as fish habitat. We concur that bycatch should include such elements. This produces an overlap with the Essential Fish Habitat EIS. This overlap is positive; however, the information in these two planning documents should be consistent. As these documents develop, we will continue to provide feedback to help ensure consistency.*

#### GAP

Dr. Dahl read Exhibit C.9.c, Supplemental GAP Report:

*The Groundfish Advisory Subpanel (GAP) received an update on the Groundfish Bycatch Programmatic Environmental Impact Statement (EIS). While the GAP is interested in providing comments, we note that the document keeps changing as new information is received. Therefore, the GAP prefers to wait until a final document is presented before making final comments.*

*The GAP also urges NMFS and the Council to ensure that adequate opportunity for public comment is available on the final document.*

#### SSC

Mr. Jagielo provided Exhibit C.9.c, Supplemental SSC Report:

*Mr. Jim Glock presented a progress report on the Bycatch Program Environmental Impact Statement (EIS) (Exhibit C.9, Attachment 1). This initial draft is fairly complete with respect to the first three chapters (Purpose and Need; Alternatives; and Affected Environment). However, the fourth chapter (Impacts of the Alternatives), which will embody all of the analysis, will not be completed until the November 2003 Council meeting. The planned timeline for the EIS then includes: Council release for public review (November 2003); NEPA review (January through April 2004); and Council selection of the preferred alternative (April 2004).*

*The Scientific and Statistical Committee (SSC) discussion focused primarily on the (1) definition of bycatch and (2) aspects of the analyses that should be included in Chapter 4 of the next draft.*

##### 1. Definition of Bycatch

*The current draft first defines groundfish as those species covered by the Council's Groundfish Fishery Management Plan and discards as those animals that do not survive after being returned to the sea. Bycatch is then defined as the combination of groundfish discards and nongroundfish species caught during the course of a fishing operation. The SSC notes that this definition differs from that used in the Magnuson Act (discards*

only), and is more closely aligned with the definition of bycatch used in *Managing the Nation's Bycatch (NMFS 1998)* – the latter being the basis for the guidelines on implementation of National Standard 9.

While the bycatch definition in the current draft is workable, the SSC recommends that when completing the analysis of alternatives (Chapter 4), the components of bycatch under this definition be further delineated. Namely:

- A. Regulation-induced discards, (e.g., catch that exceeds a trip limit, undersized fish, etc.)
- B. Non-regulation-induced discards, (e.g., no or little economic value, recreational releases that do not survive, etc.).
- C. The retained part of bycatch that is managed by a something other than the Groundfish FMP, (e.g., Pacific halibut, California halibut, etc.).
- D. The retained part of bycatch that is not managed.
- E. Take of protected species.

## 2. Analysis of Alternatives

For the most part, the alternatives identified in the draft EIS attempt to minimize only component A of the bycatch, as defined above. In order to meet the National Standard 9 guidelines, however, it will be necessary to minimize component B as well. In addition, the Council may also find it necessary to gauge the impact of each alternative on components C, D, and E, separately.

The various alternatives require greatly differing levels of observer coverage for proper implementation. The level of observer coverage and associated costs should be clearly identified for each alternative.

Logbook and other reporting requirements as well as levels of enforcement also differ among the alternatives. The respective costs and practicalities under each of the alternatives should be included in the next draft.

For the various alternatives, it is likely that substantial differing levels of bycatch will result as well as substantially differing implementation costs. Consequently, the selection of a preferred alternative may not be straightforward.

The SSC recognizes the analyses that will appear in Chapter 4 are likely to be qualitative, and this is customary for a programmatic EIS. However, it should be recognized that at some future time, it will become necessary to develop a fully-fledged quantitative model for such analyses. The trawl bycatch model may provide a convenient starting point for such model development.

### C.9.d Public Comment

Mr. Chris Dorsett, The Ocean Conservancy, San Francisco, California  
Mr. Phil Kline, Ocean, Washington, DC  
Mr. Peter Huhtala, Pacific Marine Conservation Council, Astoria, Oregon

### C.9.e Council Action: Adopt Options for the Groundfish Bycatch Program EIS for Public Review

Mr. Robinson asked the Council to defer action.

Ms. Vojkovich asked whether the Council will choose a single alternative once the draft EIS is completed. Mr. Glock assented and she noted that she can only find one alternative that speaks to the recreational fishery and is concerned that she is being forced to choose only one alternative because recreational fishery issues are not addressed in the other alternatives. She recommended that recreational issues be addressed within each of the alternatives.

Mr. Glock agreed that the alternatives focus on the commercial side. However, the EIS does analyze secessions, bag limits, size limits, etc; they are available as tools and would apply under all the alternatives. (He noted that alternatives 2 through 4 are extensions of measures in place under the status quo, with

associated recreational management measures.) Mr. Glock said that the Council could develop another alternative, or fine tune one of the existing ones as their preferred alternative by combining tools evaluated separately in the EIS. The only part that would kick us off schedule would be if an alternative was so different that it was outside the range of alternatives already evaluated in the draft EIS.

Ms. Vojkovich stated she was still not clear about this issue but will speak with Mr. Glock off the Council floor.

Mr. Alverson said these options are not mutually exclusive: for example, alternative 6 has area closures, which have already been implemented. Other measures in alternatives 1 through 5 have also been implemented. Therefore, we are not going to just pick one alternative and exclude the rest. He asked what the final decision process is; would parts of all alternatives be adopted?

Mr. Glock agreed that this is a challenge because tatus quo is a moving target. He would like to evaluate each of the alternatives under the current fleet size. If the buyback program is implemented, hopefully they can evaluate the alternatives with the new, reduced fleet size. The other challenge is making sure the alternatives are distinct and mutually exclusive. The status quo is an adaptable, flexible management approach. The EIS will evaluate broader suites of management measures. Each alternative is maintained as distinct as possible, as required by NEPA.

Mr. Robinson, answering Mr. Alverson, stated nothing will preclude the Council from choosing a preferred alternative that applies different dosages of management measures.

Dr. McIsaac asked about the NEPA review process with reference to the SSC statement: Will the NEPA review be scheduled through the month of April so the Council can consider advisory body and public statements and offer comments during the NEPA public comment period? Mr. Glock, in agreeing, stated that Council final action at the April meeting would be during that comment period.

#### C.10 Consideration of Individual Quota (IQ) Programs (09/11/03; 4 pm)

##### C.10.a Agendum Overview

Mr. Seger provided the agendum overview based on the situation summary.

##### C.10.b Report on the Canadian Symposium

Ms. Dorothy Lowman, accompanied by Dr. Richard Young, Mr. Bob Turis, provided a power point presentation (Exhibit C.10.b, Supplemental PowerPoint Presentation) on the joint US-Canada industry symposium on the Canadian IFQ system.

##### C.10.c Whiting Catcher Vessel Industry Report (09/11/03; 4:44 pm)

Mr. David Jincks presented Exhibit C.10.c, MTC Letter.

##### C.10.d Newport, Oregon Inclusive Rationalization Meeting Report

Mr. Craig Urness of Pacific Seafood provided a review of the industry wide rationalization discussions that took place in Newport. He covered the plan for a process, support for rationalization, infrastructure, and Council support.

#### C.10.e Trawl Sector Initiatives

Mr. Pete Leipzig referenced an initiative provided to the Council in a January 1999 report on this issue. He presented a stepwise framework for implementing an IQ program.

#### C.10.f Reports and Comments of Advisory Bodies

##### **GAP**

Mr. Moore provided Exhibit C.10.f, Supplemental GAP Report.

##### **EC**

Cpt. Mike Cenci provided Exhibit C.10.f, Supplemental EC Report.

#### C.10.g Public Comment

Mr. Barry Cohen, Olde Port Fisheries,  
Mr. Bud Femling, F/V Lucky Strike, Sequim, Washington  
Mr. Brent Payne, United Catcher Boats, Seattle, Washington  
Dr. Rod Fujita, Environmental Defense, San Francisco, California  
Ms. Leesa Cobb, Pacific Marine Conservation Council, Astoria, Oregon  
Mr. Peter Huhtala, Pacific Marine Conservation Council, Astoria, Oregon  
Mr. Jan Jacobs, Pacific Whiting Conservation Cooperative, Seattle, Washington  
Mr. Chris Peterson, F/V Pacific Challenger, Auburn, Washington  
Mr. Marion Larkin, trawler, Mt. Vernon, Washington  
Mr. Joe Plesha, Trident Seafoods, Seattle, Washington  
Mr. Phil Kline, Oceana, Washington, DC  
Mr. Brad Pettinger, Oregon Trawl Commission, Astoria, Oregon  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, Oregon  
Mr. Dave Fraser, F/V Muir Milach, Pt. Townsend, Washington

#### C.10.h **Council Action:** Plan Future Council Action Regarding Groundfish IQ Development (09/11/03; 5:48 pm)

Mr. Ralph Brown noted the hope that was reflected in the public comment on ITQs and commented on the opportunity that ITQs provide an opportunity to resolve problems in the fishery. He moved to proceed with the ITQ committee to design a trawl harvest ITQ program (for both whiting and non-whiting groundfish sectors). Mr. Brown suggested membership for the committee and asked that if possible arrangements be made to involve Mr. Bruce Turris from Canada on the committee. Mr. Frank Warrens seconded the motion (Motion 16).

Ms. Vojkovich spoke in support of the motion. She noted the consensus support among those making public comment. While she understood the need for guidelines and standards she was concerned that there could be a considerable wait for such guidelines. If guidelines come out later, adjustments could be made at that time. She expressed hope that the committee would be able to report back fairly rapidly.

A friendly amendment was accepted from Mr. Harp to add Mr. Steve Joner to the committee as a tribal representative.

Mr. Alverson suggested that someone from Mr. Brent Payne's organization be included on the committee as well as Mr. Jan Jacobs as they both have expertise on this. Mr. Brown said he listed Mr. Dale Myer as a person he thought might be involved in the mothership and catcher-processor operations.

Mr. Robinson expressed NMFS support for ITQ programs. With respect to committee membership, whether or not NMFS is a member they intend to fully participate, provide guidance, and support. He prefers the committee be primarily industry with the agency people in support roles. Mr. Brown asked to include Dr. David Hanson and that he could provide a link to issues related to the data system that would be necessary for the program.

Mr. Anderson said he is supportive of the creation of the group. He would have preferred that we identify the number of positions without the names on the Council floor and leave the names up to the Council chairman. He suggested the group be composed of nine trawl representatives, and representatives from enforcement, processors, environmental sector, and economists. Mr. Brown accepted Mr. Anderson's suggestion as a friendly amendment to not name specific individuals but to also add a tribal representative. The seconder agreed to the friendly amendment.

Ms. Burke expressed concern about the budget needed to support the process and suggested the possibility that a program might be developed outside the Council process. Dr. McIsaac, suggested that he work with the industry, NMFS, and other offers to get the needed funding together for the initial steps.

Council members agreed that the MTC report, a primer put together by Dr. Dan Huppert, and NPFMC programs might provide an outline of considerations from which the committee could work. Mr. Brown asked to see an initial cut at the basics for the program from the committee in November including a listing of those topics they can and cannot agree upon.

Motion 16 was re-stated by Dr. McIsaac. Established an IQ committee composed of nine trawl representatives, and representatives from enforcement, processors, environmental sector, economists, and a tribal seat with the names to be selected by the chair at a later date.

In response to a question from Mr. Anderson, Mr. Harp said his main interest had to do with whiting because any IQ system could possibly affect them. That is not to say the concept of IQs could not be applied among four tribes in the groundfish fishery at a later date.

Motion 16 passed.

There was a discussion of a control date. It was decided that issue would be placed on the November agenda.

## **D. Habitat**

### D.1 Current Habitat Issues

#### D.1.a Agendum Overview (09/10/03; 8:06 am)

Ms. Jennifer Gilden provided the agendum overview.

#### D.1.b Report of the Habitat Committee (HC)

Mr. Michael Osmond provided the HC Report.

D.1.c Reports and Comments of Advisory Bodies

None.

D.1.d Public Comment

None.

D.1.e **Council Action:** Consider Habitat Committee Recommendations

Mr. Brown said that he has been meeting with people involved in Klamath River issues. They have made a compelling case for why water should not leave the Project in the fall and go into the Klamath River. They are concerned about releases out of the Trinity River. When they increase Trinity River flows, they draw fish into the river. Then, once fish are in the Trinity, they shut the flows off and the water temperature rises to about 80°. This is a good way to kill fish. There needs to be a good look at the system operations. They (the people involved with the Klamath) have asked Mr. Brown to arrange for their people to speak to our HC and the Council to give their version of events.

Another issue is the proposal for the Conservation Implementation Program. They are rewriting the proposal and would like to make a presentation to the Council because they feel that this Council is only hearing one side of the issue. Chairman Donald Hansen concurred and recommended that they speak to the Klamath Fishery Management Council. Mr. Brown noted that they seem ignorant of how to get involved in our process although they are highly involved in other processes.

Mr. Anderson felt it was premature to ask the HC to develop the proposed resolution on salmon net pens and their affect on habitat. It would not be premature if there is a concern about current net pen aquaculture projects that may have detrimental affects on habitat for natural spawning populations that contribute to Council-managed fisheries. He assumes since they brought it forward and made references to problems in British Columbia and Alaska that they believe there may be problems in our Council jurisdiction. If that is true, then it would be more appropriate for the HC to give us a list of the projects, the size of those projects, whether or not there are escapees, and whether they have detrimental effects on spawning populations. He would like the HC to do some fact finding and determine whether or not they have a detrimental effect. Then we could determine the appropriate response and action by the Council.

Mr. Warrens said he believes the PSMFC is working on a project addressing net pens and detrimental effects. They are ahead of the Council on this issue. He concurred with Mr. Anderson's comments.

Mr. Gaudet also agreed with Mr. Anderson. He offered to have ADFG work with the HC. Alaska has some experience with this, and could help with documentation. Atlantic Salmon Watch could provide some of the material Mr. Anderson requested.

Dr. Hanson said the PSMFC has been working with Alaska. Mr. Stephen Phillips is the primary contact for arranging something with the British Columbia and Alaska people dealing with this issue.

Mr. Roth agreed with Mr. Anderson's comments on doing a fact finding survey. However, there is no doubt there are problems with salmon aquaculture in other places; this issue does need attention.

Ms. Gilden noted that the HC had suggested inviting someone to speak to the Council on salmon net pen issues, and asked how the Council wanted to address that suggestion.

Mr. Anderson said he would first like to have the HC investigate current operations in our coastal states, and do some fact finding before bringing in speakers. The Council needs to pay attention to operations affecting the habitat and resources for which we have responsibility—not problems occurring in other parts of the West Coast.

Mr. Donald Hansen concurred with Mr. Anderson's comments.

Mr. Anderson said if the HC would like to bring forward a status report on their strategy regarding net pens, that would be great.

Mr. Brown said he would work with Dr. McIsaac to schedule an HC presentation by someone from the Trinity River.

## **E. Marine Reserves**

### **E.1 Update on Marine Reserves Issues**

#### **E.1.a Agendum Overview (09/10/03; 8:26 am)**

Ms. Gilden outlined four different topics under this agenda item: increased funding for coordinating marine reserves issues (Ms. Gilden noted Dr. McIsaac would be speaking on the topic of funding for Phase II; there has been some funding available to improve coordination); the meeting of the SSC on the marine reserves white paper; an update on the Joint Management Plan Review for the three central California Sanctuaries; and a proposal to change the name of the agenda item from “marine reserves” to “marine protected areas.”

Dr. McIsaac elaborated on the West Coast MPA Demonstration Project.

#### **E.1.b Scientific and Statistical Committee (SSC) Report**

Ms. Cindy Thomson provided Exhibit E.1.b, Supplemental SSC Report.

Mr. Brown said he had received a paper whose authors had examined literature on marine reserves. The authors found there was very little new research on marine reserves, and that most research consisted of rehashed models. How does what you're proposing differ from that?

Ms. Thomson said the white paper reviews the literature and objectives for marine reserves and describes the state of knowledge regarding marine reserves. The paper will provide a conceptual framework for conducting regulatory analyses and will discuss what constitutes a reasonable range of alternatives and what needs to be considered in evaluating alternatives. The paper will also try to look at management implications in general.

#### **E.1.c Reports and Comments of Advisory Bodies**

None.

#### **E.1.d Public Comment**

Ms. Kathy Fosmark, Fishermen's Association of Moss Landing, Pebble Beach, California (fishery management falls under the Council's and NMFS' jurisdiction, not NOS).

### E.1.e Council Discussion on Update on Marine Reserves Issues

Ms. Patty Wolf moved and Mr. Thomas seconded a motion (Motion 8) to change the name of this agenda item category from “marine reserves” to “marine protected areas” in future Council agendas.

Ms. Patty Wolf said this is something they have done in California in order to more broadly encompass the issue. She moved to use the term “protected areas” instead of reserves.

Mr. Brown said if this is being done so we can broaden the discussion, we should keep in mind that the contention is over marine reserves. Mr. Coenen appreciated this semantical change, but noted that Mr. Brown is completely right that the Ocean Advisory Council in Oregon uses “marine reserves” to mean “marine protected areas.” That led to part of the confusion in-state. Outside Oregon, “marine reserves” generally means “no fishing.” This terminology change would be helpful.

Mr. Cedergreen said there was a letter that went out a couple of years ago, signed by about 100 scientists nationwide, that said clearly that “marine reserves” meant “no take.”

Motion 8 passed.

Mr. Robinson asked about the organization of the MPA Demonstration Project. The West Coast regional offices of NMFS and the NWFSC and SWFSC are involved in a lot of related activities, in particular the EFH EIS. How do you intend for us to participate in the Demonstration Project? Are we under the “Council umbrella”?

Dr. McIsaac said the project was very inclusive. The three principle entities would be NMFS, the Council and the National MPA Center. This is a draft fact sheet and the proper corrections will be made to reflect that.

Mr. Brown proposed we send a letter to DOC to ask for clarification and remind them that NMFS is the fishery management body, not NOS.

Chairman Donald Hansen said that he discussed this with Dr. Hogarth and that Dr. Hogarth would provide something at the November meeting.

Mr. Warrens, building on Ms. Fosmark's and Mr. Brown's comments in regard to fisheries management with the affected Council and NMFS on all issues regarding fisheries management, and to avoid confusion and conflicts of territory, stated the jurisdictional issues need to be clarified up front. Letters to that effect should go to DOC and Admiral Lautenbacher. Chairman Donald Hansen said that that's what they had heard from Dr. Hogarth—we will put this on the agenda in San Diego.

### E.2 Marine Reserves in the Federal Waters Portion of the Channel Islands National Marine Sanctuary (CINMS)

#### E.2.a Agendum Overview (09/10/03; 8:51 am)

Ms. Jennifer Gilden presented the agendum overview.

#### E.2.b Presentation by CINMS Staff

Mr. Mike Murray, the Management Plan Coordinator and Advisory Council Coordinator for CINMS, provided a brief update on the CINMS timeline.

### E.2.c Reports and Comments of Advisory Bodies

None.

Ms. Patty Wolf thanked Mr. Murray for the update, and thanked the Sanctuary Advisory Council for making changes to its representation and creating a recreational fishing seat. She encouraged the Sanctuary to be realistic in terms of setting the schedule.

Chairman Donald Hansen wanted to clarify that there would be a recreational seat and a commercial seat on the SAC. Mr. Murray said there is currently a “fishing” seat on the SAC. It will become a commercial fishing seat, and they will add a new recreational seat.

Dr. McIsaac asked about the 120-day response period for the Council—we understood the 120 days would begin when substantive materials were supplied to us. Is that true? Mr. Murray said it was logical that the 120 days would begin when the Council received documents to review, but he would follow up to make sure that was the case. Dr. McIsaac said that initially we had talked about a two-meeting process with the Council – September and November. When you say that March is more realistic, do you mean for the first feedback on the initial NEPA document, followed by a second meeting? Are you still thinking of a two-meeting process—March and April, or March and June? Mr. Murray said they were still planning for a two-meeting process. But they would like to get preliminary materials to the Ad Hoc Committee much earlier (before March).

### E.2.d Public Comment

Mr. Hugh Thomas, Port San Luis Commercial Fisherman’s Association (supporting Kathy Fosmark’s comments saying that fishery management decisions should remain within the Council.) Mentioned a UCLA report that was critical of the CINMS process, and said the reserves close off access to recreational and commercial users.

### E.2.e Council Discussion on Marine Reserves in the Federal Waters Portion of the CINMS

Mr. Brown said he would like to see the UCLA report mentioned by Mr. Thomas. Ms. Wolf said she was not familiar with it, but would look into it.

Dr. McIsaac said they would try to get the report to the Council members for their information. The people on the Ad Hoc CINMS committee should expect to have a meeting after the next Council meeting. There will be an opportunity to meet during the winter and come to Council on how to proceed.

## F. Salmon Management

### F.1 Salmon Fishery Update (09/11/03; 8:12 am)

Mr. Tracy presented the agendum overview.

#### F.1.a Salmon Technical Team Report

Mr. Dell Simmons referred the Council to Exhibit F.1.a, Supplemental STT Report.

F.1.b Reports and Comments of Advisory Bodies

None.

F.1.c Public Comment

None.

F.1.d Council Discussion

Mr. Roth asked Mr. Harp why the treaty troll fishery took so little of its coho quota. Mr. Harp responded that it was primarily a lack of effort prompted by low prices.

Mr. Cedergreen characterized the season north of Cape Falcon as very successful, with excellent chinook catch, large size, and no inseason closures, which added stability. The flexibility to transfer chinook from the recreational fishery to the commercial fishery is a strategy that would be desirable in other fisheries.

Mr. Warrens was concerned about an apparent lower coho mark rate than expected, and suggested an STT analysis of at what point the handling mortality associated with releasing a large proportion of the catch outweighed the direct mortality of allowing unmarked fish to be retained.

Mr. Tracy expressed his appreciation to the Council for the structure of the north of Cape Falcon commercial fishery, which resulted in only two inseason conference calls for that fishery.

F.2 Salmon Methodology Review: Final Prioritization of Modeling Issues for SSC (09/11/03; 8:21 am)

F.2.a Agendum Overview

Mr. Tracy presented the agendum overview.

F.2.b Agency and Tribal Reports and Comments

Mr. Coenen reported items 5 (Lower Columbia River coho management plan) and 6 (OCN coho prediction methodology) in Exhibit F.2, Attachment 1 were low priority items for ODFW and would not be ready for SSC review in 2003.

Mr. Anderson reported that for WDFW the highest priority was item 1 (FRAM documentation) in Exhibit F.2, Attachment 1. Items 4 (Columbia River fall chinook ocean abundance predictors) and item 3 (Chinook FRAM modification for selective fisheries) are prioritized appropriately.

F.2.c Model Evaluation Workgroup Report

Mr. Simmons presented Exhibit F.2.c, Supplemental MEW Report.

F.2.d Reports and Comments of Advisory Bodies

**SSC**

Mr. Jagielo presented Exhibit F.2.d, Supplemental SSC Report.

## STT

Mr. Simmons presented Exhibit F.2.d, Supplemental STT Report.

### F.2.e Public Comment

None.

### F.2.f **Council Action:** Establish Final Prioritization and Schedule for Review of Salmon Methodology Changes for the 2004 Season

Mr. Tracy summarized the two requests for the methodology review from the SSC, STT, and MEW: the modification of the coho FRAM to accommodate Canadian coho stocks and fisheries for the PSC process, and review the MEW overview document for the FRAM. There was also a request that the STT and SSC be allowed to comment on the calculation of the ISBM indices.

Council members concurred with the requests.

Mr. Roth expressed appreciation of the MEW process and suggested a similar process for other Council managed species may be appropriate.

### F.3. Mitchell Act Program Update (09/11/03; 8:44 am)

#### F.3.a Agendum Overview

Mr. Tracy presented the agendum overview.

#### F.3.b NMFS Report

Mr. RZ Smith reported on the technical meeting to develop a base budget for Mitchell Act programs (Exhibit F.3, Attachment 3, Exhibit F.3.b Supplemental NMFS Report 2), which will be provided to Mr. Bob Lohn, NMFS NW regional administrator.

Dr. McIsaac asked what portion of the \$33 million was required just to maintain fish production. Mr. Smith responded that about \$20 million would be required. The remainder is to address other issues such as facilities maintenance, mass marking, screens, etc.

Mr. Roth stated that the \$33 million would also bring the hatcheries up to ESA consultation standards.

Mr. Larson noted that increasing mark selective fisheries will require additional funds for sampling those fisheries. Mr. Anderson replied that the states and tribes are involved in a separate process to discuss implementation of the federal mass marking requirement.

#### F.3.c Pacific States Marine Fisheries Commission Policy Group Report

Mr. Anderson reported a meeting of tribal and agency representatives was held on August 22, 2003 at the Council office with representatives from NMFS, USFWS, Yakama Indian Nation, ODFW, WDFW, PSMFC, and Trout Unlimited. The report from the technical meeting held on August 13, 2003 was received. At that time it was hoped that level funding would be obtained for FY 2004, recognizing that program reductions would have to be made even at that level. It appears, however, that the House and Senate mark-ups have reductions in FY2004 relative to FY2003 of about \$3-4 million. Additional constraints on facilities are resulting from new requirements such as mass marking and ESA requirements.

The earlier strategy of states finding support for annual increases in Mitchell Act funding from their congressional delegation will likely not be adequate in the future, but that is likely the only alternative for the FY2004 and FY2005 budgets. As a long term strategy, the group considered looking at other funding sources as well as approaching NMFS regarding the priorities within the agencies internal budgeting process.

The group recommended developing mechanisms to demonstrate the value of Mitchell Act production to West Coast fisheries, including estimating the effect of 50% and 100% reductions in Mitchell Act production during past seasons in terms of fishing opportunity and community income. The group also recommended developing a strategy to deliver their message to the proper individuals, the sequence of presenting the message, and the most effective way to present the message.

## **Tribes**

Mr. Harp presented Exhibit F.3.f, Supplemental Tribal Report.

## **USFWS**

Mr. Roth summarized two options for USFWS implementation the FY2004 budget as proposed by congress and the administration. One option includes closing one facility, and both options include loss of production of around 2 million fish.

### F.3.d Reports and Comments of Advisory Bodies

None.

### F.3.e Public Comment

None.

### F.3.f **Council Action:** Provide Guidance on Mitchell Act Issues

Dr. McIsaac asked Mr. Anderson if there was discussion of a subsequent meeting of the policy group to address budgeting for FY2005 beyond. Mr. Anderson replied that the next meeting would be held after the information from the analysis of Mitchell Act production contributions. Messrs. Roy Sampsel, Rick Applegate, Randy Fisher, and representatives of the coastal tribes will meet to develop a strategy for delivering the message.

Dr. McIsaac noted that if the Council concurs, a report from PSMFC at the March 2004 meeting would be appropriate to continue communication on this matter.

Dr. Dave Hanson noted that NMFS is currently developing the FY2006 presidential budget.

Mr. Tracy asked if the STT should be involved in conducting or reviewing the analysis of Mitchell Act production to Council area fisheries. Mr. Anderson responded that STT involvement was not contemplated, but any help would be appreciated. Mr. Simmons said the STT would make itself available if WDFW staff required assistance.

Mr. Donald Hansen asked what budget figure should be requested. Mr. Smith responded that the \$33 million figure would be appropriate to achieve all objectives.

Mr. Robinson reminded the Council that setting priorities was not a NMFS responsibility, but others could state their views to the appropriate parties.

Mr. Anderson stated that level funding for FY2004 was the best that could be hoped for at this point, and should be the message carried to NMFS in the near future. As for future budgets, the proper value should be developed through the ongoing process at a later date.

Mr. Gaudet asked what the value was for level funding. Mr. Smith replied \$17.622, which included a \$1.1 million add on by Congressman Dicks for mass marking.

Mr. Tracy noted there will be a progress report in March.

## **G. Pacific Halibut Management**

### G.1 Status of 2003 Pacific Halibut Fisheries

#### G.1.a NMFS Report

Ms. Yvonne de Reynier presented the NMFS Report (Exhibit G.1.a, NMFS Report).

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

None.

#### G.1.c Public Comment

None.

#### G.1.d Council Discussion on Status of 2003 Pacific Halibut Issues

None.

### G.2 Status of Pacific Halibut Bycatch Estimates for Use by the International Pacific Halibut Commission (09/11/03; 10:05 am)

#### G.2.a Agendum Overview

Mr. Tracy presented the agendum overview.

#### G.2.b NMFS Report

Dr. Jim Hastie and Mr. John Wallace provided a powerPoint presentation reviewing the report titled Pacific Halibut Bycatch in IPHC Area 2A in 2002 (Exhibit G.2, Supplemental Replacement Attachment 1).

Mr. Brown asked if the depth strata between 100 and 300 fm could be resolved at a finer scale. Dr. Hastie responded that they intend to restratify the model for that purpose.

Dr. McIsaac asked for clarification on the use of the data by the IPHC to calculate bycatch mortality. Dr. Hastie replied that the IPHC uses both the poundage and size at age to estimate mortality in terms of adult equivalents.

Dr. McIsaac asked if the data used was from August 2001 to August 2002. Dr. Hastie replied that the observer data covered that period, however the effort estimates were based on calendar year 2002 log book data, which reflected the depth based closures in the groundfish trawl fishery, and the 64% decrease in mortality accounted for both decreased effort (22%) and bycatch rates (42%).

G.2.c Reports and Comments of Advisory Bodies

**GAP**

Mr. Tracy read Exhibit G.2.c, Supplemental GAP Report.

**SSC**

Mr. Jagielo presented Exhibit G.2.c, Supplemental SSC Report.

G.2.d Public Comment

None.

G.2.e **Council Action:** Provide Guidance on Pacific Halibut Bycatch Estimation Issues

Mr. Brown requested that in the transmission letter to the IPHC, to note bycatch in 2003 was likely much lower than presented in this report due to depth based trawl closures throughout the year.

Mr. Anderson moved (Motion 12) to recommend that NMFS transmit the report for halibut bycatch estimates for the 2002 groundfish trawl fishery to the IPHC for use in management Area 2A (provided as Exhibit G.2, Attachment 1) and include in that transmittal letter the comments made by Mr. Brown that the closures in 2003 were substantial year round. Mr. Alverson seconded the motion. Motion 12 passed.

G.3 Proposed Changes to the Catch Sharing Plan and Annual Regulations (09/11/03; 10:32 am)

G.3a Agendum Overview

Mr. Tracy presented the agendum overview.

G.3.b State Proposals

**ODFW**

Ms. Patty Burke provided a summary of Exhibit G.3.b, Supplemental ODFW Report.

**WDFW**

Mr. Anderson provided Exhibit G.3.b, Supplemental WDFW Report.

G.3.c Tribal Comments

Mr. Harp provided Exhibit G.3.c, Supplemental Tribal Comments.

G.3.d Reports and Comments of Advisory Bodies

None.

G.3.e Public Comment

Mr. Dan Leinen, Clerk/Treasurer - City of Forks; Forks, Washington

G.3.f Council Action: Adopt Proposed Changes for Public Review

Mr. Anderson moved (Motion 13) to adopt for public review the proposed changes to the Area 2A Pacific halibut catch sharing plan and annual regulations as shown in Exhibit G.3.b, Supplemental WDFW Report and Exhibit G.3.b, Supplemental ODFW Report. Ms. Patty Burke seconded the motion. Motion 13 passed

**NOAA Fisheries 2003 Constituent Sessions**

Dr. William Hogarth, Assistant Administrator for the National Marine Fisheries Service (NOAA Fisheries) convened a constituent session on Monday September 8 and Tuesday, September 9 designed to gather public input on ways to improve the effectiveness of NOAA Fisheries and its management of living marine resources.

**4 PM Public Comment for Items not on the Agenda**

Mr. Ryan Kapp, NW Pilchard Producers Association, Bellingham, Washington. Spoke about the northwest sardine fishery. He Provided some background about the debate over the allocation decision. He felt flexibility was overlooked under this new plan.

Mr. Fred Felleman, Ocean Advocates/Ocean Conservancy, Seattle, Washington. Spoke about MPAs and the issues and concerns raised by the tribal governments for the Olympic coast

**ADJOURN**

The Council meeting was adjourned at 5 p.m. on Friday, September 12, 2003.

**DRAFT**

**Council Chairman**

**DRAFT**

**Date**



# DRAFT VOTING LOG

September 7 - 12, 2003

MOTION 1: Approve the agenda as shown in Exhibit A.5, September 2003 Council Meeting Agenda.

Moved by: Frank Warrens                      Seconded by: Jim Harp  
Motion 1 passed.

MOTION 2: Appoint Mr. David Ortmann as Vice-Chairman for the term starting today (September 8, 2003) until December 31, 2004.

Moved by: Phil Anderson                      Seconded by: Bob Alverson  
Motion 2 passed.

MOTION 3: Appoint Mr. Donald Hansen as chairman for the term starting today (September 8, 2003) until December 31, 2004.

Moved by: Marija Vojkovich                      Seconded by: Roger Thomas  
Motion 3 passed.

MOTION 4: Approve the April 2003 minutes with the following correction made by Mr. Anderson: on page 21 where it says "We need to wait to make the decision on whether or not to use the new rates", add after that sentence the phrase "for target species".

Moved by: Ralph Brown                      Seconded by: Marija Vojkovich  
Motion 4 passed.

MOTION 5: Do not use the discard information for inseason management for 2003 but use it for 2004 and that we schedule a discussion of the use of that data as an issue at the November Council meeting. That discussion to benefit from convening an interim subcommittee to develop recommendations for criteria to guide how and when new information (not just observer information) is incorporated into management decisions. The group to provide recommendations in March.

Moved by: Neal Coenen                      Seconded by: Frank Warrens  
Roll call vote. 9 yes, 4 no. Messrs. Alverson, Mallet, Cedergreen voted no.  
Motion 5 passed.

MOTION 6: Mr. Anderson moved to adopt the harvest specifications as shown in Exhibit C.3, Attachment 1 with the spoken changes as made by Mr. DeVore with the following additions/changes:

whiting: raise the High OY alternative to a 325,000 mt ABC and a 250,000 mt OY with no stated preferred alternative;  
sablefish: adopt the Medium OY specifications as the preferred alternative;

canary rockfish: no specific OY yet; defer the decision to agendum C.6;  
bocaccio: adopt a 250 mt OY as the preferred alternative;  
darkblotched rockfish: adopt the Medium OY specifications (ABC and OY of 240 mt) as the preferred alternative;  
black rockfish (in Oregon and California): adopt the Medium OY as the preferred alternative.

Moved by: Phil Anderson                      Seconded by: Bob Alverson  
Motion 6 passed.

MOTION 7: For inseason changes, adopt the values as shown in Exhibit C.4.b, Supplemental GMT Report with the following changes. Under Coastwide Recommendations, change the text to read "Remove midwater yellowtail/widow trawl opportunity in period 6." and the deeper nearshore limits south of 40° 10' N Latitude should be changed to 400 pounds per two months instead of one month.

Moved by: Ralph Brown                      Seconded by: Jim Harp  
Motion 7 passed.

MOTION 8: Change the name of the agenda item category from "Marine Reserves" to "Marine Protected Areas" in future Council agendas.

Moved by: Patty Wolf                      Seconded by: Jim Harp  
Motion 8 passed.

MOTION 9: Approve the proposals set forth by the GMT as shown in Exhibit C.5.d, Supplemental GMT Report for use as a set of "priorities" and use it as an intended list for later discussion under Agenda Item C.6. This will not be used as a final action, but just for the purposes of discussion and as a tool to look at EFPs and how they affect the groundfish scorecard.

Moved by: Neal Coenen                      Seconded by: Frank Warrens  
Motion 9 passed.

MOTION 10: Adopt the COP for EFPs as proposed under Exhibit C.5.b, Attachment 2, with the following modifications (1) under the section on submission, the first sentence, add "the GAP" to that list; (2) under "Review and Approval" add another bullet "Explores the use of higher trip limits or other incentives to increase utilization" (taken from the strategic plan and consistent with the language included under "Purpose"); and (3) under "Proposal Contents" add "A description of how vessels will be chosen to participate in the EFP".

Moved by: Phil Anderson                      Seconded by: Mark Cedergreen  
Motion 10 passed.

**MOTION 11:** Give direction to the GMT to work with the GAP in developing more refined 2004 management measures using guidance from the trip limits provided in Exhibit C.6.d, Supplemental GMT Report and the distribution of impacts on overfished species that are captured on page 2-45 of Exhibit C.6, Attachment 1, with the corrections/additions/deletions of the EFP actions taken earlier; modifying the trawl nonwhiting as referenced and filling in the values where needed to bring it back to us in a more refined set of management measures. In addition, the GMT should use a 58:42 split for Oregon:California black rockfish allocation, the new California recreational options, Oregon recreational Option #3, and the new bocaccio OY.

Moved by: Phil Anderson  
Motion 11 passed.

Seconded by: Marija Vojkovich

**MOTION 12:** Recommend that NMFS transmit the report for halibut bycatch estimates for the 2002 groundfish trawl fishery to the IPHC for use in management Area 2A (provided as Exhibit G.2, Attachment 1) and include in that transmittal letter the comments made by Mr. Brown that the depth based trawl closures in 2003 were substantial all year (reason why bycatch would be expected to show further reduction in 2003).

Moved by: Phil Anderson  
Motion 12 passed.

Seconded by: Bob Alverson

**MOTION 13:** Adopt for public review the proposed changes to the Area 2A Pacific halibut catch sharing plan and annual regulations as shown in Exhibit G.3.b, Supplemental WDFW Report and Exhibit G.3.b, Supplemental ODFW Report.

Moved by: Phil Anderson  
Motion 13 passed.

Seconded by: Patty Burke

**MOTION 14:** Defer choosing a range of alternatives until the November meeting at which time a better set of alternatives can be provided (anticipate an additional year of the whiting fishery operating under the EFP).

Moved by: Patty Burke  
Motion 14 passed.

Seconded by: Marija Vojkovich

**MOTION 15:** Not attempt to do a canary stock assessment in time for the 2005-2006 management period.

Moved by: Phil Anderson  
Motion 15 passed.

Seconded by: Bob Alverson

MOTION 16: Established an IQ committee composed of nine trawl representatives, and representatives from enforcement, processors, environmental sector, economists, and a tribal seat with the names to be selected by the chair at a later date.

Moved by: Ralph Brown  
Motion 16 passed.

Seconded by: Frank Warrens

MOTION 17: Adopt the Legislative Committee's report as shown in Exhibit B.4.b, Supplemental Legislative Committee Report. Motion 16 passed.

Moved by: Bob Alverson  
Motion 17 passed.

Seconded by: Mark Cedergreen

MOTION 18: Adopt the recommendations of the Budget Committee as provided in Exhibit B.5.b, Supplemental Budget Committee Report.

Moved by: Bob Alverson  
Motion 18 passed.

Seconded by: Phil Anderson

MOTION 19: Revise the composition of the CPSAS by reducing it to 10 members by combining the charterboat positions for northern and southern California into one position ; add one sport fisher at-large position to the GAP; add one northern California charterboat position to the GAP (north of Point Conception); for the SAS, eliminate the public at-large seat; for the GAP tribal fisher seat, keep it listed as a three-year term, same as other members; apply the same to the SAS (tribal fisher position); for the California and Washington Coast /Columbia River tribal seats on the HC (tribal government seats), set the appointments for three years to address the rotation issue (rotation of the position between tribes); include one new seat on the SSC that is specified for NMFS SWFSC.

Moved by: Phil Anderson  
Motion 19 passed.

Seconded by: Marija Vojkovich

MOTION 20: Adopt the management recommendations in Exhibit C.6.o, Supplemental GMT Report 3 for the 2004 season with the edits provided by Ms. Vojkovich and the following modifications: 1) the motion does not include the VMS transiting proposals; 2) the motion does not include the delay of the sablefish primary season start date; 3) the motion does not address the proposal to implement selective flatfish trawl regulations (the motion is not in opposition to the proposal; it just does not address it); 4) the motion includes the understanding that the 400 mt ABC for bocaccio does not indicate a Council endorsement of any particular model in the rebuilding analysis; 5) the motion specifically provides that the allocation outcomes between commercial and recreational sectors as well as between states, except where they are already previously provided in previous actions, are not endorsed for future years; and 6) the motion includes a provision that the Council will revisit the issue of retention of

canary rockfish under a one fish bag limit for any of the three states in April pending the acquisition of the additional data that will come from the observer program and the outlook for the recreational salmon fisheries in the three states.

Moved by: Phil Anderson                      Seconded by: Marija Vojkovich

Amendment: Continue the "B" platoon for the trawl fishery with concurrent changes in depth lines for both platoons.

Moved by: Ralph Brown                      Seconded by: Marija Vojkovich

Amendment failed by a vote of 3 yes, 9 no.

Motion 20 passed.

MOTION 21: Working off Exhibit C.6.o, Supplemental GMT Report 2, adopt a canary OY of 47.3 mt and the EFP caps that are represented on the bycatch scorecard in table 2.

Moved by: Phil Anderson                      Seconded by: Bob Alverson

Motion 21 passed.

MOTION 22: Adopt Exhibit C.6.s, Supplemental Treaty Indian Management Measures, for tribal groundfish fisheries for 2004 (front side).

Moved by: Jim Harp                              Seconded by: Phil Anderson

Motion 22 passed.

MOTION 23: Adopt Exhibit C.6.s, Supplemental Treaty Indian Management Measures for the Makah Pacific whiting fishery (back side) with the clarification that the tribes intend to adopt the trip limits in Table 3 of Exhibit C.6.o, Supplemental GMT Report 3 without depth restrictions.

Moved by: Jim Harp                              Seconded by: Neil Coenen

Motion 23 passed.

108TH CONGRESS  
2D SESSION

# S. 2066

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2004

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## A BILL

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Fishery Conservation and Management Amendments Act  
6       of 2004”.

7       (b) **TABLE OF CONTENTS.**—The table of contents for  
8       this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.
- Sec. 3. Definitions.
- Sec. 4. Authorization of appropriations.
- Sec. 5. Treaty on Pacific Coast albacore tuna.
- Sec. 6. Monitoring of Pacific insular area fisheries.
- Sec. 7. Caribbean Council jurisdiction.
- Sec. 8. Notice of council meetings.
- Sec. 9. Fishery management plan requirements.
- Sec. 10. Submission of economic data.
- Sec. 11. Individual fishing quotas.
- Sec. 12. Gulf of Mexico fishing quota systems.
- Sec. 13. Action by the secretary.
- Sec. 14. Rebuilding depleted fisheries.
- Sec. 15. Steaming time.
- Sec. 16. Emergency regulations.
- Sec. 17. Fishing capacity reduction program.
- Sec. 18. Collection of information.
- Sec. 19. Access to certain information.
- Sec. 20. Maine pocket waters.
- Sec. 21. Western Pacific fishery demonstration projects.
- Sec. 22. Cooperative research and management.
- Sec. 23. Independent peer review of data collection procedures.
- Sec. 24. Advisory committee reform and peer review.
- Sec. 25. Cumulative impacts.
- Sec. 26. Essential fish habitat.
- Sec. 27. Cooperative enforcement agreements.
- Sec. 28. Scientific and statistical committees report on ecosystem research priorities; pilot program for fishery ecosystem plans.

1 **SEC. 2. AMENDMENT OF MAGNUSON-STEVEN'S FISHERY**  
 2 **CONSERVATION AND MANAGEMENT ACT.**

3 Except as otherwise expressly provided, whenever in  
 4 this Act an amendment or repeal is expressed in terms  
 5 of an amendment to, or repeal of, a section or other provi-  
 6 sion, the reference shall be considered to be made to a  
 7 section or other provision of the Magnuson-Stevens Fish-  
 8 ery Conservation and Management Act (16 U.S.C. 1801  
 9 et seq.).

1 **SEC. 3. DEFINITIONS.**

2 (a) IN GENERAL.—Section 3 (16 U.S.C. 1802) is  
3 amended—

4 (1) by inserting after paragraph (8), the fol-  
5 lowing:

6 “(8A) The term ‘depleted’ when used with re-  
7 spect to a stock of fish, means that the stock is of  
8 a size that is below the natural range of fluctuation  
9 associated with the production of maximum sustain-  
10 able yield.”;

11 (2) by inserting after paragraph (18) the fol-  
12 lowing:

13 “(18A) The term ‘habitat area of particular  
14 concern’ means those waters and submerged sub-  
15 strate that form a discrete vulnerable subunit of es-  
16 sential fish habitat that is required for a stock to  
17 sustain itself and which is designated through a  
18 specified set of national criteria which includes, at a  
19 minimum, a requirement that designation be based  
20 on the best scientific information available regarding  
21 habitat-specific density of that fish stock, growth, re-  
22 production, and survival rates of that stock within  
23 the designated area.”;

24 (3) by inserting “and” after the semicolon in  
25 paragraph (28)(A);

1 (4) by striking “factor; and” in paragraph  
2 (28)(B) and inserting “factor.”;

3 (5) by striking subparagraph (C) of paragraph  
4 (28); and

5 (6) by striking paragraph (29) and inserting  
6 the following:

7 “(29) The term ‘overfishing’ means a rate or  
8 level of fishing mortality that jeopardizes the capac-  
9 ity of a fishery to produce the maximum sustainable  
10 yield on a continuing basis.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) The Act is amended by striking “over-  
13 fished” each place it appears and inserting “de-  
14 pleted”.

15 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

16 Section 4 (16 U.S.C. 1803) is amended to read as  
17 follows:

18 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

19 “There are authorized to be appropriated to the Sec-  
20 retary for the purposes of carrying out this Act—

21 “(1) \$400,000,000 for fiscal year 2004;

22 “(2) \$415,000,000 for fiscal year 2005;

23 “(3) \$430,000,000 for fiscal year 2006;

24 “(4) \$445,000,000 for fiscal year 2007; and

25 “(5) \$460,000,000 for fiscal year 2008.”.

1 **SEC. 5. TREATY ON PACIFIC COAST ALBACORE TUNA.**

2 (a) FOREIGN FISHING UNDER TREATY; IMPLEMEN-  
3 TATION.—Section 202(e) (16 U.S.C. 1822(e)) is amended  
4 by adding at the end the following:

5 “(6) TREATY ON PACIFIC COAST ALBACORE  
6 TUNA VESSELS.—

7 “(A) Notwithstanding section 201, foreign  
8 fishing may be conducted pursuant to the Trea-  
9 ty between the Government of the United  
10 States of America and the Government of Can-  
11 ada on Pacific Coast Albacore Tuna Vessels  
12 and Port Privileges, signed at Washington May  
13 26, 1981, including its Annexes and any  
14 amendments thereto.

15 “(B) The Secretary of Commerce, with the  
16 concurrence of the Secretary of State, may pro-  
17 mulgate regulations necessary to discharge the  
18 obligations of the United States of America  
19 under the Treaty between the Government of  
20 the United States of America and the Govern-  
21 ment of Canada on Pacific Coast Albacore  
22 Tuna Vessels and Port Privileges, signed at  
23 Washington May 26, 1981, including its An-  
24 nexes and any amendments thereto.”.

25 (b) CONFORMING AMENDMENTS.—

1           (1) Paragraph (1) of section 201(a)(1) (16  
2           U.S.C. 1821(a)) is amended by striking “or (c)” and  
3           inserting “or (c), section 202(e)(6),”.

4           (2) Section 204(a) (16 U.S.C. 1824 (a)) is  
5           amended by striking “vessel.” and inserting “vessel  
6           or the fishing is authorized under section  
7           202(e)(6).”.

8           (3) Section 307(2)(B) (16 U.S.C. 1857(2)(B))  
9           is amended by striking “section 201(i),” and insert-  
10          ing “section 201(i) and foreign fishing permitted  
11          under section 202(e)(6),”.

12 **SEC. 6. MONITORING OF PACIFIC INSULAR AREA FISH-**  
13 **ERIES.**

14          (a) **WAIVER AUTHORITY.**—Section 201(h)(2)(B) (16  
15          U.S.C. 1821(h)(2)(B)) is amended by striking “that is at  
16          least equal in effectiveness to the program established by  
17          the Secretary;” and inserting “or other monitoring pro-  
18          gram that the Secretary determines is adequate to monitor  
19          harvest, bycatch, and compliance with the laws of the  
20          United States by vessels fishing under the agreement;”.

21          (b) **MARINE CONSERVATION PLANS.**—Section  
22          204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended  
23          to read as follows:

24                  “(i) Pacific Insular Area observer programs, or  
25          other monitoring programs, that the Secretary deter-

1 mines are adequate to monitor the harvest, bycatch,  
2 and compliance with the laws of the United States  
3 by foreign fishing vessels that fish under Pacific In-  
4 sular Area fishing agreements;”.

5 **SEC. 7. CARIBBEAN COUNCIL JURISDICTION.**

6 Section 302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is  
7 amended by inserting “and of commonwealths, territories,  
8 and possessions of the United States in the Caribbean  
9 Sea” after “seaward of such States”.

10 **SEC. 8. NOTICE OF COUNCIL MEETINGS.**

11 (a) **REGULAR AND EMERGENCY MEETINGS.**—The  
12 first sentence of section 302(i)(2)(C) (16 U.S.C.  
13 1852(i)(2)(C)) is amended to read as follows: “Timely  
14 public notice of each regular meeting and each emergency  
15 meeting, including the time, place, and agenda of the  
16 meeting shall be provided by any means that will result  
17 in wide publicity in the major fishing ports of the region  
18 (and in other major fishing ports having a direct interest  
19 in the affected fishery).”

20 (b) **CLOSED MEETINGS.**—Section 302(i)(3)(B) (16  
21 U.S.C. 1852(i)(3)(B)) is amended by striking “notify local  
22 newspapers” and inserting “provide notice by any means  
23 that will result in wide publicity”.

1 **SEC. 9. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

2 Section 303(a)(5) (16 U.S.C. 1853(a)(5)) is amended  
3 by inserting “harvest and processing revenues (by spe-  
4 cies), production costs, capital expenditures, and other  
5 fishing or processing expenses”, after “number of hauls,”.

6 **SEC. 10. SUBMISSION OF ECONOMIC DATA.**

7 Section 303(b)(7) (16 U.S.C. 1853(b)(7)) is amended  
8 by striking “(other than economic data)”.

9 **SEC. 11. INDIVIDUAL FISHING QUOTAS**

10 (a) IN GENERAL.—Section 303 (16 U.S.C. 1853) is  
11 amended—

12 (1) by striking subsection (b)(6) and inserting  
13 the following:

14 “(6) establish a limited access system for the  
15 fishery in order to achieve optimum yield if, in devel-  
16 oping such system, the Council and the Secretary  
17 take into account—

18 “(A) the conservation requirements of this  
19 Act with respect to the fishery;

20 “(B) present participation in the fishery;

21 “(C) historical fishing practices in, and de-  
22 pendence on, the fishery;

23 “(D) the economics of the fishery;

24 “(E) the capability of fishing vessels used  
25 in the fishery to engage in other fisheries;

1           “(F) the cultural and social framework rel-  
2           evant to the fishery and any affected fishing  
3           communities;

4           “(G) the fair and equitable distribution of  
5           a public resource; and

6           “(H) any other relevant considerations;”;

7           (2) by striking subsection (d) and inserting the  
8           following:

9           “(d) FISHING QUOTA SYSTEMS.—

10           “(1) ESTABLISHMENT.—Any fishery manage-  
11           ment plan or amendment that is prepared by any  
12           Council, or by the Secretary, with respect to any  
13           fishery, may establish a fishing quota system con-  
14           sistent with the provisions of subsection (b)(6).

15           “(2) IN GENERAL.—The Councils and Sec-  
16           retary shall ensure that any such fishing quota sys-  
17           tem submitted and approved after September 30,  
18           2004, complies with the requirements of this section  
19           and—

20           “(A) shall prevent any person from acquir-  
21           ing an excessive share of the fishing quotas  
22           issued, as appropriate for the fishery, and es-  
23           tablish any other limits or measures necessary  
24           to prevent inequitable concentration of quota  
25           share;

1           “(B) shall provide for the fair and equi-  
2 table initial allocation of quota share and in  
3 such allocation—

4                   “(i) shall take into account present  
5 and historic participation in the fishery;

6                   “(ii) shall consider allocating a por-  
7 tion of the annual harvest to entry-level  
8 fishermen, small vessel owners, skippers,  
9 crew members, and fishing communities;  
10 and

11                   “(iii) may allocate shares among cat-  
12 egories of vessels or gear types;

13           “(C) shall contain provisions for the reg-  
14 ular review and evaluation of the system, in-  
15 cluding timetables and criteria for evaluating  
16 performance, and actions to be taken for failure  
17 to meet the criteria;

18           “(D) shall contain criteria that would gov-  
19 ern limitation, revocation, renewal, reallocation,  
20 or reissuance of fishing quota, including:

21                   “(i) reallocation or reissuance of  
22 quota revoked pursuant to section 308 of  
23 this Act;

24                   “(ii) revocation and reissuance of fish-  
25 ing quota if the owner of the quota cease

1 to substantially participate in the fishery;  
2 and

3 “(iii) exceptions to revocation or limi-  
4 tation in cases of death, disablement,  
5 undue hardship, or in any case in which  
6 fishing is prohibited by the Secretary;

7 “(E) shall provide a process for appeals of  
8 decisions on—

9 “(i) eligibility of a person to receive or  
10 bid for an allocation of quota shares; and

11 “(ii) limitations, restrictions and rev-  
12 ocations of quota held by a person;

13 “(F) shall promote management measures  
14 to improve the conservation and management of  
15 the fishery, including reduction of bycatch;

16 “(G) shall provide for effective enforce-  
17 ment, monitoring, management of such system,  
18 including adequate data collection and use of  
19 observers at least at a level of coverage that  
20 should yield statistically significant results;

21 “(H) may provide for the sale, lease or  
22 transfer of quota shares and limitations thereto;

23 “(I) shall provide a mechanism, such as  
24 fees as authorized by section 304(d)(2), includ-  
25 ing fees payable on quota transfers to recover

1 costs related to administering and implementing  
2 the program, including enforcement, manage-  
3 ment and data collection (including adequate  
4 observer coverage), if the assessment of such  
5 fees is proportional to the amount of quota held  
6 and fished by each quota holder and if such  
7 fees are used only for that fishing quota sys-  
8 tem;

9 “(J) shall consider the use of community  
10 or area-based approaches and strategies in de-  
11 veloping fishing quota systems and consider  
12 other management measures, including meas-  
13 ures to facilitate formation of fishery coopera-  
14 tive arrangements, taking into account prox-  
15 imity to and dependence on the resource, con-  
16 tribution of fishing to the social and economic  
17 status of the community, and historic participa-  
18 tion in the fishery; and

19 “(K) shall include procedures and require-  
20 ments necessary to carry out subparagraphs  
21 (A) through (J).

22 “(3) NO CREATION OF RIGHT, TITLE, OR IN-  
23 TEREST.—A fishing quota or other limited access  
24 system authorization—

1           “(A) shall be considered a permit for the  
2 purposes of sections 307, 308, and 309;

3           “(B) may be revoked or limited at any  
4 time in accordance with this Act, including for  
5 failure to comply with the terms of the plan or  
6 if the system is found to have jeopardized the  
7 sustainability of the stock or the safety of fish-  
8 ermen;

9           “(C) shall not confer any right of com-  
10 pensation to the holder of such fishing quota or  
11 other such limited access system authorization  
12 if it is revoked or limited;

13           “(D) shall not create, or be construed to  
14 create, any right, title, or interest in or to any  
15 fish before the fish is harvested; and

16           “(E) shall be considered a grant of permis-  
17 sion to the holder of the fishing quota to engage  
18 in activities permitted by the fishing quota sys-  
19 tem.

20           “(4) ELIGIBILITY.—Persons eligible to hold  
21 fishing quota shares are persons who are United  
22 States citizens, or who are United States nationals  
23 or permanent resident aliens qualified by Federal  
24 law to participate in the fishery.

1           “(5) DURATION.—Any fishing quota system es-  
2           tablished under this section after the date of enact-  
3           ment of the Fishery Conservation and Management  
4           Amendments Act of 2004 shall expire at the end of  
5           a 10-year period beginning on the date the system  
6           is established, or at the end of successive 10 year pe-  
7           riods thereafter, unless extended by a fishery man-  
8           agement plan amendment in accordance with this  
9           Act, for successive periods not to exceed 10 years.

10           “(6) REFERENDUM PROCEDURES.—

11           “(A) Except as provided in subparagraph  
12           (C) for the Gulf of Mexico commercial red  
13           snapper fishery, a Council may not submit, and  
14           the Secretary not approve or implement a fish-  
15           ery management plan or amendment that cre-  
16           ates a fishing quota system, including a secre-  
17           tarial plan, unless such a system, as ultimately  
18           developed, has been approved by more than  
19           two-thirds of those voting in a referendum  
20           among eligible permit holders. If a fishing  
21           quota system fails to be approved by the req-  
22           uisite number of those voting, it may be revised  
23           and submitted for approval in a subsequent ref-  
24           erendum.

1           “(B) The Secretary shall conduct the ref-  
2           erendum referred to in this paragraph, includ-  
3           ing notifying all persons eligible to participate  
4           in the referendum and making available to  
5           them information concerning the schedule, pro-  
6           cedures and eligibility requirements for the ref-  
7           erendum process and the proposed fishing  
8           quota system. The Secretary shall within one  
9           year of enactment of the Fishing Quota Act of  
10          2003 publish guidelines and procedures to de-  
11          termine procedures and voting eligibility re-  
12          quirements for referenda and to conduct such  
13          referenda in a fair and equitable manner.

14          “(C) The provisions of section 407(c) shall  
15          apply in lieu of this paragraph for any fishing  
16          quota system for the Gulf of Mexico commercial  
17          red snapper fishery.

18          “(D) Chapter 35 of title 44, United States  
19          Code, (commonly known as the ‘Paperwork Re-  
20          duction Act’) does not apply to the referenda  
21          conducted under this paragraph.

22          “(7)(A) No provision of law shall be construed  
23          to limit the authority of a Council to submit, or the  
24          Secretary to approve, the termination or limitation,  
25          without compensation to holders of any limited ac-

1       cess system permits, of a fishery management plan,  
2       plan amendment, or regulation that provides for a  
3       limited access system, including a fishing quota sys-  
4       tem.

5               “(B) This subsection shall not apply to, or be  
6       construed to prohibit a Council from submitting, or  
7       the Secretary from approving and implementing,  
8       amendments to the North Pacific halibut and sable-  
9       fish, South Atlantic wreckfish, or Mid-Atlantic surf  
10      clam and ocean (including mahogany) quahog indi-  
11      vidual fishing quota programs.

12              “(8)(A) A Council may submit, and the Sec-  
13      retary may approve and implement, a program  
14      which reserves up to 25 percent of any fees collected  
15      from a fishery under section 304(d)(2) to be used,  
16      pursuant to section 1104A(a)(7) of the Merchant  
17      Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to  
18      issue obligations that aid in financing the—

19                      “(i) purchase of fishing quotas in that fish-  
20                      ery by fishermen who fish from small vessels;  
21                      and

22                      “(ii) first-time purchase of fishing quotas  
23                      in that fishery by entry level fishermen.

24              “(B) A Council making a submission under  
25      subparagraph (A) shall recommend criteria, con-

1       sistent with the provisions of this Act, that a fisher-  
2       man must meet to qualify for guarantees under  
3       clauses (i) and (ii) of subparagraph (A) and the por-  
4       tion of funds to be allocated for guarantees under  
5       each clause.”.

6       (b) INDEPENDENT REVIEW.—Section 303 (16 U.S.C.  
7 1853) is further amended by adding at the end the fol-  
8       lowing:

9       “(e) INDEPENDENT REVIEW OF EFFECTIVENESS.—

10           “(1) Within 5 years after the date of enactment  
11       of the Fishery Conservation and Management  
12       Amendments Act of 2004, and every 5 years there-  
13       after, the National Research Council shall provide  
14       an independent review of the effectiveness of fishing  
15       quota systems conducted in Federal fisheries.

16           “(2) The review shall be conducted by an inde-  
17       pendent panel of individuals who have knowledge  
18       and experience in fisheries conservation and manage-  
19       ment, in the implementation of fishing quota sys-  
20       tems, or in the social or economic characteristics of  
21       fisheries. The National Research Council shall en-  
22       sure that members of the panel are qualified for ap-  
23       pointment, are not active quota share holders, and  
24       provide fair representation to interests affected by  
25       such programs.

1           “(3) The independent review of fishing quota  
2 systems shall include—

3                   “(A) a determination of how fishing quota  
4 systems affect fisheries management and con-  
5 tribute to improved management, conservation  
6 (including bycatch reduction) and safety in the  
7 fishery;

8                   “(B) formal input in the form of testimony  
9 from quota holders relative to the effectiveness  
10 of the fishing quota system;

11                   “(C) an evaluation of the social, economic  
12 and biological consequences of the quota sys-  
13 tem, including the economic effects of the sys-  
14 tem on fishing communities;

15                   “(D) an evaluation of the costs of imple-  
16 menting, monitoring and enforcing the systems  
17 and the methods used to establish or allocate  
18 individual quota shares; and

19                   “(E) recommendations to the Councils and  
20 the Secretary to ensure that quota systems  
21 meet the requirements of this Act and the goals  
22 of the plans, and recommendations to the Sec-  
23 retary for any changes to regulations issued  
24 under section 304(i).

1           “(4) The Secretary shall submit the report to  
2           the Congress and any appropriate Councils within  
3           60 days after the review is completed.”.

4           (c) ACTION ON LIMITED ACCESS SYSTEMS.—Section  
5           304 (16 U.S.C. 1854) is amended by adding at the end  
6           the following:

7           “(i) ACTION ON LIMITED ACCESS SYSTEMS.—Within  
8           1 year after the date of enactment of the Fishery Con-  
9           servation and Management Amendments Act of 2004, the  
10          Secretary shall issue regulations which establish require-  
11          ments for establishing a fishing quota system. Nothing in  
12          this paragraph prohibits a Council or the Secretary from  
13          initiating development of a fishing quota system consistent  
14          with the provisions of this Act pending publication of the  
15          final regulations.”.

16          (d) DEFINITIONS.—Section (16 U.S.C. 1802) is  
17          amended by—

18                 (1) adding at the end the following:

19                 “(46) The term ‘United States Citizen’ means  
20                 an individual who is a citizen of the United States  
21                 or a corporation, partnership, association, or other  
22                 entity that qualifies to document a fishing vessel as  
23                 a vessel of the United States under chapter 121 of  
24                 title 46, United States Code.’; and

1           (2) striking “‘individual fishing quota’” in  
 2 paragraph (21) and inserting “‘fishing quota sys-  
 3 tem’”.

4 (e) CONFORMING AMENDMENTS.—

5           (1) The following provisions are each amended  
 6 by striking “‘individual fishing quota’” and inserting  
 7 “‘fishing quota’”:

8           (A)       Section       304(c)(3)       (16  
 9 U.S.C.1854(c)(3)).

10          (B)       Section       304(d)(2)(A)(i)     (16  
 11 U.S.C.1854(d)(2)(A)(i)).

12          (C)       Section   402(b)(1)(D)   (16 U.S.C.  
 13 1881a(b)(1)(D)).

14          (D)       Section   407(a)(1)(D), (c)(1), and  
 15 (c)(2)(B) (16 U.S.C. 1883(a)(1)(D), (c)(1), and  
 16 (c)(2)(B)).

17          (2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is  
 18 amended by striking “‘individual’”.

19 **SEC. 12. GULF OF MEXICO FISHING QUOTA SYSTEMS.**

20          Section 407(c) (16 U.S.C. 1883) is amended by add-  
 21 ing at the end the following:

22          “(3) The initial referendum described in paragraph  
 23 (1) shall be used to determine support for whether the  
 24 sale, transfer, or lease of quota shares shall be allowed.”.

1 **SEC. 13. ACTION BY THE SECRETARY.**

2 (a) REVIEW OF PLANS AND INITIAL REGULA-  
3 TIONS.— Section 304(a)(1) (16 U.S.C. 1854(a)(1)) is  
4 amended—

5 (1) by striking “amendment,” before subpara-  
6 graph (A) and inserting “amendment and any pro-  
7 posed implementing regulations prepared under sec-  
8 tion 303(e)(1),”;

9 (2) by redesignating subparagraphs (A) and  
10 (B) as subparagraphs (B) and (C), respectively;

11 (3) by inserting before subparagraph (B), as so  
12 redesignated, the following:

13 “(A)(i) immediately make a preliminary  
14 evaluation of the management plan or amend-  
15 ment for purposes of deciding whether it is—

16 “(I) consistent with the national  
17 standards, the other provisions of this Act,  
18 and other applicable law; and

19 “(II) sufficient in scope and substance  
20 to warrant review under this subsection;

21 “(ii) if that decision is affirmative with re-  
22 spect to both subclauses (I) and (II) of clause  
23 (i), implement subparagraphs (B) and (C) with  
24 respect to the plan or amendment; and

25 “(iii) if that decision is negative with re-  
26 spect to either subclause (I) or (II) of clause

1 (i), disapprove the plan or amendment and no-  
2 tify the Council in writing of the disapproval  
3 and of those matters specified under paragraph  
4 (3)(A), (B), and (C) with respect to the plan or  
5 amendment;” and

6 (4) by amending subparagraph (C), as so reded-  
7 icated, to read as follows:

8 “(C) by the 15th day following transmittal  
9 of the plan or amendment, and proposed imple-  
10 menting regulations, publish in the Federal  
11 Register—

12 “(i) a notice stating that the plan or  
13 amendment is available and that written  
14 data, views, or comments of interested per-  
15 sons on the plan or amendment may be  
16 submitted to the Secretary during the 50-  
17 day period beginning on the date the notice  
18 is published; and

19 “(ii) any proposed implementing regu-  
20 lations that are consistent with the fishery  
21 management plan or amendment, this Act,  
22 and any other applicable law, for a com-  
23 ment period of 50 days, except that the  
24 Secretary may include such technical  
25 changes to the Council’s proposed regula-

1                   tions as may be necessary for clarity, along  
2                   with an explanation of those changes.”.

3           (b) REVIEW OF PROPOSED MODIFICATIONS.—

4                   (1) Paragraph (1) of section 304(b) (16 U.S.C.  
5                   1854(b)) is amended to read as follows:

6                   “(1)(A) Upon transmittal by the Council to the  
7                   Secretary of regulations proposed under section  
8                   303(c)(2), the Secretary shall immediately initiate  
9                   an evaluation of the proposed regulations to deter-  
10                  mine whether they are consistent with the fishery  
11                  management plan, plan amendment, this Act, and  
12                  other applicable law.

13                  “(B) If the Secretary determines that the regu-  
14                  lations are consistent, the Secretary shall, within 15  
15                  days of transmittal, publish such regulations in the  
16                  Federal Register, with such technical changes as  
17                  may be necessary for clarity and an explanation of  
18                  those changes, for a public comment period of 15 to  
19                  60 days, unless the Secretary finds good cause not  
20                  to publish a notice of proposed rulemaking in ac-  
21                  cordance with section 553 of title 5, United States  
22                  Code.

23                  “(C) If the Secretary determines that the regu-  
24                  lations are not consistent, the Secretary shall, within  
25                  15 days of transmittal, notify the Council in writing

1 of the inconsistencies and provide recommendations  
2 on revisions that would make the proposed regula-  
3 tions consistent with the fishery management plan,  
4 plan amendment, this Act, and other applicable  
5 law.”.

6 (2) Section 304(b)(2) (16 U.S.C. 1854(b)(2)) is  
7 amended by striking “paragraph (1)(B),” and in-  
8 serting “paragraph (1)(C),”.

9 (3) Section 304(b)(3) (16 U.S.C. 1854(b)(3)) is  
10 amended by striking “paragraph (1)(A).” and in-  
11 serting “paragraph (1)(B), and within 45 days after  
12 the end of the comment period under subsection  
13 (a)(1)(C).”.

14 (4) Section 304(b)(16 U.S.C. 1854(b)) is  
15 amended by adding at the end the following:

16 “(4) For regulatory actions, other than those  
17 proposed by a Council under section 303(c), that are  
18 taken in accordance with a fishery management  
19 plan, the Secretary shall process the actions in ac-  
20 cordance with the plan. If the Secretary determines  
21 that the actions are consistent with the plan, this  
22 Act, and other applicable law, the Secretary shall  
23 publish in the Federal Register a notice of the ac-  
24 tions. The Secretary may find good cause not to  
25 publish a notice of proposed rulemaking in accord-

1       ance with section 553 of title 5, United States  
2       Code.”.

3       **SEC. 14. REBUILDING DEPLETED FISHERIES.**

4       (a) IN GENERAL.—Section 304(e)(4) (16 U.S.C.  
5       1854) is amended to read as follows:

6       “(4) The Secretary shall promulgate regulations to  
7       govern fishing after January 1, 2008, that—

8               “(A) limit fishing mortality to a rate not great-  
9               er than the rate that would be expected to produce  
10              maximum sustainable yield, except—

11                      “(i) in cases where management measures  
12                      under an international agreement in which the  
13                      United States participates dictate otherwise;  
14                      and

15                      “(ii) as provided in subparagraph (B);

16               “(B) for stocks that are depleted, limit fishing  
17               mortality to 80 percent of the fishing mortality rate  
18               that would be expected to produce maximum sus-  
19               tainable yield, except in cases where management  
20               measures under an international agreement in which  
21               the United States participates dictate otherwise; and

22               “(C) allocate both fishing restrictions and re-  
23               covery benefits fairly and equitably among gear sec-  
24               tors and communities in the fishery, taking into ac-

1 count long term historical participation in the fish-  
2 ery.”.

3 (b) Section 304(e)(3) (16 U.S.C. 1854(e)(3)) is  
4 amended by striking “Within one year of an identification  
5 under paragraph (1)” and inserting “Within 1 year after  
6 a fishery is identified as depleted or approaching a condi-  
7 tion of being depleted,”.

8 (c) Section 303(a) (16 U.S.C. 1853(a)) is amended—

9 (1) by redesignating paragraphs (2) through  
10 (14) as paragraphs (3) through (15), respectively;  
11 and

12 (2) by inserting after paragraph (1) the fol-  
13 lowing:

14 “(2) specify a biomass limit below which the  
15 stock should not be allowed to fall and a threshold  
16 below which the fishing mortality rate must be re-  
17 duced;”.

18 **SEC. 15. STEAMING TIME.**

19 Section 301(a)(4) (16 U.S.C. 1851(a)(4)) is amended  
20 by striking “privileges.” and inserting “privileges, and  
21 shall take into account the differences in distances to fish-  
22 ing grounds from different States.”.

23 **SEC. 16. EMERGENCY REGULATIONS.**

24 (a) LENGTHENING OF SECOND EMERGENCY PE-  
25 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))

1 is amended by striking “180 days,” and inserting “186  
2 days,”.

3 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)  
4 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or  
5 interim measures” after “emergency regulations”.

6 **SEC. 17. FISHING CAPACITY REDUCTION PROGRAM.**

7 Section 312 (16 U.S.C. 1861(a)) is amended by strik-  
8 ing subsections (b) through (e) and inserting the following:

9 “(b) FISHING CAPACITY REDUCTION PROGRAM.—

10 “(1) The Secretary may conduct a fishing ca-  
11 pacity reduction program in a fishery under the au-  
12 thority of the Secretary, a Council or a State if the  
13 Secretary determines that the program—

14 “(A) is necessary to improve either the  
15 fishery’s conservation and management or the  
16 fishery’s economic efficiency, stability, safety,  
17 well being, organizational effectiveness, or sub-  
18 sequent rationalization;

19 “(B) is consistent with the Federal or  
20 State fishery management plan or program in  
21 effect for such fishery, as appropriate, and that  
22 the fishery management plan—

23 “(i) will prevent replacement of the  
24 fishing capacity that the program removes  
25 through a moratorium on new entrants,

1           practicable restrictions on vessel upgrades,  
2           and measures that take into account any  
3           latent fishing capacity in the fishery’s fleet;  
4           and

5           “(ii) establishes a specified or target  
6           total allowable catch or other measures  
7           that trigger fishery closure or adjustments;

8           “(C) is cost-effective and, in the instance  
9           of a program involving an industry-fee system,  
10          prospectively capable of repaying any debt obli-  
11          gation incurred under section 1111 of the Mer-  
12          chant Marine Act, 1936 (46 U.S.C. App.  
13          1279d); and

14          “(D) all participants in the capacity reduc-  
15          tion program participate on a voluntary basis,  
16          but the Secretary is authorized to ensure com-  
17          pliance with the program by those who choose  
18          to participate.

19          “(2) The objective of the program shall be to  
20          obtain the maximum sustained reduction in fishing  
21          capacity at the least cost and in a minimum period  
22          of time. To achieve that objective, the Secretary is  
23          authorized to pay—

24                 “(A) the owner of a fishing vessel, if the  
25                 permit authorizing the participation of the ves-

1           sel in the fishery is surrendered for permanent  
2           revocation and the vessel owner and permit  
3           holder relinquish any claim associated with the  
4           vessel or permit that could qualify such owner  
5           or holder for any present or future limited ac-  
6           cess system permit in the fishery for which the  
7           program is established and such vessel is—

8                   “(i) scrapped; or

9                   “(ii) subjected to title restrictions (in-  
10                  cluding, but not limited to, loss of the ves-  
11                  sel’s fisheries endorsement) by the Sec-  
12                  retary of the department in which the  
13                  Coast Guard is operating, that perma-  
14                  nently prohibit and effectively prevent its  
15                  use in domestic fishing; or

16                  “(B) the holder of a permit authorizing  
17                  participation in the fishery, if such permit is  
18                  surrendered for permanent revocation, and such  
19                  holder relinquishes any claim associated with  
20                  the permit and vessel used to harvest fishery re-  
21                  sources under the permit that could qualify  
22                  such holder for any present or future limited  
23                  access system permit in the fishery for which  
24                  the program is established.

1           “(3) The Secretary shall consult, as appro-  
2           priate, with Councils, Federal agencies, State and  
3           regional authorities, affected fishing communities,  
4           participants in the fishery, conservation organiza-  
5           tions, and other interested parties throughout the  
6           development and implementation of the program  
7           under this section.

8           “(c) PROGRAM FUNDING.—

9           “(1) The program may be funded by any com-  
10          bination of amounts—

11           “(A) available under clause (iv) of section  
12           2(b)(1)(A) of the Act of August 11, 1939 (15  
13           U.S.C. 713c-3(b)(1)(A); the Saltonstall-Ken-  
14           nedy Act);

15           “(B) appropriated for the purposes of this  
16           section;

17           “(C) provided under an industry fee sys-  
18           tem established under subsection (d) and in ac-  
19           cordance with section 1111 of the Merchant  
20           Marine Act, 1936 (46 U.S.C. App. 1279d); or

21           “(D) provided by any State or other public  
22           or private or non-profit organization.

23           “(2) All funds for the program, including any  
24           fees established under subsection (d), shall be paid  
25           into the fishing capacity reduction funds established

1 under section 1111 of the Merchant Marine Act,  
2 1936 (46 U.S.C. App. 1279d).

3 “(d) INDUSTRY FEE SYSTEM.—

4 “(1)(A) If an industry fee system is necessary  
5 to fund the program, the Secretary shall conduct a  
6 referendum on such system. Prior to the ref-  
7 erendum, the Secretary shall—

8 “(i) identify, to the extent, practicable, and  
9 notify all permit or vessel owners who would be  
10 affected by the program; and

11 “(ii) make available to such owners infor-  
12 mation about the industry fee system describing  
13 the schedule, procedures, and eligibility require-  
14 ments for the referendum; the proposed pro-  
15 gram; and the amount and duration and any  
16 other terms and conditions of the proposed fee  
17 system.

18 “(B) The industry fee system shall be approved  
19 if the referendum votes which are cast in favor of  
20 the proposed system constitute a two-thirds majority  
21 of the participants voting.

22 “(2) Notwithstanding section 304(d) and con-  
23 sistent with an approved industry fee system, the  
24 Secretary is authorized to establish such a system to  
25 fund the program and repay debt obligations in-

1 curred pursuant to section 1111 of the Merchant  
2 Marine Act, 1936 (46 U.S.C. App. 1279d). The fees  
3 for a program established under this section shall—

4 “(A) be determined by the Secretary and  
5 adjusted from time to time as the Secretary  
6 considers necessary to ensure the availability of  
7 sufficient funds to repay such debt obligations;

8 “(B) not exceed 5 percent of the ex-vessel  
9 value of all fish involved in the program har-  
10 vested from the fishery for which the program  
11 is established;

12 “(C) be deducted by the first ex-vessel pur-  
13 chaser from the proceeds otherwise payable to  
14 the seller and accounted for and forwarded by  
15 such fish purchasers to the Secretary in such a  
16 manner as the Secretary may establish unless  
17 the Secretary determines that such fees should  
18 be collected from the seller; and

19 “(D) be in effect only until such time as  
20 the debt obligation has been fully paid.

21 “(e) PROGRAM IMPLEMENTATION.—

22 “(1) The Secretary shall propose and adopt  
23 framework regulations applicable to implementing all  
24 programs under this section.

1           “(2) The Secretary shall implement each pro-  
2           gram under this section by proposing and adopting  
3           regulations that shall, together with the framework  
4           regulations, establish each program and control its  
5           implementation.

6           “(3) The harvester proponents of each program  
7           shall, before the Secretary proposes such regulation,  
8           provide to the Secretary a proposed implementation  
9           plan that—

10                   “(A) proposes the types and numbers of  
11                   vessels or permits that are eligible to participate  
12                   in the program and the manner in which the  
13                   program shall proceed, taking into account—

14                           “(i) the requirements of this section;

15                           “(ii) the requirements of the frame-  
16                           work regulations;

17                           “(iii) the characteristics of the fishery;

18                           “(iv) the requirements of the applica-  
19                           ble fishery management plan and any  
20                           amendment that such plan may require to  
21                           support the proposed program;

22                           “(v) the general needs and desires of  
23                           harvesters in the fishery;

24                           “(vi) the need to minimize program  
25                           costs; and

1           “(vii) other matters, including the  
2           manner in which such proponents propose  
3           to fund the program to ensure its cost ef-  
4           fectiveness, as well as any relevant factors  
5           demonstrating the potential for, or nec-  
6           essary to obtain, the support and general  
7           cooperation of a substantial number of af-  
8           fected harvesters in the fishery (or portion  
9           of the fishery) for which the program is in-  
10          tended; and

11           “(B) suggests proposed procedures for pro-  
12          gram participation (such as submission of  
13          owner bids under an auction system or fair  
14          market-value assessment), including any terms  
15          and condition for participation, that the har-  
16          vester proponents deem to be reasonably nec-  
17          essary to meet the program’s proposed objec-  
18          tives.

19           “(4) The Secretary shall contract with each  
20          person participating in a program, and each such  
21          contract shall, in addition to including such other  
22          matters as the Secretary deems necessary and ap-  
23          propriate to effectively implement each program (in-  
24          cluding penalties for contract non-performance) be

1 consistent with the framework and implementing  
2 regulations and all other applicable law.

3 “(5) Each program not involving fair market  
4 assessment shall involve a reduction auction that  
5 scores the reduction price of each bid offer by the  
6 data relevant to each bidder under an appropriate  
7 fisheries productivity factor. If the Secretary accepts  
8 bids, the Secretary shall accept each bid in the rank  
9 order of its bid score, with each bid whose reduction  
10 price is the lowest percentage of the productivity fac-  
11 tor being first accepted over each bid whose reduc-  
12 tion factor is the next lowest percentage of the pro-  
13 ductivity factor.

14 “(6) Each program shall proceed by the Sec-  
15 retary issuing invitations to bid setting out the  
16 terms and conditions for participation consistent  
17 with the framework and implementing regulations.  
18 Each bid that the Secretary receives in response to  
19 the invitation to bid shall constitute an irrevocable  
20 offer from the bidder.”.

21 **SEC. 18. COLLECTION OF INFORMATION.**

22 (a) PROGRAMS INITIATED BY SECRETARY.—Section  
23 402 (16 U.S.C. 1881a) is amended—

1           (1) by redesignating subsection (a) as para-  
2           graph (1) and moving the left margin 2 ems to the  
3           right;

4           (2) by inserting “(a) COLLECTION PRO-  
5           GRAMS.—” before paragraph (1), as redesignated;

6           (3) by striking “subsection” in the last sentence  
7           of paragraph (1), as redesignated, and inserting  
8           “paragraph”; and

9           (4) by adding inserting after paragraph (1), as  
10          redesignated, the following:

11          “(2) SECRETARIAL INITIATION.—If the Sec-  
12          retary determines that additional information is nec-  
13          essary for developing, implementing, revising, or  
14          monitoring a fishery management plan, or for deter-  
15          mining whether a fishery is in need of management,  
16          the Secretary may, by regulation, implement an in-  
17          formation collection or observer program requiring  
18          submission of such additional information for the  
19          fishery.”.

20          (5) by striking “under this Act shall be con-  
21          fidential and shall not be disclosed,” in subsection  
22          (b)(1) and inserting “under this Act, and that would  
23          disclose proprietary or confidential commercial or fi-  
24          nancial information regarding fishing operations or  
25          fish processing operations, shall be kept confidential

1 and not disclosed for a period of 20 years following  
2 the year of submission to the Secretary,”; and

3 (6) by striking “under this Act,” in subsection  
4 (b)(2) and inserting “under this Act, and that would  
5 disclose proprietary or confidential commercial or fi-  
6 nancial information regarding fishing operations or  
7 fish processing operations,”.

8 (b) COLLECTION OF CERTAIN INFORMATION RE-  
9 GARDING BUSINESS OPERATIONS.—Paragraph (1) of sec-  
10 tion 402(a) (16 U.S.C. 1881a(a)), as redesignated by sub-  
11 section (a) of this section, is amended by striking “(other  
12 than information that would disclose proprietary or con-  
13 fidential commercial or financial information regarding  
14 fishing operations or fish processing operations)” each  
15 place it appears.

16 **SEC. 19. ACCESS TO CERTAIN INFORMATION.**

17 (a) CERTAIN STATE EMPLOYEES.—Section  
18 402(b)(1) (16 U.S.C. 1881a(b)(1)) is amended—

19 (1) by redesignating subparagraphs (B)  
20 through (F) as subparagraphs (C) through (G), re-  
21 spectively; and

22 (2) by inserting after subparagraph (A) the fol-  
23 lowing:

24 “(B) to State employees who are responsible for  
25 fishery management plan monitoring, if the States

1       employing those employees have entered into a fish-  
2       ery enforcement agreement with the Secretary and  
3       the agreement is in effect;”.

4       (b) DETERMINATIONS UNDER LIMITED ACCESS SYS-  
5       TEM.—Section 402(b)(1) (16 U.S.C. 1881a(b)(1)) is  
6       amended—

7             (1) by striking “or” after the semicolon in sub-  
8       paragraph (F), as redesignated by subsection (a) of  
9       this section;

10            (2) by striking “Act.” in subparagraph (G), as  
11       redesignated by subsection (a), and inserting “Act;  
12       or”; and

13            (3) by adding at the end the following:

14             “(H) when such information is required by the  
15       Secretary for any determination under a limited ac-  
16       cess system.”.

17       **SEC. 20. MAINE POCKET WATERS.**

18       Section 808(a) of the Atlantic Coastal Fisheries Co-  
19       operative Management Act (16 U.S.C. 5107a(a)) is  
20       amended by striking paragraphs (1) through (4) and in-  
21       serting the following:

22             “(1) west of Monhegan Island in the area north  
23       of the line 43 degrees 42’10.0”N, 69 degrees  
24       34’16.0”W and 43 degrees 42’15.0”N, 69 degrees  
25       19’18.0”W;

1           “(2) east of Monhegan Island in the area lo-  
2           cated north of the line 43 degrees 44’0.0” N, 69 de-  
3           grees 15’05.0” W and 43 degrees 48’10.0” N, 69 de-  
4           grees 08’01.0” W;

5           “(3) southeast of Matinic Island in the area lo-  
6           cated north of the line 43 degrees 48’10.0” N, 69 de-  
7           grees 08’01.0” W and 43 degrees 44’08.0” N, 69 de-  
8           grees 53’01.0” W;

9           “(4) south of Vinalhaven Island in the area lo-  
10          cated west of the line 43 degrees 52’18.5” N, 68 de-  
11          grees 40’0.0” W, and 43 degrees 58’10.5” N, 68 de-  
12          grees 32’57.0” W;

13          “(5) south of Bois Bubert Island in the area lo-  
14          cated northwest of the line 44 degrees 19’16.5” N,  
15          67 degrees 49’30.0” W, and 44 degrees 23’40.0” N  
16          and 67 degrees 40’30.0” W.”.

17 **SEC. 21. WESTERN PACIFIC FISHERY DEMONSTRATION**  
18 **PROJECTS.**

19          Section 111(b)(6) of the Sustainable Fisheries Act  
20 (16 U.S.C. 1855 note) is amended to read as follows:

21           “(6) For purposes of this subsection, ‘Western  
22          Pacific community’ shall mean a community eligible  
23          to participate under section 305(i)(2)(B)(i) through  
24          (iv) of the Magnuson-Stevens Fishery Conservation

1 and Management Act (16 U.S.C. 1855(i)(2)(B)(i)  
2 through (iv)).”.

3 **SEC. 22. COOPERATIVE RESEARCH AND MANAGEMENT.**

4 The Act is amended by adding at the end the fol-  
5 lowing:

6 **“TITLE V—COOPERATIVE**  
7 **RESEARCH AND MANAGEMENT**

8 **“SEC. 501. ESTABLISHMENT OF PROGRAM.**

9 “(a) IN GENERAL.—The Secretary shall establish a  
10 national cooperative research and management program  
11 to be administered by the National Marine Fisheries Serv-  
12 ice, based on recommendations by the Councils. The pro-  
13 gram shall consist of cooperative research and manage-  
14 ment activities between fishing industry participants, the  
15 affected States, and the Service.

16 “(b) RESEARCH AWARDS.—Each research project  
17 under this program shall be awarded on a standard com-  
18 petitive basis established by the Service, in consultation  
19 with the Councils. Each Council shall establish a research  
20 steering committee to carry out this subsection.

21 “(c) GUIDELINES.—The Secretary, in consultation  
22 with the appropriate Council and the fishing industry,  
23 shall create guidelines so that participants in this program  
24 are not penalized for loss of catch history or unexpended  
25 days-at-sea as part of a limited entry system.



1 proving National Marine Fisheries Service’s procedures  
2 for ensuring data quality in the data collection phase of  
3 the stock assessment program.

4 “(b) SUBJECT MATTER.—The review shall address—

5 “(1) the quality control protocols through which  
6 stock assessment equipment is calibrated, operated,  
7 inspected, and maintained;

8 “(2) the frequency and financial cost of these  
9 quality control checks;

10 “(3) how the accuracy and validity of data col-  
11 lected with sampling equipment is verified; and

12 “(4) how measurement error is accounted for in  
13 stock assessment modeling and analysis based on  
14 these data.

15 “(c) SCOPE.—The review shall apply to all activities  
16 that affect stock assessment data quality, whether con-  
17 ducted by the National Marine Fisheries Service or by Na-  
18 tional Marine Fisheries Service contractors.”.

19 **SEC. 24. ADVISORY COMMITTEE REFORM AND PEER RE-**  
20 **VIEW.**

21 (a) COMMITTEE AND COUNCIL PROCEDURE RE-  
22 FORMS.—Section 302(g) (16 U.S.C. 1852(g)) is amend-  
23 ed—

24 (1) by adding at the end of paragraph (3) the  
25 following:

1           “(C) For each committee established under sub-  
2 paragraph (A), each Council shall establish standard  
3 operating procedures relating to time, place, public  
4 participation, and frequency of meetings, a descrip-  
5 tion of the type and format of information to be pro-  
6 vided under subparagraph (A), a description of how  
7 recommendations under subparagraph (A) will be  
8 used, and other relevant factors.”;

9           (2) by redesignating paragraph (5) as para-  
10 graph (6); and

11           (3) by inserting after paragraph (4) the fol-  
12 lowing:

13           “(5) Each Council shall establish standard op-  
14 erating procedures relating to the relevant scientific  
15 review committee or committees that are responsible  
16 for conducting peer reviews of all stock assessments  
17 and economic and social analyses prepared for fish-  
18 eries under the Council’s jurisdiction. Committees  
19 under this paragraph shall consist of members from  
20 the committee established under paragraph (1) of  
21 this subsection and, to the extent practicable, inde-  
22 pendent scientists qualified to peer review such as-  
23 sessments and analyses.”.

24           (b) PEER REVIEW.—Section 302(h) (16 U.S.C.  
25 1852(h)) is amended—

1           (1) by striking “and” at the end of paragraph  
2           (5);

3           (2) by redesignating paragraph (6) as para-  
4           graph (7); and

5           (3) by inserting after paragraph (5) the fol-  
6           lowing:

7           “(6) to the extent practicable conduct a peer re-  
8           view of any stock assessments and economic and so-  
9           cial analyses prepared for a fishery under its juris-  
10          diction, utilizing the procedures established under  
11          subsection (g)(5); and”.

12 **SEC. 25. CUMULATIVE IMPACTS.**

13          (a) NATIONAL STANDARDS.—Section 301(a)(8) (16  
14 U.S.C. 1851(a)(8)) is amended to read as follows:

15           “(8) Conservation and management measures  
16          shall, consistent with the conservation requirements  
17          of this Act (including the prevention of overfishing  
18          and rebuilding of overfished stocks), Utilize eco-  
19          nomic and social data and assessment methods of  
20          the highest analytical standards when taking into ac-  
21          count the importance of fishery resources to fishing  
22          communities, and the individual and cumulative eco-  
23          nomic and social impacts of fishery conservation and  
24          management measures on such communities, in  
25          order to—

1           “(A) provide for the sustained participa-  
2           tion of such communities; and

3           “(B) to the extent practicable, minimize  
4           adverse social and economic impacts on such  
5           communities.”.

6           (b) CONTENTS OF PLANS.—Section 303(a)(9) (16  
7 U.S.C. 1853(a)(9)) is amended by striking “describe the  
8 likely effects, if any, of the conservation and management  
9 measures on—” and inserting “describe in detail the likely  
10 effects, including the individual and cumulative economic  
11 and social impacts, of the conservation and management  
12 measures on and possible mitigation measures for—”.

13 **SEC. 26. ESSENTIAL FISH HABITAT.**

14           (a) FISHERY MANAGEMENT PLANS.—Section  
15 303(a)(7) (16 U.S.C. 1853(a)(7)) is amended to read as  
16 follows:

17           “(7) describe and identify essential fish habitat  
18           and habitat areas of particular concern for the fish-  
19           ery based on the guidelines established by the Sec-  
20           retary under section 305(b)(1)(A), and give priority  
21           to minimizing to the extent practicable adverse ef-  
22           fects on habitat areas of particular concern caused  
23           by fishing and identify other actions to encourage  
24           the conservation and enhancement of such habitat;”.

1 (b) FISH HABITAT REQUIREMENT.—Section  
2 305(b)(1) (16 U.S.C. 1855(b)(1)) is amended by inserting  
3 “and habitat areas of particular concern” after “essential  
4 fish habitat” each place it appears in subparagraphs (A)  
5 and (B).

6 **SEC. 27. COOPERATIVE ENFORCEMENT AGREEMENTS.**

7 Title III (16 U.S.C. 1851 et seq.) is amended by add-  
8 ing at the end thereof the following:

9 **“SEC. 315. COOPERATIVE ENFORCEMENT USES.**

10 “(a) IN GENERAL.—The Governor of a State rep-  
11 resented on an Interstate Fisheries Commission may apply  
12 to the Secretary for execution of a cooperative enforce-  
13 ment agreement with the Secretary that will authorize the  
14 deputization of State law enforcement officers with marine  
15 law enforcement responsibilities to perform duties of the  
16 Secretary relating to law enforcement provisions under  
17 this Act or any other marine resource laws enforced by  
18 the Secretary. Upon receiving an application meeting the  
19 requirements of this section, the Secretary shall enter into  
20 the cooperative enforcement agreement with the request-  
21 ing State.

22 “(b) REQUIREMENTS.—Cooperative enforcement  
23 agreements executed under subsection (a)—

1           “(1) shall be consistent with the purposes and  
2           intent of section 311(a) of this Act, to the extent ap-  
3           plicable to the regulated activities; and

4           “(2) may include specifications for joint man-  
5           agement responsibilities as provided by the first sec-  
6           tion of Public Law 91–412 (15 U.S.C. 1525).

7           “(c)   AUTHORIZATION   AND   ALLOCATION   OF  
8   FUNDS.—There are authorized to be appropriated to the  
9   Secretary for the purposes of carrying out this section  
10   \$10,000,000 in each of fiscal years 2004 through 2008.  
11   The Secretary shall include in each cooperative enforce-  
12   ment agreement an allocation of funds to assist in man-  
13   agement of the agreement. The allocation shall be equi-  
14   tably distributed among all States participating in cooper-  
15   ative enforcement agreements under this subsection, based  
16   upon consideration of the specific marine conservation en-  
17   forcement needs of each participating State. Such agree-  
18   ment may provide for amounts to be withheld by the Sec-  
19   retary for the cost of any technical or other assistance pro-  
20   vided to the State by the Secretary under the agreement.”.

1 **SEC. 28. SCIENTIFIC AND STATISTICAL COMMITTEES RE-**  
2 **PORT ON ECOSYSTEM RESEARCH PRIOR-**  
3 **ITIES; PILOT PROGRAM FOR FISHERY ECO-**  
4 **SYSTEM PLANS.**

5 Section 406 (16 U.S.C. 1882) is amended by adding  
6 at the end thereof the following:

7 “(f) RESEARCH.—

8 “(1) REPORT REQUIRED.—Within 12 months  
9 after the date of enactment of the Fishery Conserva-  
10 tion and Management Amendments Act of 2004 the  
11 Scientific and Statistical Committees of each re-  
12 gional fishery management council shall identify and  
13 submit a report to the Secretary outlining prioritized  
14 information or research needs to support ecosystem  
15 based management of the fisheries within its juris-  
16 diction. In determining what factors to consider, the  
17 Committees may consider the recommendations out-  
18 lined in the report under section (d).

19 “(2) ASSISTANCE.—The Secretary shall provide  
20 assistance to the regional councils to obtain the  
21 prioritized information and conduct research identi-  
22 fied in the reports under paragraph (1). These ef-  
23 forts shall not displace existing research efforts and  
24 priorities identified by the regional councils or the  
25 Secretary.

26 “(g) PILOT PROGRAM.—

1           “(1) IN GENERAL.—Within 18 months after the  
2           date of enactment of the Fishery Conservation and  
3           Management Amendments Act of 2004 the Sec-  
4           retary, in consultation with the 8 regional fishery  
5           management council Chairs and affected stake-  
6           holders, shall identify at least one fishery or complex  
7           of interacting fisheries suitable for the development  
8           of a pilot Fishery Ecosystem Plan. The Secretary  
9           shall consider the reports submitted under sub-  
10          section (f) when selecting the pilot program.

11           “(2) COORDINATION WITH APPROPRIATE COUN-  
12          CIL.—After identifying the pilot Fishery Ecosystem  
13          Plan, the Secretary shall coordinate with the appro-  
14          priate regional fishery management council to iden-  
15          tify any information or conduct any research that  
16          may be needed to complete such a plan including a  
17          model of the food web, habitat needs of organisms  
18          identified in the food web, rates of mortality, identi-  
19          fication of indicator species, and any other relevant  
20          data and monitoring needs.

21           “(3) FISHERY ECOSYSTEM PLAN.—Within 30  
22          months after identification of the pilot fishery or  
23          complex of interacting fisheries, the appropriate re-  
24          gional fishery management council shall submit to  
25          the Secretary for approval a Fishery Ecosystem

1 Plan. In creating such plan, the council may con-  
2 sider the recommendations outlined in the report  
3 under section (d).”.



[DISCUSSION DRAFT]

108TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. GILCREST introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-**  
4 **MENT REFERENCES.**

5 (a) **SHORT TITLE.**—This Act may be cited as the  
6 “Magnuson-Stevens Act Amendments of 2003”.



1 (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

- Sec. 1. Short title; table of contents; amendment references.
- Sec. 2. Technical corrections to definitions.
- Sec. 3. Report on over capitalization.
- Sec. 4. Buyout provisions.
- Sec. 5. Data collection.
- Sec. 6. Ecosystem-based management.
- Sec. 7. Observers.
- Sec. 8. Overfishing.
- Sec. 9. Bycatch and seabird interactions.
- Sec. 10. Fish habitat research and protection.
- Sec. 11. Demonstration program for oyster sanctuaries and reserves.
- Sec. 12. Individual quota limited access programs.
- Sec. 13. Cooperative education and research.
- Sec. 14. Report on highly migratory species.
- Sec. 15. Prohibited acts.
- Sec. 16. Membership of fishery management councils.
- Sec. 17. Miscellaneous amendments to purposes and policy.
- Sec. 18. Foreign fishing.
- Sec. 19. Driftnets.
- Sec. 20. Sources for data in fisheries research.
- Sec. 21. Miscellaneous fishery protections in fishery management plans.
- Sec. 22. Cooperative marine education and research program.
- Sec. 23. Assessment of cumulative impacts of conservation and management  
measures for a fishery.
- Sec. 24. Regional stock assessments.
- Sec. 25. National Academy of Sciences guidance and standards regarding best  
scientific information available.
- Sec. 26. National Academy of Sciences definition of maximum sustainable yield.
- Sec. 27. Administration of Pacific Insular Area fishery agreements.
- Sec. 28. Highly migratory species bycatch mortality reduction research pro-  
gram.
- Sec. 29. Authorization of appropriations.

3 (c) AMENDMENT OF MAGNUSON-STEVENS FISHERY  
4 CONSERVATION AND MANAGEMENT ACT.—Except as oth-  
5 erwise expressly provided, whenever in this Act an amend-  
6 ment or repeal is expressed in terms of an amendment  
7 to, or repeal of, a section or other provision, the reference  
8 shall be considered to be made to a section or other provi-  
9 sion of the Magnuson-Stevens Fishery Conservation and  
10 Management Act (16 U.S.C. 1801 et seq.).



1 **SEC. 2. TECHNICAL CORRECTIONS TO DEFINITIONS.**

2 (a) EXECUTION OF PRIOR AMENDMENTS.—

3 (1) CONTINENTAL SHELF FISHERY RE-  
4 SOURCES.—Section 102(2) of the Sustainable Fish-  
5 eries Act (Public Law 104–297; 110 Stat. 3561) is  
6 amended—

7 (A) by striking “COELENTERATA” and  
8 inserting “Coelenterata”;

9 (B) by striking “CNIDARIA” and insert-  
10 ing “Cnidaria”; and

11 (C) by striking “CRUSTACEA” and in-  
12 serting “Crustacea”.

13 (2) UNITED STATES HARVESTED FISH.—Sec-  
14 tion 102(11) of the Sustainable Fisheries Act (Pub-  
15 lic Law 104–297; 110 Stat. 3563) is amended by  
16 striking “(42)” and inserting “(43)”.

17 (3) EFFECTIVE DATE.—This subsection shall  
18 take effect on the effective date of section 102 of  
19 Public Law 104–297.

20 (b) CORRECTIONS RELATING TO SPECIAL AREAS.—

21 Section 3 (16 U.S.C. 1802) is amended—

22 (1) by striking paragraphs (35) and (36);

23 (2) by redesignating paragraphs (37) through  
24 the last paragraph (relating to the definition of “wa-  
25 ters of a foreign nation”) in order as paragraphs  
26 (35) through (44);

1 (3) by inserting “(a) General Definitions.—”  
2 before “As used in this Act”; and

3 (4) by adding at the end the following:

4 “(b) TERMS RELATING TO AGREEMENT WITH THE  
5 FORMER SOVIET UNION.—As used in this Act the term  
6 ‘special areas’ means the areas referred to as eastern spe-  
7 cial areas in Article 3(1) of the Agreement between the  
8 United States of America and the Union of Soviet Social-  
9 ist Republics on the Maritime Boundary, signed June 1,  
10 1990. In particular, the term refers to those areas east  
11 of the maritime boundary, as defined in that Agreement,  
12 that lie within 200 nautical miles of the baselines from  
13 which the breadth of the territorial sea of Russia is meas-  
14 ured but beyond 200 nautical miles of the baselines from  
15 which the breadth of the territorial sea of the United  
16 States is measured.”.

17 **SEC. 3. REPORT ON OVER CAPITALIZATION.**

18 (a) IN GENERAL.—The Secretary shall, within 12  
19 months after the date of the enactment of this Act, submit  
20 to the Congress a report—

21 (1) identifying and describing the 20 fisheries  
22 in United States waters with the most severe exam-  
23 ples of excess harvesting capacity in the fisheries,  
24 based on value of each fishery and the amount of ex-



1       cess harvesting capacity as determined by the Sec-  
2       retary;

3           (2) recommending measures for reducing such  
4       excess harvesting capacity, including the retirement  
5       of any latent fishing permits that could contribute to  
6       further excess harvesting capacity in those fisheries;  
7       and

8           (3) potential sources of funding for such meas-  
9       ures.

10       (b) BASIS FOR RECOMMENDATIONS.—The Secretary  
11 shall base the recommendations made with respect to a  
12 fishery on—

13           (1) the most cost effective means of achieving  
14       voluntary reduction in capacity for the fishery using  
15       the potential for industry financing; and

16           (2) including measures to prevent the capacity  
17       that is being removed from the fishery from moving  
18       to other fisheries in the United States, in the waters  
19       of a foreign nation, or in the high seas.

20 **SEC. 4. BUYOUT PROVISIONS.**

21       (a) DISCRETION OF SECRETARY TO CONDUCT FISH-  
22       ING CAPACITY REDUCTION PROGRAM.—Section 312(b)  
23       (16 U.S.C. 1861a(b)) is amended—

24           (1) in paragraph (1) by striking “, at the re-  
25       quest of the appropriate Council for fisheries under



1 the authority of such Council, or the Governor of a  
2 State for fisheries under State authority,”;

3 (2) in paragraph (1), by inserting “that is man-  
4 aged under a limited access system authorized by  
5 section 303(b)(6),” after “in a fishery”; and

6 (3) by redesignating paragraph (4) as para-  
7 graph (5), and by inserting after paragraph (3) the  
8 following:

9 “(4) The Council, or the Governor of a State, having  
10 authority over a fishery may request the Secretary to con-  
11 duct a fishing capacity reduction program in the fishery  
12 under this subsection.”.

13 (b) REQUIREMENT TO SURRENDER ALL PERMITS.—  
14 Section 312(b)(2) (16 U.S.C. 1861a(b)(2)) is amended to  
15 read as follows:

16 “(2)(A) The objective of the program shall be to ob-  
17 tain the maximum sustained reduction in fishing capacity  
18 at the least cost and in a minimum period of time.

19 “(B) To achieve that objective, the Secretary is au-  
20 thorized to pay an amount to the owner of a fishing vessel,  
21 if—

22 “(i) such vessel is scrapped, or through the Sec-  
23 retary of the department in which the Coast Guard  
24 is operating, subjected to title restrictions that per-



1 manently prohibit and effectively prevent its use in  
2 fishing;

3 “(ii) all permits authorizing the participation of  
4 the vessel in any fishery under the jurisdiction of the  
5 United States are surrendered for permanent revoca-  
6 tion; and

7 “(iii) the owner of the vessel and such permits  
8 relinquishes any claim associated with the vessel and  
9 such permits that could qualify such owner for any  
10 present or future limited access system permit in the  
11 fishery for which the program is established.”.

12 (c) ENSURING VESSELS DO NOT ENTER FOREIGN OR  
13 HIGH SEAS FISHERIES.—Section 312(b) (16 U.S.C.  
14 1861a(b)) is further amended by adding at the end the  
15 following:

16 “(6) The Secretary may not make a payment under  
17 paragraph (2) with respect to a vessel that will not be  
18 scrapped, unless the Secretary certifies that the vessel will  
19 not be used for any fishing, including fishing in the waters  
20 of a foreign nation and fishing on the high seas.”.

21 **SEC. 5. DATA COLLECTION.**

22 (a) COLLECTION OF RECREATIONAL CATCH DATA.—  
23 Section 402 (16 U.S.C. 1881a) is amended by adding at  
24 the end the following:



1       “(f) COLLECTION OF RECREATIONAL CATCH  
2 DATA.—(1) The Secretary shall develop and implement a  
3 program for the sharing of recreational catch data for all  
4 federally managed fisheries through the use of information  
5 gathered from State-licensed recreational fishermen.

6       “(2) The Secretary shall conduct the program in con-  
7 sultation with the principal State officials having marine  
8 fishery management responsibility and expertise.

9       “(3) The Secretary shall report to the Congress with-  
10 in three years after the effective date of this subsection,  
11 on—

12               “(A) the progress made in developing such a  
13 program; and

14               “(B) whether the program has resulted in sig-  
15 nificantly better data collection for the recreational  
16 fishing sector.”.

17       (b) REPORT.—Not later than 6 months after the date  
18 of the enactment of this Act, the Secretary of Commerce  
19 shall submit to the Congress a report describing the fol-  
20 lowing:

21               (1) Economic data from United States proc-  
22 essors that is necessary to conduct fishing commu-  
23 nity and economic analysis determinations required  
24 under chapter 6 of title 5, United States Code, pop-  
25 ularly known as the Regulatory Flexibility Act.



1           (2) The reasons why such information is not  
2 available through other sources such as tax returns,  
3 the Bureau of Labor Statistics, and State labor de-  
4 partments.

5           (3) The steps the Secretary would take under  
6 section 402 of the Magnuson-Stevens Fishery Con-  
7 servation and Management Act (16 U.S.C. 1881a)  
8 to ensure the confidentiality of such information (es-  
9 pecially proprietary information), if the information  
10 were obtained by the Secretary.

11 **SEC. 6. ECOSYSTEM-BASED MANAGEMENT.**

12           (a) POLICY.—Section 2(e) (16 U.S.C. 1851(e)) by  
13 striking “and” after the semicolon at the end of paragraph  
14 (6), by striking the period at the end of paragraph (7)  
15 and inserting “; and”, and by adding at the end the fol-  
16 lowing:

17           “(8) to support and encourage efforts to under-  
18 stand the interactions of species in the marine envi-  
19 ronment and the development of ecosystem-based  
20 approaches to fisheries conservation and manage-  
21 ment that will lead to better stewardship and sus-  
22 tainability of the Nation’s coastal fishery resources  
23 and fishing communities.”.



1 (b) AUTHORIZATION OF RESEARCH.—Section 404(c)  
2 (16 U.S.C. 1881c(c)) is amended by adding at the end  
3 the following:

4 “(5) The interaction of species in the marine  
5 environment, and the development of ecosystem-  
6 based approaches to fishery conservation and man-  
7 agement that will lead to better stewardship and  
8 sustainability of coastal fishery resources.”.

9 (c) DEFINITIONS AND CRITERIA FOR MANAGEMENT  
10 PLANS.—

11 (1) IN GENERAL.—The Secretary shall, in con-  
12 junction with the Councils—

13 (A) create a definition for “ecosystem” and  
14 for “marine ecosystem”; and

15 (B) establish criteria for the development  
16 of ecosystem-based management plans by each  
17 regional fishery management council based on  
18 the recommendations of the Ecosystems Prin-  
19 ciples Advisory Panel.

20 (2) REPORT.—The Secretary shall report to the  
21 Congress within 2 years after the date of the enact-  
22 ment of this Act on the criteria, including an identi-  
23 fication and description of those criteria for which  
24 sufficient data is not available.



1 (d) IDENTIFICATION OF MARINE ECOSYSTEMS; RE-  
2 SEARCH PLAN.—

3 (1) IN GENERAL.—Within one year after the  
4 date of the submission of the report under sub-  
5 section (c)(2) to the Congress, the Secretary, in con-  
6 junction with the regional science centers and the re-  
7 gional fishery management councils, shall—

8 (A) identify specific marine ecosystems  
9 within each region; and

10 (B) also develop and begin to implement  
11 regional research plans to meet the information  
12 deficit identified in the report.

13 (2) RESEARCH PLANS.—The research plans  
14 shall suggest reasonable timelines and cost estimates  
15 for the collection of the required information.

16 (3) REPORTS.—The Secretary shall report to  
17 the Congress annually on the progress of the re-  
18 gional research plans.

19 (e) ECOSYSTEM-BASED FISHERY MANAGEMENT  
20 PLAN PILOT PROGRAM.—

21 (1) IN GENERAL.—Upon the completion of de-  
22 velopment of regional research plans under sub-  
23 section (d)(1), the Secretary of Commerce shall es-  
24 tablish and begin implementing a pilot program for  
25 the management of one fishery on the east coast of



1 the United States and one fishery on the west coast  
2 of the United States under an ecosystem-based fish-  
3 ery management plan under the Magnuson-Stevens  
4 Fishery Conservation and Management Act.

5 (2) CONSULTATION.—The Secretary shall de-  
6 velop and implement ecosystem-based fishery man-  
7 agement plans under this subsection in consultation  
8 with the appropriate Regional Fishery Management  
9 Councils.

10 (f) DISCRETIONARY PROVISION IN FISHERY MAN-  
11 AGEMENT PLANS.—Section 303(b)(12) (16 U.S.C.  
12 1853(b)(12)) is amended by inserting before the period  
13 the following: “or for the health or stability of the marine  
14 ecosystem”.

15 **SEC. 7. OBSERVERS.**

16 (a) IN GENERAL.—Not later than one year after the  
17 date of the enactment of this Act, the Secretary shall re-  
18 port to the Congress on the needs for a national observer  
19 program.

20 (b) RECOMMENDATIONS.—The report shall make rec-  
21 ommendations on observation options, including electronic  
22 data collection technologies and on-board observers.

23 (c) OTHER CONTENTS.—The Secretary, in the re-  
24 port, shall include the following:



1 (1) A determination of whether the data collec-  
2 tion needs are for management or enforcement pur-  
3 poses.

4 (2) A statement of the level of observer cov-  
5 erage necessary in various types of fisheries to pro-  
6 vide statistically reliable information.

7 (3) Cost estimates for various levels of observer  
8 coverage.

9 (4) Options for the funding of observer cov-  
10 erage.

11 (5) The types of vessels and fisheries for which  
12 observer coverage cannot be required due to safety  
13 concerns.

14 (6) Recommendations for the use of the data  
15 gathered by the observing systems.

16 (7) Recommendations for the confidentiality of  
17 proprietary information collected through the pro-  
18 gram.

19 **SEC. 8. OVERFISHING.**

20 (a) **CLARIFICATION OF DEFINITION.**—Section 3 (16  
21 U.S.C. 1802) is further amended by amending paragraph  
22 (29) of subsection (a) to read as follows:

23 “(29)(A) The term ‘overfished’ means, with re-  
24 spect to a stock of fish, that the stock is of a size  
25 that is below the natural range of fluctuation associ-



1 ated with the production of maximum sustainable  
2 yield.

3 “(B) The term ‘overfishing’ means a rate or  
4 level of fishing mortality that jeopardizes the capac-  
5 ity of a fishery to produce the maximum sustainable  
6 yield on a continuing basis.”.

7 (b) DISTINGUISHING IN REPORTS.—Section  
8 304(e)(1) (16 U.S.C. 1854(e)(1)) is amended by adding  
9 at the end the following: “The report shall distinguish be-  
10 tween fisheries that are overfished (or approaching that  
11 condition) as a result of fishing and fisheries that are over-  
12 fished (or approaching that condition) as a result of fac-  
13 tors other than fishing. The report shall state, for each  
14 fishery identified as overfished or approaching that condi-  
15 tion, whether the fishery is the target of directed fishing.”.

16 (c) NATIONAL ACADEMY OF SCIENCES DEFINITION  
17 OF OVERFISHED.—

18 (1) IN GENERAL.—The Secretary of Commerce  
19 shall enter into an arrangement with the National  
20 Academy of Sciences under which the Academy shall  
21 develop a definition of “overfished” for purposes of  
22 the Magnuson-Stevens Fishery Conservation and  
23 Management Act (16 U.S.C. 1801 et seq.). The  
24 Academy shall consider the definition of the term in  
25 that Act (as amended by this Act) and the National



1 Marine Fisheries Service operational definition of  
2 the term. The Academy shall also consider environ-  
3 mental variability and other factors that contribute  
4 to low abundance of fish stocks.

5 (2) PUBLICATION AND OPPORTUNITY FOR COM-  
6 MENT.—The Secretary shall publish the results of  
7 the activities of the Academy under paragraph (1)  
8 and provide an opportunity for the submission of  
9 comments regarding the definition developed under  
10 paragraph (1).

11 **SEC. 9. BYCATCH AND SEABIRD INTERACTIONS.**

12 (a) BYCATCH REPORTING.—

13 (1) REPEAL OF STANDARDIZED BYCATCH RE-  
14 PORTING METHODOLOGY REQUIREMENT.—Section  
15 303(a)(11) (16 U.S.C. 1853(a)(11)) is amended in  
16 the matter preceding subparagraph (A) by striking  
17 “establish” and all that follows through “fishery,  
18 and”.

19 (2) DEVELOPMENT OF BYCATCH REPORTING  
20 METHODOLOGIES.—Section 304 (16 U.S.C. 1854) is  
21 amended by adding at the end the following:

22 “(i) DEVELOPMENT OF BYCATCH REPORTING METH-  
23 ODOLOGIES.—The Secretary shall, in cooperation with the  
24 Councils, develop bycatch reporting methodologies to as-



1 sess the amount and type of bycatch occurring in United  
2 States fisheries.”.

3 (3) REPORT.—The Secretary of Commerce shall  
4 report to the Congress within one year after the date  
5 of the enactment of this Act on progress the Sec-  
6 retary has made in developing bycatch reporting  
7 methodologies pursuant to the amendment made by  
8 paragraph (2).

9 (b) CHARITABLE DONATION OF BYCATCH.—Section  
10 303(b) (16 U.S.C. 1853(b)) is amended by striking “and”  
11 after the semicolon at the end of paragraph (11), by strik-  
12 ing the period at the end of paragraph (12) and inserting  
13 a semicolon, and by adding at the end the following:

14 “(13) allow the retention and donation for char-  
15 itable purposes of all dead bycatch that cannot oth-  
16 erwise be avoided under terms that ensure, through  
17 the use of onboard fishery observers or other equally  
18 effective means, that such retention and donation do  
19 not allow the evasion of vessel trip limits, total al-  
20 lowable catch levels, or other conservation and man-  
21 agement measures;”.

22 (c) BYCATCH REDUCTION GEAR DEVELOPMENT.—

23 (1) IN GENERAL.—Title IV (1 U.S.C. 1881 et  
24 seq.) is amended by adding at the end the following:



1 **“SEC. 408. GEAR DEVELOPMENT.**

2 “(a) IDENTIFICATION OF FISHERIES WITH SIGNIFI-  
3 CANT BYCATCH AND SEABIRD INTERACTION PROB-  
4 LEMS.—(1) The Secretary, in conjunction with the Coun-  
5 cils, shall identify and publish in the Federal Register a  
6 list of fisheries with significant bycatch problems or  
7 seabird interaction problems, as determined under criteria  
8 developed by the Secretary.

9 “(2) The list shall contain, for each fishery identified,  
10 information on—

11 “(A) the number of participants in the fishery;

12 “(B) the types of gears used in the fishery;

13 “(C) the bycatch species and species of seabirds  
14 that interact with fishing gear;

15 “(D) the amount of bycatch, and the percent-  
16 age of total catch that is bycatch; and

17 “(E) any other relevant information.

18 “(3) The Secretary shall solicit comments on each list  
19 published under this subsection.

20 “(b) IDENTIFICATION OF FISHERIES WITH MOST  
21 URGENT PROBLEMS.—The Secretary shall—

22 “(1) identify those fisheries included in a list  
23 under paragraph (1) that have the most urgent by-  
24 catch problems or seabird interaction problems,  
25 based on comments received regarding the list; and



1 “(2) work in conjunction with the Councils and  
2 fishing industry participants to develop new fishing  
3 gear, or modifications to existing fishing gear, that  
4 will help minimize bycatch and seabird interactions  
5 to the extent practicable.

6 “(c) GRANT AUTHORITY.—The Secretary shall, sub-  
7 ject to the availability of appropriations, make grants for  
8 the development of fishing gear and modifications to exist-  
9 ing fishing gear that will help—

10 “(1) minimize bycatch and seabird interactions;  
11 and

12 “(2) minimize adverse fishing gear impacts on  
13 habitat areas of particular concern.

14 “(d) REPORT.—The Secretary shall report to the  
15 Congress annually on—

16 “(1) the amount expended to implement this  
17 section in the preceding year;

18 “(2) developments in gear technology achieved  
19 under this section;

20 “(3) the reductions in bycatch associated with  
21 implementation of this section; and

22 “(4) any other relevant information.

23 “(e) AUTHORIZATION OF APPROPRIATIONS.—To  
24 carry out this section there is authorized to be appro-



1 priated to the Secretary \$10,000,000 for each of fiscal  
2 years 2003 through 2007.”.

3 (2) CLERICAL AMENDMENT.—The table of con-  
4 tents in the first section is amended by adding at  
5 the end of the items relating to title IV the fol-  
6 lowing:

“408. Gear development.”.

7 (d) REPORT.—The Secretary of Commerce shall re-  
8 port to the Congress within one year after the date of the  
9 enactment of this Act on—

10 (1) the extent of the problem of seabird inter-  
11 action with fisheries of the United States;

12 (2) efforts by the fishing industry and Regional  
13 Fishery Management Councils to address that prob-  
14 lem; and

15 (3) the extent of the problem of seabird inter-  
16 action with fisheries other than the fisheries of the  
17 United States.

18 (e) INTERNATIONAL ACTION.—The Secretary of  
19 Commerce shall take appropriate action at appropriate  
20 international fisheries management bodies to reduce  
21 seabird interactions in fisheries.

22 **SEC. 10. FISH HABITAT RESEARCH AND PROTECTION.**

23 (a) PRIORITY RESEARCH.—Section 404 (16 U.S.C.  
24 1881c) is amended by adding at the end the following:



1 “(e) PRIORITY FOR RESEARCH REGARDING OVER-  
2 FISHED FISHERIES.—In carrying out or funding fisheries  
3 research under this and other laws regarding essential fish  
4 habitat, the Secretary shall give priority to research to  
5 identify such habitat for fisheries that are overfished or  
6 approaching an overfished condition.”.

7 (b) REQUIRED PROVISION IN FISHERY MANAGE-  
8 MENT PLANS.—Section 303(a)(7) (16 U.S.C. 1853(a)(7))  
9 is amended to read as follows:

10 “(7)(A) describe and identify essential fish  
11 habitat for the fishery based on the guidelines estab-  
12 lished by the Secretary under section 305(b)(1)(A);

13 “(B) minimize to the extent practicable adverse  
14 effects on such habitat caused by fishing for those  
15 fisheries identified by the Council as having available  
16 information on the growth, reproduction, or survival  
17 rates within habitats or production rates by habitat,  
18 or for those fisheries that the Council determines the  
19 specific fishing activity effects on the essential fish  
20 habitat jeopardize the ability of the fishery to  
21 produce maximum sustained yield on a continuing  
22 basis;

23 “(C) minimize to the extent practicable adverse  
24 effects on habitat areas of particular concern caused  
25 by fishing; and



1           “(D) identify other actions to encourage the  
2           conservation and enhancement of such habitat;”.

3           (c) DISCRETIONARY PROVISION IN FISHERY MAN-  
4           AGEMENT PLANS.—Section 303(b) (16 U.S.C. 1853(b))  
5           is further amended by adding after paragraph (13) the  
6           following:

7           “(14) minimize to the extent practicable ad-  
8           verse effects caused by fishing, on essential fish  
9           habitat described and identified under section  
10          303(a)(7)(A);”.

11          (d) HABITAT AREA OF PARTICULAR CONCERN DE-  
12          FINED.—Section 3 (16 U.S.C. 1802) is further amended  
13          in subsection (a) by redesignating paragraphs (19)  
14          through (44) in order as paragraphs (20) through (45),  
15          and by inserting after paragraph (18) the following:

16          “(19) The term ‘habitat area of particular con-  
17          cern’ means a discrete habitat area that is essential  
18          fish habitat and that—

19                  “(A) provides important ecological func-  
20                  tions;

21                  “(B) is sensitive to human-induced envi-  
22                  ronmental degradation; or

23                  “(C) is a rare habitat type.”.



1 **SEC. 11. DEMONSTRATION PROGRAM FOR OYSTER SANC-**  
2 **TUARIES AND RESERVES.**

3 (a) IN GENERAL.—The Secretary of Commerce,  
4 through the National Oceanic and Atmospheric Adminis-  
5 tration Chesapeake Bay Office, shall develop a program  
6 for the design, construction, and placement of oyster sanc-  
7 tuaries or reserves consistent with the agreement known  
8 as the Chesapeake 2000 Agreement. The program shall  
9 be developed in conjunction with the Corps of Engineers,  
10 the Coast Guard, the Environmental Protection Agency,  
11 the United States Fish and Wildlife Service, the State of  
12 Maryland, the Commonwealth of Virginia, the Oyster Re-  
13 covery Partnership, the Chesapeake Bay Foundation, the  
14 Oyster Heritage Foundation, local commercial and rec-  
15 reational fishing organizations, the Port of Baltimore, the  
16 Port of Hampton Roads, the University of Maryland, the  
17 Virginia Institute of Marine Sciences, and other users of  
18 the waters of the Chesapeake Bay, as appropriate.

19 (b) STRUCTURES.—The program shall include the de-  
20 sign, construction, placement, and restoration of struc-  
21 tures, including reefs and bars, to act as beds for oyster  
22 production. The structures should be designed to maxi-  
23 mize the production of oysters while minimizing conflicts  
24 with existing uses such as fishing or navigation. The struc-  
25 tures shall be placed in areas in which they will not be  
26 hazards to navigation. The Secretary shall work with in-



1 terested parties to ensure that all sites are adequately  
2 marked on navigation charts as appropriate.

3 (c) RESEARCH PLAN.—The Secretary shall develop  
4 a research plan, consistent with efforts to implement the  
5 Chesapeake 2000 Agreement, for the placement of struc-  
6 tures under the program, including measurable goals and  
7 a monitoring program to determine the effectiveness of the  
8 structures in recovering native oyster populations.

9 (d) FISHING REGULATIONS.—The Secretary shall  
10 recommend State regulations restricting fishing in the wa-  
11 ters surrounding structures placed under this section as  
12 necessary to ensure the reproduction of oysters on the  
13 structures. The restrictions may be seasonal in nature,  
14 and shall not apply in any area that is located more than  
15 100 meters from such a structure.

16 (e) RESTORATION OF NATIVE OYSTERS.—The pro-  
17 gram shall use only native oyster species.

18 (f) REPORT.—The Secretary of Commerce shall sub-  
19 mit to the Congress annual reports on the program under  
20 this section.

21 (g) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—To carry out this section  
23 there is authorized to be appropriated to the Sec-  
24 retary \$5,000,000 for each of fiscal years 2004  
25 through 2009.



1 (2) LIMITATION.—Not more than 5 percent of  
2 amounts appropriated under this section may be  
3 available for administrative expenses.

4 **SEC. 12. INDIVIDUAL QUOTA LIMITED ACCESS PROGRAMS.**

5 (a) AUTHORITY TO ESTABLISH INDIVIDUAL QUOTA  
6 SYSTEMS.—Section 303(b)(6) (16 U.S.C. 1853(b)(6)) is  
7 amended to read as follows:

8 “(6) establish a limited access system for the  
9 fishery in order to achieve optimum yields, if—

10 “(A) in developing such system, the Coun-  
11 cils and the Secretary take into account—

12 “(i) the need to promote conservation,

13 “(ii) present participation in the fish-  
14 ery,

15 “(iii) historical fishing practices in,  
16 and dependence on, the fishery,

17 “(iv) the economics of the fishery,

18 “(v) the capability of fishing vessels  
19 used in the fishery to engage in other fish-  
20 eries,

21 “(vi) the cultural and social frame-  
22 work relevant to the fishery and fishing  
23 communities, and

24 “(vii) any other relevant consider-  
25 ations; and



1           “(B) in the case of such a system that pro-  
2           vides for the allocation and issuance of indi-  
3           vidual quotas (as that term is defined in sub-  
4           section (d)), the system complies with sub-  
5           section (d).”.

6           (b) REQUIREMENTS.—Section 303(d) (16 U.S.C.  
7 1853(d)) is amended—

8           (1) by redesignating paragraphs (2), (3), (4),  
9           and (5) in order as paragraphs (10), (11), (12), and  
10          (13), and by moving such paragraphs 2 ems to the  
11          left;

12          (2) in paragraph (11)(B), as so redesignated,  
13          by inserting “, including as a result of a violation of  
14          this Act or any regulation prescribed under this  
15          Act” before the semicolon;

16          (3) by adding at the end the following:

17          “(14) As used in this subsection:

18                 “(A) The term ‘individual quota system’ means  
19                 a system that limits access to a fishery in order to  
20                 achieve optimum yields, through the allocation and  
21                 issuance of individual quotas.

22                 “(B) The term ‘individual quota’ means a grant  
23                 of permission to harvest a quantity of fish in a fish-  
24                 ery or process such fish which are under the juris-  
25                 diction of the North Pacific Management Council,



1 during each fishing season for which the permission  
2 is granted, equal to a stated percentage of the total  
3 allowable catch for the fishery.”; and

4 (4) by striking so much as precedes paragraph  
5 (10), as so redesignated, and inserting the following:

6 “(d) SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA  
7 SYSTEMS.—(1) A fishery management plan for a fishery  
8 that is managed under a limited access system authorized  
9 by subsection (b)(6) may establish an individual quota sys-  
10 tem for the fishery in accordance with this subsection.

11 “(2) A fishery management plan that establishes an  
12 individual quota system for a fishery—

13 “(A) shall provide for administration of the sys-  
14 tem by the Secretary in accordance with the terms  
15 of the plan;

16 “(B) shall include provisions that establish pro-  
17 cedures and requirements for each Council having  
18 authority over the fishery, for—

19 “(i) reviewing and revising the terms of  
20 the plan that establish the system; and

21 “(ii) renewing, reallocating, and reissuing  
22 individual quotas if determined appropriate by  
23 each Council;

24 “(C) shall include provisions to—



1           “(i) provide for fair and equitable alloca-  
2           tion of individual quotas under the system, and  
3           minimize negative social and economic impacts  
4           of the system on fishing communities;

5           “(ii) ensure adequate enforcement of the  
6           system, including the use of observers where  
7           appropriate; and

8           “(iii) provide for monitoring the temporary  
9           or permanent transfer of individual quotas  
10          under the system;

11          “(D) shall include provisions that prevent any  
12          person from acquiring an excessive share of indi-  
13          vidual quotas issued for a fishery; and

14          “(E) shall include measurable conservation  
15          goals.

16          “(3) An individual quota issued under an individual  
17          quota system established by a fishery management plan  
18          may be received, held, or transferred in accordance with  
19          regulations prescribed by the Secretary under this Act.

20          “(4)(A) Except as otherwise provided in this para-  
21          graph, any fishery management plan that establishes an  
22          individual quota system for a fishery may authorize indi-  
23          vidual quotas to be held by or issued under the system  
24          to fishing vessel owners, fishermen, crew members, fishing  
25          communities, other persons as specified by the Council



1 and United States fish processors under the jurisdiction  
2 of the North Pacific Fishery Management Council.

3 “(B) An individual who is not a citizen of the United  
4 States may not hold an individual quota issued under a  
5 fishery management plan.

6 “(C) A Federal agency or official may not hold, ad-  
7 minister, or reallocate an individual quota issued under  
8 a fishery management plan, other than the Secretary and  
9 the Council having authority over the fishery for which  
10 the individual quota is issued.

11 “(D)(i) A fishing community may not hold individual  
12 quotas under an individual quota system established under  
13 this subsection for a fishery that authorize harvest of more  
14 than the lesser of—

15 “(I) 1 percent of the total authorized harvest in  
16 the fishery; or

17 “(II) a percentage of such total authorized har-  
18 vest established by the Council having jurisdiction  
19 over the fishery.

20 “(ii) This subparagraph does not apply to a commu-  
21 nity that is eligible to participate in the western Alaska  
22 community development program or the western Pacific  
23 community development program, under section 305(i).



1       “(5) Any fishery management plan that establishes  
2 an individual quota system for a fishery may include provi-  
3 sions that—

4           “(A) allocate individual quotas under the sys-  
5 tem among categories of vessels; and

6           “(B) provide a portion of the annual harvest in  
7 the fishery for entry-level fishermen, small vessel  
8 owners, or crew members who do not hold or qualify  
9 for individual quotas.

10       “(6) An individual quota system established for a  
11 fishery may be limited or terminated at any time by the  
12 Secretary or through a fishery management plan or  
13 amendment developed by the Council having authority  
14 over the fishery for which it is established, if necessary  
15 for the conservation and management of the fishery.

16       “(7)(A) A fishery management plan that establishes  
17 an individual quota system for a fishery—

18           “(i) must include measurable conservation  
19 goals; and

20           “(ii) to monitor achievement of such goals, may  
21 require greater observer coverage or electronic data  
22 collection technology on any vessel fishing under an  
23 individual quota issued under the system.

24       “(B) Not later than 5 years after the date of the es-  
25 tablishment of an individual quota system for a fishery



1 under this section by a Council or the Secretary, and every  
2 5 years thereafter, the Council or Secretary, respectively,  
3 shall review the effectiveness of the system in achieving  
4 the conservation goals required under this paragraph.

5 “(8)(A) The Secretary or a Council—

6 “(i) may not develop a proposal to establish an  
7 individual quota system for a fishery, unless develop-  
8 ment of the proposal has been approved by a refer-  
9 endum conducted in accordance with this para-  
10 graph; and

11 “(ii) may not issue a proposed fishery manage-  
12 ment plan or amendment to such a plan to establish  
13 such a system unless the proposed plan or amend-  
14 ment, respectively, has been approved by a refer-  
15 endum conducted in accordance with this para-  
16 graph.

17 “(B) The Secretary, at the request of a Council, shall  
18 conduct the referenda required by subparagraph (A). Each  
19 referendum with respect to a fishery shall be decided by  
20 a 60-percent majority of the votes cast by persons who  
21 are determined by the Council, based on guidelines devel-  
22 oped by the Secretary, to be eligible to vote in the ref-  
23 erendum.

24 “(C) The Secretary shall develop guidelines to deter-  
25 mine procedures and voting eligibility requirements for



1 referenda and to conduct such referenda in a fair and eq-  
2 uitable manner.

3 “(9) Any individual quota system established under  
4 section 303(b)(6) after the date of enactment of the Mag-  
5 nuson-Stevens Act Amendments of 2003, and any indi-  
6 vidual quota issued under such a system, shall not apply  
7 after the end of the 10-year period beginning on the date  
8 the system is established, or after the end of any 10-year  
9 period thereafter, unless the Council has reviewed and  
10 taken affirmative action to continue the system before the  
11 end of each such 10-year period.”

12 (c) FEES.—Section 304(d) is amended—

13 (1) in paragraph (2)(A) by striking “any” and  
14 all that follows through “(ii)” and inserting “any”;  
15 and

16 (2) by adding at the end the following:

17 “(3)(A) Notwithstanding paragraph (1), the Sec-  
18 retary shall collect from a person that holds or transfers  
19 an individual quota issued under a limited access system  
20 established under section 303(b)(6) fees established by the  
21 Secretary in accordance with this section and section  
22 9701(b) of title 31, United States Code.

23 “(B) The fees required to be established and collected  
24 by the Secretary under this paragraph are the following:



1           “(i) With respect to any initial allocation under  
2           a limited access system established after the date of  
3           the enactment of the Magnuson-Stevens Act Amend-  
4           ments of 2003, an initial allocation fee in an  
5           amount, determined by the Secretary, equal to 1  
6           percent of the ex-vessel value of fish authorized in  
7           one year under an individual quota, that shall be col-  
8           lected from the person to whom the individual quota  
9           is first issued.

10           “(ii) An annual fee in an amount, determined  
11           by the Secretary, not to exceed 3 percent of the ex-  
12           vessel value of fish authorized each year under an  
13           individual quota share, that shall be collected from  
14           the holder of the individual quota share.

15           “(iii) A transfer fee in an amount, determined  
16           by the Secretary, equal to 1 percent of the ex-vessel  
17           value of fish authorized each year under an indi-  
18           vidual quota share, that shall be collected from a  
19           person who permanently transfers the individual  
20           quota share to another person.

21           “(C) In determining the amount of a fee under this  
22           paragraph, the Secretary shall ensure that the amount is  
23           commensurate with the cost of managing the fishery with  
24           respect to which the fee is collected, including reasonable



1 costs for salaries, data analysis, and other costs directly  
2 related to fishery management and enforcement.

3 “(D) The Secretary, in consultation with the Coun-  
4 cils, shall promulgate regulations prescribing the method  
5 of determining under this paragraph the ex-vessel value  
6 of fish authorized under an individual quota share, the  
7 amount of fees, and the method of collecting fees.

8 “(E) Fees collected under this paragraph from hold-  
9 ers of individual quotas in a fishery shall be an offsetting  
10 collection and shall be available to the Secretary only for  
11 the purposes of administering and implementing this Act  
12 with respect to that fishery.”

13 (d) APPROVAL OF FISHERY MANAGEMENT PLANS  
14 ESTABLISHING INDIVIDUAL QUOTA SYSTEMS.—Section  
15 304 (16 U.S.C. 1854) is further amended by adding at  
16 the end the following:

17 “(j) ACTION ON LIMITED ACCESS SYSTEMS.—(1) In  
18 addition to the other requirements of this Act, after the  
19 date of the enactment of the Magnuson-Stevens Act  
20 Amendments of 2003 the Secretary may not approve a  
21 fishery management plan that establishes a limited access  
22 system that provides for the allocation of individual quotas  
23 (in this subsection referred to as an ‘individual quota sys-  
24 tem’) unless the plan complies with section 303(d).



1 “(2) The Secretary shall issue regulations that estab-  
2 lish requirements for establishing an individual quota sys-  
3 tem. The regulations shall—

4 “(A) specify factors that shall be considered by  
5 a Council in determining whether a fishery should be  
6 managed under an individual quota system;

7 “(B) ensure that any individual quota system is  
8 consistent with the requirements of sections 303(a)  
9 and 303(d), and require the collection of fees in ac-  
10 cordance with subsection (d)(3) of this section;

11 “(C) provide for appropriate penalties for viola-  
12 tions of individual quotas systems, including the sus-  
13 pension or revocation of individual quotas for such  
14 violations;

15 “(D) include recommendations for potential  
16 management options related to individual quotas, in-  
17 cluding the authorization of individual quotas that  
18 may not be transferred by the holder, and the use  
19 of leases or auctions by the Federal Government in  
20 the establishment or allocation of individual quotas;  
21 and

22 “(E) establish a central lien registry system for  
23 the identification, perfection, and determination of  
24 lien priorities, and nonjudicial foreclosure of encum-  
25 brances, on individual quotas.”.



1 (e) RESTRICTION ON NEW INDIVIDUAL QUOTA SYS-  
2 TEMS PENDING REGULATIONS.—

3 (1) RESTRICTION.—The Secretary of Commerce  
4 may not approve any covered quota system plan, and  
5 no covered quota system plan shall take effect,  
6 under title III of the Magnuson-Stevens Fishery  
7 Conservation and Management Act, before the effec-  
8 tive date of regulations issued by the Secretary  
9 under section 304(j) of that Act, as added by sub-  
10 section (d) of this section.

11 (2) COVERED QUOTA SYSTEM PLAN DE-  
12 FINED.—In this subsection, the term “covered quota  
13 system plan” means a fishery management plan or  
14 amendment to a fishery management plan, that—

15 (A) proposes establishment of an individual  
16 quota system (as that term is used in section  
17 303(d) of the Magnuson-Stevens Fishery Con-  
18 servation and Management Act, as amended by  
19 this section); and

20 (B) is not approved by the Secretary be-  
21 fore May 1, 2002.

22 (f) EXISTING QUOTA PLANS.—Nothing in this Act  
23 or the amendments made by this Act shall be construed  
24 to require a reallocation of individual fishing quotas under



1 any individual fishing quota program approved by the Sec-  
2 retary of Commerce before May 1, 2002.

3 **SEC. 13. COOPERATIVE EDUCATION AND RESEARCH.**

4 (a) DISCRETIONARY PROVISIONS IN FISHERY MAN-  
5 AGEMENT PLANS.—Section 303(b) (16 U.S.C. 1853(b))  
6 is further amended by adding after paragraph (14) the  
7 following:

8 “(15) include provisions to create a cooperative  
9 research component including the use of commercial  
10 or charter vessels for the gathering of data on stock  
11 abundance, composition, distribution, or other rel-  
12 evant information important for the implementation  
13 of the plan; and”.

14 (b) BLACK SEA BASS.—Section 404 (16 U.S.C.  
15 1881e) is further amended by adding at the end the fol-  
16 lowing:

17 “(f) BLACK SEA BASS COOPERATIVE RESEARCH  
18 PROGRAM.—The Secretary, through the New England  
19 Fisheries Science Center, shall develop and implement a  
20 cooperative stock assessment program, using vessels from  
21 the commercial black sea bass fishing industry if appro-  
22 priate and available. This cooperative program shall in-  
23 clude research on the range of the stock, a determination  
24 as to whether there is more than one stock, and a black  
25 sea bass genetic study to determine whether there is more



1 than one stock of such species requiring different manage-  
2 ment regimes.”.

3 **SEC. 14. REPORT ON HIGHLY MIGRATORY SPECIES.**

4 (a) ANNUAL REPORT.—Section 102 (16 U.S.C.  
5 1812) is amended—

6 (1) by inserting “(a) In General.—” before  
7 “The United States”; and

8 (2) by adding at the end the following:

9 “(b) ANNUAL REPORT.—The Secretary shall, within  
10 one year after the date of the enactment of this subsection  
11 and annually thereafter, report to the Congress on—

12 “(1) any nation that is fishing for Atlantic  
13 highly migratory species and is not in compliance  
14 with the fishery conservation and management provi-  
15 sions or any rebuilding recommendations or provi-  
16 sions enacted by the international body charged with  
17 developing such measures; and

18 “(2) any recommendations for addressing those  
19 nations identified under paragraph (1) and actions  
20 the United States might take to ensure such compli-  
21 ance by such nations.”.

22 (b) NATIONAL ACADEMY OF SCIENCES REVIEW.—

23 (1) IN GENERAL.—The Secretary of Commerce  
24 shall enter into an arrangement with the National



1 Academy of Sciences under which the Academy  
2 shall—

3 (A) review the adequacy of existing meas-  
4 ures (including closures) to protect Atlantic  
5 white marlin; and

6 (B) make recommendations to the Con-  
7 gress and the Secretary, regarding future con-  
8 servation measures for Atlantic white marlin, if  
9 warranted.

10 (2) FISHING IN MID-ATLANTIC BIGHT.—The re-  
11 view shall examine, in particular, the effects of fish-  
12 ing in the Mid-Atlantic Bight.

13 (3) REPORT.—The Academy shall report to the  
14 Congress and the Secretary regarding the review  
15 and recommendations under this subsection within 2  
16 years after the date of the enactment of this Act.

17 **SEC. 15. PROHIBITED ACTS.**

18 Section 307 (16 U.S.C. 1857) is amended by striking  
19 “and” after the semicolon at the end of paragraph (4),  
20 by striking the period at the end of paragraph (5) and  
21 inserting “; and”, and by adding at the end the following:

22 “(6) to sell or purchase any fish caught in rec-  
23 reational fishing.”.



1 **SEC. 16. MEMBERSHIP OF FISHERY MANAGEMENT COUN-**  
2 **CILS.**

3 (a) **NEW ENGLAND COUNCIL.**—Section 302(a)(1)(A)  
4 (16 U.S.C. 1852(a)(1)(A)) is amended by—

5 (1) inserting “New York,” after “Massachu-

6 setts,”; and

7 (2) striking “18” and inserting “19”.

8 (b) **ADDITIONAL MEMBER OF EACH COUNCIL.**—Sec-  
9 tion 302 (16 U.S.C. 1852) is further amended as follows:

10 (1) In the last sentence of subsection  
11 (a)(1)(A)—

12 (A) by striking “19” and inserting “20”;

13 (B) by striking “12” and inserting “13”;

14 and

15 (C) by inserting before the period the fol-  
16 lowing: “and including one appointed by the  
17 Secretary in accordance with subsection  
18 (b)(6)”.

19 (2) In the last sentence of subsection  
20 (a)(1)(B)—

21 (A) by striking “21” and inserting “22”;

22 (B) by striking “13” and inserting “14”;

23 and

24 (C) by inserting before the period the fol-  
25 lowing: “and including one appointed by the



1 Secretary in accordance with subsection  
2 (b)(6)”.

3 (3) In the last sentence of subsection  
4 (a)(1)(C)—

5 (A) by striking “13” and inserting “14”;

6 (B) by striking “8” and inserting “9”; and

7 (C) by inserting before the period the fol-  
8 lowing: “and including one appointed by the  
9 Secretary in accordance with subsection  
10 (b)(6)”.

11 (4) In the last sentence of subsection  
12 (a)(1)(D)—

13 (A) by striking “7” and inserting “8”;

14 (B) by striking “4” and inserting “5”; and

15 (C) by inserting before the period the fol-  
16 lowing: “and including one appointed by the  
17 Secretary in accordance with subsection  
18 (b)(6)”.

19 (5) In the last sentence of subsection  
20 (a)(1)(E)—

21 (A) by striking “17” and inserting “18”;

22 (B) by striking “11” and inserting “12”;

23 and

24 (C) by inserting before the period the fol-  
25 lowing: “and including one appointed by the



1 Secretary in accordance with subsection  
2 (b)(6)”.

3 (6) In the last sentence of subsection  
4 (a)(1)(F)—

5 (A) by striking “14” and inserting “15”;

6 (B) by striking “8” and inserting “9”;

7 (C) by inserting “by the Secretary” after  
8 “including one appointed”; and

9 (D) by inserting before the period the fol-  
10 lowing: “and one appointed by the Secretary in  
11 accordance with subsection (b)(6)”.

12 (7) In the last sentence of subsection  
13 (a)(1)(H)—

14 (A) by striking “13” and inserting “14”;

15 (B) by striking “8” and inserting “9”; and

16 (C) by inserting before the period the fol-  
17 lowing: “and including one appointed by the  
18 Secretary in accordance with subsection  
19 (b)(6)”.

20 (8) In subsection (b)—

21 (A) by redesignating paragraph (6) as  
22 paragraph (7);

23 (B) in paragraph (7), as so redesignated,  
24 by striking “paragraphs (2) or (5)” and insert-  
25 ing “paragraph (2), (5), or (6)”;



1 (C) by inserting after paragraph (5) the  
2 following:

3 “(6) The member of each Council who is required to  
4 be appointed in accordance with this paragraph—

5 “(A) shall not be an individual who is directly  
6 employed by, or receives a majority of his or her  
7 livelihood from, the commercial, charter, or rec-  
8 reational fishing community; and

9 “(B) shall be appointed without regard to sub-  
10 paragraphs (B) and (C) of paragraph (2).”.

11 **SEC. 17. MISCELLANEOUS AMENDMENTS TO PURPOSES**  
12 **AND POLICY.**

13 Section 2 (16 U.S.C. 1801) is amended—

14 (1) in subsection (b)(6) by inserting “eco-  
15 logically sound” after “to encourage the”; and

16 (2) in subsection (c)(6) by inserting “, restore,”  
17 after “to foster”.

18 **SEC. 18. FOREIGN FISHING.**

19 Section 201(e)(1)(E) (16 U.S.C. 1821(e)(1)(E)) is  
20 amended—

21 (1) in clause (iii) by inserting “and compliance  
22 with and enforcement of international fishing agree-  
23 ments and treaties” after “fishing regulations”; and

24 (2) in clause (vii) by inserting “, conservation,”  
25 after “fishery research”.



1 **SEC. 19. DRIFTNETS.**

2 Section 206(c)(1) (16 U.S.C. 1826(c)(1)) is amended  
3 by inserting before the semicolon at the end the following:  
4 “and comply with any further action or resolution adopted  
5 by the United Nations on large-scale driftnet fishing to  
6 which the United States is a signatory”.

7 **SEC. 20. SOURCES FOR DATA IN FISHERIES RESEARCH.**

8 Section 404(a) (16 U.S.C. 1881e(a)) is amended by  
9 adding at the end the following: “The program shall ac-  
10 quire such knowledge and data using both fishery-depend-  
11 ent and fishery-independent data sources.”.

12 **SEC. 21. MISCELLANEOUS FISHERY PROTECTIONS IN FISH-**  
13 **ERY MANAGEMENT PLANS.**

14 Section 303(b) (16 U.S.C. 1853(b)) is further  
15 amended by adding after paragraph (15) the following:

16 “(16) designate closed areas, seasonal closures,  
17 time/area closures, gear restrictions, or other meth-  
18 ods for limiting impacts on habitat, limiting bycatch  
19 impacts of gear, or limiting fishing impact on  
20 spawning congregations in specific geographic  
21 areas.”.

22 **SEC. 22. COOPERATIVE MARINE EDUCATION AND RE-**  
23 **SEARCH PROGRAM.**

24 (a) PROGRAM.—The Secretary of Commerce may  
25 enter into cooperative agreements with universi-  
26 ties and institutions of higher learning in order to conduct research

1 in areas that support conservation and management of liv-  
2 ing marine resources.

3 (b) INCLUDED RESEARCH.—Research conducted  
4 under the program may include biological research  
5 concerning—

6 (1) the abundance and life history parameters  
7 of stocks of fish;

8 (2) the interdependence of fisheries or stocks of  
9 fish and other ecosystem components; and

10 (3) the linkages between fish habitat and fish  
11 production and abundance.

12 **SEC. 23. ASSESSMENT OF CUMULATIVE IMPACTS OF CON-**  
13 **SERVATION AND MANAGEMENT MEASURES**  
14 **FOR A FISHERY.**

15 Section 303(a)(9)(A) (16 U.S.C. 1853(a)(9)(A)) is  
16 amended by inserting before the semicolon the following:  
17 “, as well as the cumulative impacts on such participants  
18 and communities of conservation and management meas-  
19 ures for that fishery under other fishery management  
20 plans and regulations”.

21 **SEC. 24. REGIONAL STOCK ASSESSMENTS.**

22 (a) IN GENERAL.—Title IV (16 U.S.C. 1881 et seq.)  
23 is further amended by adding at the end the following:



1 **“SEC. 409. REGIONAL STOCK ASSESSMENTS.**

2 “(a) IN GENERAL.—The Secretary shall conduct  
3 periodic regional assessments of stocks of fish.

4 “(b) INDEPENDENT REVIEW.—The Secretary shall  
5 ensure that each periodic assessment under this section  
6 is independently reviewed in a manner that—

7 “(1) will not delay the process of providing to  
8 Regional Fishery Management Councils current as-  
9 sessments for use in managing fisheries; and

10 “(2) is as transparent as possible, so that the  
11 regulated community can provide input during the  
12 review process.”.

13 (b) CLERICAL AMENDMENT.—The table of contents  
14 in the first section is further amended by adding at the  
15 end of the items relating to title IV the following:

“409. Regional stock assessments.”.

16 **SEC. 25. NATIONAL ACADEMY OF SCIENCES GUIDANCE AND**  
17 **STANDARDS REGARDING BEST SCIENTIFIC**  
18 **INFORMATION AVAILABLE.**

19 (a) IN GENERAL.—The Secretary of Commerce shall  
20 enter into an arrangement with the National Academy of  
21 Sciences under which the Academy shall by not later than  
22 1 year after the date of the enactment of this Act, develop  
23 guidance and standards for determining what should be  
24 considered the best scientific information available for  
25 purposes of sections 2(c)(3) and 301(a)(2) of the Magnu-



1 son-Stevens Fishery Conservation and Management Act  
2 (16 U.S.C. 1801(c)(3), 1851(a)(2)).

3 (b) FACTORS CONSIDERED.—Guidance and stand-  
4 ards developed under subsection (a) shall take into  
5 consideration—

6 (1) the need for relevance and timeliness of in-  
7 formation; and

8 (2) how to treat the use of gray literature and  
9 anecdotal information.

10 (c) PUBLICATION AND OPPORTUNITY FOR COM-  
11 MENT.—The Secretary shall publish the results of the ac-  
12 tivities of the Academy under subsection (a) and provide  
13 an opportunity for the submission of comments regarding  
14 the definition developed under subsection (a)(1).

15 **SEC. 26. NATIONAL ACADEMY OF SCIENCES DEFINITION OF**  
16 **MAXIMUM SUSTAINABLE YIELD.**

17 (a) IN GENERAL.—The Secretary of Commerce shall  
18 enter into an arrangement with the National Academy of  
19 Sciences under which the Academy shall—

20 (1) develop a definition of the term “maximum  
21 sustainable yield” for purposes of the Magnuson-Ste-  
22 vens Fishery Conservation and Management Act (16  
23 U.S.C. 1801 et seq.), that considers environmental  
24 variability; and



1 (2) examine the use of alternatives for calcu-  
2 lating sustainable harvest levels in cases in which  
3 maximum sustainable yield cannot be calculated or  
4 is not appropriate.

5 (b) PUBLICATION AND OPPORTUNITY FOR COM-  
6 MENT.—The Secretary shall publish the results of the ac-  
7 tivities of the Academy under subsection (a) and provide  
8 an opportunity for the submission of comments regarding  
9 the definition developed under subsection (a)(1).

10 **SEC. 27. ADMINISTRATION OF PACIFIC INSULAR AREA**  
11 **FISHERY AGREEMENTS.**

12 Section 204(e)(6) (16 U.S.C. 1824(e)(6)) is amended  
13 in the matter preceding subparagraph (A) by striking  
14 “into” and all that follows through “to the” the first place  
15 it appears and inserting “into the”.

16 **SEC. 28. HIGHLY MIGRATORY SPECIES BYCATCH MOR-**  
17 **TALITY REDUCTION RESEARCH PROGRAM.**

18 (a) ESTABLISHMENT OF A PROGRAM.—(1) There is  
19 established within the National Marine Fisheries Service  
20 a pelagic longline highly migratory species bycatch and  
21 mortality reduction research program. The Program shall  
22 be developed by a design team established by the Secretary  
23 of Commerce. The Program design shall be submitted to  
24 the Secretary no later than 120 days after the first meet-  
25 ing of the design team and shall include a statistically sig-



1 nificant recommendation for the level of observer coverage  
2 on pelagic longline fishing vessels that is necessary to  
3 monitor the fishery effectively and participate in the re-  
4 search program. The design team shall be available as a  
5 resource to the Secretary throughout the research and the  
6 development of the recommendations.

7 (2) The program shall identify and test a variety of  
8 pelagic longline fishing gear configurations and uses and  
9 determine which of those configurations and uses are the  
10 most effective in reducing highly migratory species mor-  
11 tality. The program shall place an emphasis on deter-  
12 mining the gear configurations and uses that are the most  
13 effective in reducing blue and white marlin mortality in  
14 the exclusive economic zone of the United States in the  
15 Atlantic Ocean. The program shall also include a provision  
16 for observers to be placed on pelagic longline fishing ves-  
17 sels for the purposes of monitoring the fishery and partici-  
18 pating in the research program.

19 (3) The highly migratory species program shall con-  
20 duct research to determine the impact of existing time and  
21 area closures designed to reduce the bycatch of longline  
22 vessels. The program shall focus on whether existing clo-  
23 sures should be modified to decrease bycatch by longline  
24 vessels and shall determine what adjustments to the exist-  
25 ing boundaries and temporal constraints should be made



1 as a result of any research. Any vessel participating in  
2 the program shall be provided an observer by the National  
3 Marine Fisheries Service. The full cost of the observer and  
4 any incidental costs to the vessel as a result of being in-  
5 cluded in the research program shall be paid for by the  
6 National Marine Fisheries Service. The National Marine  
7 Fisheries Service may authorize, without notice and com-  
8 ment, scientific research permits authorizing a vessel to  
9 enter and fish in any closed area in the Atlantic Ocean  
10 so long as there is 100 percent observer coverage and the  
11 activities of the vessel are in furtherance of the research  
12 program. Access to any closed area may be granted only  
13 after consideration of the scientific need for access.

14 (b) DESIGN TEAM.—(1) Knowledgeable members of  
15 the pelagic longline fishing sector, the recreational billfish  
16 and tuna sector, and the conservation community, along  
17 with scientists associated with each such entity, shall be  
18 appointed by the Secretary to the program design team.  
19 Each of the sectors shall to the extent practicable be fairly  
20 represented on the design team. The design team shall not  
21 exceed nine members only one of which may be an em-  
22 ployee of the Federal Government. The design team shall  
23 select a chairman and establish its own rules of operation.  
24 Each member of the design team who is not employed by  
25 the Federal Government shall be compensated in the man-



1 ner provided for members of a Fishery Management Coun-  
2 cil under section 302(d) of the Magnuson-Stevens Fishery  
3 Conservation and Management Act (16 U.S.C. 1852(d)).

4 (2) The design team shall not be considered to be  
5 an advisory committee for the purposes of the Federal Ad-  
6 visory Committee Act (5 U.S.C. App.), but shall hold its  
7 deliberations in meetings for which prior noticed is pub-  
8 lished in the Federal Register and that are open to the  
9 public.

10 (c) MID-ATLANTIC CONSERVATION ZONE FOR HIGH-  
11 LY MIGRATORY SPECIES.—Section 304(g) (16 U.S.C.  
12 1854(g)) is amended by adding at the end the following:

13 “(3) MID-ATLANTIC CONSERVATION ZONE FOR  
14 HIGHLY MIGRATORY SPECIES.—

15 “(A) No person shall engage in pelagic  
16 longline fishing—

17 “(i) in the lower mid-Atlantic Con-  
18 servation Zone in the period beginning Au-  
19 gust 15 and ending October 1 each year;  
20 or

21 “(ii) in the upper mid-Atlantic Con-  
22 servation Zone in the period beginning  
23 July 15 and ending September 1 each  
24 year.



1           “(B) In this paragraph the term ‘lower  
2 mid-Atlantic Conservation Zone’ means the  
3 area that is enclosed by a series of geodesics  
4 connecting in succession the points at the fol-  
5 lowing coordinates:

6           “(i) 36 degrees 30 minutes north lati-  
7 tude, 75 degrees 0 minutes west longitude.

8           “(ii) 37 degrees 0 minutes north lati-  
9 tude, 75 degrees 0 minutes west longitude.

10          “(iii) 38 degrees 0 minutes north lati-  
11 tude, 74 degrees 0 minutes west longitude.

12          “(iv) 38 degrees 0 minutes north lati-  
13 tude, 73 degrees 0 minutes west longitude.

14          “(v) 37 degrees 0 minutes north lati-  
15 tude, 74 degrees 0 minutes west longitude.

16          “(vi) 36 degrees 30 minutes north  
17 latitude, 75 degrees 0 minutes west lon-  
18 gitude.

19           “(C) In this paragraph the term ‘upper  
20 mid-Atlantic Conservation Zone’ means the  
21 area that is enclosed by a series of geodesics  
22 connecting in succession the points at the fol-  
23 lowing coordinates:

24           “(i) 38 degrees 0 minutes north lati-  
25 tude, 74 degrees 0 minutes west longitude.



1                   “(ii) 40 degrees 0 minutes north lati-  
2                   tude, 72 degrees 0 minutes west longitude.

3                   “(iii) 39 degrees 0 minutes north lati-  
4                   tude, 72 degrees 0 minutes west longitude.

5                   “(iv) 38 degrees 0 minutes north lati-  
6                   tude, 73 degrees 0 minutes west longitude.

7                   “(v) 38 degrees 0 minutes north lati-  
8                   tude, 74 degrees 0 minutes west longitude.

9                   “(D) This paragraph shall not apply after  
10                  the end of the 4-year period beginning on the  
11                  date of the enactment of this paragraph.”.

12               (d) REPORT TO CONGRESS.—The Secretary of Com-  
13               merce shall submit to the Committee on Resources of the  
14               House of Representatives and the Committee on Com-  
15               merce, Science, and Transportation of the Senate—

16                   (1) an interim report of the findings of the re-  
17                   search conducted under this section within two years  
18                   after the date of enactment of this Act; and

19                   (2) a final report with the necessary regulatory  
20                   documents to initiate implementation of any adjust-  
21                   ments to time and area closures, gear configura-  
22                   tions, or fishing techniques warranted as a result of  
23                   the research.

24               (e) AUTHORIZATION OF APPROPRIATIONS.—For re-  
25               search under this section there is authorized to be appro-



1 priated to the Secretary of Commerce \$5,000,000 for fis-  
2 cal years 2003 through 2007.

3 **SEC. 29. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 4 (16 U.S.C. 1893) is amended to read as  
5 follows:

6 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

7 “There are authorized to be appropriated to the Sec-  
8 retary for the purposes of carrying out the provisions of  
9 this Act, not to exceed the following:

10 “(1) \$200,500,000 for fiscal year 2003;

11 “(2) \$214,000,000 for fiscal year 2004;

12 “(3) \$222,000,000 for fiscal year 2005;

13 “(4) \$230,000,000 for fiscal year 2006; and

14 “(5) \$238,000,000 for fiscal year 2007.”.



**Subject:** [Fwd: Magnuson-Stevens Fishery Conservation and Management Act Reauthorization Discussion Draft]

**From:** "Donald.McIsaac" <Donald.McIsaac@noaa.gov>

**Date:** Tue, 17 Feb 2004 10:08:25 -0800

**To:** Daniel Waldeck <Daniel.Waldeck@noaa.gov>

**CC:** John Coon <John.Coon@noaa.gov>, David Hanson <dave\_hanson@psmfc.org>, Robert Alverson <robertalverson@msn.com>, Ralph Brown <aloma@wave.net>, Renee Dorval <Renee.Dorval@noaa.gov>

Dan-

Please see below, and provide for having this email and the draft bill in the Briefing Book, and on the Legislative Committee agenda for 11 am Monday of the March Council meeting.

Renee-

Please fax this email to Roger Thomas.

Thanks,  
Don

----- Original Message -----

**Subject:** Magnuson-Stevens Fishery Conservation and Management Act Reauthorization Discussion Draft

**Date:** Fri, 13 Feb 2004 14:32:20 -0500

**From:** Whaley, Dave <Dave.Whaley@mail.house.gov>

**To:** Comments, Magnuson <Magnuson.Comments@mail.house.gov>

As the 108<sup>th</sup> Congress transitions from the first to the second session, the development of policy for the comprehensive conservation and management of our nation's fisheries is one of the highest priorities of the House Resources Subcommittee on Fisheries Conservation, Wildlife and Oceans.

As you are probably aware, the Committee on Resources passed a reauthorization bill (H.R. 4749) in the 107<sup>th</sup> Congress, but it was never considered by the full House of Representatives. Attached you will find the text of H.R. 4749 from the 107<sup>th</sup> Congress which I am releasing as a Discussion Draft for the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act in this Congress. The attached Discussion Draft is the culmination of stakeholder input from 9 hearings and a significant number of meetings with all interested constituency groups held during the 106<sup>th</sup> and 107<sup>th</sup> Congresses. While it represents a good synthesis of perspectives, the landscape of ocean fisheries management is evolving, and debate continues on a number of important issues. Also, we will soon be considering the oceans policy review and recommendations from the U.S. Commission on Ocean Policy.

In anticipation of the Commission's report and your responses to ocean fishery management issues as they have evolved since the 107<sup>th</sup> Congress, I request your review of the attached Discussion Draft and that you once again join the discussion about the Magnuson-Stevens Act reauthorization. While the 108<sup>th</sup> Congress is more than half over, I still believe that there is enough time to pass a reauthorization

if we can come to agreement on the major issues facing fisheries management in the United States and can develop appropriate provisions to deal with these important issues.

I look forward to working with you on reauthorizing this important Act and hope you will be able to take the time to review the earlier legislation and provide me with your views. I would ask that you send your responses to [Magnuson.Comments@mail.house.gov](mailto:Magnuson.Comments@mail.house.gov) by March 31, 2004. Please feel free to share this Discussion Draft with other interested individuals.

Sincerely,

Wayne T. Gilchrest  
Chairman  
Subcommittee on Fisheries Conservation, Wildlife and Oceans

--

Donald O. McIsaac, Ph. D.  
Executive Director  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 200  
Portland, Oregon 97220-1384  
Phone: (503) 820-2280  
Fax: (503) 820-2299  
Web: <http://www.pcouncil.org>

108TH CONGRESS  
1ST SESSION

# S. 1953

To protect deep sea corals and sponges, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

NOVEMBER 25, 2003

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## A BILL

To protect deep sea corals and sponges, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deep Sea Coral Protec-  
5 tion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Complex seafloor habitats created by struc-  
9 ture-forming organisms including deep sea corals  
10 and sponges are essential to numerous fish species,  
11 including commercially and recreationally targeted

1 species, which rely on such complex habitats for  
2 spawning, food, and shelter from predation. For ex-  
3 ample, more than 1,300 species live among lophelia  
4 coral reefs in the Northeastern Atlantic Ocean.

5 (2) Deep sea corals typically exhibit slow  
6 growth, extreme longevity, and highly patchy dis-  
7 tribution, predominately along continental margins,  
8 seamounts, undersea canyons, and ridges.

9 (3) Living organisms, such as deep sea corals  
10 and sponges, that create complex habitat have not  
11 been adequately studied for the potential benefit to  
12 society or for the ecological importance that such or-  
13 ganisms provide to fish species and other forms of  
14 marine life.

15 (4) Some deep sea corals have a growth ring  
16 structure that provides a living record of changes in  
17 water temperature and other information that can  
18 be used to track global climate change over time.

19 (5) Deep sea corals are a future source of new  
20 biomedical compounds for the pharmaceutical and  
21 biotechnical industries.

22 (6) The exceptional diversity, uniqueness, and  
23 vulnerability of deep sea corals necessitates that the  
24 mapping and conservation of such species be given  
25 a high priority.

1           (7) There is national and international recogni-  
2           tion of the importance of deep sea coral habitats.  
3           The European Union, New Zealand, Canada, and  
4           Norway have prohibited the use of fishing gear that  
5           employs mobile bottom-tending fishing gear in some  
6           areas where deep sea coral exist. Further, several of  
7           the Councils have taken action to protect the fragile  
8           habitat of deep sea corals.

9           (8) Deep sea coral habitats are subject to grow-  
10          ing human pressures, particularly as a result of the  
11          rapid spread of deep sea trawl fisheries into new re-  
12          gions and new grounds, aided by the development of  
13          navigational, fish-finding, and other technologies.

14 **SEC. 3. POLICY.**

15          It is the policy of the United States to protect deep  
16          sea corals and sponges, including protecting such orga-  
17          nisms that are found in the continental margins, canyons,  
18          seamounts, and ridges of the world's oceans, and the habi-  
19          tats of such organisms from damage from gear and equip-  
20          ment used in commercial fishing, particularly mobile bot-  
21          tom-tending gear.

22 **SEC. 4. DEFINITIONS.**

23          In this Act:

24           (1) CORAL MANAGEMENT AREA.—The term  
25          “Coral Management Area” means an area des-

1       ignated as a Coral Management Area under this  
2       Act.

3               (2) COUNCIL.—The term “Council”, unless oth-  
4       erwise specified, means 1 of the Regional Fishery  
5       Management Councils established by section 302 of  
6       the Magnuson-Stevens Fishery Conservation and  
7       Management Act (16 U.S.C. 1852).

8               (3) DEEP SEA CORAL ECOSYSTEM.—The term  
9       “deep sea coral ecosystem” means living species of  
10      deep sea corals and sponges, consisting of both reef-  
11      like structures or thickets, and other species of orga-  
12      nisms associated with the deep sea coral habitats,  
13      and the nonliving environmental factors that affect  
14      species of deep sea corals and sponges, that together  
15      function as an ecological unit in nature.

16              (4) DEEP SEA CORALS AND SPONGES.—The  
17      term “deep sea corals and sponges” means the spe-  
18      cies—

19                      (A)(i) in the family Stylasteriidae that are  
20                      without symbiotic algae;

21                      (ii) in the phylum Cnidaria and in—

22                              (I) the subclass Octocorallia, other  
23                              than in the order Pennatulacea; or

1 (II) the subclass Hexacorallia, includ-  
2 ing the orders Scleractinia,  
3 Corallimorpharia, and Antipatharia; or

4 (iii) in the phylum Porifera that are  
5 sponges; and

6 (B)(i) that occur in regions of the exclusive  
7 economic zone that are not subject to the juris-  
8 diction of a Council that is the—

9 (I) South Atlantic Fishery Manage-  
10 ment Council;

11 (II) Gulf of Mexico Fishery Manage-  
12 ment Council;

13 (III) Western Pacific Fishery Man-  
14 agement Council; or

15 (IV) Caribbean Fishery Management  
16 Council; or

17 (ii) that occur at depths of at least 50 me-  
18 ters in regions of the exclusive economic zone  
19 that are subject to the jurisdiction of a Council  
20 that is the—

21 (I) South Atlantic Fishery Manage-  
22 ment Council;

23 (II) Gulf of Mexico Fishery Manage-  
24 ment Council;

1 (III) Western Pacific Fishery Man-  
2 agement Council; and

3 (IV) Caribbean Fishery Management  
4 Council.

5 (5) EXCLUSIVE ECONOMIC ZONE.—The term  
6 “exclusive economic zone” has the meaning given  
7 that term in section 3 of the of the Magnuson-Ste-  
8 vens Fishery Conservation and Management Act (16  
9 U.S.C. 1802).

10 (6) MOBILE BOTTOM-TENDING FISHING  
11 GEAR.—The term “mobile bottom-tending fishing  
12 gear” means any fishing gear that uses a piece of  
13 gear that drags along the ocean floor, including  
14 dredges, beam or otter trawls, or pelagic trawls that  
15 contact the ocean floor.

16 (7) SECRETARY.—The term “Secretary” means  
17 the Secretary of Commerce.

18 **SEC. 5. PROHIBITION ON THE USE OF MOBILE BOTTOM-**  
19 **TENDING FISHING GEAR IN CORAL MANAGE-**  
20 **MENT AREAS.**

21 Mobile bottom-tending fishing gear may not be used  
22 in any area designated as a Coral Management Area.

23 **SEC. 6. CORAL MANAGEMENT AREAS.**

24 (a) INITIAL DESIGNATIONS.—

1 (1) ALASKA DEEP SEA GARDENS.—Each area  
 2 bounded by a circle with a radius of 3 nautical miles  
 3 and a center at each of following points is des-  
 4 ignated as a Coral Management Area:

5 (A)  $51^{\circ}58'13''$  N. x  $176^{\circ}49'53''$  W.

6 (B)  $51^{\circ}54'25''$  N. x  $177^{\circ}24'35''$  W.

7 (C)  $51^{\circ}50'53''$  N. x  $179^{\circ}49'54''$  W.

8 (D)  $51^{\circ}24'02''$  N. x  $179^{\circ}01'38''$  W.

9 (E)  $51^{\circ}50'45''$  N. x  $179^{\circ}49'28''$  W.

10 (2) OTHER DESIGNATIONS.—Each area bound-  
 11 ed by the following coordinates is designated as a  
 12 Coral Management Area:

13 (A) OCEANOGRAPHER CANYON.— $40^{\circ}30'$  N.  
 14 x  $68^{\circ}11'$  W.,  $40^{\circ}10'$  N. x  $68^{\circ}10'$  W., and  
 15  $40^{\circ}10'$  N. x  $68^{\circ}00'$  W.

16 (B) LYDONIA CANYON.— $40^{\circ}36'$  N. x  
 17  $67^{\circ}45'$  W.,  $40^{\circ}15'$  N. x  $67^{\circ}45'$  W., and  $40^{\circ}15'$   
 18 N. x  $67^{\circ}35'$  W.

19 (C) OCULINA REEFS.—

20 (i)  $27^{\circ}30'$  N. x  $80^{\circ}$  W.,  $28^{\circ}30'$  N. x  
 21  $80^{\circ}$  W., and the 183 meter contour.

22 (ii)  $28^{\circ}30'$  N. x  $80^{\circ}$  W.,  $28^{\circ}30'$  N. x  
 23  $80^{\circ}03'$  W.,  $28^{\circ}29'$  N. x  $80^{\circ}$  W., and  
 24  $28^{\circ}29'$  N. x  $80^{\circ}03'$  W.

1 (iii)  $28^{\circ}17' N. \times 80^{\circ} W.$ ,  $28^{\circ}16' N. \times$   
 2  $80^{\circ} W.$ ,  $28^{\circ}17' N. \times 80^{\circ}03' W.$ , and  
 3  $28^{\circ}16' N. \times 80^{\circ}03' W.$

4 (D) LOPHELIA/ENALLOPSAMMIA REEFS.—

5 (i)  $31^{\circ} N. \times 79^{\circ}50' W.$ ,  $31^{\circ} N. \times$   
 6  $79^{\circ}30' W.$ ,  $30^{\circ}20' N. \times 80^{\circ}10' W.$ , and  
 7  $30^{\circ}20' N. \times 79^{\circ}30' W.$

8 (ii)  $30^{\circ}20' N. \times 80^{\circ}10' W.$ ,  $30^{\circ}20' N.$   
 9  $\times 79^{\circ}30' W.$ ,  $29^{\circ}00' N. \times 79^{\circ}45' W.$ , and  
 10  $29^{\circ} N. \times 79^{\circ}30' W.$

11 (iii)  $29^{\circ} N. \times 79^{\circ}45' W.$ ,  $29^{\circ} N. \times$   
 12  $79^{\circ}30' W.$ ,  $28^{\circ} N. \times 79^{\circ}45' W.$ , and  $28^{\circ}$   
 13  $N. \times 79^{\circ}30' W.$

14 (iv)  $31^{\circ}55' N. \times 79^{\circ}20' W.$ ,  $31^{\circ}55' N.$   
 15  $\times 79^{\circ} W.$ ,  $31^{\circ}35' N. \times 79^{\circ}25' W.$ , and  
 16  $31^{\circ}35' N. \text{ by } 79^{\circ} W.$

17 (v)  $32^{\circ}12' N. \times 77^{\circ}45' W.$ ,  $32^{\circ}12' N.$   
 18  $\times 77^{\circ}20' W.$ ,  $31^{\circ}30' N. \times 77^{\circ}45' W.$ , and  
 19  $31^{\circ}30' N. \times 77^{\circ}20' W.$

20 (vi)  $32^{\circ} N. \times 77^{\circ}10' W.$ ,  $32^{\circ} N. \times$   
 21  $77^{\circ}10' W.$ ,  $31^{\circ}48' N. \times 77^{\circ}20' W.$ , and  
 22  $31^{\circ}48' N. \times 77^{\circ}10' W.$

23 (E) BEAR SEAMOUNT.— $39^{\circ}52' N. \times$   
 24  $67^{\circ}30' W.$ ,  $39^{\circ}58' N. \times 67^{\circ}50' W.$ ,  $39^{\circ}58' N.$   
 25  $\times 67^{\circ}50' W.$ , and  $39^{\circ}52' N. \times 67^{\circ}50' W.$

1           (b) AREAS IDENTIFIED THROUGH FISHING  
2 RECORDS.—The Secretary shall designate as a Coral  
3 Management Area any area that is located within the ex-  
4 clusive economic zone for which records of commercial  
5 fishing trips maintained by the National Marine Fisheries  
6 Service do not demonstrate that the area has been fished  
7 using mobile bottom-tending gear during the 3-year period  
8 ending on November 1, 2003.

9           (c) TERMINATION OF DESIGNATION.—

10           (1) IN GENERAL.—The Secretary may deter-  
11 mine that an area or part of an area that is des-  
12 ignated as a Coral Management Area pursuant to  
13 subsection (b) shall no longer be designated as a  
14 Coral Management Area if—

15                   (A) the deep sea corals and sponges in  
16 such area have been mapped by the National  
17 Oceanic and Atmospheric Administration;

18                   (B) a Council recommends to the Secretary  
19 that such area no longer be designated as a  
20 Coral Management Area;

21                   (C) the Secretary determines that the use  
22 of mobile bottom-tending fishing gear in such  
23 area would cause only minimal and temporary  
24 damage to deep sea corals and sponges located  
25 in such area; and

1 (D) the use of mobile bottom-tending fish-  
2 ing gear in such area is not prohibited by any  
3 other provision of law.

4 (d) PUBLICATION.—The Secretary shall publish  
5 in the Federal Register a description of any area  
6 that the Secretary—

7 (A) designates as a Coral Management  
8 Area under this Act; or

9 (B) determines shall no longer be des-  
10 ignated as a Coral Management Area under  
11 subsection (c).

12 **SEC. 7. MONITORING OF CORAL BYCATCH.**

13 (a) REQUIREMENT FOR MONITORING.—The Sec-  
14 retary shall monitor fishing within the exclusive economic  
15 zone in a manner that is adequate to identify the quantity  
16 of all deep sea coral and sponge bycatch caught and the  
17 location in which the bycatch was caught. The monitoring  
18 shall include—

19 (1) evaluating bycatch data; and

20 (2) identifying areas in which the rate of by-  
21 catch of deep sea corals and sponges indicate the  
22 presence of a deep sea coral ecosystem.

23 (b) CORAL MANAGEMENT AREA.—Not later than 60  
24 days after identifying an area described in subsection

1 (a)(2), the Secretary shall designate such area as a Coral  
2 Management Area.

3 (c) REPORT.—

4 (1) REQUIREMENT.—Not less frequently than  
5 once each calendar year, the Secretary shall prepare  
6 a report that summarizes the data collected during  
7 the monitoring carried out under this section. The  
8 report shall include a description of any area that  
9 the Secretary designates as a Coral Management  
10 Area pursuant to subsection (b).

11 (2) PUBLICATION.—Notice of the availability of  
12 each report required by paragraph (1) shall be pub-  
13 lished in the Federal Register.

14 **SEC. 8. RESEARCH.**

15 (a) REQUIREMENT FOR RESEARCH.—The Secretary  
16 shall direct the Under Secretary for Oceans and Atmos-  
17 phere to carry out a comprehensive program to explore,  
18 research, identify, and map deep sea corals and sponges  
19 that includes an annual research strategy that compares  
20 areas open to mobile bottom-tending gear with areas des-  
21 ignated as Coral Management Areas.

22 (b) DESCRIPTION OF RESEARCH.—The comprehen-  
23 sive program described in subsection (a) shall include—

24 (1) creating maps of the locations of deep sea  
25 coral ecosystems; and

1           (2) conducting research related to deep sea corals and sponges and the habitats of deep sea corals and sponges, including—

2                   (A) the natural history;

3                   (B) taxonomic classification;

4                   (C) ecological role; and

5                   (D) the benefits of such species and habitats.

6           (c) CORAL MANAGEMENT AREA.—Not later than 60 days after the date on which the Secretary determines that an area has a deep sea coral ecosystem based on the research conducted under this section, the Secretary shall designate such area as a Coral Management Area.

7           (d) REPORT.—

8                   (1) REQUIREMENT FOR REPORT.—Not less frequently than once each calendar year, the Secretary shall prepare a report that summarizes the annual research strategy the findings of the program carried out under this subsection. The report shall include a description of any area that the Secretary designates as a Coral Management Area pursuant to subsection (c).

9                   (2) PUBLICATION.—Notice of the availability of each report required by paragraph (1) shall be published in the Federal Register.

1 **SEC. 9. ANNUAL DATA REVIEW.**

2 (a) **REQUIREMENT FOR ANNUAL REVIEW.**—Not less  
3 frequently than once each calendar year, the Chair of the  
4 National Research Council shall review all available data  
5 related to deep sea corals and sponges. Such data shall  
6 include data—

7 (1) related to the monitoring carried out under  
8 section 7;

9 (2) related to the research carried out under  
10 section 8; and

11 (3) obtained from any Federal agency under  
12 subsection (b).

13 (b) **DATA FROM FEDERAL ENTITIES.**—The head of  
14 any Federal agency that holds information related to the  
15 ocean floor, including information related to the habit of  
16 deep sea corals and sponges, shall, upon request, furnish  
17 such information to the Chair of the National Research  
18 Council.

19 (c) **RECOMMENDATIONS.**—

20 (1) **IN GENERAL.**—Not later than 30 days after  
21 completing the annual review required by subsection  
22 (a), the Chair of the National Research Council shall  
23 submit to the Secretary a recommendation that any  
24 area identified as a deep sea coral ecosystem in such  
25 annual review be designated as a Coral Management  
26 Area.

1           (2) PUBLICATION.—Notice of the availability of  
2 each recommendation submitted to the Secretary  
3 under paragraph (1) shall be published in the Fed-  
4 eral Register.

5           (d) REVIEW OF RECOMMENDATIONS.—

6           (1) PROPOSED RULE.—Not later than 10 days  
7 after receiving a recommendation pursuant to sub-  
8 section (c)(1), the Secretary shall publish in the  
9 Federal Register a proposed rule to designate any  
10 recommended area as a Coral Management Area.

11           (2) COMMENT PERIOD.—The Secretary shall  
12 accept comments on any proposed rule published  
13 under paragraph (1) for 30 days after the date of  
14 the publication of such proposed rule.

15           (3) FINAL DETERMINATION.—Not later than 60  
16 days after the publication of such proposed rule, the  
17 Secretary shall designate the area recommended  
18 under subsection (c)(1) as a Coral Management  
19 Area unless the Secretary finds no rational basis for  
20 the recommendation.

21 **SEC. 10. PENALTIES AND ENFORCEMENT.**

22           (a) CIVIL PENALTIES.—The civil penalties set out in  
23 section 308 of the Magnuson-Stevens Fishery Conserva-  
24 tion and Management Act (16 U.S.C. 1858) shall apply

1 to a person who is found by the Secretary to have violated  
2 the prohibition in section 5.

3 (b) CRIMINAL OFFENSES.—

4 (1) PROHIBITED ACTS.—It is unlawful for any  
5 person—

6 (A) to refuse to permit any officer author-  
7 ized to enforce the provisions of this Act (as  
8 provided for in subsection (d)) to board a fish-  
9 ing vessel subject to such person's control for  
10 purposes of conducting any search or inspection  
11 in connection with the enforcement of this Act  
12 or any regulation, permit, or agreement issued  
13 pursuant to this Act;

14 (B) to forcibly assault, resist, oppose, im-  
15 pede, intimidate, or interfere with any such au-  
16 thorized officer in the conduct of any search or  
17 inspection described in subparagraph (A);

18 (C) to resist a lawful arrest for any act  
19 prohibited by this Act;

20 (D) to interfere with, delay, or prevent, by  
21 any means, the apprehension or arrest of an-  
22 other person, knowing that such other person  
23 has committed any act prohibited by this Act;

24 (E) to knowingly and willfully submit to a  
25 Council, the Secretary, or the Governor of a

1 State false information regarding any matter  
2 that the Council, Secretary, or Governor is con-  
3 sidering in the course of carrying out this Act;  
4 or

5 (F) to forcibly assault, resist, oppose, im-  
6 pede, intimidate, sexually harass, bribe, or  
7 interfere with any observer on a vessel under  
8 this Act, or any data collector employed by the  
9 National Marine Fisheries Service or under  
10 contract to any person to carry out responsibil-  
11 ities under this Act.

12 (2) PUNISHMENT.—A person is guilty of an of-  
13 fense if such person commits any act prohibited by  
14 paragraph (1). Such offense is punishable by the  
15 punishments set out in section 309(b) of the Magnu-  
16 son-Stevens Fishery Conservation and Management  
17 Act (16 U.S.C. 1859(b)).

18 (c) CIVIL FORFEITURES.—Any fishing vessel (includ-  
19 ing its fishing gear, furniture, appurtenances, stores, and  
20 cargo) used, and fish (or the fair market value thereof)  
21 taken or retained, in any manner, in connection with or  
22 as a result of the commission of a violation of the prohibi-  
23 tion in section 5 (other than such a violation for which  
24 the issuance of a citation is sufficient sanction) shall be  
25 subject to the civil forfeiture provisions set out in section

1 310 of the Magnuson-Stevens Fishery Conservation and  
2 Management Act (16 U.S.C. 1860).

3 (d) ENFORCEMENT.—The provisions of this Act shall  
4 be enforced by the officers responsible for the enforcement  
5 the Magnuson-Stevens Fishery Conservation and Manage-  
6 ment Act as provided for in subsection (a) of section 311  
7 of the Magnuson-Stevens Fishery Conservation and Man-  
8 agement Act (16 U.S.C. 1861). Such officers shall have  
9 the powers and authorities to enforce this Act as are pro-  
10 vided in such section.

11 **SEC. 11. INTERNATIONAL PROTECTIONS FOR DEEP SEA**  
12 **CORALS AND SPONGES.**

13 The President is authorized to permit the Secretary,  
14 in consultation with the Secretary of State, to work with  
15 appropriate foreign entities to develop the data necessary  
16 to identify areas located in international waters that would  
17 benefit from additional protection for deep sea corals and  
18 sponges.

19 **SEC. 12. REPORT TO CONGRESS.**

20 (a) REQUIREMENT.—On the date that is 3 years  
21 after the date of enactment of this Act, and every 3 years  
22 thereafter, the Secretary shall submit to Congress a report  
23 on the activities undertaken to carry out the provisions  
24 of this Act.

1 (b) CONTENT.—The reports required by subsection  
2 (a) shall include a description of—

3 (1) the activities carried out to protect and  
4 monitor deep sea corals and sponges; and

5 (2) any area designated as a Coral Management  
6 Area.

7 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated \$50,000,000  
9 for each fiscal year to carry out the provisions of this Act.

○



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
1315 East-West Highway  
Silver Spring, Maryland 20910  
THE DIRECTOR

DEC 16 2003

RECEIVED

DEC 24 2003

PFMC

Donald O. McIsaac, Ph.D.  
Executive Director  
Pacific Fishery Management Council  
7700 NE Ambassador Place  
Portland, Oregon 97220-1384

Dear Dr. <sup>Doz</sup> McIsaac:

Thank you for your letter regarding the views of the Department of Justice (DOJ) on fishing rationalization programs.

The key issue is the participation of processors in individual fishing quota (IFQ) programs, and this participation could assume two forms. First, is ownership by processors of harvest quotas in IFQ programs, and, second, as proposed recently by the North Pacific Fishery Management Council in its Alaska crab rationalization plan, is ownership by processors of processing quotas. Put simply, harvest quotas confer an allocation to fish, and processing quotas an allocation to buy fish. DOJ has expressed concerns about the second type: the allocation of processing quotas to processors. To put this issue in a broader context, I will explain our views on both harvesting and processing quotas.

With respect to ownership by processors of harvest quotas in IFQ programs, the Administration's proposal for revisions to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which was transmitted to Congress in June 2003, would allow processors to participate in IFQ programs. Specifically, the Administration bill permits IFQ to be held by or issued to "other persons as specified by the Council," providing the Regional Fishery Management Councils (Councils) with an opportunity to consider allocation of IFQs to processors. Additionally, there is a requirement in the Administration's bill for new IFQ programs to utilize procedures to ensure fair and equitable initial allocations, including the consideration of employment in the processing sector. Because of the socioeconomic impacts of allocating fishing quotas under any IFQ program, the National Oceanic and Atmospheric Administration believes that it is important for the Councils to make decisions regarding processors' participation in IFQ programs on a fishery-by-fishery basis.

In regards to the ownership by processors of processing quotas, the Administration has concerns regarding the allocation of processing quotas within fisheries due to the potential impacts on



competition in the processing sector. The Magnuson-Stevens Act delegates authority to develop fishery management plans to the Councils, subject to review and approval by the Secretary of Commerce. On-shore processor quota systems are not currently authorized under the Magnuson-Stevens Act. Fishery management plans are required to consider socioeconomic impacts, including those in the processing sector. However, processing quotas are not the only mechanism for addressing impacts on processors, and we believe there may be other, more appropriate and effective ways to facilitate economic adjustments by shore-side processors to IFQ programs.

I have asked the National Marine Fisheries Service's Northwest Region to work closely with the Pacific Fishery Management Council during the development of an individual quota-based program for the groundfish trawl fishery. The Northwest Region will need additional details about the program under development before they can advise you on how the DOJ concerns might affect it.

I appreciate your interest in this important topic.

Sincerely,

A handwritten signature in cursive script that reads "Bill".

William T. Hogarth, Ph.D.  
Assistant Administrator  
for Fisheries

108TH CONGRESS  
1ST SESSION

# H. R. 2654

To amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to issue regulations under which the Secretary may authorize use of a decommissioned offshore oil and gas platform for culture of marine organisms, an artificial reef, or scientific research, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2003

Mr. VITTER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to issue regulations under which the Secretary may authorize use of a decommissioned offshore oil and gas platform for culture of marine organisms, an artificial reef, or scientific research, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rigs to Reefs Act of  
3 2003”.

4 **SEC. 2. AUTHORITY TO USE DECOMMISSIONED OFFSHORE**  
5 **OIL AND GAS PLATFORMS FOR**  
6 **MARICULTURE, ARTIFICIAL REEF, OR SCI-**  
7 **ENTIFIC RESEARCH.**

8 (a) IN GENERAL.—The Outer Continental Shelf  
9 Lands Act (43 U.S.C. 1301 et seq.) is amended by insert-  
10 ing after section 9 the following:

11 **“SEC. 10. USE OF DECOMMISSIONED OFFSHORE OIL AND**  
12 **GAS PLATFORMS FOR MARICULTURE, ARTIFI-**  
13 **CIAL REEF, OR SCIENTIFIC RESEARCH.**

14 “(a) IN GENERAL.—The Secretary shall issue regula-  
15 tions under which the Secretary may authorize use of an  
16 offshore oil and gas platform that is decommissioned from  
17 service for oil and gas purposes for culture of marine orga-  
18 nisms, an artificial reef, or scientific research.

19 “(b) LIMITATION ON LIABILITY.—A person that used  
20 an offshore oil and gas platform for oil and gas purposes  
21 and that does not have any ownership or control of the  
22 platform shall not be liable under Federal law for any  
23 costs or damages arising from such platform after the date  
24 the platform is used for culture of marine organisms, an  
25 artificial reef, or scientific research under this section, un-  
26 less such costs or damages arise from—

1           “(1) use of the platform by the person for de-  
2           velopment or production of oil or gas; or

3           “(2) another act or omission of the person.

4           “(c) OTHER LEASING AND USE NOT AFFECTED.—

5 This section, and the use of any offshore oil and gas plat-  
6 form for culture of marine organisms, an artificial reef,  
7 or scientific research under this section, shall not affect—

8           “(1) the authority of the Secretary to lease any  
9           area under this Act; or

10           “(2) any activity otherwise authorized by a  
11           lease under this Act.”.

12           (b) DEADLINE FOR REGULATIONS.—The Secretary  
13 of the Interior shall issue regulations under subsection (a)  
14 by not later than 180 days after the date of the enactment  
15 of this Act.

16           (c) STUDY AND REPORT ON EFFECTS OF REMOVAL  
17 OF PLATFORMS.—Not later than one year after the date  
18 of the enactment of this Act, the Secretary of Interior,  
19 in consultation with other Federal agencies as necessary,  
20 shall study and report to the Congress regarding how the  
21 removal of offshore oil and gas platforms from the outer  
22 Continental Shelf would affect existing fish stocks and  
23 coral populations.

1 **SEC. 3. CREDIT FOR COSTS RELATING TO CONVERTING**  
2 **OFFSHORE OIL AND GAS PLATFORMS FOR**  
3 **USE IN CULTURING MARINE ORGANISMS.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-  
5 chapter A of chapter 1 of the Internal Revenue Code of  
6 1986 (relating to business-related credits) is amended by  
7 adding at the end the following new section:

8 **“SEC. 45G. CREDIT FOR COSTS RELATING TO CONVERTING**  
9 **OFFSHORE OIL AND GAS PLATFORMS FOR**  
10 **CULTURING MARINE ORGANISMS.**

11 “(a) GENERAL RULE.—For purposes of section 38,  
12 the marine organisms culturing credit is an amount equal  
13 to 30 percent of the qualified marine organisms culturing  
14 expenditures of the taxpayer during the taxable year.

15 “(b) QUALIFIED MARINE ORGANISMS CULTURING  
16 EXPENDITURES.—For purposes of subsection (a), the  
17 term ‘qualified marine organisms culturing expenditures’  
18 means, with respect to a platform owned by the tax-  
19 payer—

20 “(1) amounts paid or incurred for maintaining  
21 an offshore oil and gas platform from the time such  
22 platform is decommissioned from service for oil and  
23 gas purposes to the time it is converted for use in  
24 the culture of marine organisms, including costs of  
25 moving such platform to the reefing location, if ap-  
26 plicable,

1           “(2) an amount equal to the excess (if any)  
2       of—

3           “(A) the costs of converting such platform  
4       for use in the culture of marine organisms, over

5           “(B) the amount that could have been re-  
6       ceived if such platform were sold as scrap on  
7       shore.

8       “(c) ELECTION.—This section shall apply to any tax-  
9       payer for any taxable year only if such taxpayer elects (at  
10      such time and in such manner as the Secretary may by  
11      regulations prescribe) to have this section apply for such  
12      taxable year.”.

13      (b) CONFORMING AMENDMENTS.—

14           (1) Subsection (b) of section 38 of such Code  
15      is amended by striking “plus” at the end of para-  
16      graph (14), by striking the period at the end of  
17      paragraph (15) and inserting “, plus”, and by add-  
18      ing at the end the following new paragraph:

19           “(16) the marine organisms culturing credit de-  
20      termined under section 45G(a).”.

21           (2) NO CARRYBACK BEFORE EFFECTIVE  
22      DATE.—Subsection (d) of section 39 of such Code  
23      (relating to carryback and carryforward of unused  
24      credits) is amended by adding at the end the fol-  
25      lowing new paragraph:

1           “(11) NO CARRYBACK OF SECTION 45G CREDIT  
2           BEFORE EFFECTIVE DATE.—No portion of the un-  
3           used business credit for any taxable year which is  
4           attributable to the credit determined under section  
5           45G may be carried back to a taxable year ending  
6           before January 1, 2004.”.

7           (3) The table of sections for subpart D of part  
8           IV of subchapter A of chapter 1 of such Code is  
9           amended by adding at the end the following new  
10          item:

                    “Sec. 45G. Credit for costs relating to converting offshore oil and  
  gas platforms for culturing marine organisms.”.

11          (c) EFFECTIVE DATE.—The amendments made by  
12          this section shall apply to taxable years beginning after  
13          December 31, 2003.

○

## LEGISLATIVE COMMITTEE REPORT

The Legislative Committee met March 9, 2004. The committee reviewed several congressional bills and legislative-related matters. Indications are that fishery-related legislation will not move through Congress during 2004. This is due, in part, to competing legislative priorities and pending changes in Senate committee leadership. Hence, the Legislative Committee recommends the Pacific Fishery Management Council (Council) direct staff to continue tracking legislative issues, but as a low priority relative to other workload.

The committee discussed Congressman Gilchrest's request (Exhibit B.2.a, Attachment 3) for comment about a draft bill to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Congressman Gilchrest also requested input on legislative-related fishery management matters, in general. To respond to Congressman Gilchrest's request, and in light of the pending report of the U.S. Commission on Ocean Policy, the Legislative Committee recommends the Council direct staff to draft a letter to Congressman Gilchrest that addresses several matters --

- summarize recent Council comments related to fishery-related legislation;
- request consideration of "grand fathering" in existing individual quota (IQ) programs and IQ-like programs (e.g., the Council's permit stacking program in the fixed-gear sablefish fishery);
- describe current Council work on development of an IQ program for the limited entry groundfish trawl fishery;
- provide information about the Council process for developing and using science in Council decision making, specifically, the role of the SSC and peer-review protocols that gird the Council's science development process;
- comment on the Office of Management and Budget's proposed peer review requirements for agency actions;
- convey funding concerns, for example, Council base funding is not adequate for current program areas required under the current Magnuson-Stevens Act and other mandates.

Finally, given little or no on-going fishery-related legislative business, the committee recommends Legislative Matters and a Legislative Committee meeting not be included in the Council's April 2004 agenda.

PFMC  
03/11/04

APPOINTMENTS TO ADVISORY BODIES, STANDING COMMITTEES,  
AND OTHER FORUMS

Situation: This agenda includes appointments to designated agency seats on the Habitat Committee (HC) and the Groundfish Management Team (GMT) as well as three-year term seats on the Highly Migratory Species Advisory Subpanel (HMSAS) and the Groundfish Advisory Subpanel (GAP).

**Designated Agency Seats**

Nominations for agency representatives for the following have been submitted for approval. Closed Session B.1 and B.2 include letters of nomination and *curriculum vitae* for agency appointments. All agency seats serve indefinite terms.

1. **Replacement for the Oregon Department of Fish and Wildlife (ODFW) position on the Habitat Committee (HC)** - The ODFW has requested Mr. Hal Weeks replace Ms. Arlene Merems as the ODFW designated seat on the HC.
2. **Filling the National Marine Sanctuary (NMS) position on the Habitat Committee (HC)** - Mr. Huff McGonigal has been nominated to fill the new NMS designated seat on the HC.
3. **Replacement for the National Marine Fisheries Service (NMFS) Northwest Region (NWR) positions on the GMT** - The NMFS NWR has requested that Ms. Jamie Goen and Mr. Merrick Burden replace Ms. Becky Renko and Dr. Jim Hastie as the NWR designated seats on the GMT.
4. **Replacement for the ODFW position on the Groundfish Management Team (GMT)** - The ODFW has requested Ms. Cyreis Schmitt replace Mr. Steve Kupillas as one of the ODFW designated seats on the GMT.

**Advisory Subpanel Seats**

Nominations for vacancies for the HMSAS Gillnet Fisheries Representative and the GAP Washington, Oregon, and California Trawl Fisheries Representatives, were solicited after the November 2003 meeting. Nominations received by the deadline of February 13 are listed in the attached tables (Exhibit B.3.a, Attachments 1 and 2). Letters of nomination are included in the briefing book under Closed Session B.3 and B.4.

**Council Action:**

1. **Appoint new members to the GAP, GMT, HC, and HMSAS.**

Reference Material:

1. Exhibit B.3.a, Attachment 1: Highly Migratory Species Advisory Subpanel Nominations.
2. Exhibit B.3.a, Attachment 2: Groundfish Advisory Subpanel Nominations.

Agenda Order:

- a. Agendum Overview
- b. **Council Action:** Appoint New Members as Necessary

Chuck Tracy

PFMC  
02/25/04

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL NOMINATION

---

Affiliation or Representation and  
Nominee

Nominated/Supported By

---

COMMERCIAL GILLNET FISHERIES (1 Position)

***Mr. Stephen G. Fosmark***  
Pebble Beach, CA

Kathy Fosmark, Vice President, Fishermen's Association  
of Moss Landing, Moss Landing, CA  
Wayne Heikkila, Executive Director, Western Fishboat  
Owners Association, Eureka, CA  
Pete Dupuy, Ocean Pacific Seafoods, Tarzana, CA  
Gerry Richter, President B&G Seafoods, Santa Barbara,  
CA  
August Felando, San Diego, CA  
John Royal, Chair, CPSAS, San Pedro, CA  
Terry Hoinsky, Fishermen's Union of America,  
San Pedro, CA

PFMC  
02/25/04

GROUND FISH ADVISORY SUBPANEL NOMINATIONS

---

Affiliation or Representation  
and Nominee

Nominated/Supported By

---

WASHINGTON TRAWL FISHERIES (1 Position)

**Mr. Marion J. Larkin**                      Peter Leipzig, Executive Director, Fishermen's Marketing  
Mt. Vernon, WA                              Association, Eureka, CA

OREGON TRAWL FISHERIES (1 Position)

**Mr. Steve Bodnar**                      Gerald Gunnari, President, Coos Bay Trawlers' Association,  
Coos Bay, OR                                      Inc., Coos Bay, OR  
Kathy Fosmark, F/V SeeAdler, Pebble Beach, CA  
Janice Green, Oregonians for Fish and Fishing, Umpqua, OR

**Mr. Kelly Smotherman**                      Peter Leipzig, Executive Director, Fishermen's Marketing  
Warrenton, OR                                      Association, Eureka, CA  
Brad Pettinger, Executive Administrator, Oregon Trawl  
Commission, Astoria, OR

CALIFORNIA TRAWL FISHERIES (1 Position)

**Mr. Tommy Ancona**                      Peter Leipzig, Executive Director, Fishermen's Marketing  
Fort, Bragg, CA                                      Association, Eureka, CA  
Rod Moore, Executive Director, West Coast Seafood  
Processors Association, Portland, OR

---

PFMC  
2/25/04

DRAFT APRIL 2004  
COUNCIL MEETING AGENDA

Situation: At each Council meeting, except the March Council meeting, the Council provides guidance on the three matters associated with next Council meeting agenda:

1. The Council three-meeting outlook.
2. Council staff work load priorities.
3. The draft agenda for the next Council meeting.

However, at March Council meetings, there is no discussion of Council staff work load priorities. Work load priorities for the period November 10, 2003 through April 9, 2004 were set at the November 2003 Council meeting, since the time between the March and April Council meetings is only three weeks, and work load planning over the winter months needs to encompass the full two-meeting period.

At this Council meeting, the Executive Director will review a draft of proposed agenda topics for the next three Council meetings and a draft agenda for the April 2004 Council meeting in Sacramento, California.

The Council will hear any reports and comments from advisory bodies, consider public comment, and provide guidance on potential agenda items for the next three Council meetings. As the *Federal Register* notice for the April Council meeting must be filed on March 12, the Council will also need to adopt a final agenda for the April Council meeting. During the process of adopting a final agenda, the Council should also identify priorities for advisory body consideration for the April Council meeting.

**Council Action:**

- 1. Provide guidance on potential agenda topics for the next three Council meetings.**
- 2. Adopt a final agenda for the April 2004 Council meeting.**
- 3. Identify priorities for advisory body consideration at the April Council meeting.**

**Reference Materials:**

1. Exhibit B.4.a, Supplemental Attachment 1: Proposed Preliminary Three-Meeting Outlook for the Pacific Council.
2. Exhibit B.4.a, Supplemental Attachment 2: Preliminary Draft Council Meeting Agenda, April 4-9, Sacramento, California.

**Agenda Order:**

- a. Agendum Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. **Council Action:** Adopt Final Agenda for the April 2004 Meeting

Don McIsaac

PFMC  
03/03/04

**Proposed Preliminary Three Meeting Outlook for the Pacific Council**  
 (All Candidate Agenda Items Listed; Italicized Items are Contingent)

| <b>April</b><br>Sacramento, CA; 4/5/04 | <b>June</b><br>Foster City, CA; 06/14/04 | <b>September</b><br>San Diego, CA; 09/13/04 |
|--|--|---|
|--|--|---|

**Coastal Pelagic Species**

STAR Panel Preparation  
 Consider Initiating FMP Amendment for  
 Sardine Allocation (for final approval 6/2005)

**Enforcement Issues**

Contact to Violation Ratio in GF Rec Fishery

**Groundfish**

Policy on Incorporating New Management  
 Information  
 New Observer Data & Model Implementation  
 2004 Inseason Management  
 Initial EFP Concepts and Set-asides for  
 2005-2006  
 2005-2006 Annual Specifications: Step 2 -  
 Adopt ABC's and OY's, and Management  
 Alternatives for Public Review  
 Amendment 16-3: Final Adoption  
 BPEIS: Final Council Action  
 EFH EIS: Approve EFH Identification Model  
 (including joint advisory body session)

*Terms of Reference for Rev of RB Plans*  
*IQ Update and Guidance*  
*Regional Bycatch Plan Approval*

*Amendment 16-4: Adopt Alternatives for Public  
 Review*

**Coastal Pelagic Species**

Pacific Mackerel Harvest Guideline 2004-2005  
 Sardine FMP Amendment Update

**Groundfish**

2004 Inseason Management  
 EFPs: Draft Applications for 2005, Final  
 Set-asides for 2005-2006, and Release  
 of Unused Set-asides for 2004  
 2005-2006 Annual Specifications and Mgmt  
 Measures: Final Adoption  
 EFH EIS: Adopt Preliminary Alternatives  
 for DEIS  
 IQ Committee Update  
 Red Light - Green Light Threshold: Initial  
 Consideration

**Coastal Pelagic Species**

STAR Panel Report  
 Sardine FMP Amendment Update

**Groundfish**

2004 Inseason Management  
  
 Red Light - Green Light Threshold  
 IQ Committee Update  
 "Off Year" Science Improvements Update  
 Open Access Limitation Update  
*Alternative Management Approaches*

Exhibit B.4.a  
 Supplemental Attachment 1  
 March 2004

**Proposed Preliminary Three Meeting Outlook for the Pacific Council**  
 (All Candidate Agenda Items Listed; Italicized Items are Contingent)

| <b>April</b><br>Sacramento, CA; 4/5/04  | <b>June</b><br>Foster City, CA; 06/14/04  | <b>September</b><br>San Diego, CA; 09/13/04   |
|---|---|---|
| <p><b><u>Habitat Issues</u></b><br/>Habitat Committee Report</p>  | <p><b><u>Habitat Issues</u></b><br/>Habitat Committee Report<br/>Artificial Reefs in Southern California</p>  | <p><b><u>Habitat Issues</u></b><br/>Habitat Committee Report</p>  |
| <p><b><u>Highly Migratory Species</u></b><br/>Update on NMFS Approval of FMP<br/>Turtle Protection in the Long Line Fishery<br/>High Seas Longline Limited Entry Update</p>   | <p><b><u>Highly Migratory Species</u></b><br/>Turtle Protection in the Long Line Fishery<br/>High Seas Longline Limited Entry Update</p>  | <p><b><u>Highly Migratory Species</u></b><br/>Turtle Protection in the Long Line Fishery<br/>High Seas Longline Limited Entry Amendment</p>                               |
| <p><b><u>Marine Protected Areas</u></b><br/>Update on other MPA Issues</p>  | <p><b><u>Marine Protected Areas</u></b><br/>CINMS: Consider Range of alternatives<br/>Update on other MPA Issues</p>  | <p><b><u>Marine Protected Areas</u></b><br/>CINMS: Adopt Preferred Alternative<br/>Update on other MPA Issues</p>   |
| <p><b><u>Pacific Halibut</u></b><br/>Adopt Final Incidental Catch Regulations</p>   | <p><b><u>Pacific Halibut</u></b></p>  | <p><b><u>Pacific Halibut</u></b><br/>Fishery Update<br/>Proposed Changes for 2005: for Public Review</p>  |
| <p><b><u>Salmon</u></b><br/>Fishery Update<br/>2004 Management Measures: Final Adoption<br/>2004 Methodology Review: Establish Process<br/>and Preliminary Priorities<br/>Identify Stocks Not Meeting Conservation<br/>Objectives</p> | <p><b><u>Salmon</u></b><br/><i>Fishery Update</i></p>   | <p><b><u>Salmon</u></b><br/>Fishery Update<br/>2004 Methodology Review: Final Priorities<br/>FMP Amendments: Process Update</p>   |
| <p><b><u>Administrative</u></b><br/>Legislative Committee Report<br/>Budget Committee Report<br/>Interim Appointments<br/>Workload Planning and Draft June Agenda<br/>COP Review</p>  | <p><b><u>Administrative</u></b><br/>Legislative Committee Report<br/>Budget Committee Report<br/>Interim Appointments<br/>Workload Planning and Draft September Agenda<br/>Adopt Communication Plan</p> | <p><b><u>Administrative</u></b><br/>Legislative Committee Report<br/>Budget Committee Report<br/>Interim Appointments<br/>Workload Planning and Draft November Agenda</p> |

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, APRIL 4-9, 2004, SACRAMENTO, CA

| AG#  | TIME | AGENDA TOPICS/COMMENTS  | COUNCIL TASK | ADVISORY BODY PRIORITY 1/ | Day     | Group            | Start Time | Continuing Through |
|------|------|---|--------------|---------------------------|---------|------------------|------------|--------------------|
|      |      | <b>Sunday, Apr 4 - 8:00 am</b><br>Ancillary Meetings - GMT see Ancillary Schedule |              | GMT                       | Sunday: | A. GMT           | 9:00 AM    | Fri.               |
|      |      | <b>Monday, Apr 5 - 8:00 am</b><br>Ancillary Meetings - see Ancillary Schedule     |              |                           | Monday: | A. GMT           | 8:00 AM    | Fri.               |
|      |      | 9:00 AM -- Joint Ancillary Session #1 -- EFH EIS Briefing                         |              | GAP; GMT; HC; SSC         |         | B. GAP           | 8:00 AM    | Thur.              |
|      |      |   |              |                           |         | C. SAS           | 8:00 AM    | Thur.              |
|      |      |   |              |                           |         | D. STT           | 8:00 AM    | Fri.               |
|      |      |   |              |                           |         | E. SSC           | 8:00 AM    | Tue.               |
|      |      |   |              |                           |         | F. HC            | 9:00 AM    | Mon.               |
|      |      |   |              |                           |         | G. Budget        | 8:30 AM    | Mon.               |
|      |      |   |              |                           |         | Chair's Briefing | 9:30 AM    | Mon.               |
|      |      |   |              |                           |         | Closed Session   | 11:00 AM   |                    |
| 1.00 |      | Closed Session Agenda: Personnel & Litigation - 11:00 AM                          |              |                           |         |                  |            |                    |
|      |      | Advisory Body Issues - Interim Appointments                                       | Info         |                           |         |                  |            |                    |
|      |      | Litigation Status (E. Cooney)   | Info         |                           |         |                  |            |                    |
| A.   | 0.25 | General Session Call to Order - 1:00 PM   |              |                           |         |                  |            |                    |
| 1-3  |      | Opening, Roll Call, ED Rpt  | Info         |                           |         |                  |            |                    |
| 4    |      | Approve Agenda  | Decision     |                           |         |                  |            |                    |
| B.   |      | Administrative Matters  |              |                           |         |                  |            |                    |
| 1    | 0.10 | Approve Minutes - Nov.  | Decision     |                           |         |                  |            |                    |
| 2    | 1.00 | Regulatory Streamlining - NMFS Briefing   | Guidance     |                           |         |                  |            |                    |
| C.   |      | Coastal Pelagic Species Mgmt  |              |                           |         |                  |            |                    |
| 1    | 0.25 | NMFS Rpt (including CPS Fishery Update)   | Info         |                           |         |                  |            |                    |
| 2    | 0.75 | Consider Initiation of FMP Amendment for Sardine Allocation                       | Decision     |                           |         |                  |            |                    |
| D.   |      | Groundfish Mgmt   |              |                           |         |                  |            |                    |
| 1    | 0.70 | NMFS Rpt  | Info         |                           |         |                  |            |                    |
| E.   |      | Salmon Mgmt   |              |                           |         |                  |            |                    |
| 2    | 0.50 | ID Stocks not meeting Cons. Obj. for 3 Consecutive Years                          | Decision     | STT; SAS; SSC             |         |                  |            |                    |
|      |      | 4.55  |              |                           |         |                  |            |                    |

ANCILLARY MEETING SCHEDULE

| AG#   | TIME | AGENDA TOPICS/COMMENTS     | COUNCIL TASK  | ADVISORY BODY PRIORITY 1/ | Day | Group                              | Start Time | Continuing Through |
|---|------|----------------------------|---|---------------------------|-----|------------------------------------|------------|--------------------|
| <b>Tuesday, Apr 6 - 8:00 am</b>                     |      |                            |   |                           |     |                                    |            |                    |
| D.  | 3    | 0.75                       | Groundfish Mgmt (continued)<br>Obsrv Data & Model Implementation for Inseason & 05-06   | Decision                  |     | G. HMS PDT                         | 8:00 AM    | Tue                |
|   |      |                            |   | SSC; GMT                  |     | GAP, GMT, SAS, STT, & SSC continue |            |                    |
| E.  | 2    | 2.50                       | Salmon Mgmt (continued)<br>Tentative Adoption of 2004 Ocean Salmon Mgmt Measures for Analysis   | Action                    |     |                                    |            |                    |
|   |      |                            |   | SAS; STT; EC              |     |                                    |            |                    |
| F.  | 1    | 0.50                       | Habitat Issues<br>Habitat Committee Rpt   | Decision                  |     |                                    |            |                    |
| D.  | 4    | 1.10                       | Groundfish Mgmt (continued)<br>Recommendations of the Ad Hoc GF Info Policy Com.  | Decision                  |     |                                    |            |                    |
|   |      |                            |   | GMT; GAP                  |     |                                    |            |                    |
|   | 5    | 1.20                       | EFH EIS: Update Sched & Approve EFH ID Model  | Decision                  |     |                                    |            |                    |
|   |      |                            |   | SSC                       |     |                                    |            |                    |
|   | 6    | 2.50                       | 2004 Inseason Mgmt  | Action                    |     |                                    |            |                    |
|   |      |                            |   | GMT; GAP; EC              |     |                                    |            |                    |
|   | 0-60 | 4-pm-Public-Comment-Period | Info  |                           |     |                                    |            |                    |
|   | 8.55 |                            |   |                           |     | H. EC                              | 5:30 PM    | Fri.               |
| <b>Council Chairman's Reception -- 6:00-7:30 pm</b> |      |                            |   |                           |     |                                    |            |                    |
| <b>Wednesday, Apr 7 - 8 am</b>                      |      |                            |   |                           |     |                                    |            |                    |
| G.  | 1    | 0.50                       | Pacific Halibut Mgmt<br>Adopt Final 04 Incidental Catch Regs for Salmon Troll & Fixed-Gear Sablefish Fisheries                          | Action                    |     | I. HMSAS                           | 8:00 AM    | Wed.               |
|   |      |                            |   | SAS; GAP; GMT             |     | GAP, GMT, EC, SAS, & STT, continue |            |                    |
| D.  | 7    | 2.00                       | Groundfish Mgmt (continued)<br>Final Harvest Levels for 05-06: Adopt Final ABCs & Oys   | Action                    |     |                                    |            |                    |
|   |      |                            |   | SSC; GMT; GAP             |     |                                    |            |                    |
| H.  | 1    | 0.75                       | <del>Enforcement Issues</del><br><del>Enforcement Committee Rpt--Contact-to-Violation Rate in the Recreational Groundfish Fishery</del> | Guidance                  |     |                                    |            |                    |
| D.  | 8    | 1.00                       | Groundfish Mgmt (continued)<br>EFPs: Prelim Results for 2003 & Initial Concepts for 05-06   | Decision                  |     |                                    |            |                    |
|   | 9    | 3.00                       | Initial Council Refinement of Alternative Management Measures (including EFP set asides)  | Guidance                  |     |                                    |            |                    |
|   |      |                            |   | GMT; GAP                  |     |                                    |            |                    |
| E.  | 3    | 0.50                       | Salmon Mgmt (continued)<br>Adopt Methodology Review Process for 2004  | Decision                  |     |                                    |            |                    |
|   | 4    | 1.00                       | Clarify Council direction on 2004 Mgmt Measures (If Nec.)   | Guidance                  |     |                                    |            |                    |
|   |      | 8.00                       |   |                           |     |                                    |            |                    |
|   |      |                            |   | SSC; SAS; STT             |     |                                    |            |                    |
|   |      |                            |   | SAS; STT                  |     |                                    |            |                    |

ANCILLARY MEETING SCHEDULE

| AG#                    | TIME | AGENDA TOPICS/COMMENTS   | COUNCIL TASK | ADVISORY BODY PRIORITY 1/ | Day      | Group | Start Time | Continuing Through |
|------------------------|------|--|--------------|---------------------------|----------|-------|------------|--------------------|
| <b>Thursday, Apr 8</b> |      |  |              |                           |          |       |            |                    |
| I.                     |      | Highly Migratory Species Management  |              |                           | Thursday |       |            |                    |
| 1                      | 0.25 | NMFS Rpt: Update on Approval of FMP  | Info         | HMSAS; HMSMT              |          |       |            |                    |
| 2                      | 0.75 | Endangered Species Act Considerations Related to Sea Turtle/Longline Fishery Interactions                      | Info         | HMSAS; HMSMT              |          |       |            |                    |
| 3                      | 1.50 | FMP Amendment for Limited Entry in the High Seas Pelagic Longline Fishery                                      | Guidance     | HMSAS; HMSMT              |          |       |            |                    |
| <b>D.</b>              |      |  |              |                           |          |       |            |                    |
|                        |      | Groundfish Mgmt (continued)  |              |                           |          |       |            |                    |
| 10                     | 0.50 | Stock Assessment Planning for 2007-08 Mgmt (2nd Session)   | Decision     | Mar Statements            |          |       |            |                    |
| 11                     | 1.00 | Amendment 16-3: Final Adoption   | Action       | GMT; GAP                  |          |       |            |                    |
| 12                     | 1.75 | Bycatch Programmatic EIS: Final Adoption   | Action       | GMT; GAP; SSC             |          |       |            |                    |
| 13                     | 1.00 | Council Clarification of Mgmt Alternatives, if necessary   | Guidance     | GMT; GAP; EC              |          |       |            |                    |
| <b>J.</b>              |      |  |              |                           |          |       |            |                    |
|                        |      | Marine Protected Areas (MPA)   |              |                           |          |       |            |                    |
| 4                      | 0.75 | Update on other MPA issues   | Info         | HC, GAP; SSC              |          |       |            |                    |
| <b>E.</b>              |      |  |              |                           |          |       |            |                    |
|                        |      | Salmon Mgmt (continued)  |              |                           |          |       |            |                    |
| 5                      | 2.00 | Management Measures for 2004: Final Adoption   | Action       | SAS, STT, EC              |          |       |            |                    |
|                        |      | <b>8.75</b>  |              |                           |          |       |            |                    |
| <b>Friday, Apr 9</b>   |      |  |              |                           |          |       |            |                    |
| D.                     |      | Groundfish Mgmt (continued)  |              |                           | Friday   |       |            |                    |
| 14                     | 3.00 | Annual Specifications for 2005-06 Fisheries (cont): Adopt Proposed Mgmt Measure Alternatives for Public Review | Action       | GMT; GAP; EC              |          |       |            |                    |
| 15                     | 4.00 | IQ Update and Council Policy Direction   | Guidance     |                           |          |       |            |                    |
| 16                     | 4.00 | GA-GF Sport Data - (SSG Review of Coastside Fishing Club Method- and CRFS Methodology)                         | Decision     | SSC                       |          |       |            |                    |
| 17                     | 1.00 | Consideration of Latent GF LE Permit Issue   |              |                           |          |       |            |                    |
| <b>E.</b>              |      |  |              |                           |          |       |            |                    |
|                        |      | Salmon Mgmt (continued)  |              |                           |          |       |            |                    |
| 6                      | 0.50 | Clarify Final Action on Salmon Mgmt Measures (if Nec.)   | Decision     |                           |          |       |            |                    |
| <b>B.</b>              |      |  |              |                           |          |       |            |                    |
|                        |      | Administrative Matters   |              |                           |          |       |            |                    |
| 3                      | 0.30 | Fiscal Matters   | Decision     |                           |          |       |            |                    |
| 4                      | 0.25 | Interim Appointments & Replacements to Advisory Bodies, Standing Com., & Other Forums                          | Decision     |                           |          |       |            |                    |
| 5                      | 0.50 | Staff Workload Priorities and Draft June 2004 Agenda   | Guidance     |                           |          |       |            |                    |
| 6                      | 4.00 | <b>GOP Review</b>  | Decision     |                           |          |       |            |                    |
|                        |      | <b>5.55</b>  |              |                           |          |       |            |                    |

1/ Anticipates each advisory subpanel will review agenda items for its particular FMP.

| AG# | TIME | AGENDA TOPICS/COMMENTS | COUNCIL TASK | ADVISORY BODY PRIORITY 1/ | ANCILLARY MEETING SCHEDULE |       |            |
|-----|------|------------------------|--------------|---------------------------|----------------------------|-------|------------|
|     |      |                        |              |                           | Day                        | Group | Start Time |

Informational Reports (available in Briefing Book, but no time scheduled on Agenda):

|   |  |  |  |  |  |  |  |  |
|---|--|--|--|--|--|--|--|--|
| 1 |  |  |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |  |  |

**Other Possible Agenda Items:**

- 1 All FMPs Regional Bycatch Reduction Plans
- 2 Terms of Ref for Reviewing Rebuilding Plans
- 3

• **Key for Council Task: Info=briefing; Guidance=formal or informal direction on issue; Decision=formal determination; Action=directly results in implementation by NMFS.**

**Due Dates:**

- Invitation Memo Distributed: 2/20
- FR Notice transmitted: 3/12
- Meeting Notice Mailed: 3/15
- Submit draft BB items for supervisory review: COB 3/12-19
- Final day to receive public comments for placement in BB: COB 3/19
- Cover memos for Ancillary Meetings: COB 3/22
- Briefing Book Mailing: COB 3/25
- Final Day to receive pub. comments for distr. to Council 1st day of mtg: COB 3/30

GROUND FISH MANAGEMENT TEAM (GMT) REPORT ON  
THE DRAFT APRIL 2004 COUNCIL MEETING AGENDA

The GMT reviewed and discussed the revised draft April 2004 Council meeting agenda and has some suggestions to make the Council's agenda and the GMT's meeting more efficient. As stated earlier this week in the GMT's report on inseason adjustments, the GMT is anticipating additional inseason considerations regarding the limited entry fixed gear and trawl fisheries and California recreational fisheries at the April meeting. With regard to the California recreational fisheries, the GMT is expecting to receive structured options that reduce impacts to rockfish, particularly canary and black rockfish, and analyses of those options. To the extent that the resulting impacts to overfished species in those analyses could affect the Council's decision on the 2005-06 ABCs and OYs (and potential regional OYs), the GMT recommends that inseason management (agendum D.6.) be scheduled before final action on ABCs and OYs (agendum D.3.).

Additionally, the GMT is anticipating that there may be a need to receive Council guidance on analyses of inseason and/or ABC/OY options prior to final action and requests that a "check-in" to receive that guidance be scheduled for the afternoon of Monday, April 5. This check-in is anticipated to add about a half hour to the Council's agenda for Monday.

**GMT Recommendations (in priority order)**

1. Move 2004 Inseason Management (D.6.) from Wednesday morning (April 7) to Tuesday afternoon (April 6)
2. Move Final Harvest Levels for 05-06 (D.3.) from Tuesday afternoon (April 6) to Wednesday morning (April 7)
3. Schedule a check-in for Monday afternoon (April 5) to receive Council guidance on analyses of inseason and/or ABC/OY options

## GROUND FISH MANAGEMENT TEAM (GMT) REPORT ON RESULTS OF GMT RETREAT

The GMT attended a retreat in La Jolla, California, on January 14-16. The retreat agenda consisted of a facilitated workshop on personality types and working in a team environment, as well as discussions on the 2005-06 management process, how to improve team meeting efficiency, and how to enhance interactions with the Groundfish Advisory Subpanel (GAP).

### Retreat Goals

Dr. Don McIsaac provided the GMT with goals for the retreat: 1) improved team efficiency; and 2) development of a solid plan on how to complete the 2005-06 specifications process. Dr. McIsaac praised the Team for doing a good job, but also reminded us that there is room for improvement. In discussing items that would benefit from Team efficiency, Dr. McIsaac stated that the Team was good about getting statements done on time for the Council's agenda, however, Team meetings could benefit by prioritizing the Team's agenda items. He also stated that GMT statements need to be provided to the GAP in time for them to draft GAP statements and that GMT statements need to be of high enough quality to stand up in court, which may require off-site preparatory work. Chairman Don Hansen also stressed the need for individual Team members to leave their state positions "at the door" when participating in Team discussions.

With regard to the 2005-06 specifications process, Dr. McIsaac stated that we need to do better than last year—the 2003 Environmental Impact Statement (EIS) had some problems and many deadlines were not met. Team members need to keep in mind that business continues after Council takes final vote and the GMT needs to be actively involved until the EIS leaves the Council office. The completion of the EIS and the fishing regulations is the core function of the Council and GMT.

### Facilitated Workshop on Personality Types

Frank Whyte, Training Services on Demand, Inc., facilitated a workshop on understanding personality types and working together in a team environment. The intent of the workshop was to understand personality types and use that information to improve communication, decrease conflict, manage change, and increase team effectiveness. Participants in the workshop took a Myers-Briggs Type Indicator test to find out individual personality types. These types were then aggregated to find the predominant personality types within the GMT. In addition to discussing personality types, the GMT worked through different scenarios of personality types interacting in a team—discussing strengths, challenges, and adaptation techniques to use to overcome those challenges. The GMT thought that this facilitated workshop was a good opportunity to learn about ourselves and our working environment.

### 2005-06 Specifications Process

The GMT reviewed the proposed changes from Council staff to Council Operating Procedure 3. GMT members expressed concern about the shifting of duties from Council staff to the GMT including drafting the EIS documents, regulations, and other documents (e.g., EA/RIR). The GMT feels this section should be revised to change the reference from 'regulations' to

‘regulatory options’, and clarify that the GMT is only to assist in drafting sections for NEPA documents (EISs, EAs, etc.) that directly apply to state-specific and/or GMT-specific expertise, data, analyses and/or proposals. NMFS is responsible for drafting fishery regulations.

Council staff stressed the need for the GMT to prioritize the EIS, and the need to get most of the writing done sooner, rather than later. There are deadlines which need to be met to get the EIS finalized in time for regulations to take effect in January 2005. To that end, the GMT reviewed the proposed schedule for the 2005-06 process and did not have any significant changes, although there was some concern expressed over the additional workload and proposed GMT meetings. We then reviewed the list of tasks for completing the EIS and identified subcommittees for assignments, with deadlines for drafts, refined drafts, and final products. It was decided that subcommittees would work together to ensure that individual state products are consistent. Council staff and GMT members stressed the need to police ourselves to ensure that deadlines are met in a timely fashion.

#### Improved Team Meeting Efficiency

The GMT identified different ways to improve the efficiency of Team meetings. These include:

- Refer larger policy issues to the Council for guidance; Team focus on policy implementation options once guidance has been received
- Identify leads (facilitators for discussions and rapporteurs for note-taking) in advance
- Identify subcommittees to discuss issues which are “lighter” in nature and those which are considered regional (i.e., issues that do not have coastwide impact)
- Continue to assign statements to be drafted ahead of time; drafts can be circulated via e-mail and should be brought electronically to the meeting
- Reconfigure the GMT meeting room—have an “open square” style and provide workstations around the perimeter of the room for Team members to use
- Self-policing to keep sidebar conversations to a minimum; facilitator needs to keep meeting focused and may ask Team members to continue side conversations outside the meeting room
- Presentation tools—Include visual as well as verbal tools; have printouts of tables and documents as much as possible; use projector, flip charts, whiteboards
- Work product tools—Have laptop and printer (and copier, if available) in GMT meeting room
- Ensure that strawman options are included in the briefing books ahead of time; need to utilize the EIS as a decision document
- Need to prioritize Team agenda items and keep a “check-off” list on whiteboard—items will be checked off when discussion is complete

- GMT members need to give the GMT and GAP a “heads-up” on inseason issues as soon as possible
- Inseason discussions need to be structured, both with the GAP and within GMT; set deadlines on when discussion needs to be finalized

#### Improved Interaction with the GAP

The GMT identified ways to improve communication with the GAP. These include:

- Chairs of GMT and GAP will coordinate agendas ahead of time on a conference call with Council staff
- Check-in routinely (1-3 times/day) with GAP Chair to provide updates
- Review meeting processes ahead of time (~10 minutes of 1<sup>st</sup> meeting day), including identifying all meeting materials to be used for discussion
- State GMT members should have meetings or conference calls with state GAP members ahead of Council meetings when possible and/or include them on e-mail distributions of state data and/or positions on issues
- Council staff identify “hot topics” for upcoming meetings; this list to be distributed to GAP and “westcoastgroundfish” e-mail list prior to Council meetings
- Council staff send or identify briefing book documents that support “hot topics” list to GAP

## **Pacific Fishery Management Council**

### **The Council Family, Managed Fisheries, Current Issues, and Plans for the Future**

This paper discusses the composition of the Pacific Council, how we function, the fisheries we manage, and some of the current issues challenging the Council. It also explores strengths embodied within the regional council system. The first section details the makeup of the Pacific Council and the council family (our advisors and constituents). The second section provides detail about each of the fisheries managed by the Pacific Council. Next, several major issues related to the Pacific Coast groundfish fishery are presented. The fourth section reviews recommendations relative to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), including the role of regional councils; revisions to National Standard 1 guidelines; and consideration of the concept of best available science and its application to fishery management. In the concluding section, we discuss the Council's desire for constructive initiatives to solve systemic problems. Information about the Pacific Council and council-managed fisheries is available at [www.pcouncil.org](http://www.pcouncil.org).

### **INTRODUCTION**

The Pacific Fishery Management Council (Pacific Council), like the other regional councils, benefits from strong partnerships with National Marine Fisheries Service (NOAA Fisheries, principally Northwest and Southwest regional office and science centers) and state and tribal management agencies. The Pacific Council also benefits from a broadly diverse and deeply involved public – fishermen, processors, sport anglers, consumers, and conservation groups. The Pacific Council enjoys strong support from congressional representatives – both in direct funding and in their support of federal and state fishery research and management. But, like other councils, the Pacific Council struggles with achieving a balance between conserving resources and sustaining fisheries and their dependent communities.

Too often regional councils are criticized – for being irresponsible stewards of public resources, for unnecessarily restricting fisheries and harming fishing communities, and for having inherent conflicts of interest. It is easy to criticize; it is difficult to achieve. And achieve is what the Pacific Council aims to do. Crafting real solutions that provide for resource conservation and fishery sustainability requires the collective effort of all who have a stake in and care about fishery resources. Through the council process, these stakeholders have a means to construct sound fishery management policies. Like any family, we don't always agree, but we do sit and talk about our concerns and our desires, and that's the first step.

### **BACKGROUND**

The Pacific Council manages living marine resources in the federal waters off Washington, Oregon, and California, and each of these states are represented on the Council. Because Idaho-origin salmon are

caught in Council managed salmon fisheries, Idaho is also represented on the Pacific Council. The Pacific Council is composed of 14 voting and several non-voting members. Management agencies from the four member states, NOAA Fisheries, and treaty Indian tribes comprise six voting seats. The remaining eight voting members hold state-designated seats or "at-large" seats. Currently, of these eight non-agency members, two are commercial and six are recreational representatives. Non-voting members, who advise the Council and engage in Council deliberation, include the state of Alaska, U.S. Fish and Wildlife Service, NOAA General Counsel, Pacific States Marine Fisheries Commission, U.S. Coast Guard, and U.S. Department of State.

The Pacific Council has fishery management plans (FMPs) for salmon, groundfish, and coastal pelagic species (including sardines, mackerels, anchovies, and squid), and has proposed a management plan for highly migratory species (including certain tunas, billfish, and sharks) in the 200-mile exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California. Combined, there are more than 100 species managed under Pacific Council FMPs. Many are assessed at regular intervals, and allowable harvest levels are established each year. Landings of species that are not assessed are carefully monitored to track the need for active management.

As in other regions, there is enormous diversity in fisheries managed by the Pacific Council. Fishing effort ranges from the U.S./Canada border to the U.S./Mexico border. In some commercial fisheries, only a few types of gear are used and only a few species are targeted, e.g., troll caught salmon and purse seine caught sardine and mackerel. There is a much more diverse set of gears and species targeted in Council-managed groundfish and HMS fisheries. In the groundfish fishery, where 82 species are included in the FMP, gears include fish pots, line gear, and various types of trawl gear. HMS fisheries target a variety of tuna, sharks, and billfish; gears include purse seine, troll, drift gillnet, harpoon, and pelagic longline. Thousands of recreational anglers participate in Council-managed sport fisheries and target many of the same species as the commercial fisheries.

In accord with the ten National Standards of the Magnuson-Stevens Act, the Council endeavors to balance the ecological needs of the resource with sustainability of the various fisheries and their dependent communities. In this task, the Council relies upon our advisors and the public, which are described below.

### Advisory Bodies

Each FMP has both a technical (or management) team and an advisory subpanel. Technical teams are composed of fishery managers, biologists, and statisticians from the federal, tribal, and state agencies. Technical teams monitor catch rates, recommend harvest levels, and analyze the impacts of various management measures. Advisory subpanels are composed of representatives from commercial, recreational, tribal, and conservation groups. They advise the Council on policies that affect the management of their respective fisheries.

The Scientific and Statistical Committee (SSC) reviews the work of the technical teams and outside analysts to ensure Council management decisions are informed by the best available science. The SSC

employs various subcommittees for focused work on fishery-specific issues. For example, the salmon subcommittee annually reviews the analytical methods that form the basis of salmon stock size estimates and harvest policies. The groundfish subcommittee oversees the groundfish stock assessment review (STAR) process, which serves as a peer review of the scientific foundation of Council management. The SSC also convenes workgroups to address more systemic issues, such as overcapacity in the groundfish fishery, harvest policies, and marine protected areas.

Advisory body meetings are open to the public, and public participation is highly encouraged.

### Public participation

Public participation is fundamental to the council process. The Pacific Council has several sectors that are active partners in fishery management. These sectors often have competing priorities, but all contribute greatly to the Council family and Council management. The Pacific Council strives to balance these diverse interests and manage for long-term resource conservation, habitat protection, and fishery sustainability.

*Commercial fisheries* – Varied and numerous commercial fisheries dot the West Coast. Trollers fish for salmon and albacore in the waters off the Pacific northwest. Also off the Pacific northwest, purse seiners have recently tapped a bountiful harvest of Pacific sardine. Fixed gear fishermen use pots and longline gear to harvest sablefish; and trawlers work the fishing grounds off Washington, Oregon, and California for several groundfish species. Purse seine fishermen have worked the waters off Monterey and southern California since the 1920s, harvesting sardine, mackerel, and market squid. Vessels from the three West Coast states ply the high seas for tuna, sharks, and swordfish. All of these fisheries provide fresh and healthy seafood to domestic and international consumers.

*Recreational Fisheries* – Private recreational and commercial passenger fishing vessels (CPFV, i.e., charter vessels) are also active participants. All three coastal states have active sport fisheries. California, with its temperate climate and seasonally calm seas, supports numerous, vibrant, and diverse recreational fisheries. It is reported that the CPFV fleet and supporting shoreside facilities represent a monetary investment totaling close to \$80 million, and a labor force of about 4,000 persons. In 2000, there were an estimated 876,000 trips taken aboard southern California based CPFVs resulting in a total catch of 2,941,000 fish (RecFIN). The estimated total recreational catch of southern California based private vessels in 2000 was 2,594,000 fish (RecFIN).

*Environmental Groups* – Members and staff of environmental organizations also actively participate on Council advisory bodies and in the Council process. Like commercial and recreational fishermen, environmental groups are concerned with the ecological sustainability of fisheries and ecosystems. They are also concerned about the interaction of fishing gear with marine habitat. More recently, environmental groups have strongly advocated for the use of marine protected areas in concert with traditional fishery management. Environmental groups are currently involved with the Council in development of an individual quota management program for our limited entry trawl fishery. They also coordinate a collaborative

research initiative, [www.fishresearchwest.org](http://www.fishresearchwest.org), which is a network for sharing research and innovative gear information.

### Council Decision Making

Like other regional fishery management councils, the Pacific Council benefits from an open, public process that encourages broad participation by fishery stakeholders and interested public; an array of talented, dedicated individuals who serve on the Council and advisory bodies; a strong commitment to management success that balances resource conservation and fishery stability; and a cooperative, collaborative approach. The Pacific Council has also benefitted from recent increases in federal financial support, fishery-independent research, and staff.

Despite these strengths, several constraints affect the management process. The most critical is uncertainty, which results, in part, from sparse data and lack of dedicated, long-term funding. Funding shortfalls reduce available resources and staff, which hinders collection and analysis of comprehensive data collections. Because of numerous and often duplicative federal mandates (Magnuson-Stevens Act, Endangered Species Act, National Environmental Policy Act, Administrative Procedures Act), the federal management process is overwhelmingly cumbersome. Finally, competing priorities among the various participants often makes consensus nigh impossible, which adds to Council workload and often creates winners and losers.

Uncertainty affects the process at several levels. It impedes enumeration of absolute measures of stock status, which results in management based on ranges of reasonable values. This range of alternative harvest levels necessitates policy choices about what is most appropriate to the current (and future) needs of the environment and fisheries. Uncertainty produces a highly unpredictable planning environment for commercial and recreational fisheries, hindering long-term business planning. Environmental groups believe uncertainty compels use of precautionary management, which seeks to prevent harm in the absence of information about fishing impacts.

Criticisms are often made of the Council process and Council decisions. Generally, these criticisms reflect the Council's legal mandate to balance conserving living marine resources with sustaining fisheries and fishing communities. Some argue that economic priorities too often trump conservative, environmentally-precautionary management decisions. Conversely, others argue that highly restrictive management measures are based on flawed science and do not consider the resulting economic impacts on fishermen and communities. It is also oft claimed that the public is not heard by the Council when considering and adopting important management recommendations.

One criticism that has been around since implementation of the regional council system is that council decision makers have an inherent conflict of interest in the fishery management actions they take. A counter argument is that fishery interests have a large stake in the outcome of management decisions and, hence, should have a voice in the process. This latter point, some argue, reflects the intent of Congress in designing the regional council process and Magnuson-Stevens Act.

More recently, there have been calls to alter the role of the regional council in establishing harvest policy. Some argue that decisions on allowable harvest levels (objective science-based decisions) should be left solely to NOAA Fisheries. Under this system, councils would be tasked with allocating allowable harvest among the fishery participants, and have little (or no) input into the development of optimum yield values. This proposal seems contrary to the will of Congress in establishing the regional council system.

Embodied within the council process is the strong sense that each region has unique needs and issues that require flexibility in management. For example, the Pacific Council relies on a multi-stage process to develop annual harvest levels. As in most regions, stock assessments generally do not provide a single, simple answer; an inviolable point estimate of population status. Most assessment models produce a range of plausible population estimates. Under the current system, the Pacific Council develops harvest specifications in partnership with NOAA Fisheries and state management agencies, and with oversight, peer review, and arbitration provided by the Scientific and Statistical Committee. As with all council recommendations, harvest levels and management specifications are subject to NOAA Fisheries review and federal rulemaking.

Council decisions are made through this open, participatory, and collaborative process, and these decisions are informed by the best available science (as mandated by Congress), which is developed and vetted with SSC oversight. Council decisions seek to balance conserving fishery resources with sustaining the fisheries and communities dependent upon those resources. Finally, those decisions, if found to comply with National Standards, are implemented and enforced by NOAA Fisheries.

The science v allocation topic is explored more fully later in this paper, under Recommendations.

## **FISHERIES**

In this section, each Pacific Council FMP is described, along with information about historic and current management, fishery descriptions, and current management issues.

### Salmon

Salmon fisheries, once the mainstay of many small West Coast communities, have fluctuated significantly during the last quarter century. Since 1989, sixteen salmon stocks have been listed as threatened or endangered under the Endangered Species Act (ESA). Recent improvements in ocean conditions, improved achievement of spawning escapement goals, and habitat restoration resulted in record returns for many stocks, including ESA-listed stocks. In 2003, the largest number of angler trips occurred since 1991 and the second highest commercial value realized since 1989.

#### Fish and Fisheries

Chinook salmon (*Onchorynchus tshawytscha*) are the largest of the Pacific salmon. Like all Pacific salmon, chinook are anadromous. They hatch in freshwater streams and rivers, migrate to the ocean for

feeding and growth, and return to their natal waters to spawn. Spawning ranges from just above tidewater to over 3,200 kilometers from the ocean. In the ocean, chinook reared in Idaho, Washington, Oregon, and California waters range widely throughout the Pacific Ocean and the Bering Sea, and as far south as the U.S. border with Mexico.

Coho or “silver” salmon (*Oncorhynchus kisutch*) are found in streams and rivers throughout much of the Pacific Rim, from central California to Korea and northern Japan. Coho are also anadromous and have a life history similar to chinook. However, the time they spend in fresh and salt water is relatively fixed, compared to the more variable life history of chinook. North of central British Columbia, Canada, coho tend to spend two years in the ocean, while south of this point they spend only one year in the ocean. North American coho spawn in tributaries from the San Lorenzo River in Monterey Bay, California to Point Hope, Alaska, and throughout the Aleutian Islands. They are most abundant in coastal areas from central Oregon to southeast Alaska.

Several different groups and regions are involved in the salmon fishery. Recreational fisheries include ocean, inland marine (Puget Sound, Strait of Juan de Fuca, coastal bays), and freshwater (Columbia River components). Commercial fisheries include various ocean troll and gillnet sectors. Tribal ceremonial and subsistence fisheries (using gillnet, dip net, and hook and line) operate in Puget Sound, Washington coastal bays, Columbia River and its tributaries, and Klamath River.

### The Management Context

Since 1977, salmon fisheries in the EEZ off Washington, Oregon, and California have been managed under the Pacific Council’s salmon fishery management plan (FMP). Managing Pacific ocean salmon fisheries is very complex, due in part to their wide ranging migration patterns and the state, tribal, federal, and international parties involved. Pacific Council management focuses on chinook and coho salmon. In odd-numbered years small numbers of pink salmon are also harvested in Council-managed waters. There are no directed commercial fisheries for sockeye, steelhead, and chum salmon in Council-managed waters.

In 1984, the Council adopted a comprehensive framework amendment that was designed to end the need for annual FMP amendments and supplemental EISs. This comprehensive amendment (Amendment 6) replaced the 1978 plan as the base FMP document and established a framework of fixed management objectives with flexible elements to allow annual management measures to be varied in response to changes in abundance and other factors. Subsequently, the Council developed various amendments to the salmon FMP to address specific management issues or in response to federal and international obligations. The current FMP includes changes through Amendment 14, which was an extensive revision of the FMP in response to the Sustainable Fisheries Act of 1996.

Specific management tools (season length, quotas, bag limits, and gear restrictions) vary year-to-year. There are two main components of the FMP: an annual goal for the number of spawners of the major salmon stocks and allocation of available harvest among different user groups.

Every year the Council follows a pre-season process to develop recommendations for management of the ocean fisheries. Generally, public involvement begins in late February, when reports describing the previous season and estimating salmon abundance for the coming season are released. These reports are followed by a council meeting early in March to propose season options. Public hearings on these options are held in late March or early April, and the final recommendations are adopted at a Council meeting in April. Recommendations are reviewed and, if approved, implemented by the NOAA Fisheries on May 1.

### Current Issues

Correctly judging the size of salmon populations is a constant challenge. Salmon are affected by many natural and human-caused factors, so their numbers can vary widely. Changes in ocean conditions and weather are major drivers of salmon abundance and distribution, and estimating the effects of these factors is difficult. Other challenges include coordinating with international, regional, and local agencies and groups; judging the effects of these different regional fisheries on salmon stocks; recovering salmon under the ESA; dividing the harvest fairly and equitably; and restoring freshwater habitat. Farmed salmon, bycatch, the use of hatcheries, and perceived differences between wild and hatchery salmon are other issues relevant to Council management.

### Groundfish

The Council manages over 80 species of groundfish. Management of this fishery is a major workload focus for the Pacific Council and our NOAA Fisheries partners. It also draws upon the limited resources of state and tribal management agencies. Steep declines in several rockfish stocks have driven major reductions in available harvest and time/area closures to protect overfished stocks while providing reasonable harvest opportunity on healthy stocks. The recently expanded at-sea observer program provides information to enhance monitoring and improve management information. While dedicated, long-term appropriations are needed, recent increases in funding for fishery research and expanded socioeconomic efforts have been beneficial.

### Status of Groundfish

Nine species of West Coast groundfish have been declared overfished by NOAA Fisheries. They include Pacific whiting, widow rockfish, canary rockfish, yelloweye rockfish, darkblotched rockfish, bocaccio, Pacific ocean perch, lingcod, and cowcod. Rockfish are long-lived, late maturing, and slow-growing species. These traits make them particularly vulnerable to overfishing, the effects of which may be exacerbated by unfavorable ocean conditions. Pacific whiting is highly productive, but extremely variable in abundance; generally, stock size varies in response to prevailing ocean conditions.

“Overfishing” and “overfished” are defined in the groundfish FMP. A stock is overfished when its spawning stock abundance declines to 25% of its unfished abundance (the spawning population size if the stock had never been fished). Once a stock is declared overfished, measures must be taken to rebuild stock abundance to a level that supports maximum sustained yield (MSY). For most West Coast groundfish

stocks, that level is defined as 40% of the stock's unfished abundance. Overfishing is defined as a harvest rate that is predicted to cause a stock to decline to an overfished level. The Magnuson-Stevens Act and groundfish FMP require management to end overfishing and rebuild the stock within ten years (if the stock's biology allows it to be rebuilt within this time frame). If a stock cannot be rebuilt within ten years, then the maximum allowable time to rebuild the stock is the time to rebuild the stock in the absence of fishing, plus one mean generation time (mean generation time is the time it takes for a sexually mature female to replace herself in the population).

### The Fishery Prior to the Groundfish FMP

Prior to the FMP, management of domestic groundfish fisheries was under the jurisdiction of the states of Washington, Oregon, and California. State regulations (on the domestic fishery) were in place for about 80 years, and each state acted independently in both management and enforcement. In the early 1900s, areas were closed because of concerns about stock depletion (for example, San Francisco Bay was closed to trawling in 1906). Minimum trawl mesh sizes were adopted in the early 1930s in California as the production of flatfish decreased. During 1935 to 1940, voluntary mesh size limits were adopted by the trawl industry. Soon after, mandatory minimum mesh sizes were adopted by California. Since then, mesh regulations have been in effect in all three coastal states.

Between implementation of the Magnuson-Stevens Act in 1977 and the implementation of the FMP in 1982, state agencies worked with the Pacific Council to address conservation issues. For example, in 1981, the Council proposed a rebuilding program for Pacific ocean perch, which had faced heavy fishing pressure from foreign vessels. To implement this program, the states of Oregon and Washington established landing limits for Pacific ocean perch.

Domestic groundfish landings were relatively stable until the early 1970s, averaging about 30,000 metric tons (mt) per year. Other than Pacific ocean perch stocks (depleted in the late 1960s by foreign fishing) groundfish stocks were apparently healthy. By 1977, when work on the FMP was initiated, domestic landings increased to 60,000 mt and peaked at 116,000 mt by 1982.

### The Fishery After FMP Implementation

The FMP came into effect in September 1982. The two fundamental goals of the FMP are to maintain the health of the resource and environment, and promote a stable planning environment for commercial and recreational fishery participants. In developing allocation and harvesting systems, the Council considers maximizing economic benefits to the nation, consistent with living marine resource stewardship. Thus, management must be flexible enough to meet changing social and economic needs, and to adapt to fluctuations in marine resources.

Eighty two different species are managed under the groundfish FMP, and these stocks support a wide range of commercial and sport fishing interests. These species include 64 rockfish, 12 flatfish, 6 round fish (lingcod, Pacific whiting), and 6 sharks and skates.

## Fisheries

Commercial fisheries are divided into three primary sectors (limited entry trawl, limited entry fixed gear, and open access). Groundfish are harvested in multi-species complexes, meaning that several different groundfish species may be caught together at the same time. Commercial vessels use a variety of gears and strategies. For example, pot gear is used to target sablefish, and hook-and-line gear to target sablefish, rockfish, and lingcod. Various types of trawl gear are used to target particular species mixes: bottom trawl for deepwater slope species; roller trawl for bottom rockfish; mud gear for nearshore flatfish; and midwater trawl for widow rockfish and whiting. Groundfish (other than whiting) is harvested by catcher boats that deliver to shore processors. Pacific whiting is harvested by boats delivering to at-sea and shore processors, and by catcher-processor vessels.

Groundfish are also harvested by sport anglers fishing from docks and piers, beaches, and private or charter boats. Commercial passenger fishing vessels and private boats take the majority of the recreational harvest, mainly nearshore rockfish and lingcod. Sport fisheries vary regionally according to the species mixes targeted, but participation is highest in California.

In addition to these non-tribal fisheries, members of the Makah, Quileute, Hoh, and Quinault tribes participate in commercial, as well as ceremonial and subsistence fisheries off the Washington coast. Tribal commercial fisheries focus on sablefish, lingcod, and rockfish, and the Makah tribe has participated in the Pacific whiting fishery since 1996.

### Trends in the West Coast Commercial Groundfish Fishery

During the late 1970s and early 1980s, West Coast groundfish landings increased rapidly, reaching about 116,000 mt in 1982. For the next few years, landings remained around 95,000 mt annually, supported by large rockfish and flatfish catches. At that time, the government encouraged expansion of domestic commercial fisheries through loan guarantees and other programs. Over this same period recreational fisheries were shifting effort away from salmon towards rockfish and lingcod.

Trip limits were enacted for the first time in 1983, and, in 1994, a limited entry program was enacted to reduce capacity. Between 1983 and 1999, commercial ex-vessel groundfish revenues decreased by 47% from \$100.2 million to \$52.9 million (in 1999 dollars). This decline occurred in spite of a 12% increase in commercial landings from 108,500 mt to 121,500 mt. The decline was particularly severe for *Sebastes* rockfish and flatfish, which annually accounted for 50%-60% of groundfish (excluding Pacific whiting) revenues. Between 1983-1999, *Sebastes* rockfish landings fell by 78% and revenues fell by 69%; flatfish landings fell by 41% and revenues fell by 73%.

Starting in 2000, faced with harvest reductions for various rockfish species, the Council adopted a strategy to separate the major rockfish stocks from the *Sebastes* rockfish management complex and divide the remaining species into assemblages. This was intended to bring harvest levels in line with the acceptable biological catches for individual species and assemblages. Most of the stocks known to be depleted are

shelf species. To reduce harvest of these species, the Council restricted the use of bottom trawls with large rollers on the footrope and chafing gear when fishing on the continental shelf. The Council believed this would prevent on-bottom trawl activity in rocky areas and effectively reduce both catch and bycatch of shelf rockfish. To further reduce bottom trawl activity, the Council provided incentives (higher trip limits) for vessels fishing with mid-water trawl gear.

For 2002, the Council adopted further significant changes. Based on new information, the Council revised bycatch rates for several species in the limited entry trawl fishery. The Council also adopted significant changes to recreational fisheries, mostly in response to the need to reduce the harvest of bocaccio, canary rockfish, and yelloweye rockfish. Management in 2002 also prohibited retention of yelloweye rockfish in the limited entry fixed gear and open access sectors.

For 2003, to further protect overfished groundfish species, the Council adopted increasingly conservative groundfish harvest levels and a suite of management measures that moved West Coast groundfish fisheries into a new management regime. These Council decisions were historic in scope considering the breadth of restrictions and the large-scale economic impacts to West Coast fishing communities. Area and season restrictions (including large area closures) were adopted to rebuild overfished stocks. The result was a dramatic restructuring of the groundfish fishery. The centerpiece was adoption of depth-based restrictions to seasonally move fisheries that catch overfished stocks out of the depth zones inhabited by those species.

The most severe restrictions were imposed on fisheries operating in waters off California south of Cape Mendocino mainly to protect bocaccio, but also to further protect other overfished rockfish found on the continental shelf and slope. The Council adopted the California Rockfish Conservation Area, which limits the fishing gears used seasonally in the 20-150 fathom (fm) depth zone from the U.S.-Mexico border north to Cape Mendocino. Recreational groundfish fisheries and commercial line and trap fisheries were limited to depths of 0-20 fm or offshore of the 150 fm contour. In the north, fisheries on the continental shelf north of Cape Mendocino were constrained to rebuild canary and yelloweye rockfish. The limited entry trawl fishery was also constrained to protect these species. On the continental slope, fisheries were constrained to rebuild darkblotched rockfish.

For 2004, many of these restrictions will also be in place. The overarching management strategy is to continue to employ seasonal depth restrictions to minimize mortality of overfished groundfish species while attempting to maximize opportunity to harvest more abundant target species (in the case of commercial fisheries) or maximize time on the water (in the case of recreational fisheries).

#### Current Issues

Current groundfish issues are described more fully in a separate section following the FMP fishery descriptions. Issues include a discussion of harvest policies leading up to and in response to the groundfish crisis, improvements in bycatch accountability and total mortality estimation, and capacity reduction.

## Coastal Pelagic Species

Coastal pelagic species (CPS) fisheries are generally viewed as healthy and well-managed, and the FMP accounts for the close relationship of CPS abundance to environmental conditions. Five species are managed under the CPS FMP.. None of these species are categorized as overfished and the fisheries are generally stable.

### Managed Species

Pacific sardine (*Sardinops sagax*). When the population of sardine is large, it is abundant from the tip of Baja California to southeastern Alaska and throughout the Gulf of California. Sardines form three (and possibly four) sub-populations. The northern sub-population of sardines is most important to U.S. commercial fisheries. Sardines live up to 13 years, but, due to predation and natural mortality, are generally younger than 5 years.

Pacific (chub) mackerel (*Scomber japonicus*) range from Mexico to southeastern Alaska, but are most abundant south of Point Conception, California.

Northern anchovy (*Engraulis mordax*) range from British Columbia to Baja California, and have recently appeared in the Gulf of California.

All of these species are important food items for a variety predators, including other fish, sea birds, and marine mammals.

Jack mackerel (*Trachurus symmetricus*) range throughout the northeastern Pacific. They grow to about 60 cm and can live 35 years or longer. Much of their range lies outside the U.S. EEZ.

Market squid (*Loligo opalescens*) range from the southern tip of Baja California to southeastern Alaska. They are most abundant between Punta Eugenio, Baja California, and Monterey Bay, California. Squid are short-lived (six to nine months, on average, and up to one year). They are an important forage species.

### History of the Sardine Fishery<sup>1</sup>

The West Coast fishery for Pacific sardine began around 1916 in response to a national demand for new food sources during World War I. The fishery expanded rapidly throughout the 1920s, peaking in 1936 at more than 700,000 tons. During the 1930s and 1940s, sardines supported the largest fishery in the Western Hemisphere. Fish were landed from British Columbia to California.

---

<sup>1</sup> Some information in this and subsequent sections is adapted from: Cascorbi, Alice. January 2003. *Seafood Watch, Seafood Report: Sardines, Volume 1*. Monterey Bay Aquarium. In Preparation.

The historic fishery began to collapse in the 1940s. Catches in the northern part of the range ceased first. The last catches in Washington and Oregon were recorded in 1948, the last San Francisco landings in 1952. Before 1946, most of California's sardine catch was landed in Monterey and San Francisco, California. However, with the southward concentration of the sardine stock, most California catches after 1946 were landed in San Pedro (Los Angeles Harbor). The fishery continued at moderate levels up to 1967 when limits were placed on harvest. Directed fishing was halted in 1974 because of drastic stock declines. From 1974 to 1981, landings were less than 50 tons per year.

In the early 1980s, moderate numbers of sardines began to appear in the southern California fishery for Pacific mackerel. By 1986, a small sardine fishery was allowed, with an annual limit of 1,000 tons. In 1991, evidence of a continued increase in the sardine population prompted managers to raise the yearly limit to 8,150 tons. Overall, during the 1990s, landings averaged almost 42,000 tons/year. By 1999, California landings had increased to 62,600 tons. After FMP implementation, in 2000, approximately 70,000 mt<sup>2</sup> were landed coastwide. In 2001, landings in the coastwide fishery totaled 74,957 mt, worth just over \$9 million. 2002 landings were just over 100,000 mt. 2003 landings are projected to approach 90,000 mt. Landings are largely driven by market demand.

### CPS Markets

The vast majority of processors and buyers of CPS on the West Coast are located in California, mainly in Los Angeles, Santa Barbara-Ventura, and Monterey. In the past few years, processing facilities have opened in several Columbia River ports (Astoria, Oregon; Ilwaco and Westport, Washington). About 92% of the market squid and 61% of the Pacific sardine catch are exported. Market squid are mainly exported to China, the Philippines, Japan, Spain, and Venezuela. In 2001, sardines went mainly to Japan (where they are used for human consumption and as bait for longline tuna fisheries) and Australia (where they are used to feed farmed bluefin tuna). In 2001, Pacific sardine exports were valued at \$26.8 million.

### The Management Context

Initially sardine was primarily canned for human consumption. The fishery expanded rapidly in the 1920s and 1930s, and reduction for fish oil and fishmeal often dominated production. Concern about the size of the reduction fishery led to the first management laws for sardines. Prior to 1967, management of California's sardine fishery consisted of control over how much fish was used for reduction and fishing seasons designed to limit catch to periods when fish were in prime condition for canning. In 1967, catch limits were introduced for the first time. In 1974, directed fishing for sardines was halted. Before 2000, CPS fisheries were managed by California.

In 2000, the new federal FMP came into effect. The Pacific Council actively manages Pacific sardine and Pacific mackerel; jack mackerel, northern anchovy, and market squid are monitored species under the

---

<sup>2</sup> One metric ton (mt) is approximately 1.102 tons. The federal FMP measures catch and abundance in metric tons. The state of California, generally, uses tons.

FMP. Annual stock assessments are developed and harvest guidelines are established for actively managed species. Landings of the other three species are monitored and, if landings rise rapidly, acceptable biological catch is exceeded in two consecutive years, or other significant changes occur in the fishery, a management response would be considered. The state of California actively manages the market squid fishery in California waters and in 2004 will adopt a fishery management plan that includes a limited entry program.

The current CPS FMP evolved from the Northern Anchovy FMP, which went into effect in 1978. In 1990, the Council began considering expanding the scope of the anchovy FMP to include market squid and other CPS fisheries. In 1995, the Council decided to develop a comprehensive FMP for the entire CPS fishery. Development of Amendment 8 to the Northern Anchovy FMP began in June 1997. This amendment greatly expanded the scope of the plan and incorporated a name change to the CPS FMP. Elements of the CPS FMP include a limited entry program, environmentally-based harvest control rules, annual management framework, provisions to reduce bycatch and bycatch mortality, and monitoring through logbook and observer programs. In 2002, the Council adopted an amendment to the CPS Fishery Management Plan. Amendment 10 established a maximum fleet capacity for the CPS fishery, allowed the transfer of limited entry permits, and established criteria for issuing new permits. The amendment also defines MSY for market squid.

#### Pacific Sardine Abundance Trends

Spawning biomass averaged about 3.9 million tons during 1932-1934. From 1935-1944, the population fluctuated between 3.1 and 1.3 million tons. After the mid-1940's a drastic population decline occurred, dropping to 100,000 tons by the early 1960s and less than 5,000 tons by the early 1970s. Since the late 1970s, the trend has reversed and the population has increased at a relatively high rate. From 1998 through 2003, the biomass has remained stable at just over 1.0 million mt.

Environmental conditions are seen as key to the sardine biomass levels. Oceanographic cycles, which shift the Pacific basin between cool- and warm-water regimes, trigger major population shifts. Generally, cool-water regimes are seen as more favorable to anchovies and warm-water regimes are more favorable to sardines. Thus, some postulate the sardine recovery could be the result of a shift to a warm-water regime that began in the 1970s. However, there is some evidence that a shift back to a cool-water regime occurred in the late 1990s, which suggests that abundance of sardine in West Coast waters could begin to decline. In recognition of the relationship between environmental conditions and sardine abundance, the FMP harvest control rule contains a proxy for environmental conditions (i.e., a 3-year running average sea surface temperature [SST]). This proxy is one determinant of the fraction of the population that may be harvested in a given year. During favorable environmental regimes (SST warmer than 17.2° C) the harvest fraction is set at 15%; during cooler periods the allowable harvest fraction could range to as low as 5%.

## The Fleet

During the 1940s and 1950s, approximately 200 vessels participated in the Pacific sardine fishery. The current limited entry fleet consists of about 65 vessels and operates primarily in California. In Oregon, about 17 vessels participate in the sardine fishery. A similar number of vessels participate in the fishery off Washington. Several of the vessels operating in the Pacific Northwest also hold CPS limited entry permits and may participate in fisheries off California.<sup>3</sup>

## International Management

Beyond U.S. waters, Mexican harvest of CPS has increased rapidly in recent years. To ensure fishery sustainability, this increased activity necessitates close coordination of coastwide fishery management and science. This would include, at the very least, the availability of complete Mexican catch statistics for inclusion in CPS assessment models. In this regard, the Council requested the U.S. Department of State pursue cooperative arrangements with Mexican management agencies.

One very positive example of collaboration among scientists and industry representatives from Mexico, the U.S., and Canada (British Columbia) has been the series of Tri-National Sardine Forum meetings. The Sardine Forum provides an opportunity for industry representatives and fishery scientists from the three nations to share information on the status of their respective fisheries, participate in workshops to improve scientific methods, and garner the perspective of the industry representatives about current fishery trends and the concerns of industry.

## Highly Migratory Species

The most recent FMP developed by the Pacific Council proposes to manage West Coast-based fisheries for highly migratory species (HMS). The HMS FMP was developed to provide a means to involve all interested parties in the development of conservation and management measures for HMS fisheries. The FMP is a mechanism to cooperate with other regional councils and achieve consistent management of U.S. HMS fisheries in the Pacific Ocean. It also assures that issues of national and international concern are addressed, and provides a foundation for improving knowledge of the species and fisheries. Finally, the FMP will be used to incorporate recommendations of international bodies into domestic fisheries off the West Coast.

## Managed Species

Highly migratory species of fish move great distances in the ocean. Distribution is determined by such factors as ocean temperature and availability of food. They tend to occur within the waters of several nations and on the high seas. The Magnuson-Stevens Act defines HMS as tuna species, marlins, oceanic sharks, sailfishes, and swordfish.

---

<sup>3</sup> The limited entry area is from Pt. Arena, California south to the U.S.-Mexico border.

The HMS FMP proposes to manage: tunas – north Pacific albacore, yellowfin, bigeye, skipjack, and northern bluefin; sharks – common thresher, pelagic thresher, bigeye thresher, shortfin mako, blue; billfish/swordfish – striped marlin, Pacific swordfish; and dorado.

In addition, other species are included for monitoring purposes. These may be minor species, which are caught and landed or discarded at sea. Under the HMS FMP, these species would be monitored to track trends on a consistent and routine basis. The FMP also proposes to designate some species of fish as prohibited in HMS fisheries because of their special status. These species, if intercepted, must be released immediately, unless other provisions for their disposition are established. Prohibited species include great white shark, megamouth shark, basking shark, Pacific halibut, and Pacific salmon. Also, the Council proposes to prohibit the sale of striped marlin.

### Fisheries to be Managed

The FMP proposes to include several commercial and recreational fisheries for HMS off the West Coast. Commercial fisheries include surface hook and line, drift gillnet, harpoon, pelagic longline, and purse seine. Surface hook and line harvests albacore tuna by trolling jigs. Drift gillnet targets swordfish and common thresher shark. Harpoon targets swordfish using a hand-held harpoon. Pelagic longline targets swordfish and tunas on the high seas. Purse seine targets various tunas.

Sport fisheries consist of private boats and charter vessels targeting all of the species in the FMP management unit. The most common gear type is rod and reel, which may be used with artificial lures, live bait, or dead bait. Seasonally, tropical tunas, billfish, and sharks become available off southern California as those species move northward from Mexico; and seasonally albacore move into coastal waters and are caught off all three West Coast states. In 1999, the coastwide recreational catch of albacore was about 180,000 fish, which predominated the recreational catch.

### Status of Fish Stocks

Generally, HMS managed under the FMP are considered healthy. If a species were to become locally depleted, application of federal rebuilding requirements could be problematic. U.S. fisheries for HMS, and West Coast fisheries in particular, harvest a small fraction of the total international harvest. Thus, effective conservation requires international action. The Inter-American Tropical Tuna Commission (IATTC) conducts most of the stock assessments used to determine stock status. However, the IATTC does not use a specific control rule for determining if a stock is overfished and when remedial action should begin. Therefore, the HMS FMP specifies criteria for determining if an FMP-managed stock is overfished or experiencing overfishing. However, only through international cooperation in the IATTC arena can measures be implemented that would result in rebuilding an overfished stock in the eastern Pacific. While the Pacific Council must develop a rebuilding plan, the Council and NOAA Fisheries will need to work with the IATTC and its member countries to implement such a plan.

As required by the Magnuson-Stevens Act, HMS will be managed to achieve optimum yield (OY). The FMP proposes that OY be set equal to MSY for albacore, yellowfin, bigeye, and skipjack tunas; swordfish; and dorado. For bluefin tuna, striped marlin, and the five shark species in the management unit, OY would be equal ( $0.75 \times \text{MSY}$ ). For thresher shark, a regional harvest guideline of 340 mt is recommended. For shortfin mako shark, a harvest guideline of 150 mt is recommended. These precautionary harvest levels are intended to sustain local populations of these species.

## Current Issues

### U.S. Unilateral Action

For most management unit species in this FMP, harvest by West Coast-based vessels represents a small fraction of total fishing mortality. Any unilateral action, such as a reduction in the West Coast harvest or effort, would not likely have a significant biological effect on the stock. However, U.S. law requires unilateral action when overfishing is determined. Furthermore, unilateral management of U.S. vessels may also be appropriate under some circumstances apart from overfishing. This is particularly true for vulnerable stocks, defined, in part, as stocks that will require more than ten years to recover from depletion. Circumstances where unilateral management by the Pacific Council may be appropriate, not necessarily because of stock overfishing, include, but are not limited to, the following situations: where a stock is regionally distributed, and a significant portion of the regional distribution is subject to harvest by U.S. West Coast fisheries; where U.S. laws mandate protection in both U.S. and international waters; or where unilateral action is needed to address domestic issues such as local depletion, protection for essential fish habitat in U.S. waters, bycatch reduction, catch allocations, or conflicts among user groups.

### Protected Species

Marine mammals, seabirds, and sea turtles are intercepted by some HMS fisheries (drift gillnet and pelagic long line). Various U.S. laws and international agreements protect these animals. A benefit of the FMP is that these regulations can be incorporated into the Council management process so that all federal regulations are addressed in one process. In fisheries where protected species takes (as defined under the ESA) are being addressed, recommendations and supporting analyses would be provided by NOAA Fisheries to the Council for consideration and action as appropriate. The FMP authorizes adoption of measures to reduce interactions with protected species, and contains measures for drift gillnet and longline fisheries.

## ISSUES

This section describes issues related to the decline of the groundfish resource, concomitant cuts in harvest opportunity, and the resulting impacts to the fishery and dependent communities. As noted above, since the late 1990s, more comprehensive scientific information has revealed population declines in several important species of groundfish. Rebuilding plans are being developed for these species and, since 1999,

groundfish fisheries have been managed under policies designed to ensure rebuilding within allowable time frames.

In response to dramatic harvest restrictions and declining fishery revenues, the Secretary of Commerce declared a disaster in the groundfish fishery in January 2000. The root causes of these declines are varied, but closely related, including scientifically-based harvest policies ill-suited to many slow-growing, long-lived, low-productivity West Coast groundfish; oceanic regime conditions bringing warm, nutrient-poor water to the West Coast, which amplified the naturally low productivity of these fish; and incomplete accounting of total fishing mortality, including at-sea discards. These factors, in combination with an overcapitalized West Coast groundfish fleet (due in part to government incentives during the 1970s and 1980s to build domestic fishing capacity), led to a situation where too many vessels were chasing too few fish.

The Council and the management process were overwhelmed by this cascade of factors. As described above, management responses included severe restrictions in most West Coast groundfish fisheries and closure of vast areas. Some conservation groups criticize the Pacific Council for responding too slowly, not heeding environmental signals, and not exercising precaution in the face of uncertainty. Conversely, fishery participants criticize the Council for adopting an overly restrictive management regime, which they believe is based on sparse, flawed science and uncertain conclusions, without due consideration of the economic impacts of the fishery and dependent communities.

The following discussion includes information on the relationship of past harvest policies and fishery management philosophies to the groundfish declines; a review of recent changes to accounting for total fishing mortality; and a discussion of capacity reduction.

#### The Current Groundfish Crisis<sup>4</sup>

As described above, the groundfish fishery off the U.S. West Coast is under unprecedented restrictions to protect several stocks of “overfished” groundfish. The Pacific Council has adopted a new management framework for controlling the harvest of depleted stocks within the EEZ. Under this new regulatory framework, large ocean areas are closed to groundfish fishing year-round. For example, south of Cape Mendocino a “Rockfish Conservation Area” has been established that strictly regulates fishing in ocean waters 120 to 900 feet deep, which essentially encompasses the entire continental shelf ecosystem off the coast of California. Within that depth zone, no fishing for rockfish or lingcod is allowed. This new regulatory framework was implemented to reduce the bycatch of several overfished rockfish species, especially bocaccio.

What caused these stock declines? Mismanagement and overfishing are often claimed to be at fault. However, for years there were serious flaws in the scientific advice that was presented to the Pacific Council as the foundation of its decision making. The deficiencies were not easy to foresee and were due

---

<sup>4</sup> Adapted from Stephen Ralston, 2002. *The Groundfish Crisis – What Went Wrong? In Ecological Observations for the Monterey Bay National Marine Sanctuary*, 2002.

to a combination of inadequate data and fishery productivity that was far lower than anyone imagined. To understand how we got to this point, one must follow the history of groundfish management since the passage of the original Magnuson-Stevens Act in 1976 up to the present.

At the time the Magnuson-Stevens Act was passed, little was known about West Coast groundfish, particularly about the sustainability of these fisheries. Even so, the Pacific Council developed a groundfish FMP that required the determination of acceptable biological catches (ABCs) for each actively managed stock. The ABC is a purely scientific determination that attempts to identify the annual catch of a stock if the fishery were managed to achieve the long-term maximum sustainable yield (MSY). However, facing a dearth of scientific information during the early 1980s, the Pacific Council adopted ABCs for many stocks that were based simply on the amount of historical catch, which capped groundfish harvests at their existing levels. At the time, this was viewed as precautionary (“first, do no harm”) management.

As information increased during the 1980s, individual stock-assessments began to be completed on the most important species. A stock assessment is a scientific analysis that assembles all known sources of information about a species (such as, landings, age- and length-frequency data, catch-per-unit-effort statistics, life history parameters) and funnels the information into a population model that statistically fits the data. The model is then used to answer questions concerning the status of the stock. Several outputs result from a stock assessment, including an estimate of current stock size and the historical time series of spawning stock size and recruitment (the new additions to the population). In theory, the latter information can be used to establish the productivity of a stock and MSY. Thus, the optimal rate of fishing ( $F_{MSY}$ ) can be determined. However, because of tremendous year-to-year variation in reproductive success, estimates of recruitment are inherently imprecise. This variability makes it nearly impossible to determine stock productivity parameters accurately.

At the time, instead of relying on imprecise spawner-recruit information to set ABCs, the Pacific Council adopted a harvest policy that is still widely used in fisheries management. That policy consists of applying a constant rate of fishing pressure to a stock, irrespective of population size. This constant rate policy allows removal of a fixed fraction of the stock every year as harvest. Theoretical results show that such a policy has many desirable qualities, although  $F_{MSY}$  must first be determined, which unfortunately requires analysis of highly variable spawner-recruit data. However, theoretical results developed in the early 1990s by William Clark seemed to solve that problem. Clark showed that, over a broad range of productivity conditions, harvesting at the so called  $F_{35\%}$  rate would be expected to produce no worse than 75% of MSY. ( $F_{35\%}$  is the rate of fishing that reduces the reproductive contribution of a new female recruit entering the exploited stock to 35% of what it would be if there were no fishing.) Best of all, that rate could be calculated from basic life history and fishery information. That is, no spawner-recruit analysis was needed. Based on this scientific information, the Pacific Council adopted a groundfish harvest policy that applied the  $F_{35\%}$  rate to estimated stock size to yield the ABC.

The important conclusion here is that the Pacific Council adopted a scientifically-based harvest policy to set ABCs, and that harvest levels actually conformed to the policy for many years.

When the Magnuson-Stevens Act was re-authorized in 1996, the real difficulty was revealed. The Sustainable Fisheries Act (which amended and reauthorized the Magnuson-Stevens Act) required that all fishery management councils establish biomass-based targets and thresholds when setting ABCs. Whereas, up until that point, catches were determined solely by current stock size and the harvest rate proxy, now the councils had to consider the overall amount of stock depletion. To satisfy this new law, the Pacific Council adopted an amendment to the groundfish FMP that set a biomass target of 40% of the unfished level ( $B_0$ ) and an overfished threshold of 25% of  $B_0$ . The new law also required that if stock size were to fall below the overfished threshold, then a rebuilding plan had to be developed to return the stock to target level. However, as the Pacific Council began applying its new biomass-based policies, it quickly became apparent that many rockfish stocks were overfished, some severely so.

So what went wrong? Results from a recent harvest policy workshop on West Coast groundfish show that over the past two decades these stocks have been very unproductive.<sup>5</sup> Moreover, the fallacy of applying Clark's  $F_{35\%}$  rate as a surrogate estimate for  $F_{MSY}$  is that under current conditions many groundfish stocks managed by the Pacific Council, especially the rockfishes, are barely able to replace themselves, even in the absence of a fishery.

In essence, in the past, the Pacific Council used an established "rule of thumb" to set ABCs when in fact these stocks were much less productive than the norm. Because the proxy harvest rate greatly overestimated  $F_{MSY}$ , the stocks continued to decline. Currently, the Council uses a more appropriate harvest policy. However, due to the need to rebuild and continued low productivity, it will take many years to rebuild overfished species to their target levels. This will necessitate stringent harvest restrictions for the foreseeable future.

#### Bycatch and Total Catch Accounting

The Pacific Council first adopted trip limits for the groundfish fishery in the early 1980s. These regulations were intended to slow the rate of harvest of individual species, support a year-round fishery, and ensure harvest did not exceed optimum yield (OY). As trip limits declined, the Council gradually replaced them with cumulative landings limits (i.e., vessel landings limits per month or two month period), which were intended to discourage discards while giving vessels more flexibility. Because cumulative limits apply to landings and not catch, fishing can continue for other species once the limit for a particular species is reached. However, unintended bycatch may occur while fishing for these other species. Therefore, catch in excess of limits cannot be legally retained and is assumed to be discarded.

During 1985-1987, a voluntary observer program was conducted, primarily off Oregon. This program determined discard was 16% to 20% of the total catch for species that were regulated by a trip limit. The Pacific Council used this estimate of discard during the 1990s. A second voluntary observer program was conducted during 1988-1990, which primarily assessed the impact of potential changes in codend mesh-size and shape in the West Coast groundfish trawl fishery. During 1995-1999, Oregon Department of Fish

---

<sup>5</sup> The report of the Harvest Policy Workshop is available from the Pacific Council.

and Wildlife (ODFW) administered the Enhanced Data Collection Project (EDCP). The primary goal of the EDCP was to collect data on discard rates for groundfish species and to determine bycatch rates for prohibited species (salmon and Pacific halibut).<sup>6</sup>

In May 2001, NOAA Fisheries established the West Coast Groundfish Observer Program. Under this program, vessels that participate in the groundfish fishery are required to carry an observer when notified to do so by NOAA Fisheries. The observer program's goal is to improve estimates of total catch and discard. In the first phase of the program, approximately 20 observers were deployed. Subsequently, with an increase in resources, the number of observers increased to as many as 40.<sup>7</sup>

Prior to 2001, the Council generally based discard estimates on the research conducted in the late 1980s. The standard discard estimates used were 16% or 20% (depending upon the species), which was calculated as a fraction of the landed catch of the species being estimated. In 2001, a mix of approaches was used. For various species, some discard estimates were based on the old 16% or 20% standard, others were based on information from the more recent EDCP research.

For the 2002 management year, a new trawl bycatch model was developed. This model predicted the rates at which overfished species were caught by trawl fisheries targeting more abundant co-occurring species. Protection of overfished species had become the paramount management concern. This prompted bycatch modeling for overfished species to determine the impacts on these stocks. The 2002 trawl bycatch model included seasonal and geographic variation in the co-occurrence ratios of overfished species with target species along the West coast. In contrast, bycatch and discard rates for target species were addressed through precautionary adjustments in the OYs for those species, rather than in the bycatch model itself.

While the observer program was initiated in 2001, preliminary data from the first full year (September 2001-August 2002) was not available until January 2003. Thus, the bycatch model used bycatch rates from the previous observer experiments carried out in the late 1980s and mid-1990s. Using this bycatch model, the Council crafted management measures for 2002 intended to concentrate fishing pressure for targeted stocks in times and areas where overfished species were less likely to occur. During 2002, the Council reviewed landings levels and recommended inseason adjustments based on the bycatch model's prediction of incidental catch rates of overfished species.

For 2003 management, the Council used a new depth-based management program, in which vessels would be prohibited from fishing for target species in depth zones where overfished species occur. To accommodate this management change, the trawl bycatch model was revised by stratifying co-occurrence ratios for overfished and targeted stocks across different ocean bottom depths. As for 2002 management,

---

<sup>6</sup> Northwest Fisheries Science Center. West Coast Groundfish Observer Program. *Initial Data Report and Summary Analyses*, January 2003

<sup>7</sup> Ibid.

the revised model addressed the bycatch of overfished species. The trawl bycatch model used in developing 2003 management measures did not include observer program data, since the first year's data was not available until January 2003. In January 2003, the SSC held a workshop to review the bycatch model and made a series of recommendations for incorporating observer data. The bycatch model was revised in response to these recommendations. For 2003 inseason management, the Council used the new overfished species bycatch rates.

For the 2004 fishing year, the bycatch model was revised to incorporate an additional component drawn from the first year of observer data. In addition to linking bycatch of overfished species to catch of target fisheries, the revised bycatch model also includes discard of target species as a function of total catch of those species. For some targeted species, these observer-based discard rates showed a higher discard rate by trawl vessels operating at shallow nearshore depths than by trawl vessels operating at much deeper continental slope depths. The Council used the revised bycatch model to set 2004 management measures. The model will also be used inseason to manage fisheries to stay within total catch OYs during 2004.

### Capacity Reduction

As important as using appropriate harvest policies and fully accounting for total fishing mortality is ensuring that fishing capacity is in line with allowable harvest levels. Since 1987, the Council has endeavored to reduce capacity in the West Coast groundfish fishery. A limited entry program was implemented in 1994. In 2001, a permit stacking program was implemented in the limited entry fixed gear sablefish fishery. Fishery stability and resource sustainability were paramount goals.

Currently, economic hardship and uncertainty pervade the industry, and is intensifying competition among fishery sectors for access to the resource. Individual fishermen, communities, and competing groups have become increasingly polarized and management information needs have increased. Protecting groundfish stocks while ensuring that the burden of conservation measures is distributed equitably among sectors of the fishery is becoming increasingly difficult. The current problems associated with low landings limits, short seasons, and complex regulations will not go away unless meaningful capacity reduction is achieved.

Current capital utilization rates are quite low for all sectors of the commercial groundfish fishery. It is estimated that 9% of the limited entry fixed gear vessels could harvest all of that sector's sablefish allocation and 12% of the vessels could harvest the non-sablefish components of the fishery. For the trawl fishery, only about 27%-41% of the current fishing capacity is needed to catch and deliver the shore side harvest, and 6%-13% of the open access vessels could take that groundfish allocation. To address this excess capacity, the Pacific Council recommended reducing capacity by at least 50% in each sector of the groundfish fishery.<sup>8</sup>

There has been progress toward this goal. A permit stacking program in the limited entry fixed gear sablefish fishery was implemented. The recent West Coast groundfish limited entry trawl buyback

---

<sup>8</sup> See the *Groundfish Fishery Strategic Plan – "Transition to Sustainability."*

program, initiated by congressional legislation, is another example of progress. In accord with the Strategic Plan and the needs of the groundfish fishery, the next phase is development of a fishing quota program for the groundfish limited entry trawl fishery. Laying the foundation for quota-based management will be complex, involve many stakeholders, and require a substantial amount of time. In June 2003, a committee was appointed to develop an individual quota management program.

Effectively reducing capacity in the groundfish fishery would provide economic relief and begin the process of revitalizing this beleaguered fishery and the many fishery-dependent communities along the West Coast. A rationalized groundfish fishery would also provide conservation benefits and facilitate rebuilding of overfished stocks. At-sea discards and mortalities should be reduced as the fishing industry would be able to operate at a slower, more rational pace. A smaller fleet would also be easier to monitor under the West Coast observer program. Improved catch and bycatch monitoring would provide better data on total fishing mortality, improving stock assessments. These benefits would provide greater assurance to the public that the fishery is managed sustainably.

Individual quota-based management for the groundfish trawl fishery has been on the Council's workload list since adoption of the Groundfish Strategic Plan in October 2000. Other workload priorities (and a congressional moratorium on individual quota programs) dampened program development. However, with the positive results of the permit stacking system, confidence in the success of the groundfish buyback program, and evidence of successful quota-based management in other regions, there is increasing support among fishery participants, conservation groups, and the public for the use of individual quota management in West Coast fisheries. At this time, there is general agreement that quota share-based management would help the West Coast groundfish trawl fishery – help to reduce fishing capacity, help to improve fishery conservation and sustainability, help to improve management information, and help to improve the public's confidence in our ability to manage this fishery.

## **RECOMMENDATIONS**

To this point, we have discussed the Council family and Council decision making, described the fisheries we manage, and elaborated upon several groundfish-related issues dominating Council workload. In the near future several factors will influence fundamental aspects of the regional council process. The congressionally-appointed Commission on Ocean Policy will soon complete their report to Congress. NOAA Fisheries is reviewing National Standard 1 guidelines and the National Academy of Science is reviewing the concept and application of "best available scientific information." These, and other initiatives, will be used by Congress as they consider reauthorization of the Magnuson-Stevens Act. Thus, the Pacific Council offers the following recommendations and insights about issues that will affect how the Pacific Council functions and the viability of our management programs.

### **Development of Management Science – the Council Role**

Critics of the regional council process have called for a change to one of the council's fundamental roles. They urge separating the development of harvest levels from allocation of harvest amounts to various fishery

sectors. Currently, the regional councils are engaged in both processes. It has been opined that development of management science should rest solely in the hands of NOAA Fisheries, with little (or no) regional council involvement.

Public participation is a key element of the regional council process and a foundation from which Congress built the regional council system. The rationale for such a system is that only through broad constituent involvement and buy-in from all interested parties can sound policies be developed that are best suited to regional needs and concerns.

One alternative to the current system for developing management science and harvest levels would be a centralized authority vested with the power to create and implement policies by fiat, with minimal direct public involvement. It could be argued that this proposed system would be extremely vulnerable to political suasion, notably by the strongest voice of the day. The resulting policies would likely not have broad public support nor be received warmly by fishery participants. It is also likely that, given the shifting nature of political winds, policies could be changed frequently and result in a highly unstable management regime. In the end, this alternative system would likely result in more losers than winners and not improve benefits to the nation relative to the current system.

For our groundfish fishery, the Pacific Council relies on a rigorous stock assessment review (STAR) process<sup>9</sup>, which is coordinated by NOAA Fisheries-Northwest Fisheries Science Center. The Council's SSC has oversight and arbitration authority over the STAR process. A principal goal of the STAR process is quality control of the information (i.e., scientific data, methods, and analyses) used by the Council. The STAR process lifts the veil of secrecy and provides public access to (and understanding of) management science. The STAR process, while complex and burdensome, provides assurance to all stakeholders that Council decisions are informed by the best available science, which engenders trust in the Council process. Thus, in the Pacific Council context, it is difficult to rationalize how the proposed "science v. allocation" arrangement would result in greater benefits to the fishery or improve resource conservation.

For these reasons (congressional intent, stability and trust, and net national benefit), from the Pacific Council's perspective, it appears the current regional council system, while not wholly perfect, is best suited for managing regional fisheries. Moreover, the current National Standards provide assurance that the nation's living marine resources are managed by fundamental, guiding principles for long-term ecological and environmental stability.

#### National Standard 1<sup>10</sup>

---

<sup>9</sup> Terms of Reference for the Groundfish STAR Process are available from the Pacific Council. Under this process, groundfish stock assessments are reviewed for Council use by a panel that includes SSC representatives and external scientific experts.

<sup>10</sup> National Standard 1 states – "Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the

In February 2003, NOAA Fisheries published an advance notice of proposed rulemaking indicating their consideration of the need to revise National Standard 1 guidelines. The Pacific Council supports formal reconsideration of National Standard 1 (NS-1) guidelines. As with any policy, periodic review provides opportunity to respond to new information, changes in thinking, or unforeseen consequences since the policy was developed and implemented.

Existing National Standard 1 guidelines are not a perfect fit for many West Coast stocks (e.g., rockfish, highly migratory species, salmon, Pacific sardine, market squid). This is especially true for several West Coast stocks declared overfished (e.g., darkblotched rockfish and bocaccio). For these slow-growing, long-lived species, the Council is striving to fully comprehend and account for extremely low productivity and the effects of unfavorable oceanographic and other environmental variables on these stocks. This difficult task should be facilitated, rather than hindered, by NS-1 guidelines. For example, in cases where it could take many decades to rebuild certain overfished species, it would be helpful to explore and include mechanisms that ensure rebuilding plans are in accord with (and adaptive to) environmental and other variables.

In considering revising NS-1 guidelines, the Pacific Council recommends these areas of focus:

- MSY. Review of the estimation and application of this management concept.
- Uncertainty, risk, precaution. Where and how are these concepts incorporated into stock size estimation, status determination, and management process? How should precaution be tied to stock productivity; and short-, mid-, and long-term environmental conditions?
- Rebuilding time horizons. Under the existing guidelines, a fishery is less restricted if an overfished stock is so depleted it will take more than 10 years to rebuild, than if the stock is in better condition and must be rebuilt in less than 10 years; this is the opposite of normal fishery management practices that are more restrictive the worse the condition of the stock. Also, choices among these time horizons depend on very fine distinctions in current biomass, unfished biomass, and productivity, which are often based on very sparse information.
- Data-poor situations. Under data poor situations, current guidance for determining stock status (e.g., Restrepo et al.) can result in very constraining (i.e., precautionary) management, which causes significant economic impacts to the fishery. Given limited scientific and economic information, how should precautionary management be balanced against economic impacts? Some believe economic impacts are rarely given quantitative consideration. Others believe uncertainty necessitates precaution.

---

United States fishing industry.”

- Species that can become “overfished” due to ocean regime shifts. How should highly variable species be treated (e.g., whiting, northern anchovy, sardine, market squid), especially given their sensitivity to environmental variability and oceanographic regime shifts?
- Process for revising approved rebuilding plans to comply with changes in NS-1 guidelines. Will regional councils be asked to redo all rebuilding plans immediately? Will approved rebuilding plans be valid during the transition period? How long will it take to get approval of the numerous revised rebuilding plans?

In revision of National Standard 1 guidelines, the Pacific Council is willing to work with NOAA Fisheries and others to craft guidelines that meet current needs and provide direction for the future.

### National Standard 2<sup>11</sup>

Currently the National Academy of Science’s Ocean Studies Board is reviewing the concept of “best scientific information available” as the basis for fishery conservation and management measures.

In the past, fisheries science was largely limited to biological information on stock status. This information was typically derived from federal and state research surveys and federal and state fishery monitoring (e.g., logbooks, landings receipts). More recently, fisheries management has begun to incorporate socioeconomic information and physical and chemical oceanographic information. This trend toward expanded information is due in part to growing sensitivities to the importance of considering fishing community impacts and ecosystems dynamics in management.

However, the availability of basic biological, socioeconomic, and ecosystem information is constrained by lack of funding for information collection, database management, and coordinated use and dissemination. In recent years, federal funding for fisheries-related research has expanded, but state funding has declined. In addition, mandated constraints on economic data collections (Paperwork Reduction Act, Magnuson-Stevens Act) hinder development of comprehensive socioeconomic information. While a good bit of physical and chemical oceanographic information exists, understanding the effects of these forces on fish stocks and fisheries is rudimentary, which prevents full incorporation of this information into the fishery management process. For example, how should large-scale oceanographic or climatological events be considered in day-to-day management of a fishery?

Moreover, annual management of fisheries requires just-in-time decision making and, thus, must be based on information available prior to a Council action. The Pacific Council process occurs over a series of public meetings of stakeholder groups and technical committees. Scientific information is reviewed and vetted through this process on the way toward a Council action. Information that comes in during or after this decision making process is, generally, not considered. A fundamental reason for this constraint is the

---

<sup>11</sup> National Standard 2 states – “Conservation and management measures shall be based upon the best scientific information available.”

requirement that regional council management recommendations go through the formal federal rulemaking process, which adds six months of agency review and public comment prior to NOAA Fisheries implementation of a council management recommendation.

Therefore, in reviewing the concept of best available science, several issues merit consideration – what types of information are used/required in management; how timely/current is the information; is there long-term funding dedicated to information collection, data management, and coordinated use; what are the mandated constraints on the ability to collect and use information; and what tools are needed to ensure optimal use of comprehensive information?

In sum, best available scientific information includes information available prior to decision making that is vetted through a system similar to the Pacific Council's STAR process. Given limited staff and resources, the burden of collecting, managing, and analyzing scientific data must be shared by state, federal, tribal fishery management agencies and the Council. Quality science and sound management depend on stable and sufficient funding. Hence, congressional support and NOAA Fisheries leadership are fundamental to developing the best available scientific information. The regional council system is key to the use of this information in conserving the nation's living marine resources and sustaining fisheries and communities.

## CONCLUSION

This paper describes the Pacific Council and our Council family, fisheries we manage, current issues in the groundfish fishery, and a series of recommendations for the future. This information is not meant to suggest that everything is okay and that no problems exist. The Pacific Council is under tremendous pressure to fulfill our congressional mandate to balance resource conservation against fishery sustainability. National Standard 1 requires regional councils to "prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery." In this regard, the intent of Congress has been interpreted to mean that conservation is paramount and regional councils should always exercise precaution in the face of uncertainty. Others interpret the Magnuson-Stevens Act as a mandate for maintaining harvest opportunity for commercial fisheries and vibrant recreational fisheries, both of which provide economic benefits to the nation. Regional councils are not so lucky as to be able to choose one side. Effectively managing our nation's fisheries requires a collective effort. The regional council system provides a public forum for all interested participants to have a voice in management of their resources. Criticism is easy; achievement is difficult. To achieve Congress' vision for our living marine resources, the regional council system needs to be nurtured, not neutered. Regional councils and our state and federal management partners need leadership from Congress and NOAA Fisheries, dedicated and sufficient funds to research and manage, and strong partnerships with fishery participants, conservation groups, and academia.

The Pacific Council stands ready.

REGIONAL COUNCIL AND NMFS CONFERENCE:  
MAGNUSON-STEVENSON ACT – THE FIRST 25 YEARS

Situation: The eight regional fishery management councils and National Marine Fisheries Service (NMFS) convened a conference in Washington, DC during November 2003 to review 25 years of fishery management under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Conference goals included educating the public, policy makers, and media on the marine fishery management process; successful management examples by region, and current management and research initiatives; helping to bridge the gap between perception and reality regarding fisheries management; and providing a forum for information exchange and to solicit a wide range of perspectives on future management and marine research directions. Each regional council presented information on fisheries under their jurisdiction and described current issues and strategies for meeting U.S. fishery management mandates. Several panel discussions were convened to explore approaches and solutions to address issues such as bycatch, ecosystem management, rights-based management, and community interests.

The Pacific Fishery Management Council (Council) was well represented at the conference. Dr. Donald McIsaac presented a well-received presentation on the history of the Council and current issues and participated on the Bycatch Panel. Dr. Hans Radtke participated in the Rights-Based Management Panel. Mr. Phil Anderson participated in the Wrap-Up Panel, which closed the conference and provided a synthesis of the week's events. Mr. Dan Waldeck also prepared a report for the conference describing the Pacific Council process, in general; managed fisheries; current issues; and plans for the future (Exhibit B.5, Supplemental Attachment 1). Ms. Jennifer Gilden prepared an information booth, which contained a wide range of Council information including Fact Sheets and other Council documents.

The conference was perceived by all participants to be a great success, providing a unique opportunity to exchange philosophies and approaches to a wide range of fishery management issues and concerns. In part, because of this success, NMFS has tentatively scheduled a follow up conference for October 2004.

This agenda item provides an opportunity for the Council to discuss the regional fishery management council conference.

**Council Task:**

**1. Discussion.**

**Reference Materials:**

1. Exhibit B.5, Supplemental Attachment 1: The Council Family, Managed Fisheries, Current Issues, and Plans for the Future.

Agenda Order:

- a. Agendum Overview
- b. Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion

Dan Waldeck

PFMC  
03/03/04