

FUTURE COUNCIL MEETING AGENDA PLANNING

The primary purpose of this agenda item is to provide initial information to Council Members early in the Council meeting to facilitate planning for future meeting agendas.

The Executive Director will review initial drafts of the three-meeting outlook and the September Council meeting agenda, and respond to any questions the Council may have regarding these initial planning documents. While this agenda item is essentially informational in nature, after hearing any reports and comments from advisory bodies or the public, the Council may wish to provide guidance to the staff on any preparations for Agenda Item B.6 at which time final consideration of the draft September agenda is scheduled.

The proposed September agenda follows along the lines of the June agenda, attempting to leave Monday free for advisory body deliberations.

Council Tasks:

- 1. Receive information on potential agenda topics for the next three Council meetings.**
- 2. Receive information on an initial draft agenda for the September Council meeting.**
- 3. Provide guidance on the development of materials for Agenda Item B.6 (September agenda and three-meeting outlook).**

Reference Materials:

1. Agenda Item B.1.a, Attachment 1: Preliminary Draft Three-Meeting Outlook for the Pacific Council.
2. Agenda Item B.1.a, Attachment 2: Preliminary Draft September Council Meeting Agenda, September 10-15, 2006 in Foster City, California.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion of Future Council Meeting Agenda Topics

Don McIsaac

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON ECOSYSTEM-BASED FISHERIES MANAGEMENT

Ecosystem-Based Fisheries Management (EBFM) is a concept that is currently attracting much attention. A number of fishery management councils around the country have begun developing some form of an EBFM plan. Congress is also now considering specific language in the re-authorization of the Magnuson-Stevens Fishery Conservation and Management Act to mandate EBFM by Councils nationwide. Several recent actions taken by the Council are consistent with EBFM principles, including the krill harvest ban, designation of groundfish EFH, and extensive spatial management of rockfish stocks. There has been a substantial amount of discussion in the scientific literature concerning the rationale and benefits of EBFM, but it remains unclear how to explicitly incorporate these concepts into Council management of exploited fish stocks.

Given the complexity of EBFM, the Scientific and Statistical Committee (SSC) proposes that the newly established Ecosystem-Based Management subcommittee of the SSC meet to review the rapidly developing literature on this subject in order to enhance SSC understanding of the scientific basis of EBFM and to further explore how EBFM principles might be incorporated in the Council's management practices.

PFMC
06/13/06

Preliminary Three Meeting Outlook for the Pacific Council

(Shaded Items are Contingent, but Counted in Time Estimate)

September Foster City, CA 9/10-9/15/06 Estimated Percent of Standard Floor Time = 104%	November Del Mar, CA 11/12-11/17/06 Estimated Percent of Standard Floor Time = 98%	March Sacramento, CA 3/4-3/9/2007 Estimated Percent of Standard Floor Time = 96%
<u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Appointments to Adv. Bodies for 2007-2009 Term: Consider Composition & Solicit Nominations 3 Mtg Outlook, Final November Agenda, Workload Public Comment on Non-Agenda Items Res. & Data Needs: Adopt for Public Review	<u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Appointments to Adv. Bodies for 2007-2009 Term: Confirm Composition & Appoint Members 3 Mtg Outlook, Draft March Agenda, Workload Public Comment on Non-Agenda Items Res. & Data Needs: Adopt Final Document for Distribution	<u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Interim Appointments to Advisory Bodies 3 Mtg Outlook, Draft April Agenda, Workload Public Comment on Non-Agenda Items
<u>Coastal Pelagic Species</u>	<u>Coastal Pelagic Species</u> Pac. Sardine Stock Assessment & HG for 2007: Adopt Final	<u>Coastal Pelagic Species</u> NMFS Rpt Pacific Mackerel: Consider Need for Mop-up Fishery
<u>Enforcement Issues</u> State Activity Rpt--CDFG	<u>Enforcement Issues</u>	<u>Enforcement Issues</u> USCG Annual Fishery Enforcement Report
<u>Groundfish</u> NMFS Report 2006 Inseason Management (2 Sessions)	<u>Groundfish</u> NMFS Report 2006 Inseason Mgmt (2 Sessions)	<u>Groundfish</u> NMFS Report 2006 Inseason Management (1 Session) Pac. Whiting: Adopt Final 2007 Spx & Mgmt Measures
Groundfish Bycatch Work plan: Approve for Public Rev Open Access Limitation: Initial Regulatory Streamlinng Planning Whiting Monitoring (Amend. 10): Adopt Alts. for Pub Rev Trawl IQ: Confirm Stage I & Update for Stage II Intersector Allocation EIS: Next Steps	Groundfish Bycatch Work plan: Approve Final Open Access Limitation: Next Steps Whiting Monitoring (Amend. 10): Adopt Final Preferred Alt. Trawl IQ: Status Rpt Intersector Allocation EIS: Plan Next Steps EFPs for 2007: Final Recommendations for Approval to NMFS	Intersector Allocation EIS: Plan Next Steps

Preliminary Three Meeting Outlook for the Pacific Council (Shaded Items are Contingent, but Counted in Time Estimate)

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<u>Habitat Issues</u> Habitat Committee Report	<u>Habitat Issues</u> Habitat Committee Report	<u>Habitat Issues</u> Habitat Committee Report
<u>Highly Migratory Species</u> NMFS Rpt Routine Mgmt Measures: Adopt Proposed Changes for Public Review Albacore Mgmt: Historical Effort & Effort Controls EFPs for 2007: Final Recommendations to NMFS Mgmt Regime for HS Longline Fishery: Consider Adopting FMP Amendment Alts. For Public Rev.	<u>Highly Migratory Species</u> NMFS Rpt Routine Mgmt Measures: Adopt Final Changes Reference Points for Overfishing Determinations	<u>Highly Migratory Species</u> EFPs for 2007: Mop-up if necessary
<u>Marine Protected Areas</u> Perceptions on Mgmt Intent of Marine Sanctuaries: Discussion & Guidance	<u>Marine Protected Areas</u>	<u>Marine Protected Areas</u>
<u>Pacific Halibut</u> Proposed Changes to CSP & Ann. Regs.: Adopt for Public Review Bycatch Est. for IPHC Adoption: Review	<u>Pacific Halibut</u> Proposed Changes to CSP & Ann. Regs.: Adopt Final	<u>Pacific Halibut</u> Rpt on IPHC Annual Mtg Incidental Catch Regs for 2006: Adopt Options for Public Rev
<u>Salmon</u> Fishery Update--Info Rpt Methodology Review: Establish Priorities for 2007 Season Presentation on Disease Issues for Klamath Basin Salmon FMP Amend. 15 (<i>de minimus</i> Fisheries): Adopt Alts. & Initial Preferred Alternative for Public Review	<u>Salmon</u> Fishery Update--Info Rpt 2006 Methodology Review: Approve Changes for Use in 2007 FMP Amend. 15 (<i>de minimus</i> Fisheries): Adopt Final Preferred Alternative	<u>Salmon</u> 2007 Mgmt Options: Adopt Range for Public Rev & Appt. Hearings Officers Inseason Mgmt: Review and Consider Recommending any Necessary Inseason Mgmt Changes Mass Marking & CWT Information Briefing
<u>Information Reports</u> Salmon Fishery Update	<u>Information Reports</u> Salmon Fishery Update	<u>Information Reports</u>
<u>Special Sessions</u>	<u>Special Sessions</u>	<u>Special Sessions</u>

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 10-15, 2006, FOSTER CITY, CA

ANCILLARY MEETINGS AND COUNCIL AGENDA TOPICS	Est. Time In Hrs	ADVISORY BODY MAILINGS
SUNDAY, SEPTEMBER 10 - 1 pm		
Ancillary Meetings		
A. TIQC 1 pm through 5 pm		
MONDAY, SEPTEMBER 11 - 8 am		
Ancillary Meetings --GMT continues		
B. GAP 8 am through Friday		
C. GMT 8 Am through Friday		
D. HMSAS 8 am through Tuesday noon		
E. SSC 8 am through Tuesday		
F. HC 9 am through 5 pm		
G. Budget 10:30 am through noon		
H. Legislative 1 pm through 3 pm		
Chairs Briefing 3:30 pm		
I. EC 4:30 pm through Friday		
Council Chair's Reception--6 pm		
TUESDAY, SEPTEMBER 12 - 8:00 am to 5:30 pm		
Ancillary Meetings -- GAP, GMT, HMSAS, SSC, EC cont.		
CLOSED EXECUTIVE SESSION (PERSONNEL & LITIGATION) - 8 am to 9 am	1.00	
Adv. Body Issues - Appointments & COP Changes		SSC
Litigation Status (E. Cooney)		None
GENERAL SESSION - 9 am		
A. Call to Order	0.50	
A.1-3 Opening, Roll Call, ED Rpt		
A.4 Approve Agenda		
B. Administrative Matters		
B.1 Future Council Meeting Agenda Planning-- <i>Discussion of Future CM Agenda Topics</i>	0.30	All
C. Habitat		
D.1 Current Habitat Issues-- Action: <i>Consider HC Recommendations</i>	0.75	HC; SAS; GAP; CPSAS
D. Highly Migratory Species Mgmt		
E.1 Changes to Routine Mgmt Measures-- Action: <i>Adopt Proposed Changes to 2007 Routine Mgmt Measures for Public Review</i>	1.00	HMSAS; HMSMT; EC
E.2 Exempted Fishery Permits (EFPs)-- Action: <i>Adopt Final Recommendations to NMFS for EFPs Proposed for the 2007 Season</i>	1.00	HMSAS; HMSMT; EC
E.3 Albacore Mgmt-- <i>Discussion and Guidance Regarding Historical Effort and Effort Controls</i>	1.00	HMSAS; HMSMT
E.4 Mgmt Regime for High Seas Longline Fishery-- <i>Consideration of and Guidance on Developing FMP Amendment Alternatives for Public Review</i>	1.50	HMSAS; HMSMT
E.5 NMFS Rpt (Region & Science Ctr)-- <i>Discussion</i>	0.50	HMSAS; HMSMT
Public Comment Period for Non-Agenda Items	0.50	
	8.05	

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 10-15, 2006, FOSTER CITY, CA

ANCILLARY MEETINGS AND COUNCIL AGENDA TOPICS	Est. Time In Hrs	ADVISORY BODY MAILINGS
WEDNESDAY, SEPTEMBER 13 - 8 am to 5:45 pm		
<i>Ancillary Meetings</i> --GAP, GMT, EC continue		
E. Enforcement Issues		
E.1 State Enforcement Activity Report by CDFG-- <i>Discussion</i>	1.00	All Adv. except SSC & HC
F. Groundfish Mgmt		
F.1 NMFS Rpt (Region & Science Center)--Discussion (includes impediments to faster observer rpts & bycatch workplan)	0.75	GMT; GAP; EC
F.2 Groundfish Bycatch Work Plan-- Action: <i>Adopt for Public Review</i>	1.50	GMT; GAP, EC; SAS
F.3 Shore-based Whiting Monitoring (Amendment 10)-- Action: <i>Adopt Preliminary Alts. for Public Review</i>	2.00	GMT; GAP, EC; SAS
F.4 Open Access Fishery Limitation-- <i>Guidance on Initial Regulatory Streamlining Planning</i>	2.00	GMT; GAP, EC; SAS
B. Administrative Matters (continued)		
B.2 Updated Research & Data Needs-- Action: <i>Adopt for Public Review</i>	1.00	
	8.25	
THURSDAY, SEPTEMBER 14 - 8 am to 6:15 pm		
<i>Ancillary Meetings</i> - GAP, GMT, EC continue		
J. SAS 8 am through 6 pm		
K. STT 8 am through 6 pm		
F. Groundfish Mgmt (continued)		
F.5 Trawl IQ Update--Confirm Stage 1 Results & Review Progress Update for Stage II	3.00	GMT; GAP, EC; SAS
F.6 Intersector Allocation EIS-- <i>Discuss & Guide the Next Steps</i>	1.50	GMT; GAP, EC; SAS
F.7 Consideration of Inseason Adjustments-- Action: <i>Preliminary or Final Recommendations for Adjustments to 2006 Fisheries</i>	2.00	GMT; GAP; EC
B. Administrative Matters (continued)		
B.3 Council Meeting Minutes-- Action: <i>Approve March 2006 Minutes</i>	0.20	
B.4 Legislative Matters-- Action: <i>Consider Recommendations of the Legislative Committee</i>	0.50	
B.5 Fiscal Matters-- Action: <i>Consider Recommendations of the Budget Committee</i>	0.50	
B.6 Appointments to Adv. Bodies, Standing Com., & Other Forums, Including Necessary Changes to COPs-- Action: <i>Consider Changes to COPs, Appoint New Members & Solicit Nominations as Necessary (2007-2009 Term & EFH Committee)</i>	1.00	None
	8.70	

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 10-15, 2006, FOSTER CITY, CA

ANCILLARY MEETINGS AND COUNCIL AGENDA TOPICS	Est. Time In Hrs	ADVISORY BODY MAILINGS
FRIDAY, SEPTEMBER 15 - 8 am to 5:45 pm		
<i>Ancillary Meetings</i> --EC continue as necessary		
H. Pacific Halibut Mgmt		
H.1 Proposed Changes to Catch Sharing Plan & 2007 Annual Regs.-- Action: <i>Adopt for Public Review</i>	1.00	STT; SAS; SSC
H.2 Bycatch Estimate for IPHC Adoption-- <i>Review and Guidance</i>	0.50	STT; SAS; SSC
I. Salmon Mgmt		
I.1 Salmon Methodology Review--Action: Establish Priorities for 2007 Salmon Season	0.75	STT; SAS; SSC
I.2 Disease Issues for Klamath Basin Salmon--Discussion & Guidance	1.00	SAS; STT; EC
I.3 FMP Amendment 15 (de minimis fisheries)--Action: Provide Direction on Selection & Analysis of Preliminary Draft Alternatives	3.00	STT; SAS; SSC
F. Groundfish Mgmt (continued)		
F.8 Final Consideration of Inseason Adjustments, if Necessary-- Action: Adopt or Confirm Final Recommendations for Adjustments to 2006 Fisheries, if Necessary	1.00	GMT; GAP; EC
G. Marine Protected Areas		
G.1 Perceptions on Mgmt Intent of Marine Sanctuaries--Discussion and <i>Guidance</i>	0.50	All
B. Administrative Matters (continued)		
B.7 Three Mtg Outlook, Draft Sept Agenda, & Workload Priorities-- <i>Guidance on Outlook, Agenda, and Workload, Including Adv. Body Priorities</i>	0.50	All
	8.25	
Grand Total Hours	33.25	104%

Informational Reports (available in Briefing Book, but no time scheduled on Agenda):		
1 Salmon Fishery Update		All
2 HMS SAFE Doc		HMSMT
		GAP; GMT; SSC
		GAP; GMT; SSC

Candidate Agenda Items Not Scheduled		
G.2 Fishery Regs within CINMS--Action: Adopt Final Recommendations to NMFS or Provide Guidance on Further Action	2.50	All
Total	2.50	

Due Dates (all dates COB):	
Meeting Invitation Memo Distributed:	28-Jul
Public Meeting Notice Mailed:	11-Aug
FR Meeting Notice transmitted:	16-Aug
Final day to receive public comments for placement in BB:	23-Aug
Final deadline to submit all BB materials:	23-Aug
Final deadline to submit cover memos for Ancillary Meetings:	24-Aug
Briefing Book Mailing:	31-Aug
Final deadline for distribution of public comments on first day of mtg:	5-Sep

The full record of the Pacific Fishery Management Council (Council) March 5-10, 2006 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 or CD-ROM 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 Document, a document distributed immediately after the meeting which contains very brief descriptions of Council decisions.
6. A copy of Council News Spring 2006 • Volume 30, No. 1.

DRAFT MINUTES
Pacific Fishery Management Council
Seattle Marriott Hotel Sea-Tac
3201 South 176th Street
Seattle, Washington 98188
206-241-2000
March 5-10, 2006

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A. Call to Order

A.1 Opening Remarks, Introductions

Mr. Don Hansen, Chairman, called the 182nd meeting of the Pacific Fishery Management Council to order at 2:13 pm, on Monday, March 5, 2006. Mr. David Bedford was introduced as the designee for Alaska Department of Fish and Game. Ms. Eileen Cooney introduced Mr. Judson Feder, SWR, who will be more involved with the Council to work on HMS and CPS issues.

A.2 Roll Call

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

Mr. Bob Alverson
Mr. Phil Anderson
Mr. Mark Cedergreen
Mr. Donald K. Hansen (Chairman)
Dr. David Hanson (Parliamentarian)
Mr. Jim Harp (not present during roll call, but present during the duration of the meeting)
Mr. Frank Lockhart
Mr. Jerry Mallet
Mr. Curt Melcher
Mr. Rod Moore
CDR. Fred Myer
Mr. Dave Ortmann (Vice-Chairman)
Mr. Tim Roth
Mr. Roger Thomas
Mr. Darrell Ticehurst
Ms. Marija Vojkovich
Mr. Frank Warrens
Mr. Gordy Williams

Mr. Stetson Tinkham was absent.

A.3 Executive Director's Report

Dr. McIsaac noted the likelihood of a large amount of public input on three agenda items.

A.4 Council Action: Approve Agenda

Mr. Moore moved and Mr. Alverson seconded a motion (Motion 1) to approve the agenda as shown in Agenda Item A.4, Council Meeting Agenda, with the changes as requested by Mr. Frank Lockhart that Agenda Item C.2 be moved to Tuesday, and clarify that it includes consideration of closures for commercial and recreational fisheries.

B. Administrative Matters

B.1 Approval of Council Meeting Minutes

B.1.a Council Member Review and Comments

None.

B.1.b Council Action: Approve September 2005 Minutes

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 2) to approve the September minutes as shown in Agenda Item B.1, Draft September Council meeting minutes. Motion 2 passed.

B.2 Future Council Meeting Agenda Planning (03/06/06; 2:21 pm)

B.2.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview.

B.2.b Reports and Comments of Advisory Bodies

None.

B.2.c Public Comment

None.

B.2.d Council Discussion of Future Council Meeting Agenda Topics

Dr. McIsaac explained that the staff was interested in trying to look at Council meeting agendas a little more strategically than in the past and would be bringing forth suggestions as the year progressed. Council members worked with the Executive Director and the Chairman to review the preliminary proposed agenda for April and provide some suggestions for incorporating in the final agenda for adoption on Friday.

B.3 Legislative Matters

B.3.a Agenda Item Overview

Mr. Burner provided the agenda item overview (03/10/06; 2:36 pm).

B.3.b Legislative Committee Report

Mr. Burner read Agenda Item B.3.b, Supplemental Legislative Committee (LC) Report.

B.3.c Reports and Comments of Advisory Bodies

Mr. Burner read Agenda Item B.3.c, Supplemental Groundfish Advisory Subpanel (GAP) Report.

B.3.d Public Comment

None.

B.3.e Council Action: Consider Recommendations of the Legislative Committee

Mr. Moore moved the Council adopt the recommendations as shown in Agenda Item B.3.b, Supplemental LC Report and to include a recommendation to put the issue regarding the Western and Central Pacific

Fisheries Conversion raised by Mr. Peter Flournoy on the April LC agenda. Mr. Alverson seconded the motion. Motion 24 passed. Mr. Lockhart abstained.

Dr. Hanson thanked the Council for approving the one-day Legislative Committee meeting held in December. It made a huge difference when reviewing such an important legislative matter. He was hopeful the LC would be afforded a similar meeting in the future.

Mr. Lockhart provided an update on the funding for the trawl survey as requested earlier in the week. Dr. John Stein came forward and stated that funds have been secured for the West Coast Groundfish Trawl Survey for this year and thanked Dr. Hogarth and Dr. Murawski for their efforts. Mr. Moore asked these were new funds or if funds were prioritized from other programs. Dr. Stein reported that the funds are not entirely new money, some funds are reprioritized monies. Mr. Moore asked Dr. Stein to inform the Council in the future as to what funds were reprioritized.

B.4 Appointments to Advisory Bodies, Standing Committees, and Other Forums

B.4.a Agenda Item Overview

Chairman Hansen lead the agenda item.

B.4.b Council Action: Appoint New Members as Necessary

Mr. Frank Lockhart moved and Mr. Bob Alverson seconded a motion (Motion 25) to appoint Mr. John Wallace to replace Dr. Jim Hastie on the Groundfish Management Team. Motion 25 passed.

Ms. Vojkovich moved and Mr. Ticehurst seconded a motion (Motion 26) to appoint Mr. Stephen Wertz to replace Mr. Stephen Crooke on the Highly Migratory Species Management Team. Motion 26 passed.

Mr. Moore asked about the vacancy for the northern processor on the HMSAS? Dr. Coon replied that there is a long-standing vacancy for the northern processor position on the HMSAS.

Dr. Coon also pointed out the following vacancies: one vacancy on the Habitat Committee for the CDFG, formerly occupied by Mr. Michael Rode; and one vacancy on the HMSMT for the NMFS Southwest Fisheries Science Center, formerly occupied by Dr. Norm Bartoo. Both the NMFS Southwest Region and Southwest Science Center have requested the Council consider modifying Council Operation Procedure 3 to change the composition of the HMSMT and replace the vacant Southwest Science Center Seat with a seat for the Southwest Region. The Southwest Region has also submitted a nomination for Mr. Craig Heberer to fill the vacancy.

Mr. Lockhart asked that Council staff be considered as possibly being members of the advisory bodies.

B.5 April 2006 Council Meeting Agenda and Three-Meeting Outlook (03/10/06; 2:54 pm)

B.5.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview.

B.5.b Reports and Comments of Advisory Bodies

Dr. Coon read Agenda Item B.5.b, Supplemental HMSMT Report concerning scheduling of comments on bigeye tuna and recommendations with regard to albacore and the U.S./Canada Treaty negotiations.

B.5.c Public Comment

None.

B.5.d Council Action: Adopt Final Agenda for the April 2006 Meeting

Mr. Moore asked Mr. Lockhart for a sense of when something final would be done with regard to Amendment 10 (whiting monitoring)? Mr. Lockhart said he believes the idea is to have it in place for next June's season. Mr. Moore said if we do this in June and September, final regulations might not be out in time. Mr. Lockhart said they recognize it is aggressive schedule, but that is the intent.

Other agenda issues of concern to Council members were the scheduling of open access discussions, the bycatch work plan, and the salmon amendment. Mr. Lockhart also spoke in support of the proposed Sunday presentation at the April meeting on groundfish specifications and impacts scheduled for 6:30 p.m. Council members then worked with the Executive Director and Council Chairman to set the April agenda.

C. Salmon Management

C.1 Mass Marking and Coded-Wire Tagging (03/06/06; 2:36 pm)

C.1.a Agenda Item Overview

Mr. Chuck Tracy presented the agenda item overview.

C.1.b Pacific Salmon Commission Report

Dr. David Hankin, Humboldt State University (Chair) and Dr. Gary Morishima of the Pacific Salmon Commission Expert Panel on the Future of the Coded-Wire-Tag Recovery (CWT) Program for Pacific Salmon, provided a powerpoint presentation (on file and on the website).

Mr. Lockhart asked for some elaboration on the alternative management approaches. Dr. Hankin replied the use of double-index tagging (DIT) could provide some insight into the combined direct and indirect fishing mortality for stocks of interest, which would be of value from a conservation perspective, although not necessarily from a management perspective. Dr. Morishima noted the potential of management strategies that do not rely as heavily on the precision of CWT exploitation rate and preseason abundance forecasts could be developed, similar to that used for Oregon Coast Natural (OCN) coho, which uses parental escapement and marine survival to set management boundaries.

Mr. Melcher asked if the reference to DIT programs assumed currently designed DIT programs could be used, or if the reference supposed some other study design. Dr. Morishima replied the current programs would probably be adequate to detect differences between marked and unmarked populations for all fisheries combined, but inadequate for partitioning among various fisheries. The latter would require a better selection of tag index groups, as well as larger release groups and sample rates, which the Expert Panel is currently investigating.

Dr. McIsaac asked what the intent of the PSC was regarding the Expert Panel findings. Dr. Morishima replied the PSC wanted to ensure the issues identified were addressed and so established a small workgroup to develop possible solutions to four of the recommendations as presented in Agenda Item C.1.b, Supplemental PSC Report.

Ms. Vojkovich asked what the timeline for recommendations was and when the Council could expect an update. Dr. Morishima replied the initial report is due in August, 2006 with presentation to the PSC in October, 2006. He noted the PSC does not have authority to conduct the CWT program, but acts as an information clearing house, and makes recommendations to the agencies to address the issues.

Mr. Anderson asked how the relative magnitudes of mark selective fisheries were characterized, and if a certain exploitation rate on a particular stock could be used. Dr. Morishima said the Expert Panel discussion was limited to the creation of a tiered framework, with low level impacts such that statistically quantifying mark selective fishery effects would be difficult. But as mark selective fishery impacts increased in number and intensity, different assessment systems would be necessary. The PSC selective fisheries committee will flesh out the details of the framework and have recommendations by the end of 2006.

Dr. Peter Dygert summarized the letter to Chairman Hansen from Bob Lohn, Agenda Item C.1.a, Supplemental NMFS Report.

Dr. McIsaac asked if Chinook in California hatcheries are being mass marked in 2006. Dr. Dygert replied California hatcheries are lagging behind Oregon and Washington hatcheries in the process but was unsure about the status of 2006 marking programs.

Mr. David Bedford asked if NMFS also had recommendations for CWT tagging rates. Dr. Dygert replied the Expert Panel and Workgroup recommendations will be used as guidelines.

Mr. Melcher asked if the Federal legislation requiring mass-marking at all Federal and Federally funded hatcheries included California. Mr. Grover replied none of the California hatcheries are implementing mass-marking, although constant fractional tagging programs are being established in the Central Valley hatcheries. Mr. Roth noted the legislation is not restricted to Oregon and Washington.

C.1.c Reports and Comments of Advisory Bodies

Dr. Peter Lawson presented Agenda Item C.1.c, Supplemental SSC Report.

Mr. Butch Smith presented Agenda Item C.1.c, Supplemental SAS Report.

C.1.d Public Comment

Mr. Bruce Jim, Columbia River Tribes, Warm Springs, Oregon

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington

C.1.e Council Discussion

Mr. Roth noted that USFWS provided comments to the Expert Panel and were interested in working with the panel and workgroup. The USFWS is actively engaged in mass marking fall Chinook. A template of the mass-marking timetable would be provided to the Council in the April briefing book that will identify USFWS plans.

Mr. Bedford observed the implementation of mass-marking programs is not systematic, and should be designed to address the dual goals of increasing harvest opportunity and controlling interaction of wild and hatchery fish in spawning areas.

Mr. Harp recommended the Council receive updates on the Expert Panel and Workgroup recommendations, and on mass-marking and CWT programs.

C.2 Fort Bragg March 15, 2006 Commercial Fishery Opening (3/7/06; 1508)

Mr. Melcher recommended delaying Agenda Item C.2 until after C.4 so the Council could see the effects of proposed 2006 management measures on Klamath River fall chinook (KRFC) escapement before recommending inseason action to close fisheries. The Council agreed.

C.2.a Agenda Item Overview (03/10/06; 1130)

Mr. Tracy presented the agenda item overview.

C.2.b Agency and Tribal Recommendations

Mr. George Kautsky provided Agenda Item C.2.b, Supplemental Comments of the Hoopa Valley Tribe. He noted the March and April Fort Bragg recreational fishery has no recorded Klamath River fall Chinook (KRFC) impacts, and therefore the Hoopa Valley Tribe did not recommend closing the fishery during that time.

Mr. Melcher asked if the Hoopa Valley Tribe was commenting on all Council area spring fisheries or just salmon fisheries. Mr. Kautsky responded only Council area salmon fisheries.

Ms. Desma Williams, Yurok Tribal fisheries supported no further impacts on KRFC in Council area salmon fisheries, particularly in the Fort Bragg area commercial fisheries since impact levels can not be estimated.

Ms. Vojkovich requested the commercial Fort Bragg fishery in March and April be removed from the modeling, with the expectation they will be closed. Based on NMFS letter the Point Arena to Point Sur recreational fishery should not open April 1, and the STT should model the options as such.

Mr. Melcher asked if Ms. Vojkovich was recommending inseason action to keep the Point Arena to Pigeon Point recreational fishery closed after the April Council meeting. Ms. Vojkovich responded yes.

C.2.c Reports and Comments of Advisory Bodies

Mr. Tracy noted Agenda Item C.2.c, Supplemental STT report, was presented earlier in the week under Agenda Item C.4, and would not be repeated.

Mr. Don Stevens provided Agenda Item C.2.c, Supplemental SAS Report.

C.2.d Public Comment

Mr. Mike Sorensen, Oregon Coastal Sport Fishing Association, Toledo, Oregon

C.2.e. Council Action: Consider Modifying Opening Date

Mr. Melcher moved (Motion 22) to recommend inseason action to modify the opening date consistent with the options adopted under Agenda Item C.6, and close commercial troll salmon seasons from Cape Falcon to the OR/CA border March 15-April-30, 2006. Mr. Moore seconded the motion.

Mr. Melcher noted the intent of the action was to preserve KRFC impacts for future consideration of de minimis fisheries, which could provide benefits to communities later in the season.

Ms. Vojkovich offered a friendly amendment to include the commercial troll fishery in the area from Horse Mt. to Pt. Arena for March 15, 2006 to April 30, 2006.

Mr. Melcher and Mr. Moore accepted the friendly amendment; Motion 22 passed with Mr. Frank Lockhart abstaining.

Ms. Vojkovich moved (Motion 23) to adopt for 2006 salmon fisheries, inseason adjustments to modify the opening date for California recreational fisheries from the area between Point Arena to Point Sur, to not open before May 1, 2006. Mr. Moore seconded the motion; Motion 23 passed. Mr. Frank Lockhart abstained.

Mr. Lockhart noted Motions 22 and 23 appear to comply with the NMFS guidance letter, and stated he would report back to the Council with NMFS' response to the recommendations.

C.3 Review of 2005 Fisheries and Summary of 2006 Stock Abundance Estimates

C.3.a Report of the Salmon Technical Team (03/07/06; 2 pm)

Mr. Tracy presented the agenda item overview.

Mr. Dell Simmons, STT Chair, presented a summary of the Review of 2005 Ocean Salmon Fisheries. He noted the KRFC spawning escapement was below the 35,000 natural spawner floor, and the KRFC age-4 ocean harvest rate was above the 16.0% NMFS ESA consultation standard for California Coastal (CC) Chinook ESU.

Mr. Simmons summarized Preseason Report I: Stock Abundance Analysis of 2006 Ocean Salmon Fisheries. He noted KRFC abundance was predicted to be about one half of 2005 predicted abundance. Abundance was also down for most Columbia River Chinook stocks, including Spring Creek and Lower River Hatchery tules, which are drivers for north of Cape Falcon fisheries. The OPI coho index was down, but Columbia River hatchery stocks were similar to 2005. He noted the STT also listed several technical concerns in the document, of which the Council should be aware.

Mr. Harp asked if the STT had resolved its concern regarding estimation of Coweeman tule impacts in south of Cape Falcon fisheries. Mr. Simmons replied the STT has developed some new effort scalars for the Chinook FRAM, which will be in place for modeling the options.

Mr. Harp asked if the STT has developed new methods for estimating LCR coho impacts. Mr. Simmons replied that in past years OCN coho modeled impacts were used to estimate LCR coho impacts. In June 2005, LCR coho were listed as threatened under the Federal ESA, and the STT reexamined the use of OCN coho as an indicator stock for LCR coho. The states, tribes, and NMFS have discussed use of Columbia River hatchery coho as an indicator stock and believe some combination of early and late stocks would be appropriate. However, the final selection had not been made, but the STT would recommend something for use in modeling the options by the end of the week.

Mr. Melcher asked if the south of Cape Falcon Chinook FRAM effort scalar changes would inflate Snake River fall impacts. Mr. Simmons replied it may increase the actual level of impacts, but because the Consultation standard is a ratio, there will be no effect on compliance evaluation; the same increase would be applied to the base period impacts.

Dr. McIsaac asked what the overfishing situation was relative to the projection for KRFC to miss the 35,000 spawner conservation objective for the third consecutive year. Mr. Tracy replied the overfishing designation would not occur until a post season estimate confirmed spawning escapement was below 35,000.

Mr. Melcher asked if the STT had resolved its concerns with the KOHM underestimation of impacts. Mr. Simmons replied the STT was continuing to work on a solution to under predicting contact rates, which were outside the observed range in recent years. The STT is discussing a weighting system for recent years to compensate for the recent trend.

Mr. Ticehurst asked if the recent trend is due to ocean condition change or a statistical aberration. Mr. Simmons replied it is unlikely the variation is random.

C.3.b Agency and Tribal Comments

Mr. Anderson noted unusual ocean conditions off the Washington coast have been observed for the past two summers, and an associated general decline in abundances. The north of Falcon area has seen a number of years with relatively healthy populations, but 2006 will present challenges due to both declines in overall abundance of key stocks and a new management approach for LCR coho. Harvest management will be scrutinized as recovery plans are being generated, and management of habitat, hydropower, and hatcheries are included in those plans.

Mr. Melcher recommended model adjustments by the STT are made in the first model runs, not at the last minute.

Ms. Vojkovich echoed Mr. Anderson's comments as they relate to the KRFC situation.

Ms. Desma Williams presented Agenda Item C.3.b, Supplemental Comments of the Yurok Tribe, March 2006.

C.3.c Reports and Comments of Advisory Bodies

Dr. Pete Lawson presented Agenda Item C.3.c, Supplemental SSC Report.

Ms. Vojkovich asked if the issue of confidence limits had been discussed with the STT. Dr. Lawson replied sufficient information was available to generate confidence limits for some estimates, but additional work would be required. He noted any progress in that arena would be welcome.

Ms. Vojkovich asked if the confidence limits would facilitate developing recommendations of the SSC, or would it just be informational. Dr. Lawson replied the former and provided an example.

C.3.d Public Comment

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, Oregon.

Mr. Harp asked if Mr. Boley was recommending a later date for the KRFC birth date. Mr. Boley replied the current date should be reviewed to ensure an unbiased and appropriate date is being used.

Mr. Anderson asked if the 2006 September fishery effort was greater than expected because of the closures in July and August. Mr. Boley replied yes, and that the STT proposed contact rate scaling would be better addressed through fishery management than model modification.

Mr. Bob Crouch, Klamath Coalition, Harbor, Oregon

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington

C.3.e Council Discussion on Review of 2005 Fisheries and Summary of 2006 Stock Abundance Estimates

None.

C.4 Identification of Management Objectives and Preliminary Definition of 2006 Salmon Management Options (03/07/06; 3:40 pm)

C.4.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

C.4.b Report of the Pacific Salmon Commission

Mr. Harp presented Agenda Item C.4.b Supplemental Report from the Pacific Salmon Commission, March 2006.

Mr. Gordy Williams noted the Chinook interface group assigned the PSC's Chinook Technical Committee to review the sampling and other information used to assess the effects of changes to Northern British Columbia and West Coast Vancouver Island fisheries, as some of the preliminary reports were not accurate.

C.4.c Report of the Klamath Fishery Management Council

Mr. Melcher presented Agenda Item C.4.c, Supplemental KFMC Report.

Mr. Harp noted the KFMC had to meet and reach consensus without the benefit of the NMFS guidance letter for 2006 salmon fisheries.

Dr. McIsaac noted Option I reflects 2005 regulations, but the next to last paragraph states 2005 regulations would not be acceptable. Mr. Harp replied Option I was requested to provide an upper bound for management measure analysis, recognizing the KRFC spawning escapement in that option was unacceptable as a final endpoint.

Mr. Tracy asked if the Option III 50% tribal share was based on adult equivalents or a fish-for-fish sharing arrangement. Mr. Melcher replied the Klamath sharing arrangement in place is a fish-for-fish arrangement.

Dr. McIsaac asked how many of the 6,100 fish caught in fall 2005 ocean fisheries would have returned to the river to spawn in 2006. Mr. Simmons replied about half.

C.4.d NMFS Recommendations

Mr. Lockhart stated there was no official letter of guidance from the NMFS. Given increased scrutiny of the harvest sector by the administration, NMFS was not able to clear the letter in time for this meeting but was still working on it. Most of the contents of the letter are in prior documents such as the Salmon FMP, and Biological Opinions. There was a great deal of contention throughout NOAA Fisheries regarding the guidance letter. During the analysis by NOAA Fisheries, it was clear there was little flexibility in the FMP, and under such circumstances the Council is required to close salmon fisheries in its jurisdiction that impact KRFC. However, NOAA Fisheries did not want to preclude the Council process and would review any fishery proposals adopted by the Council. NOAA Fisheries acknowledged the importance of salmon fisheries to the participants and the communities, and would act quickly for requests for disaster declaration.

Dr. Dygert summarized the preliminary conclusions in the letter. The guidance letter includes comments about ESA listed stocks as well as KRFC. Much of the guidance is the same as in recent years; but with this exception:

KRFC : The conservation objective for Klamath River fall Chinook (KRFC) requires a return of 33-34% of potential adult natural spawners, but no fewer than 35,000 naturally spawning adults, be achieved in any one year. The preseason forecast for KRFC for 2006 is close to a record low. Preseason Report I indicates that, if the ocean fishery is closed from January through August 2006 between Cape Falcon, Oregon and Pt. Sur, California (near Monterey) and the Klamath River fishery (tribal and recreational) is closed immediately and remained closed in 2006, the expected number of natural area adult spawners would be 29,200. Under the Salmon FMP, a "conservation alert" is triggered when a stock is projected to fall below its conservation objective. Under such circumstances the Council is required to close salmon fisheries within Council jurisdiction that impact the stock. KRFC are caught in commercial and recreational fisheries from Cape Falcon to Pt. Sur. The closed area would therefore include most of the Oregon coast and the northern half of California. Given the circumstances, any fishing in the closed area that may be proposed would have to be approved by emergency rule to modify the Salmon FMP.

Klamath River fall Chinook are also caught in freshwater recreational fisheries and tribal fisheries that are outside the Council's jurisdiction. Council fisheries are managed to achieve 50:50 tribal/non-tribal sharing of adult harvest with a portion of the non-tribal share taken by recreational fishing inriver. Late season ocean fisheries (September-November) catch immature KRFC, some of which would spawn in the following year. The result is that fish caught in the late season of 2005 contributed to the reduced escapement that will occur in 2006. Preseason Report I indicates that approximately 6,100 KRFC were caught late in 2005. Despite the fact that the forecast now available tells us that the run size is such that the escapement floor will not be met in 2006, some ocean catch has already occurred, and there will likely be expectations for additional harvest in freshwater fisheries.

The escapement of KRFC also fell below the 35,000 spawner escapement floor in 2004 and 2005. The FMP provides that an "overfishing concern" is triggered if postseason estimates indicate that a natural stock has failed to achieve its conservation objective in three consecutive years. The Council uses the overfishing concern to address the requirements of the MSA with respect to overfishing. If KRFC fail to meet the 35,000 fish escapement floor in 2006, as indicated by postseason estimates that will become available after the conclusion of the fall fisheries, an overfishing concern would be triggered, and the Council would be required to complete a formal review within one year and develop an associated rebuilding plan.

The status of KRFC is depressed relative to the conservation objectives defined in the Salmon FMP. Under the circumstances, the Plan requires closure of all salmon fisheries in the area from Cape Falcon to Pt. Sur through at least August 31, 2006. It is likely that the Council will receive proposals to provide some limited fishing opportunity. Fishing in the EEZ in excess of the provisions of the approved FMP would require adoption of an emergency rule. In its consideration of proposals for fisheries, the Council might develop information that is not apparent at this time. However, based on what is currently known, and given the clear provisions of the FMP, NOAA Fisheries concludes that it will be difficult to justify approval of an emergency rule to allow additional fishing in 2006.

Current regulations for the 2005-2006 season include openings for commercial and recreational fisheries off the Oregon and California coast that would begin March 15. These fisheries will add to the catch of KRFC that has already occurred and further reduce the escapement. There is already a place on the Council's agenda for consideration of the March openings. Any additional information that may become available related to the March openings will be considered at that time, but NOAA Fisheries currently expects that it will be necessary to close those fisheries by inseason action to comply with the FMP.

In addition, NOAA Fisheries will recommend to the California Fish and Game Commission that the recreational fishery in the Klamath River be closed in 2006. Council fisheries are managed to achieve 50:50 tribal/non-tribal sharing of the adult harvest of KRFC. Because non-tribal ocean fishery catches have already occurred, tribal fisheries, which occur later in the year, would be expected. NOAA Fisheries will work with the tribes to try to find an appropriate course of action to address the tribes' unique circumstance and the conservation concerns for KRFC.

During the preseason process, the Council will also be considering late season fisheries that would occur after August 31, 2006. NOAA Fisheries concludes that it would be imprudent to consider significant late season fisheries for 2006 at this time. Any late season fisheries that may be proposed should be scheduled to open after the September 2006 Council meeting and with the understanding that they would be reviewed and possibly closed by inseason action at that time.

NOAA Fisheries acknowledges and understands the significant consequences these fishery closures will have on fishermen and their families, the businesses that rely on them, and the communities in which they live. Given the circumstances, NOAA Fisheries has begun the process of gathering data and analyzing appropriate next steps to mitigate impacts on the industry.

California Coastal (CC) Chinook salmon is listed under the ESA. The 2000 biological opinion on CC Chinook identified KRFC as the best available surrogate for estimating and limiting ocean harvest impacts on CC Chinook populations. That biological opinion required that the projected age-4 ocean harvest rate for KRFC not exceed 17.0%. In 2002, the Salmon Technical Team adopted new procedures for calculating the age-4 harvest rate on KRFC. Consistent with the revised definition of age-4 harvest rate, management measures developed under the Salmon FMP must achieve a projected age-4 ocean harvest rate on KRFC no greater than 16%.

In 2003 and 2004 the projected age-4 ocean harvest rates on KRFC were 16% and 15%, respectively. However, the postseason estimates, derived from cohort reconstructions, were 23% and 51%, respectively. As a result of the harvest rates observed in the 2003 and 2004 seasons, NOAA Fisheries reinitiated consultation prior to the 2005 seasons to consider whether modifications to the RPA of the 2000 opinion were necessary (McInnis 2005). The consultation, which is ongoing, clarified that under the terms of the 2000 biological opinion, NOAA Fisheries expects postseason estimates of the KRFC harvest rate to deviate both above and below preseason projections since the Klamath Ocean Harvest Model (KOHM) is designed to be an unbiased model. However, the magnitude of the deviations in 2003 and especially 2004, were of great concern, both with respect to the management of KRFC harvest and spawning escapement, as well as ensuring protection of ESA-listed CC Chinook.

NOAA Fisheries identified two possible explanations for the under-prediction of the 2004 KRFC harvest rate: 1) chronic changes in the distribution and/or vulnerability of KRFC, or 2) an unusual event consistent with the inter-annual variability of these estimates. The determination of which of the two may be the predominant factor in under-prediction of the harvest rate requires additional years of data.

The consultation reinitiated in 2005 did not result in a change of the 2005 preseason maximum allowable harvest rate of 16% established to protect CC Chinook. Because the harvest rate in 2005 again exceeded 16% by a substantial amount, there is continued concern about its under-prediction by the KOHM. NOAA Fisheries anticipates that the STT will make a modified model

available for analysis of 2006 seasons which may weigh catch and effort data from the last three years more heavily. The intent of any such model modifications would be to improve the accuracy of the KOHM with respect to harvest rate prediction; it would not be to introduce bias within the KOHM for the purpose of providing some greater probability that target harvest rates are not exceeded. Such a modification was developed for analysis of the proposed 2005 season options. The Council's recommended seasons yielded an age-4 harvest rate of 7.7% under the unmodified KOHM and 13% under the modified (3-year base) model. The preliminary postseason estimate of the harvest rate in 2005 is 24%, nearly twice the rate predicted by the modified model and three times the rate of the unmodified model.

The Council may decide to recommend the suspension of the KRFC spawning escapement goal through the use of an emergency rule in order to allow some additional limited harvest of KRFC. In evaluating such a recommendation, NOAA Fisheries will consider the risks to the long term productivity of the KRFC resource, while ensuring that management measures comply with NOAA Fisheries' ESA consultation standard for CC Chinook. Even if an emergency rule were approved, the combination of 1) the harvest which has already occurred since September 1, 2005, 2) the anticipated modifications in the KOHM, and 3) the ESA limit of a preseason projected 16% harvest rate, will leave little, if any, additional harvest available under an emergency rule. Preliminary analysis of coded wire tag recoveries from fisheries which occurred after August 31, 2005, indicate an age-4 harvest rate of 6.7%. It should be emphasized that this is a preliminary estimate based on incomplete cohort data and the forecast ocean abundance and is expected to change when the cohort is completed and the postseason estimate of abundance becomes available. For example, the preliminary estimate of the 2004 fall fisheries was 3.2% while the postseason estimate increased to 8.7%. In addition, any harvest occurring in 2006, either prior to May 1, or under an emergency rule after May 1, would be evaluated with a modified KOHM, which could generate substantially higher estimates of harvest rate than the KOHM versions used in prior seasons.

As discussed above, absent an approved emergency rule, the area from Falcon to Pt. Sur will be closed to salmon fishing because of conservation concerns for KRFC. However, in the event that new and compelling information is developed during the course of the 2006 preseason process, which supports implementation of an emergency rule and additional harvest, NOAA Fisheries, for the purpose of providing adequate protection for CC Chinook, will consider reducing the 16% age-4 KRFC harvest rate limit for the 2006 seasons. The rate associated with the 2006 harvest will be estimated using a KOHM which the STT believes most accurately predicts harvest rate for the 2006 season.

Ms. Vojkovich asked if all five criteria in the Agenda Item C.4.a, Attachment 2 would have to be met for consideration of an emergency rule. Mr. Tracy noted the bottom paragraph references all applicable criteria.

Ms. Vojkovich asked for a definition of long term yield used for criterion 5. Dr. Dygert replied the MSA requires management for maximum sustainable yield, and interprets the criterion as ensuring the stock is not depleted to a level that would compromise the ability to return the stock to that level.

Ms. Cooney noted the criteria are from the COPs, not a part of the FMP.

Ms. Vojkovich asked if under an emergency rule the FMP was set aside and allocation rules were wide open. Ms. Cooney replied the emergency rule amends a portion of the FMP for the time period the emergency rule is in place, but that underlying MSA requirements are still in place.

Chairman Hansen asked if the difficulty approving an emergency rule for KRFC reflected a more restrictive management process than for fish listed under the ESA. Dr. Dygert replied probably so in this case because the Salmon FMP was very specific on the issue of projected escapement below a conservation objective, and does not provide a lot of flexibility, except through the emergency rule procedure.

Ms. Cooney noted allocation provisions in the FMP could be changed through an emergency rule, but not provisions in other laws, such as tribal/non-tribal sharing.

Dr. McIsaac asked if the difficulty in approving an emergency rule was related to demonstrating benefits as was referenced in Agenda Item C.4.a, Supplemental Attachment 4. Dr. Dygert replied the difficulty was for the agency to meet all the criteria listed in Agenda Item C.4.a, Attachment 2.

Dr. McIsaac asked if approval of an emergency rule was contingent upon a Council pursuing an FMP amendment as referenced in the MSA, reproduced in Agenda Item C.4.a, Supplemental Attachment 4. Ms. Cooney replied the MSA requirement was for approval of an 180 day extension of an existing emergency rule.

Mr. Anderson asked if an analysis had already been conducted which led to the conclusion that an emergency rule to allow fishing could not be justified, rather than waiting for an option to be developed and then conducting an analysis. Dr. Dygert replied NMFS was struggling with the idea of a pre-supposed outcome. NMFS supports going through the public process to develop options, but wanted to convey the strong possibility of not approving an emergency rule. From NMFS' perspective, at least one option should reflect the terms of the Salmon FMP, which requires closure of fisheries to address KRFC concerns.

Mr. Lockhart stated NMFS is willing to consider any options the Council adopts.

Mr. Anderson noted the use of emergency rules had become more restrictive since Mr. Robinson made his comments in 1998, as noted in Agenda Item C.4.a, Supplemental Attachment 4.

Dr. Dygert then spoke about NMFS guidance on LCR Chinook:

The LCR Chinook ESU is comprised of a spring component, a far north-migrating bright component, and a component of north-migrating tules. The three remaining spring stocks within the ESU include those on the Cowlitz, Kalama, and Lewis rivers. The historic habitat for these spring Chinook stocks is now largely inaccessible due to impassable dams. Although some spring Chinook spawn naturally in each of these rivers, they are presumed to be largely hatchery-origin fish with little resulting natural production. The remaining spring stocks are therefore dependent, for the time being, on the associated hatchery production programs. The Lower Columbia Salmon Recovery Plan specifies actions to be taken to facilitate recovery of spring Chinook populations. The Cowlitz and Lewis hatcheries will be used, for example, for reintroduction into upper basin areas above existing dams. Maintaining the hatchery brood stock is therefore essential for implementation of specified recovery actions. The hatcheries have met their escapement objectives in recent years, and are expected to do so again in 2006, thus ensuring that what remains of the genetic legacy is preserved and can be used to advance recovery. NOAA Fisheries expects that the management agencies will continue to manage inriver fisheries to meet hatchery escapement goals, but no additional management constraints in Council fisheries are considered necessary.

Three natural-origin bright populations have been identified in the LCR Chinook ESU. The North Lewis River stock is used as a harvest indicator for ocean and in-river fisheries. The escapement goal used for management purposes for the North Lewis River population is 5,700, based on estimates of maximum

sustained yield. Actual escapements have exceeded the goal in every year but one since 1980. Escapements over the last five years have averaged 12,500, and thus continue to be well above the escapement goal. Given the long history of healthy returns, NOAA Fisheries Service does not anticipate the need to take specific management actions in the ocean to protect the bright component of the LCR Chinook ESU in 2006. NOAA Fisheries does expect that the states of Washington and Oregon will continue to take appropriate actions through their usual authorities, to ensure that the escapement goal continues to be met.

Unlike the spring populations or the bright component of the ESU, LCR tule populations are caught in large numbers in Council fisheries. There are three naturally producing populations of tule Chinook in the lower Columbia River (Coweeman, East Fork Lewis, and Sandy) that are not substantially influenced by hatchery strays. Apart from these populations, the system is dominated by hatchery production and whatever natural spawning does occur is heavily influenced by hatchery strays. The Lower Columbia Salmon Recovery Plan specifies actions to be taken to address the adverse consequences of hatchery production on the LCR ESU.

For the last several years the Coweeman population has been used as an indicator stock for managing the tule component of the LCR Chinook ESU. Consistent with our guidance from recent years, NOAA Fisheries expects that the 2006 Council fisheries to be managed such that the total exploitation rate on Coweeman fall Chinook from all fisheries does not exceed 49%. Preseason estimates of the exploitation rate have consistently complied with the 49% standard. However, information suggests that the actual exploitation rates on Coweeman fall Chinook have been substantially higher in recent years. The Northwest Fisheries Science Center recently completed a review that assessed compliance of Council fisheries with ESA related consultation standards (Kope 2005). (A copy of that report was forwarded to the Council by letter on December 21, 2005.) Results from the report indicate that Council fisheries have complied with most of the stock-specific standards. However, the report indicates, based on a postseason review, that the exploitation rates for the most recently available brood years (1998-2000) ranged from 53%-68% and averaged 60%.

NMFS was aware that managers from the state agencies and Salmon Technical Team have been reviewing the analysis. From that review we expect to confirm or modify the results of the analysis as appropriate, and learn more about why postseason estimates of exploitation rates have been higher than preseason projections. NOAA Fisheries' objective is to insure that we are using the best available information for managing the fisheries to meet specified conservation objectives in 2006. We will therefore rely on the Salmon Technical Team to report back regarding their review of the Science Center report, and make recommendations for actions necessary to address their findings.

NOAA Fisheries has relied on the 49% standard since 2002. The Lower Columbia Salmon Recovery Plan recommends that the standard be reviewed, and we concur that after five years a review is warranted. The Recovery Plan specifies that the review should include consideration of the exploitation rate standard and associated affects on other LCR tule populations. The Plan also calls for consideration of alternative management strategies including one based on indicators of annual abundance and productivity. NOAA Fisheries intends to work with the interested management entities and undertake such a review prior to 2007 fisheries.

Mr. Anderson noted some of the estimations in FRAM for the area south of Cape Falcon were underestimated, and the STT was working on corrections. He asked Dr. Dygert to confirm his remarks were not a prescription of how to make model adjustments, but only what adjustments were to be made. Dr. Dygert confirmed that was the case.

Dr. Dygert then addressed NMFS guidance for LCR coho:

Lower Columbia River coho were listed as threatened under the ESA on June 28, 2005. In 2005 NOAA Fisheries issued a section 7 conference opinion regarding the effects of Council area fisheries on LCR coho, but 2006 will be the first year that NOAA Fisheries is providing consultation standards as part of our ESA guidance for the preseason planning process. NOAA Fisheries expects to complete a section 7 consultation regarding the effects of Council fisheries on LCR coho prior to the start of the 2006 season.

LCR coho are also caught in the Columbia River, primarily in state managed commercial and recreational fisheries in areas below Bonneville Dam. These fisheries are managed subject to the terms of the 2005-2007 Interim Management Agreement between the U.S. v. Oregon parties. NOAA Fisheries will also consult on inriver fisheries through a supplement to the existing opinion on the Interim Agreement. Because of the close association between Council fisheries and fisheries that take place in the Lower Columbia River, NOAA Fisheries plans to consider both actions in a single opinion.

NOAA Fisheries reviewed information related to the status of LCR coho and the effects of fisheries on LCR coho through our section 7 conference in 2005, and again in preparation for consultation on fisheries in 2006. Because of the location of fisheries affecting LCR coho, the states of Oregon and Washington are the management entities most affected. NOAA Fisheries wrote letters to the states on August 29, 2005 and again on January 18, 2006 highlighting several areas of concern related to the management of LCR coho. NOAA Fisheries has also talked with representatives of the states on several occasions since then about these concerns. The concerns can be summarized under two broad themes. First, what is the appropriate long-term harvest strategy for managing LCR coho, and second, once a harvest rate limit is selected for a particular year, how do we measure impacts in ocean and inriver fisheries relative to the specified limit?

Efforts are underway to address some of the issues that have been discussed. For example, the state of Washington has indicated, in its Lower Columbia Salmon Recovery Plan, its intention to review the harvest rate matrix that has been used for the past several years to manage LCR coho harvest, and to consider development of alternative management strategies if appropriate for Washington coho. The State of Oregon will do the same as part of its five-year review of the State of Oregon's management plan for LCR coho. The two states are encouraged to work together on this review to develop a common management strategy. NOAA Fisheries expects that some progress will be made on issues of concern prior to the 2006 season, but that much of the necessary review will not be completed until later this year, and therefore be available in time for consideration for the 2007 fisheries.

Nonetheless, the uncertainties surrounding appropriate harvest strategies and allowable levels are such that it is prudent to take a conservative approach to management until they can be resolved. Therefore, NOAA Fisheries expects that ocean salmon fisheries under the Council's jurisdiction in 2006, and commercial and recreational salmon fisheries in the mainstem Columbia River, including select area fisheries (e.g., Youngs Bay), shall be managed subject to an exploitation rate limit on LCR coho of 15%. We are aware that the Salmon Technical Team is reviewing methods for assessing harvest impacts on LCR coho in ocean fisheries. NOAA Fisheries will rely on the Team's recommendations regarding best methods for doing the necessary assessment. NOAA Fisheries understands that the effected managers will make a decision regarding the allocation of harvest impacts between ocean and inriver fisheries that will result in a specified harvest rate limit for the river (e.g., 5%). In managing inriver fisheries, the specified harvest rate limit will apply to each of the early and late return timing components of the LCR coho ESU which will be managed separately in the mainstem Columbia based on run timing differences.

Mr. Melcher asked if the 15% harvest rate limit applies to the aggregate or the individual components. Dr. Dygert replied it applies to the early and late components as they are known.

Mr. Melcher asked if a separate harvest rate for early and late stock would be used for ocean management such that inriver fisheries could target the remaining allowable harvest on each of the components.

Dr. Dygert replied ocean management was in transition from using OCN as an indicator stock to Columbia River stocks, and the STT recommendations for use of a one stock vs. two stock model will be the basis for the decision.

Mr. Anderson asked if that response was a qualified yes to Mr. Melcher's question. Dr. Dygert replied it was.

Dr. Dygert noted the 2006 standard will be reviewed for 2007 and beyond.

Mr. Lockhart stated that all of Dr. Dygert's presentation was preliminary.

C.4.e Tribal Recommendations

Mr. George Kautsky presented Agendum C.4.e, Supplemental Comments of Hoopa Valley Tribe.

Ms. Desma Williams provided comments on behalf of the Yurok Tribe. She stated the Yurok Tribe did not want to see any additional ocean fisheries on KRFC, but if the Council did proceed, to make adjustments to the KOHM to ensure accurate assessment of impact.

Mr. Bruce Jim (along with Mr. Stuart Ellis) presented Agenda Item C.4.e, Tribal Recommendations.

Mr. Harp provided testimony under Agenda Item C.4.e, Tribal Recommendations, March 2006.

Mr. Anderson provided Agenda Item C.4.e.f, Supplemental WDFW/Tribal Recommendations.

Mr. Harp asked if there was also agreement with the coastal tribes on management objectives for coastal stocks. Mr. Anderson replied there was agreement.

C.4.f State Recommendations

Mr. Anderson said they would be working with tribes and constituents to develop a set of management alternatives to meet the conservation objectives and would defer specific recommendations subsequent to SAS report and public testimony.

Mr. Melcher noted ODFW remains committed to the U.S. v. Oregon agreement to provide at least 50% of the coho destined for areas upstream from Bonneville Dam to that area. He also stated his support for the public process for consideration of emergency rule implementation of 2006 management measures.

Ms. Vojkovich noted California is interested in an option with minimal KRFC impacts.

C.4.g Reports and Comments of Advisory Bodies (03/08/06; 8:10 am)

Mr. Dell Simmons presented Agenda Item C.2.c, Supplemental STT Report.

Mr. Lockhart asked if effort shifted into areas with no observed impacts but with historically small fisheries would result in KRFC impacts. Mr. Simmons replied the KOHM would predict no impacts, but the STT believes there would be some KRFC tags recovered given sufficient sample size.

Mr. Melcher asked if the STT summary included changes to the KOHM the STT was contemplating to correct for previous years' underestimation of KRFC impacts, or any assumptions about impacts of the Fort Bragg commercial fishery in March, which has no historical record. Mr. Simmons replied the STT had made no changes to the KOHM, and no assumptions about the March impacts in the Fort Bragg commercial fishery were made.

Mr. Melcher asked if the KOHM underestimation in previous years would be addressed on a time/area cell by cell basis or as a blanket correction. Mr. Mohr replied the KOHM predictions of recreational impacts were, in general, performing adequately, but the STT would review all model components.

Dr. McIsaac asked why the STT statement concluded fishing in areas with no observed impacts in March 2006 would result in increased impacts on KRFC. Mr. Simmons replied the statement referred to fisheries adjacent in time and area to cells with observed impacts. Those fisheries had no observed impacts, but the STT believes it is likely the actual impacts were not zero.

Mr. Tracy asked if the STT would model impacts for the March Fort Bragg commercial fishery using an adjacent time, area, or fishery sector cell, similar to what was done when the Oregon commercial fisheries first expanded into March. Mr. Simmons replied the STT used an adjacent month for the Oregon fishery situation, and would probably do the same for Fort Bragg, which would result in modeled impacts for that cell greater than zero.

Mr. Lockhart asked if there were situations where previously closed areas were opened, and if so what were the results. Mr. Simmons replied there was a situation in Coos Bay, Oregon, where a commercial fishery was opened in March after only a small previous opening, and effort expanded greatly, although he would not know what the KRFC impacts were without further review.

Mr. Roth asked if the catch in the Fort Bragg recreational fishery during February and March was of sufficient magnitude that tag recoveries would be expected. Mr. Simmons replied the catches were very small and if the catch increased dramatically, the chances of recovering a KRFC tag would increase.

Messrs. Butch Smith, Steve Watrous, Jim Olson, Mike Sorensen, Jim Welter, Craig Stone, Duncan MacLean, and Don Stevens, presented Agenda Item C.4.g, Supplemental SAS Report. Corrections to the document were noted as follows with underlines:

Table 2, page 9, Supplemental Management Information 4: Option I - Buoy 10 catch estimates of 5,500 in August and 2,200 in September; Option II - Buoy 10 catch estimates of 6,000 in August and 2,300 in September. Option III - Buoy 10 catch estimates of 6,400 in August and 3,500 in September.

Table 2, page 9, Neah Bay Subarea: Option I - closes September 2, and no chum retention August 1 through September 2; Option III - closes September 16, and no chum retention August 1 through September 16.

Table 2, page 10, La Push Subarea: Option I - closes September 2, and late fishery opens September 23 through October 8; Option II - late fishery opens September 23 through October 8; Option III - closes September 16, and late fishery opens September 23 through October 8.

Table, 2, page 12, Cape Falcon to Humbug Mt.: Option I and Option II -all salmon except coho seasons reopen the earlier of September 1 or attainment of the coho quota; Option III -Open seven days per week, coho only...

Table 1, Page 6, Minimum Size: Cape Falcon to OR/CA border Prior to April 16, 2006 and Beginning March 15, 2007 - 28.0 Total Length, 21.5 Head-off

Table 1, Page 4, California KMZ Options I, II, and III - Closed.

Table 1, Page 5, Fort Bragg Option III - Closed.

Mr. Melcher asked if the language allowing inseason action to open seven days per week in the recreational fisheries north of Cape Falcon was included in the boilerplate. Mr. Watrous replied yes (under C.5, Page 16)

Mr. Melcher asked if the landing language at the bottom of page 1 was verbatim from 2005. Mr. Tracy noted there was one subtle change in the third sentence where the second "and" was inserted at the request of WDFW to ensure fish were not landed outside the area.

Mr. Warrens asked if the August 1 closure between Cape Falcon and Tillamook Head was discussed in the SAS. Mr. Watrous replied there was no discussion. Mr. Tracy noted Option III did include a July 15 closure date.

Mr. Ticehurst asked how the 50%:50% California:Oregon share was calculated. Mr. MacLean replied the ratio was recommended by the KFMC, and involves sharing of KRFC impacts between commercial fisheries in California and Oregon. The current Option I proposal appears to be more in favor of Oregon, but can be shaped throughout the rest of the week.

C.4.h Public Comment

Testimony on 03/07/06; 5:39 pm:

Mr. Marc M. Gorelnik, Coastside Fishing Club, San Francisco, California

Mr. Matthew O'Donnell, troller, Cape Junction, Oregon

Mr. Richard Hagel, troller, Astoria, Oregon

Mr. Alan Loretz, troller, Eureka, California

Mr. Jim Anderson, California Salmon Council, Redwood City, California

Testimony on 03/08/06;

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington

Mr. Don Stevens, Oregon Salmon Commission, Newberg, Oregon

Mr. David Yarger, Fishermen's Marketing Association, Bodega Bay, California

Ms. Barbara Emley, PCFFA, San Francisco, California

Mr. Chad Dahlberg, troller,

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, Oregon

Mr. Darus Peake, Oregon Salmon Commission, Garibaldi, Oregon

Mr. Dave Bitts, PCFFA, McKinleyville, California

Mr. Daniel Platt, PCFFA, Fort Bragg, California

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

Mr. Gerald Reinholdt, Reinholdt Fisheries, St. Helens, Oregon

Mr. Ralph Brown, Curry County, Coos Bay, Oregon

Mr. William Smith, F/V Riptide, San Francisco, California

Mr. Bill Forkner, commercial salmon fisherman, Fort Bragg, California

Mr. Duncan MacLean, F/V Barbara Faye, El Granada, California

Mr. Dan Wolford, Coastside Fishing Club,

C.4.i Council Recommendations for Initial Options for STT Collation and Description (03/08/06; 11:21 am)

Utilizing Agenda Item C.4.g, Supplemental SAS Report:

Mr. Anderson recommended discussion of a range of alternatives that included coho quotas as low as about 50% of 2005.

Mr. Melcher directed the STT to make the following changes to Agenda Item C.4.g, Supplemental SAS report:

Table 1, Page 3, Cape Falcon to Florence South Jetty and Florence South Jetty to Humbug Mt. – strike Option I and replace with Option II; replace Option II with Option III and add landing and possession limits as described in Agenda Item C.4.c, Supplemental KFMC Report. Option III would be closed.

Table 1, Page 4, Humbug Mt. to OR/CA border – strike Option I and replace with Option II and change September quota to 2,000; replace Option II with Option III and close March and April 2006 fisheries to be consistent with areas north of Humbug Mt. Option III would be closed.

Table 2, Page 12, Cape Falcon to Humbug Mt. - Option III coho only fishery with a quota of 20,000.

Table 2, Page 13, Humbug Mt. to Horse Mt. - strike Option I and replace with Option II; replace Option II with Option III; Option III would be closed to a Chinook directed fishery.

Mr. Tracy asked if the KMZ area recreational fishery Option II would include a mark selective coho fishery on July 4. Mr. Melcher replied there would be no coho opportunity on that date under Option II.

Mr. Tracy asked if specific management zones were to be designated in the Cape Falcon to Humbug Mt. commercial fishery to correspond with the KFMC landing limits and if fishers were to be prohibited from fishing in different zones within the same open period. Mr. Melcher replied yes on both issues, and requested the STT work on the issues with enforcement personnel.

Ms. Vojkovich supported the KFMC recommendations for a range of options. She recommended abiding by the FMP and including one option with no KRFC impact option for areas between Cape Falcon and Point Sur for the purposes of analysis. She noted the California Fish and Game Commission has requested a range of Klamath River recreational allocations of 10% to 20%, but did not want to include that range in the current analysis, but as part of the analysis at the end of the week.

Ms. Vojkovich directed the STT to make the following changes to Agenda Item C.4.g, Supplemental SAS report:

Table 1, Pages 4 and 5, Oregon/California border to U.S./Mexico border: – Option I would reflect 2005 season structure; Option III would be closed. Option II would be developed through SAS and STT cooperation to result in structure with KRFC impacts at 50% of 2005 KRFC impacts.

Table 2, Page 13 and 14, Horse Mt. to U.S./Mexico border: – Option I would reflect 2005 season structure; Option III would be no KRFC impacts. Option II would be developed through SAS and STT cooperation to result in structure with KRFC impacts at 50% of 2005 KRFC impacts.

Mr. Ticehurst asked when the appropriate time to ask for an emergency action would be. Dr. McIsaac replied the Council Operating Procedures (COPs) require a description and justification of any emergency rule be included in the options adopted for public review, which would occur at the end of the week. Ms. Cooney noted any fishing between Cape Falcon and Pt. Sur would require an emergency rule and would need to be justified with some recommendation for the emergency rule.

Mr. Anderson asked if the California Option II 50% impact reduction from 2005 level was based on 2005 actual or preseason projected impacts. Ms. Vojkovich clarified that Option II should be 50% of Option I impacts, which utilizes 2005 season structure, but is not expected to have the same impacts as 2005 because stock abundances are different.

Mr. Anderson recommended the emergency rule criteria be addressed briefly at this time. He noted the first criterion was an unanticipated situation, and that the *C. Shasta* infestation was unanticipated. The change in frequency of emergency rule use, based on the comments of Mr. Robinson in Agenda Item C.4.a, Supplemental Attachment 4, was also unanticipated. The Council should consider if there are other unanticipated factors to bring to the record on Friday. The second criterion is that waiting for an amendment would have adverse economic and biological consequences; which appears to be the case based on testimony to date. An analysis of those factors would help quantify those consequences. The third criterion is allocation issues in the proposed emergency rule are supported by user representatives. He feels there are no allocation agreements in the FMP that would be affected by the proposed emergency rule, and is therefore not an applicable criterion. The fourth criterion is the action is necessary to meet FMP objectives. Objective 3 in Section 5.1 of the Salmon FMP would not be achieved in the absence of an emergency rule. The fifth criterion requires long term yield from the stock complex not be decreased. He recommended the STT conduct that analysis in light of Agenda Item C.4.a, Supplemental Attachment 3, which indicates strong recruitment for numerous spawning escapements that were well below the 35,000 floor.

Ms. Vojkovich concurred with Mr. Anderson's comments, although in regard to criterion, noted it may be necessary to consider fishing opportunities for only one group or one state in 2006. Users may be asked to contemplate a choice between nobody fishing or only one group fishing.

Mr. Ticehurst stated the emergency action should note the Klamath Basin river conditions are different than contemplated when the FMP was adopted.

Mr. Lockhart requested the Cape Falcon to Humbug Mt. recreational fishery include a no fishery impact option. Mr. Melcher modified his direction for that fishery and recommended the STT model Option III as closed in that area beginning May 1, and model Option II with a 20,000 coho quota.

Mr. Melcher noted criterion 3 refers to allocation issues addressed specifically in the FMP. With regard to KRFC, none are specific in the FMP, but are negotiated annually, usually through the KFMC. The Council can deviate from those recommendations without an emergency rule or amendment.

Mr. Melcher noted 2006 was different from previous years in regards to following the requirements of the FMP, in that the Council cannot manage the fisheries and achieve the 35,000 spawning objective.

Dr. McIsaac asked for clarification on the California recreational season structures. Ms. Vojkovich replied that for all California recreational fisheries, Option I would be 2005 season structure; Option II would be no more than 50% of Option I KRFC impacts, and Option III would be no additional KRFC impacts.

Mr. Melcher clarified his direction for the recreational KMZ fishery was that Option I would be 2005 regulations, Option II would be three days of fishing, and Option III would be closed.

Ms. Vojkovich recommended the entire recreational Oregon and California KMZ fishery in Option II be modeled with no more than 50% of Option I KRFC impacts because there may be insufficient resolution between three days of fishing and no fishing. Mr. Melcher concurred with Ms. Vojkovich's recommendation.

Mr. Ticehurst noted there was a distinction between no fishing and no impacts. Ms. Vojkovich replied the appropriate term is the Federal definition of the FMP guidelines – no salmon fishing that impact the stock.

Mr. Ortmann asked for Council consensus on Oregon and California recommendations. The Council agreed.

Mr. Anderson recommended north of Cape Falcon fisheries be modeled as presented in Agenda Item C.4.g, supplemental SAS report, as corrected on the floor by the SAS.

Mr. Tracy asked if the Pigeon Point to U.S./Mexico border recreational fishery cell should be divided into two cells at Point Sur to facilitate modeling KRFC impacts, which were negligible below Point Sur. Ms. Vojkovich replied the results of the SAS and STT discussions should include that clarification.

Mr. Harp recommended the treaty Indian options be modeled as presented in Agenda Item C.4.e, Tribal Recommendations, March 2006 and in Agenda Item C.4.g, Table 1, Page 1, Supplemental Management Information 3. He noted the tribal fisheries were shaped to address concerns with Interior Fraser and LCR coho, LCR natural tules, and Snake River fall Chinook.

C.5 Council Recommendations for 2006 Management Option Analysis (03/08/06; 6:07 pm)

C.5.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

C.5.b Report of the STT

Mr. Simmons, presented Agenda Item C.5.b, Supplemental STT Report. He noted the KOHM has a submodel to account for effort shift in California commercial fisheries, which may result in a different rate of decrease in KRFC impacts than in days open. He asked what assumptions the STT should model for March and April, 2006, fisheries.

Ms. Vojkovich replied the STT should assume the fisheries would continue as scheduled. She noted the 50% reduction was intended to model Option I first then work with the SAS to reduce KRFC impacts by half, not necessarily days open.

Mr. Simmons noted the California:Oregon, 50%:50% sharing would not be met with Option II.

C.5.c Report of the KFMC

None.

C.5.d Reports and Comments of Advisory Bodies

None.

C.5.e Public Comment

None.

C.5.f Council Direction to the STT and Salmon Advisory Subpanel (SAS) on Options Development and Analysis

As recommended by Ms. Vojkovich.

C.6 Council Direction for 2006 Management Options (If Necessary) (03/10/06; 8:13 am)

C.6.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

C.6.b Report of the STT

Messrs. Simmons and Grover presented Agenda Item C.6.b, Supplemental STT Report. Mr. Simmons noted the Oregon portion of the Chinook FRAM for Option II in Table 5 was not done correctly, which affected Coweeman natural tule and Snake River wild fall Chinook impact estimates. Canadian and Alaskan fisheries were modeled with 2005 scalars, which would probably slightly inflate impacts relative to what was expected for 2006. The KRFC spawning escapement predictions for Option I was 300; for Option II was 9,700; and for Option III was 12,600, which included only ongoing fisheries through April 30, 2006. The KRFC age 4 ocean harvest rate estimates were 32.6%, 22.1% and 24.7% for Options I, II, and III, respectively, compared to a standard of no more than 16.0%. The LCR natural coho exploitation rates were 14.0%, 10.0%, and 5.8% for Options I, II, and III, respectively, compared to a standard of no more than 15.0% for combined Council area marine and mainstem Columbia River fisheries. All options technically meet the standard, but Option I would probably not meet ocean/inriver sharing needs.

Dr. McIsaac asked if the modifications to the KOHM to account for under predictions of impacts in past years accounted for the extremely low spawner escapement values, and if there would continue to be refinements of the KOHM. Mr. Grover replied the KOHM has not been changed, but some parameters used by the model were modified to reduce bias in estimates of effort in Oregon commercial fisheries and contact rate per effort in California commercial fisheries. No additional changes were contemplated.

Dr. McIsaac asked how harvest rates of 99%, which have not been seen in any fishery ever, could be explained. Mr. Grover replied the spawner reduction rate, not the exploitation rate was 99%. The exploitation rate was near 26%.

Mr. Melcher asked for an explanation of the dynamics of the KOHM all-stocks predictor because it appeared estimated catch was inflated for March and April Oregon commercial fisheries but not for May fisheries. If quotas were used to dampen the catch in some fisheries, the all-stocks predictor would have to be used. Mr. Grover replied the STT would verify the performance of the all-stocks predictor prior to the April meeting.

Mr. Melcher asked if the Chinook FRAM modifications Mr. Simmons referred to in Agenda Item C.3.a were not expected to affect the Snake River Fall Index (SRFI) calculation, why were fisheries that were smaller than in 2005 resulting in larger SRFI values? Mr. Simmons replied his assumptions expressed in Agenda Item C.3.a were incorrect. When the STT examined the data it was clear that making a scalar correction prior to 1995 was not appropriate, and since the SRFI base period was 1988-1993, the scalar adjustment to the SRFI was not applied to both the numerator and denominator.

Mr. Melcher asked if the correction of the bias in the Coweeman tule fall Chinook index resulted in introduction of a bias in the SRFI. Mr. Simmons replied the Coweeman tule index was based on much better information than the SRFI. The impetus for the analysis was originally an appearance that the SRFI was too low in the Oregon cell. The initial results of the ad hoc analysis of the SRFI was not too low, and the authors of that analysis were beginning to question that conclusion.

Mr. Melcher asked if the STT could model the effects of landing limits using the KOHM. Mr. Simmons replied no.

Mr. Melcher asked if there was an attempt to estimate the effects outside the KOHM. Mr. Simmons replied it was discussed within the STT, but the STT did not recommend any estimation outside the models. Although landing limits could reduce catch and contact rates, they would only do so if they were low enough.

Mr. Melcher asked if the Coho FRAM still had the 2005 scalars for northern fisheries, and if it was possible when the 2006 expectations were produced, the estimates for Interior Fraser coho impacts could be greater than the 10.0% limit. Mr. Simmons replied yes.

Mr. Ticehurst asked how with a start of 29,200 KRFC spawners estimated in Preseason Report I, did Option III result in 12,600. Mr. Grover replied it is the result of correcting the effort and contact rate per effort parameters, and the inclusion of fall 2005, March and April 2006, and matching tribal harvest estimates.

Mr. Anderson asked if the accounting period for KRFC was September 1 through August 31, whereas the accounting period for Snake River wild and Coweeman natural tule fall Chinook is October 1 through September 30, does that mean some SRW and Coweeman impacts have already accrued in the fall Oregon fisheries? Mr. Simmons replied yes.

Mr. Anderson asked if the high effort levels observed in fall 2005 are represented in the 2006 KOHM. Mr. Simmons replied yes.

Mr. Lockhart asked if the KOHM required further modification. Mr. Simmons replied the STT was currently satisfied with the KOHM and the input parameters.

Mr. Roth asked for an explanation of why the age-4 harvest rate in Option II was higher than Option III, yet spawning escapement was greater in Option II than Option III. Mr. Grover replied it probably reflects differential harvest rates by age.

Mr. Lockhart asked how much of the 24.7% age-4 harvest rate on KRFC resulted from the fall 2005 fisheries. Mr. Simmons replied 6.7% as reported in Preseason Report I, which was an observed estimate, as opposed to the remaining 18%, which was a prediction of March and April 2006 fisheries.

Mr. Melcher asked for clarification on the perceived increase in effort for the Oregon commercial fishery over the SRFI base period. Mr. Simmons replied that total effort was similar, but Chinook-directed effort has increased as a result of the coho retention prohibition. The large Chinook effort increase took place in 1995, two years after the 1988-1993 SRFI base period.

Mr. Anderson asked if a greater proportion of the effort occurred in October relative to earlier years and those impacts are already included in the model. Mr. Simmons replied yes.

C.6.c Reports and Comments of Advisory Bodies

Mr. Stevens provided comments on behalf of the SAS. The SAS was briefed by Mr. Grover on all the changes in the KOHM, which answered some of the questions they had. No discussions occurred between the SAS and STT on changes relative to Coweeman tules in the Chinook FRAM.

C.6.d Public Comment

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, Oregon
Mr. Dave Bitts, PCFFA, McKinleyville, California
Mr. Daniel Platt, Salmon Trollers Marketing Association, Fort Bragg, California
Mr. Ben Platt, Salmon Trollers Marketing Association, Fort Bragg, California

Mr. Keith Olson, Salmon Trollers Marketing Association, Fort Bragg, California
Mr. Don Stevens, Oregon Salmon Commission, Newberg, Oregon

C.6.e Council Guidance and Direction for 2006 Management Options

Ms. Vojkovich said she was unprepared to provide guidance without additional information regarding modifications to the KOHM parameters and an exploration of different approaches. She requested Mr. Grover present the KOHM parameter changes to the Council.

Mr. Melcher noted the KFMC received a detailed presentation of the KOHM performance cell by cell, and he did not feel the changes made by the STT were improper as long as they were not setting a precedent for the future. He did not oppose a presentation of the KOHM parameter changes, but did not feel the need from his perspective.

Mr. Lockhart did not mind having the presentation as an informational item, but did not want to recommend changes, which was the STT's role.

Mr. Melcher noted the KRFC impacts in Option I were alarming, but there were changes to fisheries that would make it more reasonable. He noted the 2006 season presented several challenges, including a model that had not performed well the past three years, a low KRFC forecast, scientific uncertainty, and political science involvement. He proposed the following changes to the options presented in Agenda Item C.6.b, Supplemental STT Report:

Table 1, Page 3, Cape Falcon to Florence South Jetty: Option I - change southern boundary to Humbug Mt., close March and April, and include 50 Chinook per vessel per week landing and possession limit in September and October; Option II - Strike the Saturday through Tuesday language, change May and June season dates to the same as Option I with a 100 Chinook per vessel per open period (per calendar week in June), change the September open dates to September 5 to 9 and 20 to 25 with a 50 Chinook per vessel per open period landing and possession limit, and closed in October; Option III - Closed.

Table 1, Page 4, Florence South Jetty to Humbug Mt: Option II - for the area between Florence South jetty and Cape Arago the same open dates as Cape Falcon to Florence South Jetty, but with a 75 Chinook landing and possession limit in May and June, and for the area south of Cape Arago closed; Option III closed.

Table 1, Page 5, Humbug Mt. to OR/CA border: Option I - Close the March and April fishery; Option III - closed.

Mr. Melcher noted the closure of the area between Florence south jetty and Cape Arago could not be modeled with the KOHM, but because it was on the southern end of the Coos Bay cell, it should provide some lessening of KRFC impacts.

Mr. Tracy noted the recreational KMZ season in Table 2, page 14 for Option II was modeled by the STT with only the Oregon portion open and the dates were essentially half of the open dates in Option I. Mr. Melcher said he understood the CA side of the KMZ would be opened under that same management approach, and would consult with Ms. Vojkovich on appropriate structure.

Mr. Ticehurst asked if Mr. Melcher had estimated KRFC spawning escapement for the proposed changes. Mr. Melcher replied that coupled with a closure of the Fort Bragg commercial fishery in March, he estimated about 14,000. He felt that was reasonable to send out for public comment.

Mr. Melcher asked if the north of Falcon troll regulations requiring no more than one spread with one

flasher during the plug only fishery was necessary. If there were no hook on the flasher would it be considered fishing, and why impose a limit on the number of flashers? Mr. Anderson replied he would consult with the SAS and EC and request their input.

Mr. Anderson noted the ocean exploitation rate of 14% of LCR coho would not meet inside fishery needs and noted it may be necessary to change coho quotas before final adoption.

Mr. Bob Lohn and Mr. Rod McInnis presented Agenda Item C.4.d, Supplemental NMFS ESA Guidance Letter. The letter was entirely consistent with the advice given verbally by Dr. Dygert under Agenda Item C.4 on Tuesday. Extra time was needed to clear the letter with the administration. The letter reflects the view taken by the Council regarding KRFC, that the primary cause of the decline in abundance was draught conditions and the disease problems in the Klamath Basin. NOAA Fisheries was aware of the impact of the fishery restrictions on fishing communities and had deep feelings of respect and sympathy for fishermen and the communities affected. NOAA Fisheries supported the Council process in looking at the alternatives.

Ms. Vojkovich proposed the following changes to Agenda Item C.6.b, Supplemental STT Report:

Table 1, Page 5, OR/CA border to Horse Mt.: Option I – Close the March and April fishery and change the September Chinook quota to 2,000; Option II – closed.

Table 1, Page 6, Horse Mt. to Point Arena: Option III – Close the March and April fishery.

Table 1, Page 6, Point Arena to Pigeon Point: Option I – include a 50 Chinook per vessel per calendar week landing and possession limit; Option II – reduce July to 15 days open and include a 50 Chinook per vessel per calendar week landing and possession limit.

Table 1, Page 6, Pigeon Point to Point Sur: Option I – include a 100 Chinook per vessel per calendar week landing and possession limit; Option II – Closed in July and include a 100 Chinook per vessel per calendar week landing and possession limit.

Table 1, Page 6, Point Sur to U.S./Mexico border: Option III – Same as Option I.

Table 2, Page 13, Supplemental; Management Information: Options II and III – Klamath River recreational fishery allocation: 0%.

Table 2, Page 14, OR/CA border to Horse Mt.: Option II – Change northern boundary to Humbug Mt. and closed in June.

Table 2, Page 14, Horse Mt. to Point Arena: Option II – Closed in June .

Table 2, Page 14, Point Arena to Pigeon Point: Option II – Change June 1-13 and to June 24-30, and July 1-10 to July 1-9.

Table 2, Page 15, Pigeon Point to Point Sur: Option I – Change April 1 to May 1.

Table 2, Page 15, Pigeon Point to U.S./Mexico border: Option II – Change southern boundary to Point Sur and change April 1 to May 1; Option III – Change southern boundary to Point Sur.

Table 2, Page 15, Pigeon Point to U.S./Mexico border: Option II - Change northern boundary to Point Sur; Option III – Change northern boundary to Point Sur, and change “Closed” to “Same as Option I”.

Mr. Melcher noted he concurred with Ms. Vojkovich regarding the recreational KMZ season structure, and recommended the STT model the recreational coho selective fishery in Option II with a closing date of July 31 rather than August 31.

Mr. Lockhart asked if the proposed trip limits could be modeled. Mr. Simmons replied the STT did not want to use ad hoc methods to estimate the effects of trip limits. The STT would conduct an analysis and report back to the Council in April.

Mr. Roth asked the STT to provide an estimate of river mouth return of KFMC.

Mr. Tracy noted that many of these options include openings in March 2007, and urged that those fisheries are addressed in the final package.

C.7 FMP Amendment Scoping for de minimis Fisheries Associated with Klamath River Fall Chinook Impacts

C.7.a Agenda Item Overview (03/10/06; 1:03 pm)

Mr. Tracy presented the agenda item overview.

C.7.b Report of the Klamath Fishery Management Council

Mr. Melcher said the KFMC re-endorsed the statement provided in November of 2005, Agenda Item C.7.a, Attachment 1.

C.7.c Agency and Tribal Comments

Ms. Desma Williams provided comments on behalf of the Yurok Tribe. The Yurok Tribe recommended a precautionary approach to a plan amendment that would preserve the genetic diversity of the sub-populations of KRFC during periods of low abundance. The Yurok Tribe endorsed a range of options from status quo to a maximum spawner reduction rate of 10%, similar to the KFMC proposal.

Mr. Harp noted the Hoopa Valley Tribe had written comments in Agenda Item C.7.c, Supplemental Comments of Hoopa Valley Tribe.

Mr. Melcher noted it would ordinarily be the state and tribal agencies taking the lead on an FMP amendment, especially for a stock that was not listed under the ESA, and where the federal nexus was not as direct. However, because KRFC and the KOHM are used to represent and model impacts on CC Chinook, which is ESA listed, it is important for NMFS to be closely associated with the FMP amendment.

Ms. Vojkovich agreed with Mr. Melcher's comments. She expected the state of California would provide information and/or technical assistance. However, the amount of staff time available will be limited. She noted the state of California did not support any predecisional outcome of the FMP amendment process.

Mr. Anderson noted the situation summary included other potential topics to consider in this plan amendment cycle, including conservation objectives updated or modified through co-management agreements, and management plans that provide coverage for fisheries under the ESA. He supported an approach to address the language requiring action in the Salmon FMP Conservation Alert that would allow some form of de minimis fisheries. The approach in the KFMC recommendation had merit, but other approaches should be explored.

Mr. Roth noted including stocks other than KRFC would add time to the process, which should be part of the Council's consideration.

Mr. Lockhart stated NMFS was prepared to play an appropriate role, but that staff time was limiting.

C.7.d Reports and Comments of Advisory Bodies

Mr. Simmons presented Agenda Item C.7.d, Supplemental STT Report.

Mr. Stevens presented Agenda Item C.7.d, Supplemental SAS Report.

Mr. Tracy read Agenda Item C.7.d, Supplemental SSC Report.

C.7.e Public Comment

Mr. Dave Bitts, PCFFA, McKinleyville, California

Ms. Vojkovich asked if the PCFFA offer to help on the amendment was still on the table. Mr. Bitts replied yes.

C.7.f Council Action: Provide Direction for Developing FMP Amendment Alternatives to Address *de minimis* Fisheries

Dr. McIsaac introduced Agenda Item C.7.f, Supplemental Staff Report, Council Action Possibilities.

Ms. Vojkovich asked how a rebuilding plan would mesh with the schedule for an amendment if the declaration of the stock being overfished would not be made until 2007. Mr. Tracy replied that if the Salmon FMP Conservation Alert and Overfishing Concern were triggered, certain reviews and responses would be required, and given the likelihood of those occurrences, including a rebuilding plan for KRFC in the FMP amendment could help expedite 2007 management.

Mr. Melcher was reluctant to take the STT's recommendation because it would add a year to the process and add to the debate and uncertainty experienced in 2006. He recommended consideration of a fixed harvest rate and a sliding scale like the KFMC recommendation as two of the alternatives. He also recommended a discussion of minimal fishing objectives and how they mesh with the alternatives given annual changes and possible benefits associated with factors such as abundance of other stocks like Central Valley stocks.

Mr. Ticehurst recommended review of the appropriate spawner escapement floor relative to the spawner/recruit relationship illustrated in Agenda Item C.4.a, Supplemental Attachment 3. He also recommended one alternative be a management objective for KRFC based on annual river conditions, and an emergency rule to implement such an objective for 2006 management.

Mr. Lockhart noted Agenda Item C.4.d, Supplemental NMFS ESA Guidance Letter, stated the difficulty of supporting any fishing this year under a request for emergency action for the Council. He asked Mr. Ticehurst if his plan was to broach the subject now or at the April Council meeting after the STT analysis of the Options and an opportunity for public comment had been completed. Mr. Ticehurst, replied he would like a discussion of the topic between now and the April Council meeting.

Mr. Lockhart felt there was inadequate information to discuss the issue at this time.

Dr. McIsaac stated Agenda Item C.7 contemplated a future FMP amendment, and not an emergency rule amendment for 2006. Under Agenda Item C.8, if the Council recommends an Option requiring an emergency rule, the justification of the emergency rule should be part of the discussion, as outlined in the COP.

Mr. Melcher asked if it would be unorthodox to consider a rebuilding plan prior to a formal overfishing declaration. He recommended the Council proceed with an amendment and pursue it expeditiously so the Council is not faced with a similar situation in 2007.

Mr. Lockhart agreed with Mr. Melcher's recommendation, but took the STT report seriously, regarding the analytical time frame. He asked, if the process was started now, if it would have to be finished in November, 2006 to facilitate a potential emergency rule for 2006. Ms. Cooney replied the MSA requires the Council to be in the process of an FMP amendment to extend an emergency rule for a second 180 days.

Mr. Moore noted that groundfish amendments frequently run over the original schedule. He recommended the process be started as soon as possible so it could be concluded as soon as possible.

Dr. McIsaac noted that issue 1 on Agenda Item C.7.f, Supplemental Staff Report, change the conservation criteria and Council response, was the most important to avoid an emergency rule situation for 2007, the other issues were not as time critical.

Mr. Anderson recommended proceeding with Council Action 1, Issue 1. Issue 2 deserves attention but would be a longer term project. Council Action 2 Alternative 2, the KFMC sliding scale should be included in the range of alternatives as well as Alternative 3. The Council should identify the FMP amendment workgroup as noted in Council Action 3. An assessment of including a broader range of issues or stocks than just KRFC could be done at a later date and should not hold up initiation of the amendment process. The more concise and focused the amendment, the better the chance of completion prior to 2007.

Mr. Melcher said the emergency rule situation would influence his support of a more protracted process. If use of an emergency rule were unlikely for 2007, it would be more important to expedite the process.

Ms. Vojkovich recommended model uncertainty be considered in an amendment process for establishing de minimis fisheries.

Dr. McIsaac asked for Council recommendations for possible workgroup members.

Mr. Melcher committed the ODFW STT representative and other staff as appropriate. He suggested the Council invite tribal staff to participate. He recommended contacting Mr. LB Boydstun and S.P. Cramer and Associates as possible contractors.

Ms. Vojkovich asked if the SSC's offer to help was in the development or review stages. Dr. McIsaac replied the SSC should be part of the workgroup, and will have review responsibilities as well.

Ms. Vojkovich supported having SAS members on the workgroup, and committed to including CDFG STT representative and other staff working on the Klamath River.

Mr. Harp reported the Hoopa Valley Tribe indicated an interest in participating, and suggested asking Mr. Mike Orcutt to have Mr. George Kautsky appointed to the workgroup. He also recommended Mr. Dave Hillemeier and Ms. Desma Williams from the Yurok Tribe be invited. Mr. Harp also supported Mr. Boydstun as a contractor.

Mr. Lockhart reported NOAA Fisheries would participate as well.

Mr. Lockhart then announced that NOAA Fisheries has accepted the Council's inseason actions taken under Agenda Item C.2.

C.8 Adoption of 2006 Management Options for Public Review

C.8.a Agenda Item Overview

Mr. Tracy presented the situation summary.

C.8.b Report of the STT (03/10/06; 4:22 pm)

Mr. Simmons reviewed Table 5 of Agenda Item C.8.b, Supplemental STT Report.

Mr. Melcher asked if the LCR natural tule Chinook exploitation rates reflected 2005 inriver fisheries. Mr. Simmons replied yes, the modeled impacts were 6% for inriver fisheries

Dr. McIsaac asked what the proportion of natural spawning Chinook was in the KRFC returns. Mr. Simmons replied Option I estimated about 60% of the return would spawn in natural areas and 40% in the hatcheries.

Mr. Melcher noted Option I did not meet the ESA consultation standard for CC Chinook.

C.8.c Reports and Comments of Advisory Bodies

None.

C.8.d Agency and Tribal Comments

Mr. Anderson noted some of the Chinook impacts in Option I would require some additional shaping to meet relevant conservation standards, but anticipated that could be largely achieved through the co-manager and constituent process in the north of Falcon forum.

Mr. Harp presented Agenda Item C.8.d, Supplemental Tribal Recommendations.

Mr. Harp noted the options in Agenda Item C.8.b, Supplemental STT Report reflect the treaty troll options provided to the STT under agenda Item C.4, and represent an appropriate range of Options for public comment.

C.8.e Public Comment

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington

Ms. Barbara Emley, PCFFA, San Francisco, California

Mr. Dave Bitts, PCFFA, McKinleyville, California

Mr. Ben Platt, Salmon Trollers Marketing Association, Fort Bragg, California

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, Oregon

Mr. Melcher asked if Mr. Boley's point was KRFC impacts in fall fisheries may not represent CC Chinook well if the two stocks had different run timing, and could have different birth dates. Mr. Boley replied yes, that CC Chinook likely had a later entry into freshwater and so should have a later birth date.

Dr. McIsaac asked if Mr. Boley had estimated the effect of landing limits on commercial catch. Mr. Boley recommended hindcasting the recent three years to get a conservative estimate of catch

reduction. Additional reductions would accrue from the disincentive for highliners to participate, which could not be quantified.

Mr. Ralph Brown, Curry County Oregon, Coos Bay, Oregon

Mr. Don Stevens, Oregon Salmon Commission, Newberg, Oregon

C.8.f Council Action: Adopt 2006 Management Options for Public Review

The Council discussed application of the criteria for implementing regulations by emergency rule (03/10/06; 3:35 pm) before public comment. The Council acknowledged the criteria in COP 10 (Agenda Item C.4.a, Attachment 2), and requested the STT be involved in any analysis of the potential effects of fishing below the floor spawning escapement level for KRFC on long term yield of the stock, and requested the SSC review the analysis. The Council also recommended the SAS review any allocation issues, and NMFS SWR assist the STT and Council staff in an economic analysis. The results of the analyses would be available by the April 2006 Council meeting so the Council could make a final determination at that time whether to request implementation by emergency rule, and an associated environmental assessment (EA).

Council discussion after public comment:

Mr. Ticehurst moved (Motion 27) the Council adopt for public comment options with a range of KRFC spawning escapement values as contained in Agenda Item C.8.b, Supplemental STT Report. Options I and II would be identified as requiring emergency rule to implement. Mr. Thomas seconded the motion.

Mr. Melcher supported the options in Agenda Item C.8.b, Supplemental STT Report being sent out for public review, but was reluctant to support a motion that would constrain the level of spawning escapement the Council could adopt in April for implementation by emergency rule. Mr. Ticehurst agreed with Mr. Melcher and stated his intent was not to limit the range.

Mr. Anderson requested Motion 27 to be withdrawn, then adopt the options for public review, and finally identify those requiring implementation by emergency rule.

Maker and seconder agreed to withdraw Motion 27.

Mr. Anderson moved (Motion 28) to adopt for public review the non-Indian management options for commercial and recreational fisheries as listed in Agenda Item C.8.b, Supplemental STT Report, for the area North of Cape Falcon to the U.S./Canada border. Mr. Cedergreen seconded the motion. Motion 28 passed.

Mr. Melcher moved (Motion 29) to adopt for public review the non-Indian management options for recreational fisheries for the area south of Cape Falcon to Horse Mt., and for commercial fisheries the area south of Cape Falcon to the Oregon/California border, as presented in Agenda Item C.8.b, Supplemental STT Report. Mr. Moore seconded the motion. Motion 29 passed.

Ms. Vojkovich moved (Motion 30) to adopt for public review the non-Indian management options for recreational fisheries south of Horse Mt. and for commercial fisheries south of the OR/CA border, as presented in Agenda Item C.8.b, Supplemental STT report, with the following corrections: page 6, Option II, Pt. Arena to Pigeon Pt., open July 1 to 15 and August 1 to September 30; and page 18, footnote C.6 Additional Seasons, add the State of California. Mr. Ticehurst seconded the motion. Motion 30 passed.

Mr. Harp moved (Motion 31) to adopt for public review the treaty Indian ocean salmon season as presented in Agenda Item C.8.f, Supplemental Tribal Motion. Mr. Warrens seconded the motion. Motion 31 passed.

Mr. Cedergreen moved (Motion 32) to notify the public that Options I and II would require emergency action to implement if adopted. Mr. Mallet seconded the motion

Mr. Alverson asked if the motion would preclude flexibility to adopt another option in April. Mr. Anderson replied no, but requested the motion be amended to include the following preliminary justification for an emergency rule addressing the criteria in Agenda item C.4.a, Attachment 2: 1) the parasite infestation and low flows were not anticipated; 2) eliminating harvest will have substantial economic hardship on the communities between Cape Falcon, OR and Point Sur, CA; 3), there was not a change in allocation prescribed in the FMP; 4) the action is necessary to meet FMP Objective 3 in section 5.1; and 5) based on the spawner recruit history, it appears the range of spawner escapement being contemplated falls within that range, which resulted in robust recruitment in the past, and therefore was unlikely to decrease long term productivity of the stock. However, additional analysis on numbers 2) and 5) would occur prior to the April Council meeting.

Mr. Cedergreen accepted the friendly amendment to Motion 32. Seconded agreed.

Motion 32 passed.

Dr. McIsaac asked if there were other emergency rule criteria the Council needed to consider at the March meeting. Ms. Cooney replied the NMFS criteria was paraphrased in the Council criteria, and would suffice for now.

C.9 Salmon Hearings Officers (03/10/06; 3:29 pm)

C.9.a Agenda Item Overview

Dr. Coon presented the agenda item overview.

C.9.b Council Action: Appoint Hearings Officers

Hearing officers were appointed as follows:

Date Day/Time	Location	Council	NMFS	USCG	Staff	Salmon Team	Meeting Facility Contact
March 27 Monday 7 p.m.	Chateau Westport Beach Room 710 West Hancock Westport, WA 98595	B. Alverson (HO) M. Cedergreen P. Anderson J. Harp	P. Dygert	TBD	K. Dahl	D. Milward	Kathie or Chuck (360) 268-9101 Phone (360) 268-1646 Fax
March 27 Monday 7 p.m.	Red Lion Hotel South Umpqua Room 1313 North Bayshore Dr. Coos Bay, OR 97420	F. Warrens (HO)	F. Lockhart	TBD	C. Tracy	C. Foster	Ms. Kristi Snow (541) 269-4099 Phone (541) 267-2884 Fax
March 28 Tuesday 7 p.m.	Flamingo Hotel Flamingo Ballroom 2777 Fourth Street Santa Rosa, CA 95405	R. Thomas (HO)	E. Chavez	TBD	C. Tracy	A. Grover	Valerie Lafferty (707) 545-8530 Phone (707) 528-1404 Fax

D. Enforcement Issues

D.1 Fishery Enforcement Activity Report (03/06/06; 4:30 pm)

D.1.a Agenda Item Overview

Mr. Jim Seger provided the agenda item overview. Cdr. Fred Myer introduced Rear Admiral Houck. He noted Cdr. Myer will be transferred to Boston in a few months.

D.1.b Annual U.S. Coast Guard Report

Cdr. Fred Myer provided a powerpoint presentation (on file and on the website).

D.1.c Reports and Comments of Advisory Bodies

None.

D.1.d Public Comment

D.1.e Council Discussion on Enforcement Issues

Mr. Alverson noted that the Automatic Identification System hardware is to be carried by fishing vessels greater than 65 feet in length. He asked if the basis would be length overall. Mr. Myer replied that it was to be the length on the USCG documentation.

E. Pacific Halibut Management

E.1 Report on the International Pacific Halibut Commission (IPHC) Annual Meeting (03/07/06; 8:08 am)

E.1.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

E.1.b Summary of Meeting

Mr. Anderson, Council representative to the IPHC, attended the annual meeting of the IPHC in January. He summarized Agenda Item E.1.a, Attachment 1.

E.1.c Reports and Comments of Advisory Bodies

None.

E.1.d Public Comment

None.

E.1.e Council Discussion on IPHC Annual Meeting Report

Mr. Alverson moved (Motion 3) to accept the report of the IPHC (Agenda Item E.1.a, Attachment 1). Mr. Cedergreen seconded the motion; Motion 3 passed.

**E.2 Incidental Catch Regulations for the Salmon Troll and Fixed Gear Sablefish Fisheries
(03/07/06; 8:16 am)**

E.2.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

E.2.b State Proposals for the Salmon Troll Fishery

None.

E.2.c State Proposals for the Fixed Gear Sablefish Fishery

Mr. Anderson noted the 2005 restrictions (status quo) worked well, and recommended bounding the status quo alternative with two other alternatives.

E.2.d Tribal Comments

Mr. Harp presented Agenda Item E.2.d, Supplemental Tribal comments.

E.2.e Reports and Comments of Advisory Bodies

Mr. Jim Olson presented Agenda Item E.2.e, Supplemental SAS Report.

Mr. Tracy read Agenda Item E.2.e, Supplemental GAP Report.

E.2.f Public Comment

Mr. Doug Fricke, Washington Trollers Association, Hoquiam, Washington

E.2.g Council Action: Adopt Public Review Options for 2006

Mr. Anderson moved (Motion 4) to adopt for public review a range of options for incidental halibut retention as shown in Agenda Item E.2.e, Supplemental SAS Report. Mr. Cedergreen seconded the motion; Motion 4 passed.

Mr. Anderson moved (Motion 5) to adopt for public review a range of landing restrictions for Pacific Halibut retention in the non-Indian commercial sablefish fishery north of Point Chehalis that included status quo; an option that allows two halibut plus 120 pounds of halibut per 1,000 pounds of sablefish; and a third option that allows two halibut plus 80 pounds of halibut per 1,000 pounds of sablefish. Mr. Alverson seconded the motion; Motion 5 passed.

F. Groundfish Management

F.1 NMFS Report (03/07/06; 8:29 am)

F.1.a Regulatory Activities

Mr. Frank Lockhart summarized Agenda Item F.1.a, Attachment 1, a list of groundfish and halibut *Federal Register* notices October 25, 2005 through February 13, 2005.

F.1.b Science Center Activities

Dr. Elizabeth Clarke, Northwest Fisheries Science Center (NWFSC), provided a quick update covering issues such as the newly trained class of fishery observers and the preparation of the onboard monitoring

cameras for the shoreside whiting fleet. She reported that there is no 2006 funding for the bottom trawl survey, as well as for cooperative research.

F.1.c Reports and Comments of Advisory Bodies

None.

F.1.d Public Comment

None.

F.1.e Council Discussion

Given the urgency to solve the 2006 bottom trawl survey funding issue, Mr. Moore proposed that the Council prepare a letter to Dr. Hogarth to request reinstitution of the funding. The Council reached consensus, with abstention from Mr. Lockhart, to send such a letter.

F.2 Stock Assessment Planning for the 2009-2010 Fishing Season (03/07/06; 9:30 am)

F.2.a Agenda Item Overview

Mr. John DeVore provided the agenda item overview.

F.2.b Report from the Stock Assessment Process Review Workshop

Dr. McIsaac provided a summary (bullets from minutes of the January Groundfish Stock Assessment Review Workshop, Agenda Item F.2.b, Attachment 1), highlighting the workshop report's proposed revisions to the procedures and guidelines for stock assessments and planning. These revisions included reducing the number of assessments performed per year, suggestions on improving time management, and formalizing the role of GMT and GAP representatives in future Stock Assessment Review (STAR) panels.

F.2.c Stock Assessment Options

Dr. Clarke provided a PowerPoint presentation on the 2007 stock assessment cycle. Her presentation represented an attempt to compile a list of species for the 2007 cycle that complies with the stock assessment workshop recommendations and follows a set of priorities based on those recommendations and NMFS protocols. Two previously unassessed species are included in the proposed list, longnose skate and dogfish, as they were dropped from the last cycle but had been strongly advocated for by certain advisory groups. Chilipepper rockfish and arrowtooth flounder are also proposed for assessment in 2007 as they are overdue for assessment and had also been dropped from the last cycle. She mentioned that Center for Independent Experts (CIE) reviewers won't be available for routine assessment reviews and will be used sparingly in the next cycle. One of the NMFS assessment protocols in assessments greater than 5 years old are considered outdated. The NWFSC recommends all assessments be done using the Stock Synthesis 2 (SS2) model. The NWFSC also recommends including the NWFSC shelf/slope trawl survey index in future stock assessments, five STAR panels plus a "mop-up" STAR panel next year, and scheduling another Stock Assessment Review Workshop after the next cycle of assessments is completed. The NWFSC is planning to sponsor a juvenile survey workshop, possibly in September, to develop protocols for integrating these survey results in assessments. Additionally, an assessment data and modeling workshop is being planned for October.

Mr. Moore asked if the lack of CIE reviewers is due to the constrained 2007 administrative budget and Dr. Clarke answered the funds allocated to the CIE were reduced and the demand for CIE reviewers nationwide has increased. Mr. Moore asked if CIE funds are allocated from NMFS Headquarters and Dr. Clarke answered yes. The NWFSC explored funding CIE reviewers from their budget, but money is lacking.

Ms. Vojkovich asked if assessments on overfished species are required every two years and Dr. Clarke said no, only a review of the adequacy of rebuilding plans is required every two years. Ms. Vojkovich asked why the NWFSC was requiring inclusion of the shelf/slope trawl survey in future assessments and Dr. Clarke answered this is the only systematic fishery-independent survey available.

Mr. Anderson asked if the black rockfish assessment recommendation was to do one full coastwide assessment and Dr. Clarke said yes. Mr. Anderson asked about the criteria for specifying the lead agency in each assessment and Dr. Clarke said she specified the NWFSC as the default lead agency in cases where there were no volunteers. The NWFSC is not demanding to do any one assessment.

Mr. Alverson asked about the implications of no bottom trawl survey in 2006 and Dr. Clarke responded more precautionary decisions will have to be made and future stock assessments will be less adequate.

F.2.d Preliminary Stock Assessment Terms of Reference

Dr. Martin Dorn summarized the portion of the SSC statement relating to Agenda Item F.2.d, Attachment 1, the draft Terms of Reference for the Groundfish Stock Assessment and Review Process for 2007-2008.

Mr. Moore questioned why the SSC's revision of the Terms of Reference does not define the role of the GAP and GMT members in STAR Panels, as the workshop had recommended. Dr. Dorn replied that the SSC was concerned about giving voting rights to those that could have an economic interest in stock assessment results.

Mr. Moore asked, without CIE help, how will the SSC round up outside reviewers and Dr. Dorn replied the SSC supports outside reviewers, but has no control of funding.

Ms. Vojkovich said one of the recommendations from the Stock Assessment Review Workshop was to develop more informative decision tables in assessments. Was this incorporated in the revised Terms of Reference? Dr. Dorn said the SSC is thinking about this issue and will recommend changes in the next draft of the Terms of Reference.

F.2.e Reports and Comments of Advisory Bodies

SSC Report

Dr. Dorn provided Agenda Item F.2.e, Supplemental SSC Report. Given fiscal and time constraints on the number of stock assessments to be performed each cycle, the SSC recommended establishing a more formal selection process, in which each stock's need for assessment is evaluated against a set of biological, economic, and management criteria. The SSC volunteered to take the lead on organizing this and coordinating with other advisory bodies interested in collaborating. Any changes to the selection process would be applied to the next cycle.

Mr. Lockhart asked what is meant by an indicator species and Dr. Dorn answered the status of an indicator species may help to understand the health of the ecosystem and habitat.

Ms. Vojkovich asked if 23 stock assessments is too many to accommodate in one cycle, does the list recommending 15-18 stock assessments address the workload issues? Dr. Dorn replied updated

assessments are easily reviewed by the SSC Groundfish Subcommittee. Limiting the number of full assessments addresses the workload issues. With time, more updated assessments can be scheduled, which would add time and resources to do new full assessments for previously unassessed species.

Dr. McIsaac asked if the SSC will recommend a more formal process for prioritizing assessments by April and Dr. Dorn said no, such recommendations will be forthcoming for the next assessment cycle.

GMT Report

Ms. Susan Ashcraft provided Agenda Item F.2.e, Supplemental GMT Report. The GMT proposed a formalized stock assessment cycle selection process similar to that suggested by the SSC.

Mr. Moore asked about the GMT's recommendation on formalizing their role in the STAR panel process and Ms. Ashcraft said there was no consensus, but the GMT did want to stay involved.

Ms. Vojkovich said the SSC was recommending criteria for prioritizing stock assessments be developed for the following cycle, but the GMT is recommending this be done for the next cycle. Ms. Ashcraft said the GMT was comfortable delaying developing these new criteria.

Mr. Anderson asked if the GMT discussed the concept of a coastwide black rockfish assessment and Ms. Ashcraft said the GMT did not interpret this recommendation as a single coastwide assessment.

Mr. Melcher asked if the GMT's chilipepper rockfish recommendation was consistent with that from the NWFSC and Ms. Ashcraft said yes.

GAP Report

Ms. Heather Mann provided Agenda Item F.2.e, Supplemental GAP Report. Although not included in the written statement, Ms. Mann noted that the GAP supports changing the Terms of Reference to include the GMT and GAP representatives participating in STAR panels as voting members.

Dr. McIsaac asked for clarification on the recommendation that GAP representatives to STAR panels be formal members of the STAR panel and Ms. Mann said the GAP representatives need to be involved in all aspects of the STAR process. Mr. Moore noted the revised Terms of Reference lists GAP and GMT representatives as advisors and asked if the GAP recommendation is they should be full members. Ms. Mann said yes.

F.2.f Public Comment

None.

F.2.g Council Action: Adopt for Public Review the Preliminary Terms of Reference, List of Stocks to be Assessed, and Stock Assessment Review Schedule for 2009-2010

Ms. Vojkovich voiced her support for conducting assessments when they inform the management system and not just when the data is available, particularly if the data is weak and then management actions are based on those uncertain results. She was generally supportive of a six-year cycle for doing assessments, as this would allow for the accumulation of data to inform assessments. She expressed an interest in assessing Pacific sanddabs as an indicator of the status of a number of other nearshore flatfish species. In general, she is interested in identifying changes to the assessment prioritization process that would allow assessment scientists more time to try innovative approaches.

Mr. Lockhart said he understood updated assessments do not receive the level of scrutiny as full assessments; therefore, it is more important to limit the number of full assessments. Clarifying the meaning of an "updated" assessment, Dr. Clarke confirmed that these are truly routine updates in which new data are applied to an already Council-approved model. This should allow the time for which Ms. Vojkovich voiced interest. These updates are checked only to assure that the "rules" have not been changed since the most recent full assessment (that is, that data sources and model structure had not varied). Dr. McIsaac said problems arise when the protocols for updated assessments are not enforced by the STAR panel or the SSC.

Mr. Moore asked why petrale sole was recommended for a full assessment and Dr. Clarke said there are ageing issues that need to be worked out. Dr. Hastie confirmed this and added the same was true for darkblotched rockfish as well.

Mr. Moore moved to adopt for public review the list of stock assessments to be done next year as contained in Agenda Item F.2.c, NWFSC Report, with the following changes: move sablefish to a full assessment in 2007 and move the petrale sole assessment to an update in 2007 (Motion 6). The motion was seconded by Mr. Alverson. To support his proposed changes, Mr. Moore reminded the Council that when the sablefish assessment was adopted, there was a significant amount of discussion on the unique modeling approach that incorporated environmental factors, resulting in significant uncertainty. To keep the number of full assessments for 2007 constant, he therefore proposed changing the petrale sole assessment from a full one to an update.

Ms. Vojkovich proposed three friendly amendments to Motion 6: (1) shift the blackgill rockfish assessment from 2007 to 2009 based on recommendations in the GMT and GAP reports, (2) since sablefish is proposed to be scheduled for a full assessment in 2007, switch the 2009 sablefish assessment to an update; and (3) consider adding a full assessment of blue rockfish in the 2007 cycle. Mr. Moore and Mr. Alverson accepted the friendly amendments to the motion.

Mr. Anderson explained his concern that the next assessment of yelloweye is listed as an update, which would not allow the authors to incorporate new modeling approaches. He also was concerned that there has not yet been a full discussion on the use of a single coastwide stock assessment for black rockfish. The Council may wish to have such a discussion before making a final decision on the issue in April. Mr. Anderson made no motion with respect to either concern.

Motion 6 passed with no abstentions.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 7) to adopt the draft Terms of Reference for public review as contained in Agenda Item F.2.d, Attachment 1, with a request for public comment relative to the proposal that GAP and GMT representatives to the STAR Panel be considered full panel members.

Mr. Lockhart voiced his support of the GAP and GMT representatives retaining their advisor status, given that the STAR panel is a scientific review body. Mr. Moore said the data sets require interpretation using GMT and GAP knowledge of how the industry functions, the effect of market drivers, the relationship to management, etc. The GAP and GMT representatives are important to the STAR process and so should be recognized formally. Mr. Moore said, at this point, he is only seeking public comment on the issue.

Motion 7 passed with one member in opposition (Mr. Mallet).

F.3 Yelloweye Stock Assessment (03/07/06; 11:21 am)

F.3.a Agenda Item Overview

Mr. DeVore provided the agenda item overview. He noted that the rebuilding analysis document had been revised since it was printed for the briefing book; however, the revisions did not affect the projection runs. The final version is available on the Council website.

F.3.b Scientific and Statistical Committee Report

Dr. Steve Ralston provided Agenda Item F.3.b, Supplemental SSC Report.

The 2006 assessment includes catch data beginning in 1923, while the previous assessment's data series begins at 1953. Mr. Alverson asked about the effect of this data on driving the new model. Dr. Ralston explained that there are a number of contributing factors leading to the lower estimate of depletion; the longer historical data set is one factor, as is the lower estimate of natural mortality.

The issue of future data sources arose. In the 2006 assessment, the only trend index used to tune the assessment model is recreational catch per unit effort (CPUE) data; however with management restrictions on catch (bag limits), those time series end. There is no funding for the trawl survey. Therefore, if no other data trend sources are added, the change in status for the next assessment will be based entirely on the spawner-recruitment model, which is conjecture.

The 2005 assessment had originally been scheduled as an update, not a full assessment. Dr. Ralston confirmed that the 2005 assessment was not an update because although it did not use new data sources, it used a new model (SS2). The 2006 assessment also uses the SS2 model; however, other changes to the model were made, such as the use of an asymptotic selectivity curve. The SSC's conclusion is that the 2006 assessment's coastwide model represents the "best available science." Mr. Melcher asked about the apparent discrepancy in the implied coastwide distribution of yelloweye in this new assessment. Dr. Ralston explained trawl survey trends show the population biomass is centered off northern Washington, while the sub-area models in the new assessment, which are driven by the recreational CPUE trends by state, show a larger abundance off Oregon. Mr. Anderson explained that he felt very uncomfortable with basing management decisions on the assessment because of its high uncertainty and numerous assumptions. He asked Dr. Ralston if it would be worth spending the effort to further investigate data discrepancies before using the 2006 assessment for management purposes. Dr. Ralston responded that, as an SSC member, he did not want to advise the Council on management. He did say this assessment "pushes the envelope" in assessment uncertainty. He agreed with Mr. Anderson that many of the issues and discrepancies in the 2006 assessment are also found in the approved 2005 assessment.

F.3.c Reports and Comments of Advisory Bodies

GMT Report

Ms. Ashcraft provided Agenda Item F.3.c, Supplemental GMT Report.

Much of the discussion on the report related to the GMT's recommendation that the Council consider applying a phase-in approach to reduce the yelloweye OY. Under this harvest rate ramp-down approach, the OY for the next few years could be set at incrementally lower levels, rather than cut the OY drastically in 2007. The adoption of such a scheme would occur at the April meeting, when the Council adopts preferred OYs and the rebuilding plans for depleted species.

GAP Report

Mr. Wayne Butler provided Agenda Item F.3.c, Supplemental GAP Report.

The GAP Report included economic data based on personal experience from GAP members; however, the economic effect on the tribal sector was not included as the tribal representative to the GAP was not present during the writing of the report. At Mr. Harp's request, two tribal members came to the podium to answer questions about economic impacts. Mr. Russell Svec, of the Makah tribe, explained that the lower yelloweye OY would particularly affect the longline fishery for halibut and blackcod, which is considered a primary fishery. The community impact would be devastating. Mr. Mel Moon explained that for the Quileute tribe, there would be little impact on the sablefish fishery, but the restrictions could strongly impact the halibut fishery.

F.3.d Public Comment

Mr. Steve Westrick, Westport Charterboat Association, Westport, Washington

F.3.e Council Action: Approve Yelloweye Assessment and Rebuilding Analysis for use in the 2007-2008 Fishing Season (03/07/06; 1:35 pm)

Mr. Alverson requested an analysis of the impacts associated with a 125-fm seaward RCA line for the fixed gear fleet; a measure contemplated to reduce yelloweye impacts relative to status quo, but not so onerous a change as specifying a 150-fm line.

Mr. Anderson asked if a phase-in yelloweye rebuilding strategy was legally viable to consider and Ms. Cooney replied yes, as long as there was adequate analysis and justification.

Mr. Anderson moved and Mr. Alverson seconded a motion (Motion 8) to adopt the 2006 yelloweye stock assessment for use in managing the 2007-2008 groundfish fishery. Motion 8 passed.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 9) to adopt a phase-in approach as one alternative to be analyzed for the yelloweye rockfish rebuilding plan, as proposed by the GMT in Agenda Item F.3.c, Supplemental GMT Report. The GMT is provided the flexibility to explore a linear phase-in designed to avoid large OY reductions over the phase-in period. The rebuilding analysis presented and reviewed by the SSC this week would be used to analyze phase-in alternatives. Motion 9 passed.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 10) to have the Council direct the GMT and SSC to work with the yelloweye STAT Team in an effort to resolve the outstanding issues identified and discussed during the this week's SSC review of the 2006 yelloweye stock assessment. Ms. Vojkovich had concerns that this assessment took time away from other assessments. She felt that there were other assessments that also could be scrutinized and analyzed in more detail, not just the yelloweye. Motion 10 passed with one opposition (Ms. Vojkovich).

F.4 Pacific Whiting Management for 2006 (03/08/06; 1:17 pm)

F.4.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

F.4.b Reports and Comments of Advisory Bodies

SSC Report

Dr. Kevin Hill provided Agenda Item F.4.b, Supplemental SSC Report. He noted that the assessment considered two alternative and equally plausible models based on the value for the catchability coefficient (q) for the hydroacoustic survey ($q=1$ and $q=0.69$) and that the SSC would support the combining of results from both models (giving each model equal weight) to form the basis for management advice.

Mr. Moore expressed concern that the Pacific Whiting Conservation Cooperative (PWCC)/NWFSC juvenile survey data was not used in the model. Dr. Hill explained that although 2004 survey data indicate a strong year class will recruit to the fishery, the model has trouble fitting this. Mr. Moore asked, if stronger than average recent recruitment was validated by an accepted survey, would abundance and OY projections be more optimistic. Dr. Hill said yes.

Mr. Alverson asked why the assessment model did not predict a sustainable harvest rate (F) for whiting and Dr. Hill said the F_{MSY} proxy is probably off. Discussion then turned to concerns about the problems with applying the 40-10 rule (used when a species is at a precautionary biomass level) to whiting, due to the high stock abundance/recruitment variability based on the strength of recruiting year classes.

GMT Report

Ms. Susan Ashcraft (joined by Mr. Merrick Burden and Dr. John Field) provided Agenda Item F.4.b, Supplemental GMT Report. The GMT representatives answered numerous questions in order to clarify the report's recommendations on adopting an ABC and OY, as well as bycatch limits for canary, widow, and darkblotched rockfish.

GAP Report

Mr. Dale Myer provided Agenda Item F.4.b, Supplemental GAP Report. The GAP supported the status quo alternative for setting the ABC and OY.

Mr. Anderson asked if the GAP discussed the possibility of a darkblotched cap, and if they had, what the value might be. Mr. Myer responded that although the GAP discussed the issue, they could not make an informed recommendation as they did not have data to indicate high and low bycatch levels over time in the fishery. There had been some discussion about numbers ranging from 30 to 40 mt, but there was no analytical basis for these values.

SAS Report

Mr. DeVore read Agenda Item F.4.b, Supplemental SAS Report. Mr. Moore noted that there has been discussion about the fact that salmon bycatch data is not available from the at-sea whiting sector, and that it would be helpful to provide this data to the SAS and other interested parties. Mr. Lockhart said he would check on the availability of these data.

F.4.c Public Comment

Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, Washington
Mr. David Jincks, Midwater Trawlers Cooperative, Newport, Oregon
Mr. Steve Hughes, United Catcher Boats, Seattle, Washington
Ms. Heather Mann, West Coast Seafood Processors Association, Newport, Oregon
Mr. Daniel Waldeck, Pacific Whiting Conservation Cooperative, Portland, Oregon

F.4.d Council Action: Adopt 2006 Stock Assessment, ABC and OY Levels, and Management Measures

Mr. Anderson noted the Council needs to consider 2-year projections of whiting stock depletion and specify a harvest level that keeps the stock above $B_{25\%}$. Mr. Anderson asked Dr. Field, if under the blended model approach, the depletion rate after the 2007 fishery would be under $B_{25\%}$ if the coastwide OY were set to the same level as last year. Dr. Field said yes, it would be slightly over $B_{25\%}$ at the start of 2008.

Mr. Anderson moved and Mr. Rod Moore seconded a motion (Motion 11) to adopt a coastwide ABC of 661,680 mt for Pacific whiting. This value is calculated using the more conservative $q=1$ model. Motion 11 passed with one member in opposition (Mr. Alverson).

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 12) to adopt a coastwide OY of 364,842 mt for Pacific whiting, of which the U.S portion of the whiting OY would be 269,069 mt (status quo). Mr. Anderson stated this OY is projected to result in a stock depletion of about $B_{30\%}$ at the start of next year. Next year's assessment can be used to adjust the 2008 OY.

Mr. Alverson asked Dr. Field if whiting spawning biomass would increase or decrease under a mean recruitment assumption. Dr. Field answered spawning biomass is projected to decline slightly under a mean recruitment assumption without fishing. Mr. Lockhart asked if recruitment might affect the stock's future overfished status and Dr. Field said yes.

Mr. Alverson stated he did not support the motion. Referring to the graph of the stock's abundance over time, he explained his concern for the declining trend and the risk associated with bringing the stock down to 25% of unexploited biomass, particularly since median year classes were projected for 2003 and 2004. Mr. Moore countered that the whiting stock is highly variable, as the historical spawning biomass estimates indicate. He supported Mr. Anderson's motion to adopt the status quo OY alternative. Mr. Anderson stated that he has similar concerns to those of Mr. Alverson, however he still supports his motion because, unlike many of other managed groundfish species, whiting has a much greater amount of real-time information on its status. Once new information is provided in 2007, the Council can reassess the OY as necessary.

Motion 12 passed with one member in opposition (Mr. Alverson).

Mr. Anderson said that since the Council has already put in place bycatch limits for canary and widow, no additional motion is required. However he recommended that the Council allow the GMT to provide them with a recommendation for a canary and widow bycatch limit during the inseason management agenda item once the scorecards are adjusted. He supports setting a bycatch cap for darkblotched, but recommended deferring until April, or perhaps later, in order to collect and analyze the appropriate data, as well as understand the relationship to salmon decisions.

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 13) to have the Council consider a bycatch cap for darkblotched rockfish at the April Council meeting at the earliest. Motion 13 passed.

Mr. Harp moved and Mr. Melcher seconded a motion (Motion 14) to adopt a tribal set aside for Pacific whiting of 35,000 mt. This is based on the sliding scale allocation formula developed for tribal whiting fisheries. Motion 14 passed.

F.5 Consideration of Inseason Adjustments (03/09/06; 10:47 am)

F.5.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

F.5.b Report of the Groundfish Management Team

Ms. Ashcraft provided Agenda Item F.5.b, Supplemental GMT Report.

F.5.c Agency and Tribal Comments

None.

F.5.d Reports and Comments of Advisory Bodies

Mr. Tom Ghio provided Agenda Item F.5.d, Supplemental GAP Report.

F.5.e Public Comment

Mr. Don Stevens, Oregon Salmon Commission, Newberg, Oregon

F.5.f Council Action: Adopt Recommendations for Adjustments to 2006 Fisheries

Mr. Anderson moved and Mr. Melcher seconded a motion (Motion 18) to adopt the inseason adjustments as proposed by the GMT in Agenda Item F.5.b, Supplemental GMT Report, including the bycatch caps for canary and widow of 4.7 mt and 200 mt, respectively for the non-tribal Pacific whiting fishery.

Mr. Melcher clarified, and Mr. Anderson agreed, that this included the discard mortality rates in the GMT report. Motion 18 passed.

G. Habitat

G.1 Current Habitat Issues (03/08/06; 3:40 pm)

G.1.a Report of the Habitat Committee

Ms. Jennifer Gilden provided the agenda item overview. Mr. Stuart Ellis provided Agenda Item G.1.a, Supplemental HC Report and Agenda Item G.1.a, and Supplemental Attachment 3 (Letter to the Federal Energy Regulatory Commission [FERC] regarding relicensing of the four Pacific Power hydroelectric projects on the Klamath River).

G.1.b Reports and Comments of Advisory Bodies

None.

G.1.c Public Comment

Ms. Kiesha Marusa, Northern Star Natural Gas, Seattle, Washington, responded to the proposed HC letter on the proposed liquefied natural gas (LNG) terminal; explained mitigation and outreach efforts; and requested opportunity to give a presentation to the HC and/or Council.

Ms. Irene Martin, concerned citizen, Skamokawa, Washington, spoke in opposition to the proposed liquefied natural gas terminal; and raised habitat, safety, and water quality concerns.

G.1.d Council Action: Consider HC Recommendations

Ms. Vojkovich said she was unsure what the Council action might be on things like the LNG proposal, and which types of projects come to us and which don't. What is the authority or strategy for having the HC deal with these types of things? What is the Council's role?

Ms. Cooney said under essential fish habitat (EFH) rules, the Council has authority to comment on federal actions and, she thinks, state actions that affect EFH. It *must* comment on actions that affect salmon, but that's always been viewed as "according to your ability." Ms. Vojkovich asked how this issue came to the Council. Are we soliciting these or are we relying on our HC members to know what's going on? What's the workload expectation?

Mr. Warrens said he was involved with the Columbia River dredging project several years ago. It was his impression that NMFS habitat section is the lead agency when there's any disturbance of the benthic habitat. He is not aware of inriver projects where the Council would be directly involved other than notification.

Mr. Roth, who is on the HC, said a lot of projects do come to the attention of the HC because HC members hear about planned actions. The NMFS representatives usually hear about EFH actions first then bring them to the HC.

Mr. Ellis agreed, saying HC members have been looking out for what they professionally believe to be significant projects that may affect EFH, and they have been attempting to raise discussion about how best to interact with other agencies. The HC has not received formal direction from the Council about this. Lots of things go on that the HC never knows about or brings to the Council's attention, but we are keeping our eyes out for significant issues.

Chairman Hansen asked about the draft letter.

Ms. Vojkovich said, referring to Mr. Melcher's comments about several agencies being involved in FERC relicensing, as a representative of the state of California she would have to abstain from supporting any letter from the Council on this since there's a lot of discussions and activities taking place outside this venue that may cause an issue.

Mr. Mallet said he appreciated the HC bringing this to the Council's attention. The Council spent a good part of the day talking about Klamath problems, which we didn't address ahead of time, and now we are cleaning up the mess. I like the HC to bring these things to us ahead of time so we have an opportunity to address them. We need to be proactive. I appreciate the HC taking the time to bring these issues before the Council, and hope they continue to do so.

Mr. Melcher said he would like to have a little more time to read through the letter, and could not comment at this time. He said he did not oppose it in concept, but wants to make sure it is in line with other agency positions. Dr. McIsaac said the letter does have a placeholder for prescriptions and recommendations from federal agencies. Should the Council consider this in April or June? Mr. Ellis said as he understands it, April would be fine if the letter were completed then. He suspected that June might also work, since the decisions were to be made within the next couple of months.

Mr. Moore said he was pleased the folks from the gas company wanted to meet with the HC, and that the HC was going to hold off until they heard from both sides. He felt that was a good process to follow. He agreed with Mr. Mallet's comments. Knowing in advance what is going on gives a chance to comment and to influence what affects fish. However, he said he was reluctant to support habitat issues until the Council had heard from all sides.

Dr. McIsaac said the letter would be scheduled to go final at the April meeting. Based on Mr. Moore's comments, the HC should bring up the natural gas issue in June.

H. Coastal Pelagic Species Management

H.1 NMFS Report (03/08/06; 4:24 pm)

H.1.a Regulatory Activities

Mr. Helvey reviewed Agenda Item H.1.a, Attachment 1 regarding CPS regulatory activities since the November 2005 Council meeting. Mr. Judson Feder presided as NOAA GC representative during CPS agenda items.

H.1.b Reports and Comments of Advisory Bodies

None.

H.1.c Public Comment

None.

H.1.d Council Discussion on NMFS Report for CPS

None.

H.2 Fishery Management Plan (FMP) Amendment—Krill Management (03/08/06; 4:28 pm)

H.2.a Agenda Item Overview

Mr. Burner provided the agenda item overview.

H.2.b NMFS Report

Mr. Svein Fougner reviewed Agenda Item H.2.b, NMFS Report, the Draft Environmental Assessment in support of Amendment 12 to the CPS FMP.

H.2.c Reports and Comments of Advisory Bodies

Mr. Brian Culver provided Agenda Item H.2.c, Supplemental CPSMT Report. Messrs. John Royal and Mike Okoniewski provided Agenda Item H.2.c, Supplemental CPSAS Report. Dr. Kevin Hill provided Agenda Item H.2.c, Supplemental SSC Report. Mr. Burner read Agenda Item H.2.c, Supplemental HC Report. Lt. Dave Cleary provided Agenda Item H.2.c, Supplemental EC Report.

H.2.d Public Comment

Mr. Ben Enticknap, Oceana, Portland, Oregon
Ms. Pam Lyons-Gromen, National Coalition for Marine Conservation, Leesburg, Virginia
Mr. Dan Wolford, Coastside Fishing Club, Los Gatos, California
Mr. Ryan Kapp, Fisherman, Bellingham, Washington

H.2.e Council Action: Adopt Final Preferred FMP Amendment Alternative

Ms. Vojkovich asked about designating EFH in state waters and the type of information that would be needed to consider that. Ms. Vojkovich stated she thought NOAA General Council stated there was insufficient information in the document.

Mr. Judson Feder clarified his comments were not intended to suggest a lack of information. He said it was not clear to him if the scientific evidence suggests that EFH necessarily goes all the way to the coastline, but he also said is also unlikely that EFH would stop at the state boundary. Dr. Hill said in his opinion, EFH for krill is ocean water in the correct salinity and nutrient levels. He said we know krill are within a short distance of the shoreline. He also noted that CALCOFI sampling has identified krill at its nearshore stations.

Mr. Fougner noted, on page 34 of Agenda Item H.2.b, NMFS Report, under the HAPC options, the language talks about ocean waters off the sanctuary islands which is from the shore on out. He feels the case has been made to include state waters as EFH.

Mr. Roth said the issue of where to draw the line on EFH came up in the HC for items such as estuaries. The HC discussion resulted in a recommendation that identifying state waters as EFH is appropriate.

Ms. Vojkovich moved and Mr. Anderson seconded a motion (Motion 15), to adopt a definition of EFH for the two species described in Agenda Item H.2.b, Supplemental NMFS Report, but recommends the descriptions go from the shoreline to the appropriate isobath rather than from the boundary of the EEZ along the entire coast.

Mr. Helvey mentioned the other species of krill and referenced Figures 16 and 17 under Agenda Item H.2.b, NMFS report. He noted that the species *Euphausia pacifica* has the larger EFH area and requested the motion be amended to include this definition, changed to go into the shoreline, for the six other species of krill. Maker and seconder accepted the friendly amendment.

Motion 15 passed.

Ms. Vojkovich moved and Mr. Anderson seconded a motion (Motion 16) that the CPS FMP be amended to include all species of krill as a management unit species under a new category called "prohibited harvest" and establish krill EFH as shown in Draft Amendment 12 (Agenda Item H.2.b, Supplemental NMFS Report) as amended.

Ms. Vojkovich stated that states' actions to ban krill in the past have laid the groundwork for this action. The amendment process does leave an option for future reconsideration should we have data and methods to identify population sizes and appropriate harvest or surplus levels. The EFH designation is appropriate, meets the requirements of MSA, and is built upon the best information we have on the most studied species.

Mr. Burner asked if the motion was intended to include all species of krill without any EFP provisions and could be stated as a motion for alternative 2. Ms. Vojkovich confirmed.

Mr. Roth, though not a voting member, said USFWS does lends its support to the motion on the floor. The motion represents proactive management for the Council and a step towards ecosystem management. He said that too often, the Council is left in a reactionary mode and krill is critical for many species, including seabird populations.

Mr. Helvey noted the motion is broader in scope but, it supports the intentions of NOAA's National Marine Sanctuary Program as it is consistent with what they have originally proposed.

Mr. Anderson asked if the issue of minimal incidental krill landings raised by the CPSAS and the EC be handled in the implementing regulations. Mr. Feder stated it could.

Ms. Vojkovich asked if she could address an issue regarding the objectives of the proposed language after the vote on this matter. Mr. Feder agreed.

Motion 16 passed.

Ms. Vojkovich referenced the language in Agenda Item H.2.c, CPSAS Report, specifically mentioning the second objective on page 4 of the Draft Environmental Assessment (Agenda Item H.2.b, NMFS Report). The CPSAS statements express concern that the objective is too vague and could be misconstrued to imply the objective of regulating fisheries for species that feed on krill. She asked if any other Council members had any concerns with this objective.

Mr. Burner said following the CPSAS meeting where the statement was drafted, he reviewed the November Council minutes and noted this objective was discussed by the Council then. He recommended the Council take a look at this second objective and consider some alternative language.

Mr. Burner read some proposed language from Mr. Fougner as a potential correction. The amended objective is suggested to read "Provide protection for key krill habitat areas (i.e., topographic and oceanographic features) that concentrate krill and facilitate predator feeding." Mr. Fougner will amend the paragraph that follows this objective to ensure it meets Council intent.

Dr. McIsaac asked Ms. Vojkovich to state how she would like this objective to read. Ms. Vojkovich thinks that at this stage of the development of Amendment 12, providing protection for key krill habitat areas would be the intent of our actions.

The Council was not interested in making a motion on HAPCs for krill at this time.

I. Marine Protected Areas (MPA)

I.1 Fishery Regulation in MPAs within the Channel Islands National Marine Sanctuary (CINMS) through Magnuson-Stevens Act and State Management Authority (03/09/06; 8:05 am)

I.1.a Agenda Item Overview

Mr. Burner provided the agenda item overview.

I.1.b Northwest Hawaiian Islands Sanctuary Process

Mr. Edwin Ebisui, Western Pacific Fishery Management Council (WPFMC) member, provided a PowerPoint presentation. (on file and on the web)

Dr. McIsaac thanked Mr. Ebisui for his testimony and asked about WPFMC and public participation in the development of regulations in the Northwestern Hawaiian Islands (NWHI). Mr. Ebisui stated that the WPFMC seat on the Reserve Advisory Council (RAC) was a non-voting seat. He was unsure of the amount of public comment taken by the RAC but noted that the WPFMC heard a great deal of public testimony in the development of its proposed fishing regulations. Dr. McIsaac asked if oil development

or cable placement were among the non-fishing activities to be allowed. Mr. Ebisui stated the primary non-fishing uses of concern are ecotourism and cruise ship operations with the potential for exotic species introduction.

Mr. Warrens noted that Oregon is considering a coastwide National Marine Sanctuary (NMS) and asked about the representation of the RAC and how that representation was established. The representation of the RAC was established by Executive Order and is made up of three native Hawaiian representatives, three federal scientists, a marine mammal scientist, a marine ecologist, a native marine flora and fauna scientist, an oceanographer, three representatives from non-governmental conservation organizations, one commercial fishing representative, one recreational fishing representative, one ocean related tourism representative, one community outreach and education representative, one citizen at-large, a representative of the State of Hawaii as appointed by the Governor, and one ex-officio non-voting representative from each of the following: Department of the Interior, U.S. Coast Guard, Department of Defense, State Department, NMFS, Hawaiian Islands Humpback Whale NMS, National Science Foundation, Marine Mammal Commission, and the WPFMC. Mr. Warrens asked about the voting privileges of the commercial fishing representative on the RAC. Mr. Ebisui stated the commercial fishing representative was a voting member but he recalled the RAC Chair had determined he was not allowed to vote due to a potential conflict of interest.

Mr. Harp thanked Mr. Ebisui for his testimony and asked how many of the fisherman in the NWHI were native Hawaiians. Mr. Ebisui stated there are currently two with two additional permits pending for native Hawaiian communities. In response to Mr. Ebisui's request for PFMC advice to take back to the WPFMC, Mr. Harp spoke for himself, and recommended the WPFMC hold the line and maintain their position.

Mr. Moore characterized the situation in the NWHI as one where NOAA was not supportive of the WPFMC recommendations that were based on public input and science and sent back a package with little or no room for compromise or revision. Mr. Ebisui shared his personal perspective, that NOAA seemed to be looking for WPFMC to "rubber stamp" the NOAA proposal. Mr. Moore further asked what agencies has the WPFMC been working with. Mr. Ebisui stated the NMSP, the National Ocean Service and on up the chain of command to Vice Admiral Conrad Lautenbacher.

Mr. Alverson asked where within NOAA there seemed to be the most conflict on the issue. Mr. Ebisui stated there seems to be a predetermined policy determination at a high level, above NMFS.

Mr. Williams asked about the rating system used to rank activities and their compatibility with sanctuary goals. Mr. Ebisui confirmed that the fisheries proposed to be closed by NMFS had a positive ranking indicating compatibility, making unclear why the fishery prohibition has been recommended.

Ms. Vojkovich stated that one of the positive aspects of working with NMS has been coordination on much needed research and the funding research requires, and asked if similar discussions in the WPFMC have occurred. Mr. Ebisui stated that research funding issues had not been discussed.

Chairman Hansen asked if all of the fisheries in the NWHI were covered under an FMP. Mr. Ebisui stated that they were covered and many of the fishing regulations called for in the NWHI have already been implemented through WPFMC FMPs.

Dr. McIsaac stated that in the case of the CINMS the PFMC did not have certain species such as abalone covered under an FMP. Mr. Ebisui stated that the WPFMC has moved towards an ecosystem approach and is replacing species specific FMPs. Ms. Cooney said there is a requirement to tie the action to a record (create a nexus) under a Council FMP in addition to confirming state regulations.

I.1.c NMFS Report (03/09/06; 8:52 am)

Mr. Helvey provided the NMFS Report (Agenda Item I.1.c, NMFS Report).

Mr. Helvey clarified for Mr. Moore that extending state regulation into federal waters would involve a combination of matching state and federal regulations. Ms. Cooney reiterated that to take such federal action would require the establishment of a nexus or link to a Council FMP authority.

Dr. McIsaac referred to the option of extending state regulations under federal authority and the language in Agenda Item I.1.c stating the process of establishing the administrative record would need to confirm that California was still resolute in its management of the state waters and asked if confirming state intent would stand as sufficient administrative record. Ms. Cooney stated the administrative record would need to confirm California's regulations and establish a record to create a nexus under a Council FMP.

Dr. McIsaac asked Ms. Cooney of an example of a nexus to a Council FMP. Ms. Cooney explained the Council needs to develop a record of how the proposed action meets the specific goal of conservation and management of one of the fisheries under an FMP, involving more than a recognition or approval of state regulations or sanctuary goals.

Mr. Anderson reviewed the process by which Washington develops regulations under its state authority and asked how the development of the administrative record and a nexus to an FMP fits into the state and federal processes. Ms. Cooney noted that, like the states, the federal government does not have a blanket authority, rather the Council is specifically charged with implementation of its FMPs. The administrative record is needed to demonstrate why a given regulation is necessary and appropriate for implementation of one or more FMP. A NMFS action under any of the alternatives reviewed by Mr. Helvey needs to be linked to a necessary and appropriate need under and FMP. Ms. Cooney also said there would need to be a nexus to an FMP for any federal regulations but not for state regulations. If the closures at the CINMS were proposed to be achieved by a combination of state and federal authority, NOAA would ultimately determine either the combination of these two authorities meets the sanctuary goals, or additional regulations under the NMSA would be required.

I.1.d Reports and Comments of Advisory Bodies

Mr. Ellis provided Agenda Item I.1.d, Supplemental HC Report. Ms. Kathy Fosmark provided Agenda Item I.1.d, Supplemental GAP Report.

I.1.e Public Comment

Mr. Duncan MacLean, F/V Barbara Faye, El Granada, California
Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California
Mr. Dave Bitts, PCFFA, McKinleyville, California

I.1.f Council Action: Consider Adopting Public Review Alternatives for Area Closures in the CINMS

Mr. Burner reviewed the Council task as providing guidance on federal regulations in the CINMS, providing preliminary comments on the draft flowchart on MSA and NMSA regulatory processes, and providing guidance on MPA matters on the April Council meeting agenda.

Ms. Vojkovich, speaking to the CINMS issue, stated that the document NMFS has put together for us to consider is helpful for identifying possible ways to implement fishery regulations under the MSA. Even though some of them were interesting, she supports further looking at the suggestion under Section 4.0. of Agenda Item I.1.c, NMFS Report, and further referenced language on page 9 that "the basis would need to determine if the state of California's position on this matter is still resolute". She referenced several

letters sent between California and NOAA's sanctuary program, particularly a letter dated April 2005 stating that the designation of MPAs in federal waters should be a joint state and federal process and that California's position is that fishery authority in state waters resides with the California Fish and Game Commission and with the Council in federal waters. California's position has not changed. California supports implementation of these MPAs into federal waters to complement state MPAs, preferably through the Council, NMFS, and the MSA. California also states that, if this cannot be accomplished, the state would consider a designation document change and fishing regulation under the NMSA as a fall-back position. Ms. Vojkovich feels the October letter from Vice Admiral Lautenbacher (Agenda Item I.1.a, Attachment 3) represents support from NOAA leadership to continue to pursue fishery regulations under the MSA, the resolute priority position from California. Ms. Vojkovich noted there has been numerous discussions, workshops, and meetings to discuss MPA issues in our management arena over the last six years which should serve as an adequate administrative record. Ms. Vojkovich asked that Council staff document this Council history and work with NMFS staff to further explore the avenue of the extension of state regulations as a mechanism to achieve regulations under MSA and to identify areas where more work is needed.

Given that, Ms. Vojkovich moved and Mr. Ticehurst seconded a motion (Motion 17) to have the Council staff pull together the appropriate administrative record. In putting together the administrative record, guidance would be sought from the state of California, NMFS, and NOAA General Council in order to fill gaps and insufficiencies in the administrative record.

Mr. Warrens asked about California's support for the CINMS goals and objectives and asked if California saw an endpoint to this regulatory issue or if the Council can anticipate future proposals from the state or the sanctuary. Ms. Vojkovich said that California is interested in completing the current process and there is no intent for any future additional actions at this time.

Mr. Anderson clarified the Council's preferred approach would be to look at a combination of federal and state regulations that would accomplish the goals and objectives identified by the sanctuary. Council staff in conjunction with NMFS, will review and summarize the administrative record built over the last number of years and explore the extension of state regulations under the MSA. The Council would then need to make a decision at a future meeting on what combination of state and federal regulations is the most appropriate mechanism for achieving the federal portion of the MPAs.

Ms. Vojkovich agreed with Mr. Anderson's comments and stated the proposal would be to continue with the approach under Section 4.0 of Agenda Item I.1.c, NMFS Report.

Chairman Hansen stated that public comments to the Council have been overwhelmingly in favor of MSA authority over fishing and stated that this is what the Council will be pursuing.

Dr. McIsaac, reviewed the motion as Council direction to pursue alternative 4.0 under Agenda Item I.1.c, NMFS Report as an avenue to achieve MSA regulations and to have the staff put together the relevant administrative record currently in place and consult with NOAA General Council and NMFS. The resulting package would be brought back to the Council in April. Dr. McIsaac stated Council staff will make their best effort to include the package in the April briefing book.

Vice Chairman Ortmann said he felt the Council is engaged in an exercise of total futility that has been going on way too long but, he supports the motion because the public has asked us to do so.

Ms. Cooney said Mr. Feder will take the lead on this matter for NOAA General Council. Ms. Cooney reiterated that the administrative record needs to show how the proposed action ties to Council authority, and that NMFS will work with Council staff to put the record together. Motion 17 passed.

Chairman Hansen stated Motion 17 covers the issues of how to proceed with CINMS regulations and how to plan for the April 2006 Council meeting and asked for Council comments on the draft flowchart.

Mr. Anderson said he was one of 13 people on the January 30, 2006 conference call. Mr. Anderson noted he cannot verify the number of participants as one odd aspect of the call was only the facilitators could see who was on the call. There was an opportunity to participate in the conference call if you indicated your desire to comment by dialing a number and you were subsequently chosen by the call administrator to comment on the flowchart. Mr. Anderson stated he was contacted by the WDFW representative on the Olympic Coast National marine Sanctuary Advisory Council and was asked to participate in a subgroup to help develop the Sanctuary Advisory Council comments. The deadline for that subcommittee's recommendations is toward the end of March and the group will be meeting again soon to finalize recommendations. Mr. Anderson stated he would be happy to forward the results of these deliberations to the Council office and suggested the Council take the matter up again at the April meeting. He noted that one fundamental flaw in the NMSA flowchart was the presumption there was a trigger for fishery regulations and he thinks it comes far too late in the process. He said the bottom line is that this issue is not going to go away and the Council needs to develop sound coordination and communication with the sanctuaries as an important part of maintaining a primary role in fishery management.

Mr. Moore said the comments made by Mr. Anderson sound like the comments this Council has stated time and time again and he asked Mr. Anderson if the comments of the Sanctuary Advisory Council can be used as a basis for further Council input. Mr. Anderson said the comments he shared today were those he shared with the Sanctuary Advisory Council subgroup and that he would be glad to forward to the Council the final recommendations that come out of the Olympic Coast National Marine Sanctuary effort that he is engaged in.

Ms. Vojkovich said she was on the call but was told she would not be allowed to speak. She noted there is state involvement on this same issue, and supports Mr. Anderson's suggestion to look at the various Council and regional perspectives when drafting Council comments.

Mr. Anderson said that one reoccurring theme the Council has had at this meeting is to defer things to April. Mr. Anderson suggested putting together materials for an initial discussion at the April meeting to be followed by a subgroup process after the April meeting to hammer out the issues and provide final Council comments. Dr. McIsaac said Council staff will summarize our notes on the conference call and get any information we have in front of the Council and advisory bodies before the April meeting.

J. Highly Migratory Species (HMS) Management

J.1 NMFS Report (03/09/06; 11:14 am)

J.1.a Activity Reports

Mr. Mark Helvey provided the agenda item overview. Mr. Craig Heberer provided status of domestic regulatory activities, Mr. Helvey reported on international activities, and Dr. Gary Sakagawa reported on Southwest Science Center activities.

J.1.b Reports and Comments of Advisory Bodies

Ms. Michele Culver provided Agenda Item J.1.b, Supplemental HMSMT Report. Mr. Wayne Heikkila provided Supplemental HMSAS comments.

J.1.c Public Comment

Mr. Peter Flournoy, International Law Offices, San Diego, California
Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California

J.1.d Council Discussion

Mr. Moore asked Mr. Flournoy to provide items regarding Inter-American Tropical Tuna Commission (IATTC) and IATTC General Advisory Committee (GAC) to the Council in writing. Dr. Dahl asked if the Council wanted to nominate anybody for currently open positions on the IATTC GAC.

J.2. Bigeye Tuna Overfishing Response (03/09/06; 1:13 pm)

J.2.a Agenda Item Overview

Dr. Dahl provided the agenda item overview.

J.2.b NMFS Report

Mr. Helvey provided an overview of the management options in Agenda Item J.2.a, Attachment 1. It was noted that both the Pacific Council and the Western Pacific Fishery Management Council (WPFMC) were notified to take appropriate action to end overfishing. WPFMC is currently drafting Amendment 14 to their Pelagics FMP, which addresses overfishing of bigeye and yellowfin tuna. Bigeye is experiencing overfishing Pacific-wide and yellowfin is experiencing overfishing in the Western and Central Pacific Ocean (WCPO) only. The WPFMC is expected to transmit Amendment 14 to NMFS within the next few weeks; if approved, it will address overfishing for bigeye Pacific-wide. Mr. Helvey stated that NMFS is asking that the Council formally comment on Amendment 14, especially with regard to specific conservation recommendations for the EPO bigeye stock.

Mr. Helvey reviewed the management options contained in Attachment 1, describing the different options. Option 1 and 5 are the sideboards; option 1 is no action while option 5 would close all fisheries for bigeye under the Council's jurisdiction. The three other options propose measures intermediate to these sideboards.

The Chairman asked Mr. Helvey if the measures in options 2 and 3 are included in option 4 and Mr. Helvey responded affirmatively.

Mr. Moore asked, procedurally, how the Council would respond to a final Amendment 14 or other WPFMC action that the Council is diametrically opposed to. Mr. Helvey responded by saying it is unlikely any measures would be unacceptable, since they are likely to focus on management measures for the Hawaii-based longline fishing fleet; most of the issues this Council is proposing are for the purse seine fishery. Furthermore, Amendment 14 could be revised or refined to include the comments proposed by this Council, such as measures specific to the purse seine fleet.

Ms. Vojkovich noted that since WPFMC member Mr. Ebisui was at this meeting it would be nice if he could give us an overview of their goals and timeline. She also noted the Council had started an amendment process and wondered how to reconcile that with supporting the WPFMC's Amendment 14. Mr. Helvey replied that the Council's recommendations would also form the West Coast position for discussions at the upcoming IATTC meeting while also addressing the need for an FMP amendment. Ms. Vojkovich further asked about the process. Mr. Helvey replied that Council recommendations would focus on the Eastern Pacific Ocean (EPO), thus in combination with WPFMC recommendations potentially forming a Pacific-wide response to bigeye overfishing.

Ms. Vojkovich asked if the WPFMC would also provide recommendations for a U.S. position at the IATTC. Mr. Helvey replied that they had that option.

Mr. Anderson said he assumed that NMFS SWR and the Pacific Island Region were coordinating on this issue and asked if NMFS had indicated, of the five presented, which option they preferred. Mr. Helvey said that they support the HMSMT recommendation of a combination of options 2 and 3, which will address overfishing while still allowing the West Coast fishing opportunity.

Mr. Alverson, asked under what authority NMFS or the Council could “prohibit landings, transshipments, and commercial transactions of tuna products that have been positively identified as originating from fishery activities that disregard conservation and management actions of bigeye tuna” as stated on page 6 of the Agenda Item J.2.a. Mr. Helvey said it could be implemented under the Tuna Conventions Act.

Mr. Alverson then followed up on Mr. Moore’s earlier question by asking if there has been any formal allocation of management authority for this stock between the Council and the WPFMC. Mr. Helvey said that NMFS currently considers it joint jurisdiction.

J.2.c Reports and Comments of Advisory Bodies

Ms. Culver provided Agenda Item J.2.c, Supplemental HMSMT Report. Mr. Heikkila provided Agenda Item J.2.c, Supplemental HMSAS Report.

J.2.d Public Comment

Mr. Svein Fougner, Hawaiian Longline Association, Rancho Palos Verdes, California

J.2.e Council Action: Adopt Alternatives for a Pacific Council Position on an Overfishing Response for Bigeye Tuna for Public Review

Mr. Edwin Ebusui was asked by Chairman Hansen to provide insight on the WPFMC Amendment 14. Mr. Ebusui said that the amendment can’t by itself solve overfishing Pacific-wide since the Hawaii longline fleet lands less than 2 percent of total catch. An important feature of the proposed amendment is establishing a control date to facilitate license limitation for additional domestic Hawaii fleets that catch bigeye tuna.

Mr. Moore asked about the composition of Hawaii’s tuna fleet and Mr. Ebusui described the various sectors catching bigeye. Mr. Moore then asked if any large purse seiners home port in the WPFMC region. Mr. Ebusui responded that they deliver to canneries in the region but didn’t know if they home-ported there.

In response to a question from Mr. Hansen Mr. Feder noted that Amendment 14 has been adopted by the WPFMC, but has not been transmitted to NFMS because the WPFMC is considering adding provisions to Amendment 14 to address overfishing of yellowfin tuna. Mr. Hansen then asked if this would be a good time for the Council to comment on Amendment 14. Mr. Feder replied that he thought that the WPFMC would welcome comments at any time before they transmit the amendment.

Ms. Vojkovich asked Mr. Ebusui about the management options in Amendment 14. There then ensued a discussion about those measures directed at domestic fleets versus recommendations to regional fishery management organizations (RFMOs) contained in the amendment document.

Dr. Dahl made comments to clarify Council action. Mr. Moore asked if the Council could adopt a preliminary preferred option at this meeting and Dr. Dahl replied that it would be possible. Mr. Hansen said he did not think he had enough information to do that at this time.

Dr. McIsaac confirmed that the Council could choose a preliminary preferred option at this time but recommended deferring the decision until the April meeting in order to allow further analysis of the options.

Mr. Moore said he felt that any option the Council chooses should include the measures under option 3, but more information and analysis are needed for final decision.

Mr. Alverson expressed concern about the proposal to exempt fleets catching less than 1 percent of the biegye total catch. This could establish a precedent that could be problematic if and when North Pacific albacore receives an overfishing/overfished declaration since albacore is a much more important West Coast HMS fishery. He asked the HMSMT to consider this issue further.

Mr. Anderson followed up with more questions about how the 1 percent exemption would work, such as how fleets would be defined (e.g., sub-nationally by gear type or by sub-national region). He also noted that option 2 has the provisions necessary to reduce impacts on bigeye tuna. He concurred that further analysis is needed to support a final decision.

Mr. Moore noted that the preceding discussion had been helpful in illuminating the issue to be addressed before the Council can make a final decision, which should occur at the April meeting.

Dr. McIsaac said that points brought up by the Council will be reflected in the briefing materials provided at the April meeting. He also noted that the North Pacific albacore issue will be put on the April agenda.

Ms. Vojkovich noted that this issue has been under consideration for some time but felt that the information provided at this meeting had provided greater clarity with respect to a Council decision.

J.3 Drift Gillnet Management

J.3.a Agenda Item Overview (03/09/06; 2:13 pm)

Dr. Dahl provided the agenda item overview.

J.3.b Highly Migratory Species Management Team Report

Ms. Culver and Ms. Liz Petras provided Agenda Item J.3.b, Supplemental HMSMT Report.

Mr. Anderson asked for clarification on current DGN fishery closures and the estimated bycatch of blue sharks under Alternative 3.6, which the HMSMT had recommended as the preferred option. Ms. Culver described the current closed area and how the blue shark bycatch estimate was made. Mr. Anderson then sought clarification of the estimates of marine mammal take provided in Agenda Item J.3.a, Attachment 2. Ms. Petras responded by noting that the estimates represented take in addition to the baseline level and explained how fractional estimates are rounded to a whole number for the purpose of legal mandates.

Mr. Moore asked for further clarification about how the projected number of sets under each option was estimated and how to interpret the estimated values. Dr. Stohs emphasized that these effort estimates represent a worst-case scenario so that the actual effort may be lower than the estimate because of other binding constraints.

Mr. Moore asked if there is an associated range of likelihoods for these numbers that could inform the Council what is the worst-, medium-, or best-case scenarios. Ms. Culver referenced Table 4.4 (catch estimates of target and major non-target species) as a way of assessing the effects of each alternative.

Ms. Vojkovich asked for clarification of the historical level of fishing effort inside versus outside the leatherback sea turtle closed area. Ms. Culver said that during the 1990s, prior to implementation of the closed area between 1,500 and 2,500 sets occurred in that area annually.

Mr. Harp asked Ms. Petras about the information provided about the effect of the alternatives on seabirds. She replied that available information suggests that a shift of effort to the north, as would occur under the alternatives, may reduce impacts to the northern fulmar, but this conclusion is speculative.

Roth? Mr. Harp then asked Mr. Feder about the applicability of the Migratory Bird Treaty Act as discussed on page 160 of Attachment 2. Mr. Feder said that the Department of Commerce position is the Act does not apply beyond 3 nm. The USFWS (Department of the Interior) administers the Act and he didn't think they had issued a different interpretation.

J.3.c Reports and Comments of Advisory Bodies

Dr. Kevin Hill provided Agenda Item J.3.c, Supplemental SSC Report. Mr. Heikkila provided Agenda Item J.3.c, Supplemental HMSAS Report.

J.3.d Public Comment

Ms. Meghan Jeans, The Ocean Conservancy, San Francisco, California
Mr. Steven Sharp, concerned citizen, Albany, Oregon
Dr. Mary Pettenger, concerned citizen, Monmouth, Oregon
Ms. Kathy Fosmark, Fishermen's Association of Moss Landing, Moss Landing, California
Mr. Pete Dupuy, Ocean Pacific Seafood, Tarzana, California,
Ms. Pam Lyons-Gromen, National Coalition for Marine Conservation, Leesburg, Virginia
Mr. Steve Fosmark, fisherman, Pebble Beach, California
Mr. Tom Davis, Sea Turtle Restoration Project, Forest Knolls, California
Dr. Robert Ovetz, Sea Turtle Restoration Project, Forest Knolls, California
Mr. Chuck Janisse, Federation for Independent Seafood Harvesters, Bridgewater Corners, Vermont
Mr. Ben Enticknap, Oceana, Portland, Oregon

J.3.e Council Action: Adopt Final Preferred Alternative to Modify the Drift Gillnet Time/Area Closure

Mr. Helvey asked that SWFSC scientists Dr. Dale Squires and Mr. Scott Benson to provide perspective on the economic dimensions of the decision. Dr. Squires pointed out that the target species (swordfish) is a transnational resource, and multilateral cooperation is needed to address resource conservation issues such as take of leatherback sea turtles. If this domestic fishery is eliminated, their production of swordfish will be replaced by international fisheries that are less strictly regulated with respect to sea turtle take. Second, the domestic fleet can innovate to avoid impacts if provided the incentive. He give the examples of conservation measures in the purse seine fleet adopted to reduce dolphin mortality and the adoption of gear modifications by domestic longline fleets to reduce sea turtle take. The U.S. is now promoting such innovations internationally. Finally, he noted that domestic fishermen can directly address conservation issues related to their fisheries, giving the example of monetary investments made by the Federation of Independent Seafood Harvesters (the EFP applicant) in a turtle conservation project in Baja California, Mexico. In conclusion, he believes that a tightly regulated and monitored U.S. fleet is necessary and can have a beneficial impact under these conditions.

Mr. Benson briefly talked about leatherback sea turtle distribution, noting that this particular population is composed of multiple foraging populations. The population occurring off of California (which migrates from the Western Pacific) has declined over the years but not as much as the EPO population.

Ms. Vojkovich moved and Mr. Alverson seconded a motion (Motion 19) to adopt recommendation #1 from the HMSMT report as provided in Agenda Item J.3.b, Supplemental HMSMT Report, March 2006. That recommendation was the following: Adopt Alternative 3.6, with marine mammal take limits set at PBR rounded down to the nearest whole animal; with the marine mammal caps being used from revised Table 4.8.a (the PBR numbers rounded down to the nearest whole animal).

Ms. Vojkovich said this motion in its basic form was recommended by the HMSMT and HMSAS and appears to provide some fishing opportunity while establishing protections for more than just leatherback turtles (and other protected species). It has an added protection by rounding down the estimated take to the next whole number. The EFP under this proposal will allow a tightly controlled fishery unlike any other Council-managed fishery: it will have 100% observer coverage and very specific requirements. In summary, the EFP as implemented with the conditions in the motion is a reasonable attempt at allowing some the fishery to be prosecuted in an area it historically fished while evaluating if conditions have changed such that impacts are reduced.

Mr. Moore moved to amend the motion to substitute Alternative 3.6 with the additional restrictions with Alternative 3.7. Mr. Anderson seconded the amendment to Motion 19.

Mr. Moore said under normal circumstances he would follow the advice of the HMSMT and HMSAS and support the motion made by Ms. Vojkovich, but he thinks that all of us are somewhat troubled by the estimated increase in bycatch under this proposal. In addition, the number of sets allowed under Alternative 3.6 would likely be limited by observer availability anyway. The estimated impacts of Alternative 3.7 are much lower, although above the baseline north of Point Conception. His proposal allows a good balance between fishery participation, data gathering, and bycatch minimization.

Mr. Alverson noted that Mr. Moore's motion would result in about one-fifth the level of fishing effort of Alternative 3.6 and wondered if it would be viable. Mr. Anderson said that the groundfish arrowtooth and dogfish EFPs set minimum qualifications and was viable.

Mr. Helvey asked about the definition of bycatch being used in the discussion, pointing out that a large proportion of incidental catch is returned alive, on average about 60%. Mr. Moore pointed to the MSA definition, under which whether dead or alive any fish that is discarded is considered bycatch. Mr. Anderson said we need to look at the individual species, quantity, and survival rate to put the 60% average cited by Mr. Helvey in context. Survival rates vary by species and have to be considered individually.

Mr. Alverson asked whether DGN limited entry licenses issued by the State of California are eliminated if they are not renewed and Ms. Vojkovich confirmed that that was how the licensing program worked.

Ms. Vojkovich referenced the SSC Report, which did not recommend adopting a set limit, and asked why Mr. Moore's motion included one. He agreed that directly limiting take of marine mammals somewhat obviated the need for an set limit, but non-target species bycatch was still an issue that could be addressed by a set limit. He wanted to propose an alternative that stayed within the same boundaries recommend by the HMSMT and SST, while still having the general features of Alternative 3.

Ms. Vojkovich asked for clarification as to how the set limit would work in concert with the proposed take limits (for sea turtles and marine mammals). In response, Ms. Petras described the applicable procedures under the MMPA and the ESA if potential biological removal (PBR) or incidental take statement levels are exceeded. Mr. Anderson said that if caps based on PBR are included under Alternative 3.6 that would address the issue.

In response to a comment from Ms. Vojkovich, Mr. Moore suggested that a friendly amendment to his motion, to exchange the set limit for cap based on PBR, would be acceptable to him. Mr. Anderson, who seconded the motion, did not concur.

Ms. Vojkovich asked for clarification on the cap for sea turtles: did it apply to take or mortality? Dr. Dahl referenced the discussion in the HMSMT Report showing the correlation between mortality and take limits.

Mr. Ticehurst asked about the potential for a cap being exceeded because several vessels catch leatherback sea turtles simultaneously. Furthermore, he said he was troubled by an EFP with 20 to 40 participants, because of the bycatch implications. Although he might accept the motion for an EFP fishery, he would not support an expanded fishery if the experiment were successful. Therefore, he is not comfortable voting for the EFP in the first place.

Ms. Culver addressed Mr. Ticehurst's first comment by noting that the observers would check in regularly by satellite phone and information on takes would be shared with the fleet multiple times a day so fishing would be shut down immediately upon hitting the cap.

Ms. Vojkovich asked why the HMSMT did not recommend a set limit. Ms. Culver said under the alternative being considered, there is a chance that 300 sets could be expended without encountering any turtles. The tradeoff is forgone economic opportunity if more sets could have been realized before a turtle is taken. Having both limits is more precautionary. Ms. Vojkovich then asked about tracking the number of sets expended by participants. Ms. Culver responded it would not be difficult, given the limitations and the level of observer coverage being proposed.

Mr. Alverson asked for a friendly amendment to have the take cap for turtles set at two, and a "PBR cap" set at one for the following whales: sperm, humpback, minke, fin, and gray. If either cap is reached the EFP is over. The maker and seconder of the motion accepted the friendly amendment.

Mr. Harp asked Mr. Alverson for clarification of whether the caps applied to take or mortality and he responded that it would be either a take or mortality of the whales.

Ms. Petras said for PBR refers to serious injury or mortality. She pointed out that humpback whales have been observed as being taken (under the ESA) in the DGN fishery, but this may not constitute serious injury or mortality, because they can escape from entanglement without trailing gear; thus the takes is not counted against the PBR. It is important to understand that there are two different statutes with different definitions, take and PBR.

Mr. Alverson asked for a friendly amendment to add a PBR cap of one for short-finned pilot whale. The maker and seconder accepted the friendly amendment.

Ms. Vojkovich asked for clarification of all elements of the motion at this point. Dr. McIssac said the amended motion on the floor substitutes Alternative 3.6 for Alternative 3.7, includes a two-leatherback-turtle take cap and a one-take cap for sperm, humpback, minke, fin, gray, and short finned pilot whales. Mr. Moore clarified that the marine mammal cap refers to PBR rather than take.

Dr. Dahl asked for clarification as to whether the motion on the table retains the 300 set limit, which is a component of alternative 3.7. Mr. Hansen replied affirmatively.

Mr. Helvey said he plans to vote for the motion, but looking into the future he thinks the Council needs to address bycatch issues across all HMS fisheries.

Chairman Hansen called for the vote. Motion 19, as amended by the substitute motion, passed.

Dr. Dahl asked for clarification of one item under the last motion: did the sea turtle cap refer to take or mortality? A mortality limit of two equates to a take limit of three. Mr. Moore said he used Table 2-1 on page 19 in Attachment 1 to formulate his motion. Ms. Culver clarified by noting the reference to PBR is only for marine mammals, which refers to the cap of one for those whales that were listed in the motion. Mr. Moore said he had been thinking about how the various restrictions affected non-target bycatch when he formulated his motion, and saw that a lower cap also lowered bycatch. He worked from the information in Table 2.1 in Attachment 2.

Mr. Alverson discussed his understanding of the marine mammal and sea turtle caps. Ms. Culver references the HMSMT report to clarify the relationship between takes and mortalities. In their report the HMSMT recommended that the Council adopt a take cap so the observer doesn't have to determine potential post-release mortality. The Council concurred that the intention of the motion was to define the sea turtle cap in terms of two takes.

J.4 Exempted Fishing Permit (EFP) Applications for Highly Migratory Species

J.4.a Agenda Item Overview (03/09/06; 6:07 pm)

Dr. Dahl provided the agenda item overview.

J.4.b Reports and Comments of Advisory Bodies

Ms. Culver provided Agenda Item J.4.b, Supplemental HMSMT Report. Mr. Heikkila provided Agenda Item J.4.b, Supplemental HMSAS Report.

J.4.c Public Comment

Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California
Mr. Steve Fosmark, fisherman, Pebble Beach, California
Ms. Kathy Fosmark, fisherman, Pebble Beach, California
Mr. Russ Nelson, The Billfish Foundation, Ft. Lauderdale, Florida
Mr. August Felando, commercial purse seiner, San Diego, California
Ms. Pam Lyons-Gromen, National Coalition for Marine Conservation, Leesburg, Virginia
Mr. Chuck Janisse, Federation of Independent Seafood Harvesters, Bridgewater Corners, Vermont
Mr. Peter Flournoy, International Law Offices, San Diego, California
Mr. Pete Dupuy, Ocean Pacific Seafood, Tarzana, California

J.4.d Council Action: Final Recommendations for Approving EFP Applications

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 21) to preliminarily approve the EFP application as shown in Agenda Item J.4.a, Attachment 2, and direct the HMSMT to develop an environmental assessment, which would include harvest limits for protected species.

Mr. Moore mentioned the large amount of public testimony about the DGN and longline EFP applications. He felt that a transition from DGN to longline, as proposed in the application (Attachment 2) was warranted. Furthermore, the proposal was limited in scope, to one vessel, which can provide valuable data. With this information the Council can decide future management of the DGN fishery.

Mr. Ticehurst said he was opposed to the motion based on information on extant Atlantic and Pacific longline fisheries. A Council-authorized longline fishery would simply transfer bycatch of one species to some other species, such as tuna. He did not see why the Council should allow a new fishery catching very valuable species that U.S. policy is to not increase effort on. He disagreed that this proposal would

support a transfer of effort out of the DGN fishery. Longline is also a fishery California is opposed to and will catch economically important species, such as marlin. Targeting tuna is not a way to find a solution to the DGN fishery.

Mr. Helvey said he will vote in favor of the motion because he felt this EFP was a potential solution to reducing bycatch. Mr. Dupuy, the applicant, stated that he incorrectly included tuna as a potential target under the EFP; its principal purpose is to test a shallow set swordfish fishery. This will allow a comparison of bycatch between the logline and DGN fisheries.

Ms. Vojkovich said she would vote against a recommendation for the EFP, as she has done in past, although she commended the applicant for his persistence and his willingness to work within the system. The state of California has not supported a longline fishery and has not changed its policy.

Mr. Melcher said he appreciated Mr. Helvey's comments about the need to evaluate bycatch between the two gear types but was also sensitive to the concerns that have been voiced. Nonetheless he is in favor of the motion.

Mr. Alverson said one boat is involved, and impacts cannot be all that great. He said he was concerned about California's future policy positions and whether in light of that such a transition strategy would be feasible. He supports the EFP for a one-year trial, with possible reconsideration for subsequent years, but would like the Council to determine where they want to go with this.

Mr. Anderson noted WDFW's experience with a DGN EFP in the 1980s, which had an unacceptable level of bycatch; as a result the DGN fishery is closed off Washington. He said he was torn between his broader, regional responsibilities to the Council with respect to all marine resources in Federal waters and his state's experience. He noted that the applicant has immense experience in this fishery and is trying to learn more. He is offering his expertise to us to develop an alternative gear type that would replace DGN and allow commercial fisheries to occur in Federal waters. The Council will not get another opportunity to benefit from this level of experience. For these reasons he said he would vote for the motion. He also noted there will be substantial workload in developing the EA; and the EA may motivate the Council to not give a final positive recommendation for the EFP.

Motion 21 passed. Ms. Vojkovich, Messrs. Ticehurst and Thomas voted no.

PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS

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

Mr. Stephen Taufen, Groundswell Fisheries Movement. Spoke about ITQs.

Mr. Jim Welter, spoke about parasite issue in the Klamath and how it has affected stocks in the system. He told the Council there are parasites and diseases affecting the Klamath stocks.

Mr. Don Stevens spoke about the disaster declaration versus actual disaster relief (fisheries north of Cape Falcon). Spoke about how difficult it is to actually get the money to salmon fishermen and their families. He urged the Council to support the structuring of relief programs that would actually benefit fishing families and communities. Last time a disaster relief fund was put together, it did not benefit the fishermen in the manner advertised.

ADJOURN

The meeting was adjourned at 5:35 pm, Friday, March 10, 2006

DRAFT

DRAFT

Council Chairman

Date

DRAFT VOTING LOG
Pacific Fishery Management Council
March 6-10, 2006

Motion 1: Approve the agenda as shown in Agenda Item A.4, Council Meeting Agenda, with the changes as requested by Mr. Frank Lockhart that Agenda Item C.2 be moved to Tuesday, and clarify that it includes considerations of closures for commercial and recreational fisheries.

Moved by: Rod Moore
Motion 1 passed.

Seconded by: Bob Alverson

Motion 2: Approve the September minutes as shown in Agenda Item B.1, Draft September Council meeting minutes.

Moved by: Rod Moore
Motion 2 passed.

Seconded by: Frank Warrens

Motion 3: Accept the report of the International Pacific Halibut Commission (IPHC) annual meeting (Agenda Item E.1.a, Attachment 1).

Moved by: Bob Alverson
Motion 3 passed.

Seconded by: Mark Cedergreen

Motion 4: Adopt for public review, for the incidental catch regulations for the salmon troll fishery, the options as shown in Agenda Item E.2.e, Supplemental SAS Report (non-Indian).

Moved by: Phil Anderson
Motion 4 passed.

Seconded by: Mark Cedergreen

Motion 5: Adopt for public review a range of landing restrictions for Pacific Halibut retention in the non-Indian commercial sablefish fishery north of Point Chehalis that included status quo; an option that allows two halibut plus 120 pounds of halibut per 1,000 pounds of sablefish; and a third option that allows two halibut plus 80 pounds of halibut per 1,000 pounds of sablefish.

Moved by: Phil Anderson
Motion 5 passed.

Seconded by: Mark Cedergreen

Motion 6: Adopt for public review the list of stock assessments to be done next year as contained in Agenda Item F.2.c, NWFSC Report, with the following changes: move sablefish to a full assessment in 2007 and move the petrale sole assessment to an update in 2007. Also include the following three items: (1) shift the blackgill rockfish assessment from 2007 to 2009 based on recommendations in the GMT and GAP reports, (2) switch the 2009

sablefish assessment to an update; and (3) consider adding a full assessment of blue rockfish in the 2007 cycle.

Moved by: Rod Moore
Motion 6 passed.

Seconded by: Bob Alverson

Motion 7: Adopt the draft Terms of Reference for public review as contained in Agenda Item F.2.d, Attachment 1, with a request for public comment relative to the proposal that GAP and GMT representatives to the STAR Panel be considered full panel members.

Moved by: Rod Moore
Motion 7 passed. Mr. Jerry Mallet voted no.

Seconded by: Frank Warrens

Motion 8: Adopt the 2006 yelloweye stock assessment for use in managing the 2007-2008 groundfish fishery..

Moved by: Phil Anderson
Motion 8 passed.

Seconded by: Bob Alverson

Motion 9: Adopt a phase-in approach as one alternative to be analyzed for the yelloweye rockfish rebuilding plan, as proposed by the GMT in Agenda Item F.3.c, Supplemental GMT Report. The GMT is provided the flexibility to explore a linear phase-in designed to avoid large OY reductions over the phase-in period. The rebuilding analysis presented and reviewed by the SSC this week would be used to analyze phase-in alternatives.

Moved by: Phil Anderson
Motion 9 passed.

Seconded by: Mark Cedergreen

Motion 10: Direct the GMT and SSC to work with the yelloweye STAT Team in an effort to resolve the outstanding issues identified and discussed during the this week's SSC review of the 2006 yelloweye stock assessment.

Moved by: Phil Anderson
Motion 10 passed. Ms. Vojkovich voted no.

Seconded by: Mark Cedergreen

Motion 11: Adopt a coastwide ABC of 661,680 mt for Pacific whiting. This value is calculated using the more conservative $q=1$ model.

Moved by: Phil Anderson
Motion 11 passed. Mr. Alverson voted no.

Seconded by: Rod Moore

Motion 12: Adopt a coastwide OY of 364,842 mt for Pacific whiting, of which the U.S portion of the whiting OY would be 269,069 mt (status quo).

Moved by: Phil Anderson

Seconded by: Marija Vojkovich

Motion 12 passed. Mr. Alverson voted no.

Motion 13: Consider a bycatch cap for darkblotched rockfish at the April Council meeting at the earliest.

Moved by: Phil Anderson

Seconded by: Marija Vojkovich

Motion 13 passed.

Motion 14: Adopt a tribal set aside for Pacific whiting of 35,000 mt. This is based on the sliding scale allocation formula developed for tribal whiting fisheries.

Moved by: Jim Harp

Seconded by: Curt Melcher

Motion 14 passed.

Motion 15: Adopt a definition of EFH for the two species described in Agenda Item H.2.b, Supplemental NMFS Report, but recommend the descriptions go from the shoreline to the appropriate isobath rather than from the boundary of the EEZ along the entire coast. Include the definition of EFH has noted under the species *Euphausia pacifica*, changed to go into the shoreline, for the six other species of krill.

Moved by: Marija Vojkovich

Seconded by: Phil Anderson

Motion 15 passed.

Motion 16: Amend the CPS FMP to include all species of krill as a management species called "prohibited harvest", and establish krill EFH as shown in Draft Amendment 12 (Agenda Item H.2.b, Supplemental NMFS Report).

Moved by: Marija Vojkovich

Seconded by: Phil Anderson

Motion 16 passed.

Motion 17: Have the Council staff pull together the appropriate administrative record (relevant to the extension of state regulations under MSA). In putting together the administrative record, guidance would be sought from the state of California, NMFS, and NOAA General Council in order to fill gaps and insufficiencies in the administrative record.

Moved by: Marija Vojkovich

Seconded by: Daryl Ticehurst

Motion 17 passed.

Motion 18: Adopt the inseason adjustments as proposed by the GMT in Agenda Item F.5.b, Supplemental GMT Report, including the bycatch caps for canary and widow of 4.7 mt and 200 mt, respectively for the non-tribal Pacific whiting fishery.

Moved by: Phil Anderson
Motion 18 passed.

Seconded by: Curt Melcher

Motion 19: Adopt recommendation #1 from the HMSMT report as provided in Agenda Item J.3.b, Supplemental HMSMT Report, March 2006. That recommendation was the following: Adopt Alternative 3.6, with marine mammal take limits set at PBR rounded down to the nearest whole animal; with the marine mammal caps being used from revised Table 4.8.a (the PBR numbers rounded down to the nearest whole animal).

Moved by: Marija Vojkovich

Seconded by: Bob Alverson

Amendment: Substitute adopted Alternative 3.6 with Alternative 3.7 instead. This amendment included two friendly amendments that added a take cap for turtles set at 2, and a PBR cap set at one for the following whales: sperm, humpback, minke, fin, gray, and short-fin.

Moved by: Rod Moore

Seconded by: Phil Anderson

Motion 19 passed as amended by the substitute motion. Messrs. Ticehurst and Cedergreen voted no.

Motion 20: Approve the EFP as shown in Attachment 1 subject to the restrictions and mitigation measures identified in Agenda Item J.3 action.

Moved by: Rod Moore

Seconded by: Phil Anderson

Motion 20 passed. Messrs. Ticehurst and Cedergreen voted no.

Motion 21: Preliminarily approve the EFP application as shown in Agenda Item J.4.a, Attachment 2, and direct the HMSMT to develop an environmental assessment, which would include harvest limits for protected species.

Moved by: Rod Moore

Seconded by: Frank Warrens

Motion 21 passed. Ms. Vojkovich, Messrs. Ticehurst and Thomas voted no.

Motion 22: For 2006 salmon fisheries, inseason adjustments, modify the opening date, consistent with options proposed under Agenda Item C.6, to close commercial troll salmon seasons from Cape Falcon to the OR/CA border; include days in late March 15-April-30. This also includes the area from Horse Mt. to Pt. Arena, (commercial troll) March 15-April 30.

Moved by: Curt Melcher

Seconded by: Rod Moore

Motion 22 passed. Mr. Frank Lockhart abstained.

Motion 23: For 2006 salmon fisheries, inseason adjustments, modify the opening date for California recreational fisheries from the area between Pt. Arena to Pt. Sur to not open before May 1.

Moved by: Marija Vojkovich Seconded by: Rod Moore
Motion 23 passed. Mr. Frank Lockhart abstained.

Motion 24: Adopt the recommendations as shown in Agenda Item B.3.b, Supplemental LC Report and to include a recommendation to put the issue regarding the Western and Central Pacific Fisheries Conversion raised by Mr. Peter Flournoy on the April Legislative Committee agenda.

Moved by: Rod Moore Seconded by: Bob Alverson
Motion 24 passed. Mr. Frank Lockhart abstained.

Motion 25: Appoint Mr. John Wallace to replace Dr. Jim Hastie on the Groundfish Management Team.

Moved by: Frank Lockhart Seconded by: Bob Alverson
Motion 25 passed.

Motion 26: Appoint Mr. Stephen Wertz to replace Mr. Stephen Crooke on the Highly Migratory Species Management Team.

Moved by: Marija Vojkovich
Motion 26 passed.

Motion 27: Adopt for public comment options with a range of KRFC spawning escapement values as contained in Agenda Item C.8.b, Supplemental STT Report. Options I and II would be identified as requiring emergency rule to implement.

Moved by: Daryl Ticehurst Seconded by: Roger Thomas
Motion withdrawn, not voted on.

Motions 28, 29, 30, and 32 were made utilizing the document entitled *Agenda Item C.8.b, Supplemental STT Report, Salmon Technical Team Analysis of Preliminary Salmon Management Options for 2006 Ocean Fisheries*

Motion 28: Adopt for public review the non-Indian management options for commercial and recreational fisheries for the area North of Cape Falcon to the U.S./Canada border.

Moved by: Phil Anderson Seconded by: Mark Cedergreen
Motion 28 passed.

Motion 29: Adopt for public review the non-Indian management options for recreational fisheries for the area south of Cape Falcon to Horse Mt., and for commercial fisheries the area south of Cape Falcon to the Oregon/California border.

Moved by: Curt Melcher
Motion 29 passed.

Motion 30: Adopt for public review the non-Indian management options for recreational fisheries south of Horse Mt. and for commercial fisheries south of the OR/CA border, with the following corrections: page 6, Option II Pt. Arena to Pigeon Pt., open July 1 to 15 and August 1 to September 30; and page 18, footnote C.6 Additional Seasons, add the State of California.

Moved by: Marija Vojkovich
Motion 30 passed.

Seconded by: Daryl Ticehurst

Motion 31: Adopt for public review the treaty Indian ocean salmon season as presented in Agenda Item C.8.f, Supplemental Tribal Motion.

Moved by: Jim Harp
Motion 31 passed.

Seconded by: Frank Warrens

Motion 32: Notify the public that Options I and II would require emergency action to implement if adopted. The Council is identifying the need for the emergency rule at this point in the process based on the criteria that 1) this issue was not anticipated, addressed or planned; 2) did not anticipate a parasite infestation, or lack of water flow; 3) there is not a change in allocation being prescribed; 4) the action is necessary to meet FMP objectives (section 5.1); and 5) looking preliminarily at this – the escapements identified in Options 1 and 2 fall within the escapements observed which had robust levels in previous years. Additional analysis will be undertaken for numbers 2) and 5) prior to the April Council meeting.

Moved by: Mark Cedergreen
Motion 32 passed.

Seconded by: Jerry Mallet

DRAFT LEGISLATIVE COMMITTEE REPORT

The Legislative Committee (LC) met April 28, 2006 at the office of the Pacific Fishery Management Council (Council) in Portland, Oregon. The LC focused discussions on proposed legislation pertaining to the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). *This draft has not be reviewed or approved by the LC or the Council.*

Members Present:

Mr. Robert Alverson, Council Member, Fishing Vessel Owner's Association
Mr. Don Hansen, PFMC Chairman, Dana Wharf Sportfishing
Dr. David Hanson, LC Chair, Council Parliamentarian, Pacific States Marine Fisheries Commission
Mr. Rod Moore, Council Member, West Coast Seafood Processors Association
Mr. Roger Thomas, Council Member, Golden Gate Fisherman's Association

Members Absent:

Others present:

Mr. Mike Burner, Staff Officer, Pacific Fishery Management Council
Dr. John Coon, Deputy Director, Pacific Fishery Management Council
Mr. Peter Flournoy, International Law Offices
Ms. Dorothy Lowman, Natural Resource Consultant, Environmental Defense
Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council
Mr. Brad Pettinger, Oregon Trawl Commission
Mr. Jim Seger, Staff Officer, Pacific Fishery Management Council
Mr. Ray Toste, Washington Dungeness Crab Fishermens Association
Mr. Dan Waldeck, Executive Director, Pacific Whiting Conservation Cooperative

Opening Remarks

Dr. Hanson opened the meeting and reviewed the agenda. . Dr. McIsaac presented a letter from U.S. Congressman Richard Pombo (R-CA) regarding an invitation to participate in a May 3, 2006 hearing on HR. 5018, the *American Fisheries Management and Marine Life Enhancement Act*. The invitees include Dr. McIsaac and Mr. Moore. The hearing is scheduled to focus on H.R. 5018 and H.R. 1431, the *Fisheries Science and Management Enhancement Act of 2005*. H.R. 1431 was added to the agenda under Agenda Item E, Other Legislative Matters to develop talking points for the hearing.

The LC discussed the possible course of events on MSA reauthorization this year. It is anticipated that H.R. 5018 will be reviewed and potentially amended by the U.S. House Committee on Resources in late-May. The LC discussed the importance of getting LC comments summarized and presented to the U.S. House in time for the late-May meeting. The schedule precludes full Council review of the LC comments. It was thought that both the House and the Senate could have final bills ready by this summer and may be ready to conference and pass a single bill on reauthorization by fall.

Public Comment

Mr. Toste, reported that his organization and the Columbia River Crab Fisherman's Association are in favor of continued state authority for Dungeness Crab authority and was appreciative of Council support in this matter. Mr. Toste briefly discussed efforts to establish pot limits in the fishery.

Mr. Pettinger spoke about a bycatch report from the Marine Fish Conservation Network that included several comments that were critical of the Council. He stated the report claims the West Coast groundfish trawl fishery is the 6th 'dirtiest' fishery in the nation when considering bycatch issues. Mr. Pettinger asked if the Council had any plans of reviewing and responding to the report. Dr. McIsaac reported he is scheduled to participate in a conference call in Seattle in response to the report but, there is no formal Council response planned at this time. The composition of Council representation was also addressed in the MFCN newsletter and will likely be addressed at the news conference.

Mr. Flournoy reported that S. 2012 includes provisions for designating a seat for a Western Pacific Fishery Management Council (WPFMC) member as a United States Commissioner under the Western and Central Pacific Fisheries Convention (WCPFC) and adding the chair of the WPFMC's Advisory Committee to the WCPFC Advisory Commission. Mr. Flournoy noted that given the given the area of concern to the WCPFC this representation seems to make sense but, he stated that many people who participate in fishery operations in this geographic area are located on the West Coast. He further stated that many of these fishing operations moved from the Eastern Pacific to the Western and Central Pacific regions due to dolphin bycatch issues. Mr. Flournoy stated that a dedicated WPFMC seat on the commission will have undue influence on the process leaving the Council an indirect influence. Mr. Flournoy reported that the Inter-American Tropical Tuna Commission held a conference call yesterday, and to him, it was clear that differences between the WPFMC and the Council remain. Mr. Flournoy submitted a letter to Council Chairman Donald Hansen requesting Council support for what he perceives as preferential treatment of the WPFMC in this matter. In his letter, Mr. Flournoy requests the Council adopt a position where the language specifying a seat for the WPFMC is either removed or is amended to include a similar seat for the PPMC.

Review of H.R. 5018

The LC thoroughly reviewed H.R. 5018 resulting in the following comments listed by section. This language was conveyed in a letter to Congressman Pombo and the cosponsors of H.R. 5018, other key members of Congress working on MSA reauthorization, as well as staff members of the U. S. Senate Committee on Commerce, Science, and Transportation and the U.S. House Subcommittee for Fisheries, Conservation, Wildlife, and Oceans.

H.R. 5018, Section 3. Science-Based Improvements to Management

(a) Harvest Level Caps

The Pacific Council is supportive of H.R. 5018's proposed language to ensure catch limits are based on the best available science and do not exceed acceptable biological catch levels as recommended by the Scientific and Statistical Committee (SSC). The Pacific Council already implements this sound resource management approach. Further, the Pacific Council effectively

utilizes in-season management mechanisms to ensure the adopted acceptable biological catch levels are not exceeded whenever possible.

Unlike H.R. 5018, other bills call for a “penalty” provision in instances where the catch inadvertently exceeds adopted catch levels, the penalty being a commensurate deduction from the following year’s harvest allowance. Some call for a policy to carry both overages and underages into the following year. The Pacific Council disagrees with both of these potential provisions.

Overages should not be deducted from the next year’s harvest because the overage could have a minor biological effect if the overage is minimal under an in-season management policy and a new stock assessment or new management measures take the overage into account. It can be risky to rollover uncaught harvest allowance to the next year because one possible reason for the underage is an inaccurate stock assessment, a result that is not often discovered within one year. Further, Pacific Council-managed groundfish fisheries operate under a biennial management process that is not amenable to such mechanisms. Additionally, catch data is often not timely enough for such a management response. Therefore, the Pacific Council is supportive of the absence of such requirements in H.R. 5018.

To ensure full participation of the public and Pacific Council advisory bodies in setting catch limits without exceeding the SSC’s recommendations for acceptable biological catch, the Pacific Council recommends the H.R. 5018 Sec 3(a)(2) recommended language for MSA Section 302(h)(7) read, “(7) adopt a total allowable catch limit or other annual harvest effort control limit for each of the fisheries for which such a limit can be established, after considering the recommendation of the SSC and other advisory bodies of the Council having jurisdiction over the fishery, which shall not exceed the recommendation for the acceptable biological catch as recommended by such SSC; and”.

(a) Regional Stock Assessments and Peer Review

The Pacific Council concurs with the proposed language in this section and notes the Pacific Council currently utilizes Stock Assessment Review Panels and its SSC to create a strong scientific peer review process.

H.R. 5018, Section 4. Data Collection

(c) Confidentiality of Information

In the interest of the specific need for increased socioeconomic data collection for improved fisheries management (H.R. 5018, Section 4(d)), the Pacific Council recommends an additional conforming amendment under H.R. 5018, Section 4(c)(2) as follows, “Section 303(b)(7) is amended by striking ‘(other than economic data)’ and inserting in lieu thereof ‘(other than confidential information)’”.

(e) Need for More Frequent Stock Surveys

The Pacific Council along with its SSC and other advisory bodies currently coordinates with the National Marine Fisheries Service on a regular basis in reviewing stock assessment priorities and data needs. The Pacific Council recommends H.R. 5018, Section 4(e)(1) be amended to include

the phrase “in consultation with Regional Fishery Management Councils” after “shall determine”.

H.R. 5018, Section 5. Council Operations and Authorities

(a) Council Appointments

Regarding the Pacific Council’s Tribal Obligatory seat, tribal representation plays a vital role in the Pacific Council process and the tribal seat functions in a similar capacity as the official Washington, Oregon, and California state representatives. The Council recommends that, like the State government seats, the Tribal Obligatory seat should not be limited by term limits. The Council recommends MSA Section 302(b)(3) (16 U.S.C. 1852 (b)(3)), be amended by striking “paragraphs (2) and (5)” and inserting in lieu thereof, “paragraph (2)”.

(b) Council Training

To clarify that the required training is intended for appointees new to the Regional Fishery Management Council (RFMC) process, the Pacific Council recommends the language proposed for MSA Section 302(k)(3) be amended to include the word “first” after the phrase “Council members”.

(e) Observer Funding Clarification

The Pacific Council is unclear of the intent of the proposed language for MSA Section 303(e)(1)(A) which requires observer programs be paid for by the Secretary. This provision seems to preclude the use of any other funds, including the use of non-federal funds to reduce federal costs related to observer programs.

(g) Habitat Areas of Particular Concern

The Pacific Council has been working in coordination with the National Marine Sanctuary Program in the establishment of fishing regulations within National Marine Sanctuaries and has identified habitat areas of particular concern in these waters. To help clarify jurisdictional authority for these areas the Pacific Council recommends language proposed for MSA Section 303(b)(18) be amended to add the phrase “including the water column” after the phrase “ or other methods for limiting impacts on habitat”.

H.R. 5018, Section 6. Ecosystem-Based Fishery Management

The Pacific Council is supportive of efforts to increase the application of ecosystem-based principles into fishery management. Pacific Council efforts to prohibit krill harvest, protect essential groundfish habitats, and provide adequate abundance of forage species are reflective of our increasing knowledge of the role of fishery management in the overall health of West Coast ecosystems. The balance between recovering populations of marine mammals and ongoing efforts to recover depressed fish populations is a major issue the Pacific Council feels needs addressing under any ecosystem-based approach to fishery management.

H.R. 5018, Section 7. Limited Access Privilege Programs

(a) In General

The Pacific Council is currently in the process of developing an individual quota program for the trawl sector of the groundfish fishery. The Pacific Council strongly recommends that nothing in any MSA reauthorization legislation apply to, or disrupt the ongoing development of potential future amendment of its groundfish trawl individual quota program. Therefore the Pacific Council is supportive of H.R. 5018 proposed language for MSA Section 303A(h) which protects programs under development before the date of the bill's enactment.

In general, the Pacific Council notes inconsistent use of terms in this section of H.R. 5018. Terms such as limited access privilege, limited access system, shares, and allocation are not clearly defined and seem to have inconsistent application. The Pacific Council recommends a careful review of these terms and their definition as well as consideration of new terms to clearly separate "privilege" programs, which allocate individual quotas, from "limited entry" programs, which also allocate privileges albeit in the form of licenses.

The Pacific Council believes "limited access privilege" or individual quota programs have primarily economic benefits with secondary biological benefits through improved catch accounting and reduced bycatch. Therefore, the Pacific Council recommends the proposed language under MSA Section 303A(c)(1)(A) be amended by striking "assist in" and inserting in lieu thereof "is not detrimental to".

Recognizing the growing technology of remote sensors, onboard cameras, and other electronic monitoring devices, the Pacific Council recommends MSA Section 303A(c)(1)(G) be amended to include the phrase "or appropriate electronic monitoring" after the phrase "use of observers".

To avoid potential increased workload and program delays, the Pacific Council would like to clarify that the provisions for the eligibility requirements for fishing communities under MSA Section 303A(c)(2)(A)(i) or regional fishery associations under MSA Section 303A(c)(3)(A) apply only to an initial distribution of quota shares and not to any subsequent purchases of quota shares by fishing communities or regional fishery associations.

The Pacific Council understands the list of entities who substantially participate in the fishery under MSA Section 303A(c)(4)(F) is intended to be representative rather than comprehensive. To clarify this point, the Pacific Council recommends the phrase "but not limited to" be inserted after the phrase "as appropriate".

The Pacific Council believes RFMC process represent the appropriate mechanism for initiating a limited access privilege program and does not see the utility of the petition process.

(b) Fees

The Pacific Council believes the appropriate RFMCs should be closely involved with the determination of appropriate fees and the use of those fees. These fees should be collected and used for support of the entire program, including requisite observer coverage but, these federal fees should not be considered the sole funding source. Therefore, the Pacific Council recommends MSA Section 304(d)(2)(C) be amended to include the phrase "in consultation with

the appropriate RFMCs” after “the Secretary shall”, insertion of the word “federal” prior to the first occurrence of the word “cost”, and insertion of “observer coverage,” after “data analysis”.

H.R. 5018, Section 8. Joint Enforcement Agreements

The Pacific Council relies on effective collaboration between state and federal entities to enforce the increasing complex fishery regulations on the West Coast. This enforcement effort is greatly enhanced by the use of vessel monitoring systems. The sharing of data from these systems between state and federal enforcement personnel is critical. The Pacific Council would like to clarify that the improved data sharing provisions under MSA Section 311(i)(1) is not tied to an allocation of funds but rather to the establishment of a Joint Enforcement Agreement as described under MSA Section 311(i)(2).

To clarify allowable uses of vessel monitoring data in law enforcement, the Pacific Council recommends that MSA Section 311(i)(A) be changed to read “directly accessible on a real-time basis and available for the prosecution of State laws in State courts involving federally managed species, by State enforcement officers authorized under subsection (a) of this section.”

H.R. 5018, Section 9. Funding for Fishery Observer Programs

(b) Observer Program Funding Mechanism

In keeping with previously established caps on fees, the Pacific Council recommends amending MSA Section 403(d)(2)(A) by adding the phrase “which shall not exceed 3 percent” after the phrase “which may include a system of fees”. Additionally, as previously mentioned, the Pacific Council recognizes the increasing importance of electronic monitoring technology in fishery observation and recommends including a new category under MSA Section 403(d)(2)(A) that states “(iii) the cost of buying or leasing electronic monitoring equipment including, but not limited to, video equipment and satellite transponders”.

The Pacific Council believes fees collected for general fishery observer programs should not be in addition to fees collected under a limited access privilege program. Therefore, it is recommended that a new section be included under MSA Section 403(d)(2) stating “(C) Fees collected under this subsection are not in addition to those collected under Section 304(d)(2)(B)(ii).

H.R. 5018, Section 10. Competing Statutes

(c) Compliance with National Environmental Policy Act of 1969

The Pacific Council would like to reiterate that integrating any essential principles of the National Environmental Policy Act (NEPA) into the MSA and providing a technical exemption of the MSA from NEPA would be an important improvement in a reauthorized MSA. Such provisions can create great efficiencies in the public process without losing the intent of NEPA while minimizing superfluous litigation opportunities and conflicting time lines.

(d) Review of Fishery Regulations in National Marine Sanctuaries

The Pacific Council has worked closely with the five National Marine Sanctuaries (NMS) on the West Coast on a variety of issues. Recent Pacific Council actions to establish areas closed to bottom-tending fishing gear in the Cordell Bank and Monterey Bay National Marine Sanctuary areas, and the ban on the harvest of krill to ensure the vital role krill play in the West Coast ecosystem are examples of effective collaboration between the Pacific Council, the National Ocean Service (NOS), the National Marine Sanctuary Program (NMSP), and the West Coast Sanctuaries. However, these regulatory actions were accomplished under the existing authorities of the MSA.

Existing language in H.R. 5018 is commendable in its recognition that fishing regulations promulgated under the National Marine Sanctuaries Act (NMSA) are not currently required to conform to national standards under MSA Section 301(a). Neither does the NMSA bring to bear the scientific and fishing industry expertise that exists in RFMC processes. However, H.R. 5018 does not go far enough in achieving the kind of clarity on fishery management the public expects.

The Pacific Council continues to support implementation of the April 2005 positions of the RFMC Chairs calling for changes to MSA as well as the NMSA to clarify the issue of fishery management authority as follows:

MSA and National Marine Sanctuary Act

Fishery management authority in NMS, for all species of fish as defined in the current MSA, shall be under the jurisdiction of the RFMCs and the Secretarial approval process described in the current MSA. This authority shall not be limited to species of fish covered by approved FMPs, but shall include all species of fish as defined in the current MSA and shall cover the full range of the species in the marine environment. Prior to reaching decisions on the management regulations affecting fishing in NMS waters, an RFMC shall give full consideration of the responsibilities, goals, and objectives of individual NMS and any specific recommendations of the NMS.

In addition to the proposed changes in the MSA above, the RFMCs also recommend the NMSA be amended to achieve jurisdictional clarity as follows:

NATIONAL MARINE SANCTUARIES ACT

SEC. 302. [16 U.S.C. § 1432] DEFINITIONS

As used in this chapter, the term-

...(8)"sanctuary resource" means any living or nonliving resource of a national marine sanctuary, **excluding fish and Continental Shelf fishery resources under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1811)**, that contributes to the conservation, recreational, ecological, historical, education, cultural, archaeological, scientific, or aesthetic value of the sanctuary; and

SEC. 304. [16 U.S.C. § 1434] PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) Sanctuary Proposal

...

(5) FISHING REGULATIONS-The appropriate Regional Fishery Management Council shall prepare fishing regulations for any fish and Continental Shelf fishery resources within a sanctuary in accordance with Section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1852). The Secretary shall review the proposed fishing regulations in accordance with Section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1854), and other applicable statutes. Regional Fishery Management Councils shall cooperate with the Secretary and other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practical stage in drafting any sanctuary fishing regulations. Preparation of fishing regulations under this section shall constitute compliance with Section 304(d) of this Act. Fishing in compliance with regulations prepared under this section shall not constitute a violation of this Act.

H.R. 5018, Section 11. Diminished Fisheries

(b) Duration of Measure to Rebuild Diminished Fisheries

The Pacific Council appreciates the effort to clarify the intent of the 10-year requirement for rebuilding diminished fisheries but recommends MSA Section 304(e)(4)(A)(i) be amended by striking the word “possible” and inserting in lieu thereof “practicable”.

H.R. 5018 Omissions

The Pacific Council notes the following issues have been raised in comparable bills on reauthorization of MSA in the United States Senate and encourages their consideration for inclusion in H.R. 5018 or subsequent federal legislation regarding MSA reauthorization.

State Authority for Dungeness Crab Fishery Management

The Pacific Council believes the current management and assessment of the Dungeness crab resource on the West Coast is adequate under State authority and recommends removing the sunset clause as the law already contains provisions for the termination of State authority upon completion of a fishery management plan under MSA.

Western and Central Pacific Fisheries Convention Appointments

The Pacific Council is concerned with those provisions in S. 2012 , the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005*, Title V, the *Western and Central Pacific Fisheries Convention Implementation Act* which add a Western Pacific Fishery Management Council (WPFMC) member as a United States Commissioner and add the chair of the WPFMC’s Advisory Committee to the WCPFC Advisory Commission. The Pacific Council believes this action would give undue influence to the WPFMC and undermine West Coast interests in Western and Central Pacific Fisheries. The Pacific Council notes that many of the vessel owners, fisherman, and processors who participate in these fisheries or who maintain fishery support facilities in the Western Pacific are based on the West Coast. The Pacific Council would support the removal of the proposed WPFMC representation or the addition of similar representation for the Pacific Council.

Review of H.R. 1431

The LC also reviewed H.R. 1431 and in general preferred provisions in H.R. 5018 regarding matters such as Council member training, the role of SSCs, and conflict of interest.

H.R. 1431 Section 2 - Voting Members of Regional Fishery Management Councils

The LC opposes provision in Section (a)(2)(C)(ii) that specify the number or nominations, by sector or interest, a governor must make to fill a Council vacancy. The LC notes that governors already have the ability to do so and do not need to be tied to such a specific requirement.

(b) Training of Appointed Members

The LC prefers provisions in H.R. 5018 regarding Council member training and strongly opposes language in H.R. 1431 restricting voting privileges of Council members who have not completed the training.

H.R. 1431 Section 3 - Regional Fishery Management Council Committees and Panels

The LC is not supportive of provisions under this section to create a “Fishery and Marine Science Subcommittee” because the Council’s SSC already has effective subcommittees that fulfill this role.

The LC also opposes the additional requirements that SSC members have “no direct financial interest, or are not employed by any person with a direct financial interest, in any fishery.” The LC feels this unnecessarily limits qualified candidates.

The LC determined the language in this section regarding recusal and disclosure of financial interests is unduly restrictive. The LC notes that the provisions in the existing MSA are appropriate. The LC also noted a preference for H.R. 5018 in this matter.

H.R. 1431 Section 4 - Required Provisions in FMPs

The LC and the Council are supportive of ecosystem-based approaches to management but, the requirements for FMPs in this section are too broad and are undefined.

H.R. 1431 Section 5 - Peer Review

The LC notes the Council and the MSA already have an extensive peer review process. Provisions in this section add little to the process already in place in the Council forum.

LEGISLATIVE MATTERS

The Legislative Committee (Committee) will meet Monday, June 12 at 1:00 p.m. with a primary objective to review federal legislative issues regarding reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

The Committee last met on April 28, 2006 in a full day session in lieu of a meeting at the April 2006 Council meeting. This full day meeting was scheduled by the Council in March 2006 at the request of the Committee primarily to allow adequate time for Committee deliberation of H.R. 5018, the *American Fisheries Management and Marine Life Enhancement Act* introduced in the U. S. House of Representatives by Congressman Richard Pombo (R-California) along with Congressman Barney Frank (D-Massachusetts) and Congressman Don Young (R-Alaska). The meeting was comprehensive and productive given the lack of time constraints that can happen when the Committee meets in conjunction with Council meetings.

Due to considerable congressional activity in May 2006 regarding H.R. 5018, there was insufficient time for full Council review of the Committee's comments. To facilitate timely consideration of Committee comments during this legislative process, the Committee recommended and the Chair approved, Council Executive Director, Dr. Donald McIsaac providing written (Agenda Item B.3.a, Attachment 1) and verbal comments (Agenda Item B.3.a, Attachment 2) conveying Committee positions at a May 3, 2006 hearing regarding H.R. 5018 held by the U.S. House of Representatives Committee on Resources. Mr. Rod Moore also provided testimony at the hearing, but qualified his testimony as not being in his capacity as a Council member. The Committee's comments were conveyed in a letter (Agenda Item B.3.a, Attachment 3) sent to Congressman Pombo and the cosponsors of H.R. 5018, other key members of Congress working on MSA reauthorization, as well as staff members of the U. S. Senate Committee on Commerce, Science, and Transportation and the U.S. House Subcommittee for Fisheries, Conservation, Wildlife, and Oceans in advance of a May 17, 2006 work session of the U.S. House Committee on Resources to review and revise the bill. At the June Council meeting, the Committee will review and discuss any amended version of H.R. 5018 that may arise from this session.

The Committee also reviewed an amended version of S. 2012, the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005* introduced in the U. S. Senate by Senator Ted Stevens (R-Alaska). The Committee noted several key issues previously raised by the Council which have not been addressed in the current version of S. 2012. Additionally, in response to Council deliberations and public testimony at the March 2006 Council meeting, the Committee reviewed and commented on two new issues; 1) removal of term limits for the Council Tribal Obligatory seat, and 2) S. 2012 provisions for U.S. representation on the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Central and Western Pacific Ocean in accordance with the Western and Central Pacific Fisheries Convention. Committee comments were sent in a letter from Dr. McIsaac (Agenda Item B.3.a., Attachment 4) to Senator Stevens and the same distribution list as aforementioned letter regarding H.R. 5018.

The Council is tasked with considering its Legislative Committee recommendations on these and other legislative matters and responding, as appropriate.

Council Action:

Consider recommendations of the Legislative Committee.

Reference Materials:

1. Agenda Item B.3.a, Attachment 1: May 3, 2006 written testimony of Dr. McIsaac to U.S. House of Representatives, Committee on Resources regarding Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act.
2. Agenda Item B.3.a, Attachment 2: May 3, 2006 verbal testimony of Dr. McIsaac to U.S. House of Representatives, Committee on Resources regarding H.R. 5018 and H.R. 1431.
3. Agenda Item B.3.a, Attachment 3: May 15, 2006 letter from Dr. McIsaac to U.S. Congressman Pombo regarding Legislative Committee comments on H.R. 5018.
4. Agenda Item B.3.a, Attachment 4: May 15, 2006 letter from Dr. McIsaac to U.S. Senator Stevens regarding Legislative Committee comments on S. 2012.

Agenda Order:

- | | |
|---|-------------|
| a. Agenda Item Overview | Mike Burner |
| b. Legislative Committee Report | Dave Hanson |
| c. Reports and Comments of Advisory Bodies | |
| d. Public Comment | |
| e. Council Action: Consider Recommendations of the Legislative Committee | |

PFMC
05/22/06

**Hearing Before the
United States House of Representatives
Committee on Resources**

**Reauthorization of the Magnuson-Stevens Fishery
Conservation and Management Act**

May 3, 2006

Washington, DC

**Written Testimony of
Dr. Donald McIsaac
Executive Director
Pacific Fishery Management Council**

Mr. Chairman and Members of the Committee:

My name is Donald McIsaac, Executive Director of the Pacific Fishery Management Council. I have trained for and worked in fisheries management for the last 35 years, earning a bachelor of science in fisheries biology, a master's degree in fisheries management, and a Ph.D. in salmon ecology. Prior to becoming Executive Director of the Pacific Council, I worked for 25 years for the Washington and Oregon state fishery management agencies with a focus on interjurisdictional fishery management matters.

Thank you for the opportunity to testify before you today on behalf of the Pacific Council regarding reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. We appreciate the bill authors bringing in new ideas to this important legislation.

Today I will limit my testimony to three issues, and focus primarily on one issue. The focus of my testimony is the issue of fishing regulations in National Marine Sanctuaries: who should establish such fishing regulations and how should it be done? The second issue is the question of using hard total allowable catch levels in fisheries management and "repayment" of any catch number overages and underages that happen from management imprecision or unforeseeable events. The last issue I want to touch lightly on is an element of the Individual Quota Program legislation.

Fishery Regulation in National Marine Sanctuaries (H.R. 5018, Section 10: COMPETING STATUTES)

On the issue of fishing regulation in waters of National Marine Sanctuaries, legislation needs to be clear and unambiguous that fishing regulations be accomplished through a Regional Fishery Management Council process described in a slightly revised Magnuson-Stevens Fishery Conservation and Management Act and not under the process described in the current National Marine Sanctuaries Act.

I would like to mention several reasons this issue is important to West Coast fishery management.

- A considerable portion of the West Coast lies within a National Marine Sanctuary. As you know, there are four sanctuaries in California, The Channel Islands National Marine Sanctuary, the Monterey Bay National Marine Sanctuary, the Gulf of the Farallones National Marine Sanctuary, and the Cordell Bank National Marine Sanctuary as well as the Olympic Coast National Marine Sanctuary off the coast of Washington. Additionally, Oregon Governor Ted Kulongoski has formally proposed consideration of the entire coast of Oregon for an Oregon Coast National Marine Sanctuary.
- The current status of fishery authority is confusing to public and can impede collaboration between the Regional Fishery Management Councils and National Marine Sanctuaries. I and the Pacific Council have heard frequent public testimony requesting a single fishery management authority, that being the Regional Fishery Management Council where there exists the scientific expertise and open public process intended for this purpose. Mr. Bob Alverson, Pacific Council member and General Manager of the Fishing Vessel Owners' Association, recently commented that “my organization’s fisherman are interested in working with a single entity on fishery management issues rather than multiple authorities and jurisdictions.”
- Competing authorities and jurisdictions do not facilitate the application of ecosystem-based fishery management principles.
- Pacific Council members and members of the public repeatedly refer to promises originally made during the enactment of the National Marine Sanctuaries Act that, although not formalized in act itself, are remembered by members of the public, “Sanctuaries will not become involved in fishery regulation, that will remain in the sole purview of the Regional Fishery Management Councils and the National Marine Fisheries Service, or the individual States in some circumstances”. This common perception of fishing industry participants, coastal communities and Indian tribes on the West Coast is still being put forward today. In a letter to the Oregon Congressional Delegation, Oregon Governor Kulongoski wrote, “I want to emphasize that commercial and recreational fishing will continue within the sanctuary and will continue to be regulated by the Pacific Fishery Management Council and the Oregon Fish and Wildlife Commission based on the management plan for the sanctuary. As you know, a National Marine Sanctuary does not have separate authority to manage or regulate marine fisheries.”

The solution: legislation needs to be clear and unambiguous and state that fishing regulations be accomplished through a Regional Fishery Management Council process under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and not under the process described in the current National Marine Sanctuaries Act.

Regarding the competing statutes of the Magnuson-Stevens Fishery Conservation and Management Act and the National Marine Sanctuaries Act, H.R. 5018 represents an important initial step, but additional clarification is needed.

Existing language in H.R. 5018 Section 10 COMPETING STATUTES is commendable its recognition that fishing regulations promulgated under the National Marine Sanctuaries Act are not currently required to conform to national standards under Section 301(a) of the Magnuson-Stevens Fishery Conservation and Management Act. Neither does the National Marine Sanctuaries Act bring to bear the scientific and fishing industry expertise that exists in Regional Fishery Management Council processes. However, H.R. does not go far enough in achieving kind of clarity on fishery management authority the public expects.

Without amendment, H.R. 5018 does not clearly identify a Regional Fishery Management Council as the sole fishery authority where public fishery management decisions are made. The existing process under Section 304(a)(5) of the National Marine Sanctuaries Act can be applied in a manner which leaves a Regional Fishery Management Council little more than the task of drafting fishery regulatory language to meet the underlying fishery policies and goals as determined by a National Marine Sanctuary.

The Pacific Council would like to see additional federal legislation which builds on the foundation of H.R. 5018 as introduced. The Pacific Council recommends Regional Fishery Management Councils and their associated public processes be formally brought into the early decision-making phases of the National Marine Sanctuary Act process. In this way, the scientific rationale for National Marine Sanctuary goals and objectives can become fully vetted and developed in a collaborative process.

Recent Pacific Council actions to ban the harvest of krill on the West Coast and to prohibit the use of bottom-contacting gear with the Cordell Bank and Monterey Bay National Marine Sanctuaries are good examples of Regional Fishery Management Council and the National Marine Sanctuary collaboration. In these cases, habitat and ecosystem concerns, shared by both the Pacific Council and the

sanctuaries were addressed through the scientific and public processes of the Pacific Council and were efficiently implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Conversely, fishing regulations in the Channel Islands National Marine Sanctuary have recently been recommended for implementation under the both the Magnuson-Stevens Fishery Conservation and Management Act and the National Marine Sanctuaries Act, a process that has widely been considered to be confusing and inefficient.

Again, the Pacific Council feels legislation needs to be clear and unambiguous that fishing regulations be accomplished through a Regional Fishery Management Council process described in a slightly revised Magnuson-Stevens Fishery Conservation and Management Act and not under the process described in the current National Marine Sanctuaries Act. To achieve this, the Pacific Council stands behind its recommendation to adopt the position of the Regional Fishery Management Council Chairs. This position can be found beginning on the bottom of page 4 of the attached position paper.

This position paper calls for an ecosystem-based approach which broadens Magnuson-Stevens Fishery Management authority to cover the full range of species in the marine environment and calls for jurisdictional clarification through specific amendments to the National Marine Sanctuaries Act.

Total Acceptable Biological Catch Levels – (H.R. 5018, Section 3: SCIENCE-BASED IMPROVEMENTS TO MANAGEMENT)

The Pacific Council supports the existing language in this section of H.R. 5018 and notes the Pacific Council already implements these management principles. Further, the Pacific Council effectively utilizes in-season manage mechanisms to ensure the adopted acceptable biological catch levels are not exceeded whenever possible.

Unlike H.R. 5018, there have been calls for a “penalty” provision in instances where the catch inadvertently exceeds adopted catch levels. The penalty being a commensurate deduction from the following year’s harvest allowance. Others call for a policy to carry both overages and underages into the following year. The Pacific Council disagrees with both of these potential provisions and think they can be unwarranted, disruptive, and dangerous.

Overages should not be deducted from the next year’s harvest because the overage could have a minor biological effect if the overage is minimal under an in-season

management policy and a new stock assessment has takes the overage into account. It can be risky to rollover uncaught harvest allowance to the next year because one possible reason for the underage is an inaccurate stock assessment, a result that is not often discovered within one year.

Limited Access Privilege Programs (H.R. 5018, Section 7)

The Pacific Fishery Management Council is currently in the process of developing an individual quota program for the trawl sector of the groundfish fishery. The Pacific Fishery Management Council strongly recommends that nothing in any MSA reauthorization legislation apply to, or disrupt the ongoing development of potential future amendment of its groundfish trawl individual quota program. Therefore the Pacific Council is supportive of H.R. 5018 proposed language for MSA Section 303A(h) which protects programs under development before the date of the bill's enactment.

Other Topics

I agree with my colleague from the North Pacific Fishery Management Council, Mr. Chris Oliver with regard to integration of the National Environmental Policy Act (NEPA) into the Magnuson-Stevens Act to create great efficiencies in the public process at no loss to the intent of NEPA.

On Friday April 29, 2006, I met with the Pacific Fishery Management Council's Legislative Committee whose agenda focused on reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. In a forthcoming letter, I will convey the results of the Legislative Committee's section-by-section review of H.R. 5018 which will provide additional comments on the three topics I have highlighted today together with detailed comments on Pacific Fishery Management Council appointments, ecosystem-based fishery management, funding for observer programs, diminished fisheries, and Joint Fisheries Enforcement Agreements.

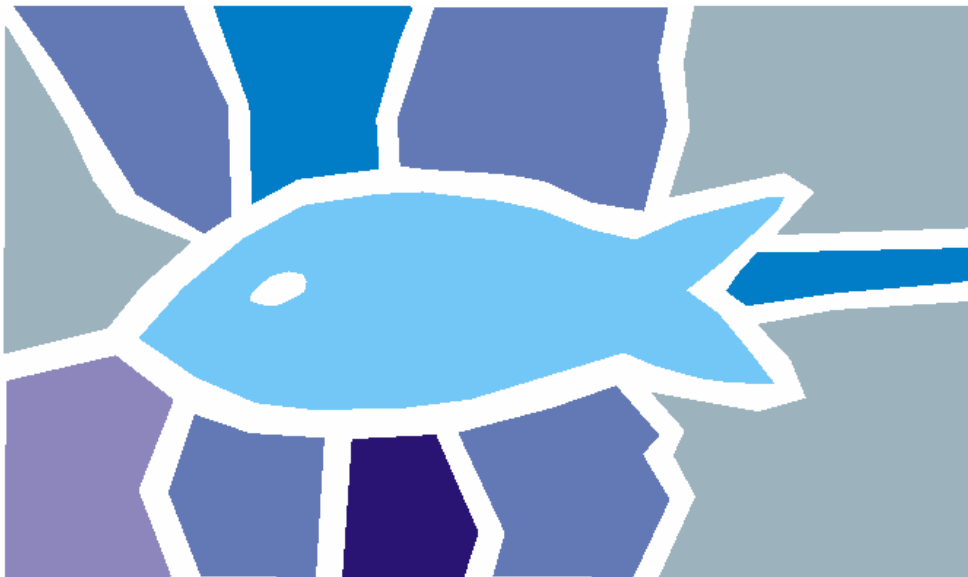
LIST OF ATTACHMENTS

1. Disclosure Requirement for Donald O. McIsaac to testify before the House Committee on Resources, May 2006

2. Positions of the Regional Fishery Management Council Chairs on Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act, April 2005

**Positions of the Regional Fishery Management
Council Chairs on Reauthorization of the Magnuson-
Stevens Fishery Conservation and Management Act**

April 28, 2005



Preface

The 109th Session of Congress is currently underway and it is anticipated that reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) will be addressed during this Congress. Regional Fishery Management Council (RFMC) input on MSA reauthorization has been requested by U.S. Senators Ted Stevens (R, Alaska), Daniel Inouye (D, Hawaii), Gordon Smith (R, Oregon), and Olympia Snowe (R, Maine), as well as U.S. Representative Wayne Gilchrist (R, Maryland). At the annual meeting of the RFMC Chairs and Executive Directors in Dana Point, California on April 27 – 28, 2005, the collective RFMC Chairs considered various issues associated with MSA reauthorization towards the purpose of developing consensus positions, including previous positions developed in 2001 and 2002.

This document describes the RFMC Chairs' positions on the nine issues developed at the referenced meeting. This document also contains the Council Chairs' positions from 2001 and 2002, as updated on the basis of a review for relevance and consistency with the 2005 positions to insure that any 2005 positions supercede and take precedence over any potential conflicts with prior positions. The Chairs adopted these positions, with the understanding that positions on outstanding relevant issues would be forthcoming at some point in the future.

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Issue 1: Dedicated Access Privileges (Individual Fishing Quotas, Community Quotas, Area-Based Quotas, and Fishing Cooperatives)

Preamble

A reauthorized MSA shall include comprehensive authority to develop dedicated access privilege programs, generally referred to as individual quotas (IQs), but also referred to as area-based quotas, community quotas, fishing cooperatives, allocation systems, or share-based programs.

No later than 18 months after reauthorization, the Secretary of Commerce (Secretary), in consultation with RFMCs, should develop National Guidelines consistent with the recommendations in this document for the establishment of allocation systems, including, but not limited to, IQs, community quotas, and cooperatives. However, the development of these National Guidelines shall not prevent the adoption of a new IQ program or compromise existing IQ programs while the guidelines are under development. Guidelines shall not be applied retroactively, although existing programs may be subject to periodic review and revision by RFMCs as appropriate.

Criteria for Allocation

The initial allocation of interests under an IQ program shall be consistent with existing National Standard 4. The RFMCs shall consider the interests of those who rely on the fishery, including vessel owners, processors, communities, and fishing crews. An IQ program may include provisions to protect these interests. However, goals of the IQ program should also be to create market-based programs and conserve the resource.

Conservation

IQ programs should include incentives to reduce bycatch and discards and to promote conservation wherever possible, consistent with existing National Standard 9.

Limitation on Interests and the Duration of IQ Programs

Shares under an IQ program must have tenure sufficient to support and facilitate reasonable capital investment in the fishery; however, any shares allocated under the program shall be a privilege, which may be revoked without compensation to the holder.

IQ program duration shall be at the individual RFMC's discretion without required sunset.

IQ Program Review

Periodic, comprehensive review of IQ programs shall be required to assess the extent to which the program is meeting original goals and objectives and to assess the social and economic ramifications to program beneficiaries.

Quota Transfers

Appropriate provisions governing transferability, which may include permanent and temporary transfers, shall be subject to limitations consistent with the social objectives of the program and shall be determined by individual RFMCs.

Excessive IQ Shares and Quota Accumulation Limits

The IQ program allowance should include limits on shares, including caps on holdings of a person or use of shares by a person or a single vessel. However, such limitations shall be determined on a program-by-program basis by the individual RFMCs.

Referenda of IQ Programs

Referenda shall not be a mandatory requirement for Secretarial approval of an IQ program. RFMCs may, however, establish requirements for referenda for individually tailored IQ programs.

IQ Program Cost Recovery Fees

IQ programs should include an allowance for the collection of fees to offset management and monitoring costs, including state costs. However, the collection of fees should not exceed 3% of the exvessel value and should take into consideration existing industry-born costs for observers.

Enforcement, Monitoring, and Data Collection

IQ programs should include provisions for effective monitoring and enforcement of the goals and objectives under the program.

Issue 2: Competing Statutes

MSA and National Environmental Policy Act

Following the addition of critical provisions to MSA sections 302, 303, and 305, thereby making MSA fully compliant with the essential intent of National Environmental Policy Act (NEPA), reauthorized legislation should specify MSA as the functional equivalent of NEPA and exempt from NEPA in the same manner as the MSA is exempt from the Federal Advisory Committee Act (FACA). Areas to be addressed include analyzing a full assessment of environmental impacts, a range of reasonable alternatives, cumulative effects, and the extent of analysis on effects to the human environment, as well as a comprehensive public participation process. The specific proposed amendment language is as follows:

SEC. 302 [16 U.S.C. § 1852] REGIONAL FISHERY MANAGEMENT COUNCILS CONTENTS OF FISHERY MANAGEMENT PLANS

(i) PROCEDURAL MATTERS.

(7) Prior to a Council submitting a fishery management plan, plan amendment or proposed regulations to the Secretary as described in Section 303, a Council shall prepare a fishery impact statement that shall

(a) include a range of reasonable alternatives;

(b) specify and assess likely direct and cumulative effects of each alternative on the physical, biological and human environment, including

(i) participants in the fisheries and fishing communities affected by the plan, amendment, or regulation and

(ii) participants in fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council representatives of those participants;

(c) be considered in draft forms during at least two Council meetings; and

(d) be made available to the public in draft form at least 10 days prior to the date of final Council action.

A final fishery impact statement shall be submitted to the Secretary coincident with a final recommendation.

SEC. 303 [16 U.S.C. § 1853] CONTENTS OF FISHERY MANAGEMENT PLANS

(a) REQUIRED PROVISIONS.

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

...

(9) include a fishery impact statement of the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 4, 1990~~2005~~) which will assess, specify, and describe the likely effects, if any, of the conservation and management measures ~~on~~ **as described in Section 302 (i) 7. Fishery management plans prepared by the Secretary shall conform to the requirements of Section 302 (i) 7.**

~~(A) participants in the fisheries and fishing communities affected by the plan or amendment; and~~

~~—————(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council representatives of those participants;~~

SEC. 305 [16 U.S.C. § 1855] OTHER REQUIREMENTS AND AUTHORITY

...

(e) EFFECT OF CERTAIN LAWS.—

(1) The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12866, dated September 30, 1993, shall be complied with within the time limitations specified in subsections (a), (b), and (c) of section 304 as they apply to the functions of the Secretary under such provisions.

(2) Any plan or amendment or regulation developed under sections 302, 303, and 304 of this act, is deemed to be in compliance with the National Environmental Policy Act.

MSA and National Marine Sanctuary Act

Fishery management authority in national marine sanctuaries (NMS), for all species of fish as defined in the current MSA, shall be under the jurisdiction of the RFMCs and the Secretarial approval process described in the current MSA. This authority shall not be limited to species of fish covered by approved fishery management plans (FMPs), but shall include all species of fish as defined in the current MSA and shall cover the full range of the species in the marine environment. Prior to reaching decisions on the management regulations affecting fishing in NMS waters, a RFMC shall give full consideration of the responsibilities, goals, and objectives of individual NMS and any specific recommendations of the NMS.

In addition to the proposed changes in the MSA above, the RFMCs also recommend the National Marine Sanctuaries Act be amended to achieve jurisdictional clarity as follows:

NATIONAL MARINE SANCTUARIES ACT

SEC. 302. [16 U.S.C. § 1432] DEFINITIONS

As used in this chapter, the term-

...

(8) "sanctuary resource" means any living or nonliving resource of a national marine sanctuary, **excluding fish and Continental Shelf fishery resources under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1811)**, that contributes to the conservation, recreational, ecological, historical, education, cultural, archaeological, scientific, or aesthetic value of the sanctuary; and

SEC. 304. [16 U.S.C. § 1434] PROCEDURES FOR DESIGNATION AND IMPLEMENTATION

(a) Sanctuary Proposal

...

(5) FISHING REGULATIONS-**The appropriate Regional Fishery Management Council shall prepare fishing regulations for any fish and Continental Shelf fishery resources within a sanctuary in accordance with section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1852). The Secretary shall review the proposed fishing regulations in accordance with section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1854), and other applicable statutes. Regional Fishery Management Councils shall cooperate with the Secretary and other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practical stage in drafting any sanctuary fishing regulations. Preparation of fishing regulations under this section shall constitute compliance with section 304(d) of this Act. Fishing in compliance with regulations prepared under this section shall not constitute a violation of this Act.**

MSA and Freedom of Information Act

The MSA should be amended to clarify the confidentiality of observer data relative to the Freedom of Information Act (FOIA); i.e., unless otherwise authorized (as in 402(b)(1)(E) for example), prohibit the release of non-aggregated observer data. Other information such as that generated by electronic monitoring devices (VMS or video cameras, for example) should be afforded similar protection.

State law enforcement officials under a cooperative enforcement agreement with NOAA should be provided access to information and data gathered by the vessel monitoring system (VMS) operated by the National Marine Fisheries Service (NMFS) Office of Law Enforcement, and such information should be allowed for use in prosecutions of state and federal law violations.

The U.S. Coast Guard should be provided access to VMS data for enforcement and homeland security purposes unless otherwise arranged by agreement between agencies for enforcement, homeland security, and maritime domain awareness programs.

Issue 3: Integration of Science in the Fishery Management Process

Separation of Conservation and Allocation Processes

Final determinations of necessary scientific fishery parameters should be made within the RFMC management process and not in separate, distinct bureaucracies.

Councils shall adopt acceptable biological catches (ABCs) within limits determined by their Scientific and Statistical Committees (SSCs) (or appropriate scientific body) and shall set total allowable catches (TACs) and/or management measures, such that catch would be at or below ABC.

Structure and Function of SSCs

The specific structure of the SSC should be based on the policy of each Council consistent with the overall guidance of the MSA.

RFMCs should retain appointment authority for SSCs and establish terms to meet their standard administrative processes.

SSC members should not be subject to any limit to the number of terms they may serve.

When possible, the SSC should meet concurrently with Council meetings and at the same locale.

Opportunity should be provided for regional or national SSC meetings where members from different regions could discuss best practices and seek to identify analytical and research needs.

Best Scientific Information Available

Each Council's SSC shall peer review fundamental analyses needed for fishery management, including such matters as stock assessments, fishery impact models, and projection methodologies. For purposes of compliance with the Data (Information) Quality Act and attendant Office of Management and Budget guidelines, the MSA shall constitute the SSCs as an appropriate alternative review mechanism for influential and highly influential information. The SSC shall make a determination of the best available scientific information prior to Council decision-making and provide the Council with an assessment of the soundness of the scientific conclusions and the uncertainty of the science. The Council will consider the soundness of the data, levels of certainty, and socioeconomic factors when developing catch limits and/or management measures.

Best scientific information available determinations include the social and economic sciences, as well as the physical and biological sciences.

Need for Independent Review

There should be an independent peer review of scientific information and processes used by each Council at appropriate intervals determined by the Council. Such reviews should not be limited to stock assessments, but could also extend to socioeconomic and other types of models and analyses used by the Council.

Use of Default Mechanisms

Default measures that close fisheries entirely until science and management integration standards are met should not be used. Emergency and interim rules may be extended as necessary to address delays in the use of best available science, miscellaneous violations of National Standard 1, or other such potential concerns.

Making Research Relevant

SSCs should develop research priorities and identify data and model needs for effective management.

Other

NMFS should be provided with the support to dedicate more resources to stock assessments and socioeconomic impacts.

Issue 4: Ecosystem Approaches to Management

Overall Conclusions for Ecosystem Approaches

Ecosystem-based management is an important tool for enhancing fisheries and the ecosystems on which they depend.

The RFMCs and NMFS should work collaboratively to pursue an ecosystem approach to fisheries involving all stakeholders, managers, and scientists.

The RFMCs endorse a preference for the use of currently available tools in implementing ecosystem-based management and the resources and funding necessary to better engage those tools.

RFMCs and NMFS regions need to maintain the flexibility to manage regional fisheries. The concept of “national standardization” is incompatible with the need for ecosystem approaches to reflect regional differences.

A holistic approach is a realistic approach only with collaboration among RFMCs and NMFS, partner agencies, and stakeholders.

Regional Ecosystem Planning and the Role of Regional Ocean or Ecosystem Councils

The RFMCs do not support separate ecosystem councils, but do support establishment of regional coordinating bodies comprised of regional authorities/jurisdictions and public expertise to address non-fisheries management issues.

Technical Requirements for an Ecosystem Approach to Fisheries

The RFMCs and NMFS should (1) identify, prioritize, and develop weighting for ecosystem characteristics as recommended by the SSC at the *Managing Our Nation’s Fisheries II* conference (including human characteristics and reference points and performance indicators to measure progress, future monitoring, and research) and (2) inventory current ecosystem projects.

To develop successful ecosystem management, the approach must progress in a deliberate, evolutionary, and iterative process.

Science Limitations

A lack of data should not limit our ability to adopt a realistic ecosystem management approach.

Additional funding is needed to enhance ecosystem data collection and model development. The goals and objectives of any ecosystem management approach must match the reality of available information, the reality of budget limitations, and the evolutionary nature of the process.

The first priority should be to focus on improvements that can realistically be accomplished in the short term, using and improving on our current management tools, existing data sets, and knowledge, recognizing models and available data will differ by region.

Incorporating Ecosystem Planning in FMPs

Councils should develop ecosystem-based management documents for fisheries.

Ecosystem-based FMPs should be a fundamental, first order goal for each Council or region.

If an overarching fishery ecosystem plan is developed, it should provide general guidance to FMP development.

Process for Developing Ecosystem-Based Goals and Objectives

Broadly defined national level objectives should be developed, followed by regionally defined goals and objectives.

A steering committee comprised of Council and NOAA participants in each region or large marine ecosystem should provide recommendations on the process of developing goals and objectives.

Development of National Guidelines for an Ecosystem Approach to Fisheries

National Guidelines should provide general guidance, recognizing the diversity of ecosystems, and not be technical in nature. It is noted that many of the pitfalls in the development of national guidelines for essential fish habitat [EFH] and the complexities of overfishing can be avoided.

Guidance should help Councils and NMFS to use tools available under MSA and other mandates, to evaluate the potential for ecosystem-based management in each region, and address differences among regions.

Elements of an Ecosystem Approach to Fisheries that should be Codified in the MSA

Great caution should be applied in considering amendments to the MSA that include any specific requirements. More specifically, the RFMC are wary of strict regulations and guidelines that will require Councils to produce new FMP amendments across the board (as occurred with new elements in the 1996 Sustainable Fisheries Act), rather than building an ecosystem approach into existing management practices.

Noting the current MSA allows for ecosystem-based management, the RFMCs do not believe it is necessary to amend the MSA to address ecosystem management. Instead, it is recommended that regional guidance be developed to help Councils move forward with an increased level of sophistication.

Issue 5: Rebuilding Time Frame

The RFMCs recommend MSA Section 104-297 (e)(4)(A)(ii) be deleted as follows to address the problems associated with the arbitrary 10-year rebuilding time boundary:

- (2) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—
 - (A) end overfishing within one year, and specify a rebuilding period that shall—
 - (i) be as short as possible, taking into account the status, mean generation time, and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem;~~and~~
 - (ii) ~~not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;~~
 - (B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and
 - (C) for fisheries managed under an international agreement, reflect traditional participation in the fishery relative to other nations, by fishermen of the United States.

Issue 6: Governor's Nomination of Council Members

The RFMCs recommend no change in the process for nominating Council members.

Issue 7: FACA and Council Chairs Meetings

The RMFCs recommend amending § 302 of the MSA (16 U.S.C. § 1852) by adding subsection (k) as follows.

SEC. 302 [16 U.S.C. § 1852] REGIONAL FISHERY MANAGEMENT COUNCILS

(k) COMMITTEE OF COUNCIL CHAIRS.

(1) There shall be established a Fishery Management Council Committee of Chairs, consisting of the Chairs, Vice Chairs and Executive Directors of each of the Regional Fishery Management Councils identified in subsection (a)(1), and, in each case, selected under subsection (e)(2), of this section.

(2) The Committee of Chairs shall meet at a minimum annually, to discuss national

policies and issues related to, and the effectiveness of implementation of, this Act and the relationship of these matters to other applicable laws.

(3) Council Members authorized to receive compensation and expenses under subsection (d) of this section shall also receive such for meetings of the Committee.

(4) The requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Committee of Chairs, however, the requirements for Councils under subsection (i)(2) of this section shall apply to the Committee of Chairs.

Issue 8: Bycatch Reporting Requirements

The RFMCs recommend the following revision to section 303 (a) (11):

to the extent practicable establish a standardized-reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, ~~to the extent practicable and~~ in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided.

Issue 9: National Saltwater Recreational License

There should be no federal saltwater recreational license. States should be encouraged to maintain or institute licenses.

Donald McIsaac Verbal Testimony
before the
House Natural Resources Committee Hearing on H.R. 5018 and H.R. 1431
Wednesday May 3, 2006
Speaking Copy

(Note: bold font below represents the subset of the full testimony that was actually delivered so as to not exceed the 5 minute limit on oral testimony)

Mr. Chairman and Members of the Committee:

My name is Donald McIsaac and I am the Executive Director of the Pacific Fishery Management Council. I have trained for and worked in fisheries management for the last 32 years, including earning a bachelor of science degree in fisheries biology, a master's degree in fisheries management, and a Ph.D. in salmon ecology. Prior to becoming Executive Director of the Pacific Council, I worked for 25 years for the Washington and Oregon state fishery management agencies with a focus on interjurisdictional fishery management matters. On behalf of the Pacific Fishery Management Council, I would like to thank the Committee and Committee staff for the opportunity to provide oral testimony and a written statement.

Let me start by thanking the bill authors for bringing new ideas to this important legislation that will define the future of marine fishery management in the United States. It is apparent that much thought has gone into the bills that are the subject of this hearing and I would like to commend you for your efforts.

Today I will limit my testimony to three issues, and focus primarily on one. Please note however that there are many other areas that we feel we can offer constructive comment; my written statement addresses the topic of other issues. **The issue I will focus most of my testimony on is fishery regulation in National Marine Sanctuaries; the essential question of this issue is who should establish such fishing regulations and how should it be done.** The second issue is the question of a hard cap on Total Allowable Biological Catches and the question of “repayment” of overages and

underages that happen from management imprecision or unforeseeable events. The last issue I want to touch lightly on is an element of the Limited Access Program legislation.

Fishery Regulation in National Marine Sanctuaries
(H.R. 5018 Section 10: COMPETING STATUTES, pages 60-61)

On the issue of fishing regulation in waters of NMSs, **the Pacific Council believes legislation needs to be clear and unambiguous that this be accomplished through a RFMC process and not under the process described in the current NMSA.**

Why is this so important to West Coast marine fishery management?

- 1. NMSs cover a great deal of geography along the West Coast.**
- 2. Fishery regulation expertise lies in the Council process, not in the NMS infrastructure.**
- 3. The public is now confused as to where fishery regulation occurs: is it in the Council process or the NMS process?**
- 4. There is a history of promises that NMS would not regulate fishing, but now it seems it is occurring** via current NMS processes that can lead to fishery management authority in Sanctuary designations.
- 5. True ecosystem management** in the fishery context is facilitated by consolidating fishery regulation jurisdiction in a single authority, not two authorities. **Ecosystems do not break conveniently along Sanctuary boundaries, and neither should fishery management.**

H.R. 5018 is a commendable effort to solve the problems, but we think it does not go far enough. Let me elaborate on these and offer our recommendations for additions to the H.R. 5018 solution.

The first reason had to do with **geography**: the areas of NMSs on the West Coast is large and could get much larger in the near future. **There are currently 4 NMS off the State of California.** Three contiguous ones cover about 250 miles of coastline near the center of the State—the Monterey NMS south of San Francisco Bay, the Farrallon Islands NMS on either side north and south of the Golden Gate Bridge, and the Cordell Bank NMS north of San Francisco Bay. California also has the Channel Islands NMS, covering what has historically been some of the best fishing grounds off southern California. **Together, these NMS cover 40% of the California coast. Off the State of Washington, the Olympic NMS covers roughly**

the northern two thirds of the coast of Washington. Lastly, the Governor of the State of Oregon has proposed a NMS stretching the entire length of the Oregon coast from the mouth of the Columbia River to the California – Oregon State line: about 300 miles of coastline. These areas combined are approximately 55% of the United States coastline between Canada and Mexico. Further, one cannot rule out more Sanctuary designations in the future. So, on the West Coast, we are not talking about a NMS around a particular isolated reef here or there, or a ship wreck—we are talking about the potential of a huge portion of the West Coast. For those of you representing east coast States, imagine if you will NMSs encompassing just over half the area between the Maine – Canada border and the tip of Florida. For those of you representing Gulf States, imagine NMSs encompassing just over half the area between the Mexico-Texas border and the tip of Florida.

The second reason has to do with the fishery management expertise to deal with complex fishery regulation issues. The RFMC process has it: a proven open, transparent process that the public knows about; an SSC and other scientific advisory bodies that thoroughly analyze the effects of fishing regulations; a specialized Habitat Committee; expert advice from other advisory bodies composed of fishing industry and conservation group representatives; the opportunity for those affected by fishery regulation to be heard prior to a final vote of the Council in an open public forum.

The current situation on the West Coast whereby fishing regulation goals and objectives are developed in a NMS process is confusing to public as to who is in charge, and can result in bureaucratic duplication and inefficiencies.

As Council Member Bob Alverson said of the commercial fishermen in his organization, “The small boat owners do not want to have to participate in the Council process, and then go do the same thing at one or more NMS processes to insure that the fishing seasons make sense.” These and the other fishing interests with the same concerns want the one forum to be the Council forum as the single place to go: the place with the fishery management expertise, the place with the scientific knowledge, the advisory body know-how, the place with the open process proficiency, the place with the demonstrated capability to make reasonable decisions to manage entire fish populations and sustainable fisheries. The West Coast

public does not want fishery regulation by the NMS with no history of fishery management and no demonstrated capabilities in the complexities of fishery management. **The public wants one stop shopping for federal fishing regulations and they want that one stop to be the RFMC process.**

Another reason the public wants the RFMC process to comprehensively manage fisheries is the promises made when the NMS were originally created. The promise was that the NMS would not become involved in fishery regulation—fishery regulation was to remain in the sole purview of the RFMC and NMFS, or the individual States in some State waters circumstances. This was reflected in the original Designation Documents for each of the West Coast NMS not having authority to manage fisheries. But now the NMS are engaging in processes that can change the terms of these Designation Documents to allow fishery regulation in West Coast NMS, to the dismay of the fishermen that supported Sanctuary designation to start with under the promise that they would never regulate fisheries.

As further reinforcement that West Coast fishing industry participants, coastal communities, Indian tribes and most of the public expects—and wants—single authority for fishery regulation in the RFMC forum, I refer to Oregon Governor Ted Kulongoski's press release on his proposed Oregon Coast NMS, where he said, "I want to emphasize that commercial and recreational fishing will continue within the sanctuary and will continue to be regulated by the Pacific Fishery Management Council and the Oregon Fish and Wildlife Commission based on the management plan for the sanctuary. As you know, a National Marine Sanctuary does not have separate authority to manage or regulate marine fisheries."

Why do people want and expect this? Again, the Council forum is where the fishery management expertise is.

An additional reason to secure fishery regulation under the sole jurisdiction of the RFMC process under Magnuson has to do with ecosystem management. Ecosystems do not break conveniently along the boundaries of a NMS. Why make it difficult to achieve ecosystem management by having two separate jurisdictions managing fish inside one ecosystem? The MSA currently says that the RFMC process shall manage fish stocks throughout their range. This was wise when adopted and the concept is wise now given the momentum for ecosystem management.

I want to stress that the Pacific Council and the West Coast Sanctuaries have worked well together. The NMSs staffs are hardworking, talented, and professional. I characterized the current working relationship with the NMSs as cordial and mutually respectful. But the Council believes the relationship works best with fishery regulation solely accomplished under Magnuson.

There is strong recent evidence that consolidating fishery management authority in the RFMC process strictly under Magnuson can work well. The first example I cite is the recent decision by the Pacific Council to ban krill fishing on the West Coast. The NMS became interested in closing krill fishing and brought a recommendation for a closure in NMS waters to the Council forum. The Council considered it in a multi-meeting process and after thorough analysis, adopted a coastwide ban in the EEZ inside and outside the NMS boundaries. It was all done under Magnuson; there was no NMSA process. Also, in the case of the Cordell Bank NMS and Monterey NMS areas, ideas for closure of bottom contact fishing gear were brought forward by the NMS, and the Council successfully acted under the MSA to accomplish these fishing regulations; again, Secretarial approval came under Magnuson and not the NMSA. Conversely however, changes to the fishing regulations in the Channel Islands NMS has progressed under the NMSA, and the process has taken much longer (and is still not completed), been wrought with public confusion and controversy, and will apparently require their Designation Document to be changed to allow the regulation of fishing inside the CINMS. However, the krill fishing ban is the current poster child of successful interaction between RFMCs and NMSs; again, we point out that this success was accomplished under Magnuson, not the Sanctuaries Act.

For all of these reasons, legislation needs to make it clear and unambiguous that fishery regulation in federal waters be accomplished through a RFMC process and not under the process described in the current NMSA.

We commend the authors of H.R. 5018 for addressing this problem, whereas Senate bill 2012 did not and the Administration draft did not. **H.R. 5018 is commendable that it recognizes the current NMSA chain of jurisdiction does not require fishing regulations in NMS to conform to national standards, nor fully bring to bear the scientific and fishing sector**

expertise that exists in the RFMC process. However, we believe H.R. 5018 does not go quite far enough to cement a finite solution. It does not unambiguously state that the place for fishery regulation is under Magnuson, not under the NMSA. H.R. 5018 still seems to provide for a NMSA fishery regulation process and the associated potential for bureaucratic duplication and public confusion over who is in charge of fishing regulation.

The Pacific Council feels there is a way for legislation to be clear and unambiguous that fishing regulations be accomplished through a Regional Fishery Management Council process and not under the process described in the current National Marine Sanctuaries Act. **To be clear and unambiguous, we recommend language in a revised MSA in accordance with the April, 2005 position of the Regional Fishery Management Council Chairs. This position can be found in the position paper attached to my written statement. Further, to cement the desired result, we also recommend the changes to the NMSA as described in the same document.**

Total Acceptable Biological Catch Levels – (H.R. 5018, Section 3: SCIENCE-BASED IMPROVEMENTS TO MANAGEMENT, pages 4 and 5)
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The Pacific Council supports the existing language in Section 3 of H.R. 5018 that mandates adoption of total catch limits that do not exceed the allowable biological catch calculated by the Council's SSC. Further, we recommend that established annual catch limits be considered hard caps that fisheries are managed to not exceed. We note the Pacific Council currently implements this management principle and has for the past thirty years, including the utilization of in-season management adjustments when catch tracking information is available.

We appreciated the fact that H.R. 5018 does not contain a "penalty" provision in instances where the catch inadvertently exceeds adopted catch levels, with the penalty being a commensurate deduction from the following year's harvest allowance. There have also been calls for a policy to carry both overages and *quid pro quo* underages into the following year. The Pacific Council disagrees with both of these potential provisions and think they can be unwarranted, disruptive, and in the case of rolling underages from one year to increase the catch limit the next year, biologically

dangerous. We feel that a much better approach is to schedule stock assessments every two years for species where overages and underages of established catch limits is a concern, to adjust season specifications in one year based on lessons learned from prior years, and to actively track catches in-season.

Limited Access Privilege Programs (H.R. 5018, Section 7)
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The Pacific Fishery Management Council is currently in the process of developing an individual quota program for the trawl sector of the groundfish fishery. The Pacific Fishery Management Council strongly recommends that nothing in any MSA reauthorization legislation apply to or disrupt the ongoing development of this groundfish trawl individual quota program. Therefore the Pacific Council is supportive of H.R. 5018 proposed language for MSA Section 303A(h) which we perceive protects programs under development before the date of the bill's enactment from retroactive application of new provisions.

Other Issues and Topics

I agree with my Executive Director colleague to the north, Mr. Chris Oliver, with regard to integrating any essential principles of NEPA into the MSA and providing a technical exemption of the MSA from NEPA. This can create great efficiencies in the public process at no loss of the intent of NEPA, while minimizing superfluous litigation opportunities and conflicting time lines.

On Friday April 29, 2006, I met with the Pacific Fishery Management Council's Legislative Committee whose agenda focused on reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. In a forthcoming letter, we will convey the results of the Legislative Committee's section-by-section review of H.R. 5018 and 1431 which will provide additional comments on the three topics I have highlighted today together with detailed comments on the various bill sections. We will also copy you to a letter to Senator Stevens regarding further Council comment on various provisions in S. 2012.

F:\McIsaac\Talking Points for Meetings\2006: oral testimony

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May 15, 2006

The Honorable Richard Pombo
Chairman, Committee on Resources
United States House of Representatives
2411 Rayburn House Office Building
Washington D.C., 20515

Dear Congressman Pombo:

Thank you again for the opportunity to provide comment at your May 3, 2006, hearing on H.R. 5018, the *American Fisheries Management and Marine Life Enhancement Act* and H.R. 1431, the *Fisheries Science and Management Enhancement Act of 2005*. At the close of that hearing, it was announced that supplemental written material could be submitted. This letter provides the results of a section-by-section review of H.R. 5018 by the Pacific Fishery Management Council's (Pacific Council) Legislative Committee, approved by the Pacific Council Chairman for your review. We ask that you consider these comments as you proceed with further development of legislation to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

H.R. 5018, Section 3. Science-Based Improvements to Management

(a) Harvest Level Caps

The Pacific Council is supportive of H.R. 5018's proposed language to ensure catch limits are based on the best available science and do not exceed acceptable biological catch levels as recommended by the Scientific and Statistical Committee (SSC). The Pacific Council already implements this sound resource management approach. Further, the Pacific Council effectively utilizes in-season management mechanisms to ensure the adopted acceptable biological catch levels are not exceeded whenever possible.

Unlike H.R. 5018, other bills call for a "penalty" provision in instances where the catch inadvertently exceeds adopted catch levels, the penalty being a commensurate deduction from the following year's harvest allowance. Some call for a policy to carry both overages and underages into the following year. The Pacific Council disagrees with both of these potential provisions.

Overages should not be deducted from the next year's harvest because the overage could have a minor biological effect if the overage is minimal under an in-season management policy and a new stock assessment or new management measures take the overage into account. It can be risky to rollover uncaught harvest allowance to the next year because one possible reason for the underage is an inaccurate stock assessment, a result that is not often discovered within one year. Further, Pacific Council-managed groundfish fisheries operate under a biennial management

process that is not amenable to such mechanisms. Additionally, catch data is often not timely enough for such a management response. Therefore, the Pacific Council is supportive of the absence of such requirements in H.R. 5018.

To ensure full participation of the public and Pacific Council advisory bodies in setting catch limits without exceeding the SSC's recommendations for acceptable biological catch, the Pacific Council recommends the H.R. 5018 Sec 3(a)(2) recommended language for MSA Section 302(h)(7) read, "(7) adopt a total allowable catch limit or other annual harvest effort control limit for each of the fisheries for which such a limit can be established, after considering the recommendation of the SSC and other advisory bodies of the Council having jurisdiction over the fishery, which shall not exceed the recommendation for the acceptable biological catch as recommended by such SSC; and".

(a) Regional Stock Assessments and Peer Review

The Pacific Council concurs with the proposed language in this section and notes the Pacific Council currently utilizes Stock Assessment Review Panels and its SSC to create a strong scientific peer review process.

H.R. 5018, Section 4. Data Collection

(c) Confidentiality of Information

In the interest of the specific need for increased socioeconomic data collection for improved fisheries management (H.R. 5018, Section 4(d)), the Pacific Council recommends an additional conforming amendment under H.R. 5018, Section 4(c)(2) as follows, "Section 303(b)(7) is amended by striking '(other than economic data)' and inserting in lieu thereof '(other than confidential information)'".

(e) Need for More Frequent Stock Surveys

The Pacific Council along with its SSC and other advisory bodies currently coordinates with the National Marine Fisheries Service on a regular basis in reviewing stock assessment priorities and data needs. The Pacific Council recommends H.R. 5018, Section 4(e)(1) be amended to include the phrase "in consultation with Regional Fishery Management Councils" after "shall determine".

H.R. 5018, Section 5. Council Operations and Authorities

(a) Council Appointments

Regarding the Pacific Council's Tribal Obligatory seat, tribal representation plays a vital role in the Pacific Council process and the tribal seat functions in a similar capacity as the official Washington, Oregon, and California state representatives. The Council recommends that, like the State government seats, the Tribal Obligatory seat should not be limited by term limits. The Council recommends MSA Section 302(b)(3) (16 U.S.C. 1852 (b)(3)), be amended by striking "paragraphs (2) and (5)" and inserting in lieu thereof, "paragraph (2)".

(b) Council Training

To clarify that the required training is intended for appointees new to the Regional Fishery Management Council (RFMC) process, the Pacific Council recommends the language proposed

for MSA Section 302(k)(3) be amended to include the word “first” after the phrase “Council members”.

(e) Observer Funding Clarification

The Pacific Council is unclear of the intent of the proposed language for MSA Section 303(e)(1)(A) which requires observer programs be paid for by the Secretary. This provision seems to preclude the use of any other funds, including the use of non-federal funds to reduce federal costs related to observer programs.

(g) Habitat Areas of Particular Concern

The Pacific Council has been working in coordination with the National Marine Sanctuary Program in the establishment of fishing regulations within National Marine Sanctuaries and has identified habitat areas of particular concern in these waters. To help clarify jurisdictional authority for these areas the Pacific Council recommends language proposed for MSA Section 303(b)(18) be amended to add the phrase “including the water column” after the phrase “or other methods for limiting impacts on habitat”.

H.R. 5018, Section 6. Ecosystem-Based Fishery Management

The Pacific Council is supportive of efforts to increase the application of ecosystem-based principles into fishery management. Pacific Council efforts to prohibit krill harvest, protect essential groundfish habitats, and provide adequate abundance of forage species are reflective of our increasing knowledge of the role of fishery management in the overall health of West Coast ecosystems. The balance between recovering populations of marine mammals and ongoing efforts to recover depressed fish populations is a major issue the Pacific Council feels needs addressing under any ecosystem-based approach to fishery management.

H.R. 5018, Section 7. Limited Access Privilege Programs

(a) In General

The Pacific Council is currently in the process of developing an individual quota program for the trawl sector of the groundfish fishery. The Pacific Council strongly recommends that nothing in any MSA reauthorization legislation apply to, or disrupt the ongoing development of potential future amendment of its groundfish trawl individual quota program. Therefore the Pacific Council is supportive of H.R. 5018 proposed language for MSA Section 303A(h) which protects programs under development before the date of the bill’s enactment.

In general, the Pacific Council notes inconsistent use of terms in this section of H.R. 5018. Terms such as limited access privilege, limited access system, shares, and allocation are not clearly defined and seem to have inconsistent application. The Pacific Council recommends a careful review of these terms and their definition as well as consideration of new terms to clearly separate “privilege” programs, which allocate individual quotas, from “limited entry” programs, which also allocate privileges albeit in the form of licenses.

The Pacific Council believes “limited access privilege” or individual quota programs have primarily economic benefits with secondary biological benefits through improved catch accounting and reduced bycatch. Therefore, the Pacific Council recommends the proposed

language under MSA Section 303A(c)(1)(A) be amended by striking “assist in” and inserting in lieu thereof “is not detrimental to”.

Recognizing the growing technology of remote sensors, onboard cameras, and other electronic monitoring devices, the Pacific Council recommends MSA Section 303A(c)(1)(G) be amended to include the phrase “or appropriate electronic monitoring” after the phrase “use of observers”.

To avoid potential increased workload and program delays, the Pacific Council would like to clarify that the provisions for the eligibility requirements for fishing communities under MSA Section 303A(c)(2)(A)(i) or regional fishery associations under MSA Section 303A(c)(3)(A) apply only to an initial distribution of quota shares and not to any subsequent purchases of quota shares by fishing communities or regional fishery associations.

The Pacific Council understands the list of entities who substantially participate in the fishery under MSA Section 303A(c)(4)(F) is intended to be representative rather than comprehensive. To clarify this point, the Pacific Council recommends the phrase “but not limited to” be inserted after the phrase “as appropriate”.

The Pacific Council believes RFMC process represent the appropriate mechanism for initiating a limited access privilege program and does not see the utility of the petition process.

(b) Fees

The Pacific Council believes the appropriate RFMCs should be closely involved with the determination of appropriate fees and the use of those fees. These fees should be collected and used for support of the entire program, including requisite observer coverage but, these federal fees should not be considered the sole funding source. Therefore, the Pacific Council recommends MSA Section 304(d)(2)(C) be amended to include the phrase “in consultation with the appropriate RFMCs” after “the Secretary shall”, insertion of the word “federal” prior to the first occurrence of the word “cost”, and insertion of “observer coverage,” after “data analysis”.

H.R. 5018, Section 8. Joint Enforcement Agreements

The Pacific Council relies on effective collaboration between state and federal entities to enforce the increasing complex fishery regulations on the West Coast. This enforcement effort is greatly enhanced by the use of vessel monitoring systems. The sharing of data from these systems between state and federal enforcement personnel is critical. The Pacific Council would like to clarify that the improved data sharing provisions under MSA Section 311(i)(1) is not tied to an allocation of funds but rather to the establishment of a Joint Enforcement Agreement as described under MSA Section 311(i)(2).

To clarify allowable uses of vessel monitoring data in law enforcement, the Pacific Council recommends that MSA Section 311(i)(A) be changed to read “directly accessible on a real-time basis and available for the prosecution of State laws in State courts involving federally managed species, by State enforcement officers authorized under subsection (a) of this section.”

H.R. 5018, Section 9. Funding for Fishery Observer Programs

(b) Observer Program Funding Mechanism

In keeping with previously established caps on fees, the Pacific Council recommends amending MSA Section 403(d)(2)(A) by adding the phrase “which shall not exceed 3 percent” after the phrase “which may include a system of fees”. Additionally, as previously mentioned, the Pacific Council recognizes the increasing importance of electronic monitoring technology in fishery observation and recommends including a new category under MSA Section 403(d)(2)(A) that states “(iii) the cost of buying or leasing electronic monitoring equipment including, but not limited to, video equipment and satellite transponders”.

The Pacific Council believes fees collected for general fishery observer programs should not be in addition to fees collected under a limited access privilege program. Therefore, it is recommended that a new section be included under MSA Section 403(d)(2) stating “(C) Fees collected under this subsection are not in addition to those collected under Section 304(d)(2)(B)(ii).

H.R. 5018, Section 10. Competing Statutes

(c) Compliance with National Environmental Policy Act of 1969

The Pacific Council would like to reiterate that integrating any essential principles of the National Environmental Policy Act (NEPA) into the MSA and providing a technical exemption of the MSA from NEPA would be an important improvement in a reauthorized MSA. Such provisions can create great efficiencies in the public process without losing the intent of NEPA while minimizing superfluous litigation opportunities and conflicting time lines.

(d) Review of Fishery Regulations in National Marine Sanctuaries

The Pacific Council has worked closely with the five National Marine Sanctuaries (NMS) on the West Coast on a variety of issues. Recent Pacific Council actions to establish areas closed to bottom-tending fishing gear in the Cordell Bank and Monterey Bay National Marine Sanctuary areas, and the ban on the harvest of krill to ensure the vital role krill play in the West Coast ecosystem are examples of effective collaboration between the Pacific Council, the National Ocean Service (NOS), the National Marine Sanctuary Program (NMSP), and the West Coast Sanctuaries. However, these regulatory actions were accomplished under the existing authorities of the MSA.

Existing language in H.R. 5018 is commendable in its recognition that fishing regulations promulgated under the National Marine Sanctuaries Act (NMSA) are not currently required to conform to national standards under MSA Section 301(a). Neither does the NMSA bring to bear the scientific and fishing industry expertise that exists in RFMC processes. However, H.R. 5018 does not go far enough in achieving the kind of clarity on fishery management the public expects.

The Pacific Council continues to support implementation of the April 2005 positions of the RFMC Chairs calling for changes to MSA as well as the NMSA to clarify the issue of fishery management authority as follows:

MSA and National Marine Sanctuary Act

Fishery management authority in NMS, for all species of fish as defined in the current MSA, shall be under the jurisdiction of the RFMCs and the Secretarial approval process described in the current MSA. This authority shall not be limited to species of fish covered by approved FMPs, but shall include all species of fish as defined in the current MSA and shall cover the full range of the species in the marine environment. Prior to reaching decisions on the management regulations affecting fishing in NMS waters, an RFMC shall give full consideration of the responsibilities, goals, and objectives of individual NMS and any specific recommendations of the NMS.

In addition to the proposed changes in the MSA above, the RFMCs also recommend the NMSA be amended to achieve jurisdictional clarity as follows:

NATIONAL MARINE SANCTUARIES ACT

SEC. 302. [16 U.S.C. § 1432] DEFINITIONS

As used in this chapter, the term-

...

(8)"sanctuary resource" means any living or nonliving resource of a national marine sanctuary, **excluding fish and Continental Shelf fishery resources under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1811)**, that contributes to the conservation, recreational, ecological, historical, education, cultural, archaeological, scientific, or aesthetic value of the sanctuary; and

SEC. 304. [16 U.S.C. § 1434] PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) Sanctuary Proposal

...

(5) FISHING REGULATIONS-The appropriate Regional Fishery Management Council shall prepare fishing regulations for any fish and Continental Shelf fishery resources within a sanctuary in accordance with Section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1852). The Secretary shall review the proposed fishing regulations in accordance with Section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1854), and other applicable statutes. Regional Fishery Management Councils shall cooperate with the Secretary and other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practical stage in drafting any sanctuary fishing regulations. Preparation of fishing regulations under this section shall constitute compliance with Section 304(d) of this Act. Fishing in compliance with regulations prepared under this section shall not constitute a violation of this Act.

H.R. 5018, Section 11. Diminished Fisheries

(b) Duration of Measure to Rebuild Diminished Fisheries

The Pacific Council appreciates the effort to clarify the intent of the 10-year requirement for rebuilding diminished fisheries but recommends MSA Section 304(e)(4)(A)(i) be amended by striking the word “possible” and inserting in lieu thereof “practicable”.

H.R. 5018 Omissions

The Pacific Council notes the following issues have been raised in comparable bills on reauthorization of MSA in the United States Senate and encourages their consideration for inclusion in H.R. 5018 or subsequent federal legislation regarding MSA reauthorization.

State Authority for Dungeness Crab Fishery Management

The Pacific Council believes the current management and assessment of the Dungeness crab resource on the West Coast is adequate under State authority and recommends removing the sunset clause as the law already contains provisions for the termination of State authority upon completion of a fishery management plan under MSA.

Western and Central Pacific Fisheries Convention Appointments

The Pacific Council is concerned with those provisions in S. 2012, the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005*, Title V, the *Western and Central Pacific Fisheries Convention Implementation Act* which add a Western Pacific Fishery Management Council (WPFMC) member as a United States Commissioner and add the chair of the WPFMC's Advisory Committee to the WCPFC Advisory Commission. The Pacific Council believes this action would give undue influence to the WPFMC and undermine West Coast interests in Western and Central Pacific Fisheries. The Pacific Council notes that many of the vessel owners, fisherman, and processors who participate in these fisheries or who maintain fishery support facilities in the Western Pacific are based on the West Coast. The Pacific Council would support the removal of the proposed WPFMC representation or the addition of similar representation for the Pacific Council.

Additional Input

We understand you will consider the content of S. 2012 and other proposed legislation as you proceed with development of H.R. 5018. We have also sent, under separate cover for your consideration, a May 15, 2006, letter to U.S. Senator Ted Stevens which includes Pacific Council comments on S. 2012 developed in December 2005.

The Honorable Richard Pombo

May 15, 2006

Page 8

Thank you again for providing the Council an opportunity to provide comments on these important matters. If you or your staff have any questions about this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,

D. O. McIsaac, Ph.D.
Executive Director

MDB:ckc

c: U.S. Congressman Barney Frank
U.S. Congressman Don Young
U.S. Congressman Wayne Gilchrest
U.S. Congressman Nick Rahall
U.S. Senator Ted Stevens
U.S. Senator Daniel Inouye
U.S. Senator Olympia J. Snowe
U.S. Senator Maria Cantwell
U.S. Senator Gordon Smith
U.S. Senator Barbara Boxer
U.S. Senator David Vitter
Pacific Fishery Management Council Members
Regional Fishery Management Council Executive Directors
Ms. Margaret Spring, Senate Committee on Commerce, Science and Transportation
Mr. Matthew Paxton, Senate Committee on Commerce, Science and Transportation
Mr. Drew Minkiewicz, Senate Committee on Commerce, Science and Transportation
Mr. Dave Whaley, House Subcommittee for Fisheries Conservation, Wildlife, and Oceans

PACIFIC FISHERY MANAGEMENT COUNCIL

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May 15, 2006

The Honorable Ted Stevens
United States Senate
522 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Stevens:

The Pacific Fishery Management Council (Council) appreciates your request for Council review of S. 2012, the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005*. The Council and its Legislative Committee recently met March 6-10, 2006 in Seattle, Washington and again on April 28, 2006 and requested that I convey the following comments regarding the December 13, 2006 staff working draft of S.2012. In a letter dated December 12, 2006, I enclosed for your consideration, a Council approved report on recommended changes to S.2012 prepared by the Legislative Committee during a full-day session devoted largely to a section-by-section review of the bill. On March 6 and April 28, 2006, the Legislative Committee reviewed the December 13, 2005 staff working draft of S.2012 and noted where Council recommended changes to S.2012 were not addressed in the staff working draft. Additionally, the Council recommends two new changes to S.2012, the removal of term limits for the Tribal Obligatory seat on the Council.

Regarding the Tribal Obligatory seat, tribal representation plays a vital role in the Council process and the tribal seat functions in a similar capacity as the official Washington, Oregon, and California state representatives. The Council recommends that, like the State government seats, the Tribal Obligatory seat should not be limited by term limits. The Council recommends Magnuson-Stevens Fishery Conservation and Management Act (MSA), Section 302(b)(3) (16 U.S.C. 1852 (b)(3)), be amended by striking "paragraphs (2) and (5)" and inserting in lieu thereof, "paragraph (2)".

The Pacific Council is concerned with those provisions in S. 2012, Title V, the *Western and Central Pacific Fisheries Convention Implementation Act* which add a Western Pacific Fishery Management Council (WPFMC) member as a United States Commissioner and add the chair of the WPFMC's Advisory Committee to the WCPFC Advisory Commission. The Pacific Council believes this action would give undue influence to the WPFMC and undermine West Coast interests in Western and Central Pacific Fisheries. The Pacific Council notes that many of the vessel owners, fisherman, and processors who participate in these fisheries or who maintain fishery support facilities in the Western Pacific are based on the West Coast. The Pacific Council would support the removal of the proposed WPFMC representation or the addition of similar representation for the Pacific Council.

The Honorable Ted Stevens

May 15, 2006

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As in December 2005, the Council emphasizes two omissions from S. 2012, a removal of the arbitrary ten-year rebuilding time frame for overfished species and clarification on fishery management authority in national marine sanctuaries. These two important matters continue to be omitted from the staff working draft of S.2012. The Council would like to reiterate its recommendation that the positions on these matters adopted by Regional Fishery Management Council (RFMC) Chairs in April 2005 be included in MSA reauthorization legislation.

In addition to the two key issues previously mentioned, other important Council recommendations, conveyed in December 2005, have not been addressed in the staff working draft. Notable Council recommendations not addressed include:

- Remove language providing stipends for members of the Scientific and Statistical Committee.
- Include language to prevent disruption of the Council's ongoing effort to develop a groundfish trawl individual quota program.
- Include clarifying language on the competing statutes of MSA and the National Environmental Policy Act.
- Strengthen access to vessel monitoring system data by State enforcement entities for real-time monitoring and prosecution of violations in State courts.
- Remove Section 209 pertaining to the Capital Construction Fund because improvements to the fund are best addressed under separate legislation.

I have enclosed a copy of the Council approved Legislative Committee report of December 2005 for a complete description of Council recommendations for your consideration. We have also sent, under separate cover for your consideration, a May 15, 2006 letter to U.S. Congressman Richard Pombo which includes detailed Pacific Council comments on H.R. 5018, the *American Fisheries Management and Marine Life Enhancement Act*.

Thank you again for providing the Council an opportunity to provide comments on these important matters. If you or your staff have any questions about this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,

D. O. McIsaac, Ph.D.
Executive Director

MDB:rdd

Enclosure

The Honorable Ted Stevens

May 15, 2006

Page 3

c: U.S. Congressman Barney Frank
U.S. Congressman Don Young
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Mr. Dave Whaley, House Subcommittee for Fisheries Conservation, Wildlife, and Oceans
Mr. Casey Sixkiller, Environment Legislative Assistant, Senator Patty Murray
Ms. Elizabeth McDonnell, Legislative Assistant, Senator Gordon Smith

DRAFT COUNCIL STAFF NOTES ON LEGISLATIVE COMMITTEE COMMENTS ON
HR 5018 - THE AMERICAN FISHERIES MANAGEMENT AND
MARINE LIFE ENHANCEMENT ACT

The Legislative Committee (LC) met April 28, 2006 at the office of the Pacific Fishery Management Council (Council) in Portland, Oregon. The LC focused discussions on proposed legislation pertaining to the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), particularly H.R. 5018 the *American Fisheries Management and Marine Life Enhancement Act*. LC comments were conveyed in a letter (Agenda Item B.3.a, Attachment 3) sent to Congressman Pombo and the cosponsors of H.R. 5018, other key members of Congress working on MSA reauthorization, as well as staff members of the U. S. Senate Committee on Commerce, Science, and Transportation and the U.S. House Subcommittee for Fisheries, Conservation, Wildlife, and Oceans in advance of a May 17, 2006 work session of the U.S. House Committee on Resources to review and revise the bill. One result of the May 17 work session was an amended version of HR 5018 dated May 26, 2006 (Agenda Item B.3.a, Supplemental Attachment 5).

This report is intended as a review of HR. 5018, as amended, to note significant changes in the bill. The report has not been reviewed by the LC or the Council.

The amended version of HR 5018 no longer contains language regarding the competing statutes of MSA and the National Marine Sanctuaries Act (NMSA). Under Section 10 of the bill as introduced, fishing regulations promulgated under the NMSA would be required to meet provisions of the MSA, including national standards under MSA Section 301(a). This section has been removed from HR 5018 as amended.

Six sections were added to HR 5018:

- **Section 17 - Amendment Regarding Definitions of Fishing Community and Recreational Fishing Industry.** Adds “recreational participants, marina owners and operators, for-hire vessel owners and operators, bait and tackle shop owners and operators” to the definition of ‘Fishing Community’. Also adds a new term, ‘recreational fishing industry’ defined as “individual anglers, boat builders, fishing tackle manufacturers, for-hire vessel owners and operators, bait and tackle shop owners and operators, and recreational marina owners and operators.”
- **Section 18 - Consideration of Economic Impacts** - Adds economic impact analyses to the required provision of fishery management plans.
- **Section 19 - Regional Coastal Disaster Assistance, Transition, and Recovery Program** - Creates a program to “provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.”
- **Section 21 - Review and Report Regarding Violation of Disclosure, Conflict of Interest, and Recusal Provisions** - Requires the Secretary of Commerce to review all Regional Fishery Management Council votes that have occurred since the passage of the Sustainable Fisheries Act in 1996 and report, within six months, any violations and proposed changes of existing MSA provisions on disclosure, conflict of interest, or recusal.

- **Section 22 - Report on Effects of Hurricanes** - Requires the National Oceanic and Atmospheric Administration to report to Congress on the effect of 2005 hurricanes on fisheries and fish habitat.
- **Section 23 - Study of the Acidification of the Oceans and Effect on Fisheries** - Requires the Secretary to report on this process and its effect on fisheries.

Council staff notes have been added to the original LC comments below to reflect where changes recommended by the LC were made in the May 26, 2006 Committee Amendment of H.R. 5018.

H.R. 5018, Section 3. Science-Based Improvements to Management

(a) Harvest Level Caps

The Pacific Council is supportive of H.R. 5018's proposed language to ensure catch limits are based on the best available science and do not exceed acceptable biological catch levels as recommended by the Scientific and Statistical Committee (SSC). The Pacific Council already implements this sound resource management approach. Further, the Pacific Council effectively utilizes in-season management mechanisms to ensure the adopted acceptable biological catch levels are not exceeded whenever possible.

Unlike H.R. 5018, other bills call for a "penalty" provision in instances where the catch inadvertently exceeds adopted catch levels, the penalty being a commensurate deduction from the following year's harvest allowance. Some call for a policy to carry both overages and underages into the following year. The Pacific Council disagrees with both of these potential provisions.

Overages should not be deducted from the next year's harvest because the overage could have a minor biological effect if the overage is minimal under an in-season management policy and a new stock assessment or new management measures take the overage into account. It can be risky to rollover uncaught harvest allowance to the next year because one possible reason for the underage is an inaccurate stock assessment, a result that is not often discovered within one year. Further, Pacific Council-managed groundfish fisheries operate under a biennial management process that is not amenable to such mechanisms. Additionally, catch data is often not timely enough for such a management response. Therefore, the Pacific Council is supportive of the absence of such requirements in H.R. 5018.

To ensure full participation of the public and Pacific Council advisory bodies in setting catch limits without exceeding the SSC's recommendations for acceptable biological catch, the Pacific Council recommends the H.R. 5018 Sec 3(a)(2) recommended language for MSA Section 302(h)(7) read, "(7) adopt a total allowable catch limit or other annual harvest effort control limit for each of the fisheries for which such a limit can be established, after considering the recommendation of the SSC and other advisory bodies of the Council having jurisdiction over the fishery, which shall not exceed the recommendation for the acceptable biological catch as recommended by such SSC; and".

Section 3(a) remains the same as introduced and the recommended text change was not included.

(f) Regional Stock Assessments and Peer Review

The Pacific Council concurs with the proposed language in this section and notes the Pacific Council currently utilizes Stock Assessment Review Panels and its SSC to create a strong scientific peer review process.

H.R. 5018, Section 4. Data Collection

(c) Confidentiality of Information

In the interest of the specific need for increased socioeconomic data collection for improved fisheries management (H.R. 5018, Section 4(d)), the Pacific Council recommends an additional conforming amendment under H.R. 5018, Section 4(c)(2) as follows, “Section 303(b)(7) is amended by striking ‘(other than economic data)’ and inserting in lieu thereof ‘(other than confidential information)’”.

The recommended amendment not included in the bill. This could continue to be a conflict between HR 5018 Sections 4(d) and 18 and MSA Section 303(b)(7).

(e) Need for More Frequent Stock Surveys

The Pacific Council along with its SSC and other advisory bodies currently coordinates with the National Marine Fisheries Service on a regular basis in reviewing stock assessment priorities and data needs. The Pacific Council recommends H.R. 5018, Section 4(e)(1) be amended to include the phrase “in consultation with Regional Fishery Management Councils” after “shall determine”.

Recommended amendment not included in HR 5018.

H.R. 5018, Section 5. Council Operations and Authorities

(a) Council Appointments

Regarding the Pacific Council’s Tribal Obligatory seat, tribal representation plays a vital role in the Pacific Council process and the tribal seat functions in a similar capacity as the official Washington, Oregon, and California state representatives. The Council recommends that, like the State government seats, the Tribal Obligatory seat should not be limited by term limits. The Council recommends MSA Section 302(b)(3) (16 U.S.C. 1852 (b)(3)), be amended by striking “paragraphs (2) and (5)” and inserting in lieu thereof, “paragraph (2)”.

Recommended amendment not included in HR 5018.

(b) Council Training

To clarify that the required training is intended for appointees new to the Regional Fishery Management Council (RFMC) process, the Pacific Council recommends the language proposed for MSA Section 302(k)(3) be amended to include the word “first” after the phrase “Council members”.

Recommended amendment not included in HR 5018.

(e) Observer Funding Clarification

The Pacific Council is unclear of the intent of the proposed language for MSA Section 303(e)(1)(A) which requires observer programs be paid for by the Secretary. This provision seems to preclude the use of any other funds, including the use of non-federal funds to reduce federal costs related to observer programs.

No change to this section.

(g) Habitat Areas of Particular Concern

The Pacific Council has been working in coordination with the National Marine Sanctuary Program in the establishment of fishing regulations within National Marine Sanctuaries and has identified habitat areas of particular concern in these waters. To help clarify jurisdictional authority for these areas the Pacific Council recommends language proposed for MSA Section 303(b)(18) be amended to add the phrase “including the water column” after the phrase “or other methods for limiting impacts on habitat”.

This section was renamed “Marine Protected Area Authority” and does not include the recommended amendatory language.

H.R. 5018, Section 6. Ecosystem-Based Fishery Management

The Pacific Council is supportive of efforts to increase the application of ecosystem-based principles into fishery management. Pacific Council efforts to prohibit krill harvest, protect essential groundfish habitats, and provide adequate abundance of forage species are reflective of our increasing knowledge of the role of fishery management in the overall health of West Coast ecosystems. The balance between recovering populations of marine mammals and ongoing efforts to recover depressed fish populations is a major issue the Pacific Council feels needs addressing under any ecosystem-based approach to fishery management.

No change to this section.

H.R. 5018, Section 7. Limited Access Privilege Programs

(a) In General

The Pacific Council is currently in the process of developing an individual quota program for the trawl sector of the groundfish fishery. The Pacific Council strongly recommends that nothing in any MSA reauthorization legislation apply to, or disrupt the ongoing development of potential future amendment of its groundfish trawl individual quota program. Therefore the Pacific Council is supportive of H.R. 5018 proposed language for MSA Section 303A(h) which protects programs under development before the date of the bill’s enactment.

This provision remains in HR 5018.

In general, the Pacific Council notes inconsistent use of terms in this section of H.R. 5018. Terms such as limited access privilege, limited access system, shares, and allocation are not clearly defined and seem to have inconsistent application. The Pacific Council recommends a careful review of these terms and their definition as well as consideration of new terms to clearly

separate “privilege” programs, which allocate individual quotas, from “limited entry” programs, which also allocate privileges albeit in the form of licenses.

Terminology appears to be unchanged.

The Pacific Council believes “limited access privilege” or individual quota programs have primarily economic benefits with secondary biological benefits through improved catch accounting and reduced bycatch. Therefore, the Pacific Council recommends the proposed language under MSA Section 303A(c)(1)(A) be amended by striking “assist in” and inserting in lieu thereof “is not detrimental to”.

Recommended amendatory language not included in HR 5018.

Recognizing the growing technology of remote sensors, onboard cameras, and other electronic monitoring devices, the Pacific Council recommends MSA Section 303A(c)(1)(G) be amended to include the phrase “or appropriate electronic monitoring” after the phrase “use of observers”.

Recommended amendatory language not included in HR 5018.

To avoid potential increased workload and program delays, the Pacific Council would like to clarify that the provisions for the eligibility requirements for fishing communities under MSA Section 303A(c)(2)(A)(i) or regional fishery associations under MSA Section 303A(c)(3)(A) apply only to an initial distribution of quota shares and not to any subsequent purchases of quota shares by fishing communities or regional fishery associations.

Recommended amendatory language not included in HR 5018.

The Pacific Council understands the list of entities who substantially participate in the fishery under MSA Section 303A(c)(4)(F) is intended to be representative rather than comprehensive. To clarify this point, the Pacific Council recommends the phrase “but not limited to” be inserted after the phrase “as appropriate”.

Recommended amendatory language not included in HR 5018.

The Pacific Council believes RFMC processes represent the appropriate mechanism for initiating a limited access privilege program and does not see the utility of the petition process.

Provisions for a petition process remain in HR 5018 and appear unchanged.

(b) Fees

The Pacific Council believes the appropriate RFMCs should be closely involved with the determination of appropriate fees and the use of those fees. These fees should be collected and used for support of the entire program, including requisite observer coverage but, these federal fees should not be considered the sole funding source. Therefore, the Pacific Council recommends MSA Section 304(d)(2)(C) be amended to include the phrase “in consultation with the appropriate RFMCs” after “the Secretary shall”, insertion of the word “federal” prior to the first occurrence of the word “cost”, and insertion of “observer coverage,” after “data analysis”.

Recommended amendatory language not included in HR 5018.

H.R. 5018, Section 8. Joint Enforcement Agreements

The Pacific Council relies on effective collaboration between state and federal entities to enforce the increasing complex fishery regulations on the West Coast. This enforcement effort is greatly enhanced by the use of vessel monitoring systems. The sharing of data from these systems between state and federal enforcement personnel is critical. The Pacific Council would like to clarify that the improved data sharing provisions under MSA Section 311(i)(1) is not tied to an allocation of funds but rather to the establishment of a Joint Enforcement Agreement as described under MSA Section 311(i)(2).

To clarify allowable uses of vessel monitoring data in law enforcement, the Pacific Council recommends that MSA Section 311(i)(A) be changed to read “directly accessible on a real-time basis and available for the prosecution of State laws in State courts involving federally managed species, by State enforcement officers authorized under subsection (a) of this section.”

Recommended amendatory language not included in HR 5018.

H.R. 5018, Section 9. Funding for Fishery Observer Programs

(b) Observer Program Funding Mechanism

In keeping with previously established caps on fees, the Pacific Council recommends amending MSA Section 403(d)(2)(A) by adding the phrase “which shall not exceed 3 percent” after the phrase “ which may include a system of fees”. Additionally, as previously mentioned, the Pacific Council recognizes the increasing importance of electronic monitoring technology in fishery observation and recommends including a new category under MSA Section 403(d)(2)(A) that states “(iii) the cost of buying or leasing electronic monitoring equipment including, but not limited to, video equipment and satellite transponders”.

Recommended amendatory language not included in HR 5018.

The Pacific Council believes fees collected for general fishery observer programs should not be in addition to fees collected under a limited access privilege program. Therefore, it is recommended that a new section be included under MSA Section 403(d)(2) stating “(C) Fees collected under this subsection are not in addition to those collected under Section 304(d)(2)(B)(ii).

Recommended amendatory language not included in HR 5018.

H.R. 5018, Section 10. Competing Statutes

(c) Compliance with National Environmental Policy Act of 1969

The Pacific Council would like to reiterate that integrating any essential principles of the National Environmental Policy Act (NEPA) into the MSA and providing a technical exemption of the MSA from NEPA would be an important improvement in a reauthorized MSA. Such provisions can create great efficiencies in the public process without losing the intent of NEPA while minimizing superfluous litigation opportunities and conflicting time lines.

Section 10(c) was amended to require the Secretary of Commerce publish a determination that the provisions under MSA sections 303 and 304 are “substantially equivalent” to NEPA provisions.

(d) Review of Fishery Regulations in National Marine Sanctuaries

The Pacific Council has worked closely with the five National Marine Sanctuaries (NMS) on the West Coast on a variety of issues. Recent Pacific Council actions to establish areas closed to bottom-tending fishing gear in the Cordell Bank and Monterey Bay National Marine Sanctuary areas, and the ban on the harvest of krill to ensure the vital role krill play in the West Coast ecosystem are examples of effective collaboration between the Pacific Council, the National Ocean Service (NOS), the National Marine Sanctuary Program (NMSP), and the West Coast Sanctuaries. However, these regulatory actions were accomplished under the existing authorities of the MSA.

Existing language in H.R. 5018 is commendable in its recognition that fishing regulations promulgated under the National Marine Sanctuaries Act (NMSA) are not currently required to conform to national standards under MSA Section 301(a). Neither does the NMSA bring to bear the scientific and fishing industry expertise that exists in RFMC processes. However, H.R. 5018 does not go far enough in achieving the kind of clarity on fishery management the public expects.

HR 5018 Section 10(d) was removed from the bill.

The Pacific Council continues to support implementation of the April 2005 positions of the RFMC Chairs calling for changes to MSA as well as the NMSA to clarify the issue of fishery management authority as follows:

MSA and National Marine Sanctuary Act

Fishery management authority in NMS, for all species of fish as defined in the current MSA, shall be under the jurisdiction of the RFMCs and the Secretarial approval process described in the current MSA. This authority shall not be limited to species of fish covered by approved FMPs, but shall include all species of fish as defined in the current MSA and shall cover the full range of the species in the marine environment. Prior to reaching decisions on the management regulations affecting fishing in NMS waters, an RFMC shall give full consideration of the responsibilities, goals, and objectives of individual NMS and any specific recommendations of the NMS.

In addition to the proposed changes in the MSA above, the RFMCs also recommend the NMSA be amended to achieve jurisdictional clarity as follows:

NATIONAL MARINE SANCTUARIES ACT

SEC. 302. [16 U.S.C. § 1432] DEFINITIONS

As used in this chapter, the term-

...

(8)"sanctuary resource" means any living or nonliving resource of a national marine sanctuary, **excluding fish and Continental Shelf fishery resources under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1811)**, that contributes to the conservation, recreational, ecological, historical, education, cultural, archaeological, scientific, or aesthetic value of the sanctuary; and

SEC. 304. [16 U.S.C. § 1434] PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) Sanctuary Proposal

...

(5) **FISHING REGULATIONS-The appropriate Regional Fishery Management Council shall prepare fishing regulations for any fish and Continental Shelf fishery resources within a sanctuary in accordance with Section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1852). The Secretary shall review the proposed fishing regulations in accordance with Section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1854), and other applicable statutes. Regional Fishery Management Councils shall cooperate with the Secretary and other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practical stage in drafting any sanctuary fishing regulations. Preparation of fishing regulations under this section shall constitute compliance with Section 304(d) of this Act. Fishing in compliance with regulations prepared under this section shall not constitute a violation of this Act.**

H.R. 5018, Section 11. Diminished Fisheries

(b) Duration of Measure to Rebuild Diminished Fisheries

The Pacific Council appreciates the effort to clarify the intent of the 10-year requirement for rebuilding diminished fisheries but recommends MSA Section 304(e)(4)(A)(i) be amended by striking the word "possible" and inserting in lieu thereof "practicable".

Recommended amendment to MSA not included in HR 5018. The definition of 'diminished' was changed from "with respect to a stock of fish, that the stock is of a size that is below the natural range of fluctuation associated with the production of maximum sustainable yield" to the definition in the Administration Bill on MSA reauthorization, "a fishery whose abundance is at or below a level that jeopardizes the capacity of the fishery to produce maximum sustainable yield on a continuing basis."

H.R. 5018 Omissions

The Pacific Council notes the following issues have been raised in comparable bills on reauthorization of MSA in the United States Senate and encourages their consideration for inclusion in H.R. 5018 or subsequent federal legislation regarding MSA reauthorization.

State Authority for Dungeness Crab Fishery Management

The Pacific Council believes the current management and assessment of the Dungeness crab resource on the West Coast is adequate under State authority and recommends removing the sunset clause as the law already contains provisions for the termination of State authority upon completion of a fishery management plan under MSA.

Recommendation not included in HR 5018.

Western and Central Pacific Fisheries Convention Appointments

The Pacific Council is concerned with those provisions in S. 2012 , the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005*, Title V, the *Western and Central Pacific Fisheries Convention Implementation Act* which add a Western Pacific Fishery Management Council (WPFMC) member as a United States Commissioner and add the chair of the WPFMC's Advisory Committee to the WCPFC Advisory Commission. The Pacific Council believes this action would give undue influence to the WPFMC and undermine West Coast interests in Western and Central Pacific Fisheries. The Pacific Council notes that many of the vessel owners, fisherman, and processors who participate in these fisheries or who maintain fishery support facilities in the Western Pacific are based on the West Coast. The Pacific Council would support the removal of the proposed WPFMC representation or the addition of similar representation for the Pacific Council.

Recommendation not included in HR 5018.

LEGISLATIVE COMMITTEE REPORT

The Legislative Committee (LC) met June 12, 2006. The LC reviewed their April 2006 report (Agenda Item B.3.a, Attachment 7), the resulting letters to key Congressional contacts (Agenda Item B.3.a, Attachment 3 and Attachment 4), an amended version of H.R. 5018, the *American Fisheries Management and Marine Life Enhancement Act* (Agenda Item B.3.a, Supplemental Attachment 5), and Council staff notes on H.R. 5018 as amended (Agenda Item B.3.a, Supplemental Attachment 6). Additionally, the LC briefly discussed S. 2012, the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005* (MSA) and previous Council recommendations on potential amendments to the American Fisheries Act (AFA).

Magnuson-Stevens Fishery Conservation and Management Act Reauthorization

H.R. 5018, the American Fisheries Management and Marine Life Enhancement Act

The LC reviewed recommendations and comments developed in April 2006. These recommendations were conveyed by Dr. Donald McIsaac at a May 3, 2006 hearing on the bill and in the letter sent to Congressman Richard Pombo (R-California), the cosponsors of H.R. 5018, and other key members of Congress working on MSA reauthorization in advance of a May 17, 2006 work session of the U.S. House Committee on Resources to review and revise the bill. One result of the May 17 work session was an amended version of HR 5018 dated May 26, 2006 (Agenda Item B.3.a, Supplemental Attachment 5). The schedule of the hearing and the work session precluded full Council review of the LC recommendations.

The amended version of HR 5018 no longer contains language regarding the competing statutes of MSA and the National Marine Sanctuaries Act (NMSA). Under Section 10 of the bill as introduced, fishing regulations promulgated under the NMSA would be required to meet provisions of the MSA, including national standards under MSA Section 301(a). The portion of Section 10 pertaining to the NMSA has been removed from HR 5018 as amended.

The LC expressed discontent over the removal of the NMSA provisions from HR 5018. The LC recommends reiterating the original Council comments on the competing statutes of MSA and NMSA. The LC added that if legislation to reauthorize the MSA does not address these competing statutes, the LC recommends Congress address the issue through reauthorization of the NMSA by the end of 2006. The current positions of the Council and the Regional Council Chairs and Executive Directors includes recommended changes to the NMSA.

The LC noted that many of the recommendations included in the letter to Congressman Pombo were not addressed in H.R. 5018 when amended in May. Mr. Rod Moore reported the May 17, 2006 meeting of the U.S. House Committee on Resources was focused solely on broad issues rather than the detailed, section specific, recommendations provided by the LC. H.R. 5018 is likely to be amended again when the bill comes before the full U.S. House of Representatives and again when provisions in the bill are considered in conference between the U.S. House and the U.S. Senate. The LC recommends H.R. 5018 comments be resubmitted to Congressman Pombo and the contacts on the original distribution list. Additionally, the LC requests the Council provide the Council Chairman and the Executive Director the latitude to revise and

submit these comments to any U.S. Senate/U.S. House conference Committee should one be formed prior to the September Council meeting.

H.R 5051, Magnuson-Stevens Fishery Conservation and Management Amendments Act of 2006

H.R. 5051 has not been the subject of recent Congressional activity in recent months. The LC did not spend time at this meeting discussing the bill but directed staff to track the bill as the U.S. House prepares to consider final legislation on MSA reauthorization legislation in the coming months.

S.2012, Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005

Dr. McIsaac informed the LC that LC language in the May 15, 2006 letters to Congressman Pombo and Senator Ted Stevens (R-Alaska) regarding U.S. representation under the Western and Central Pacific Fisheries Convention (WCPFC) (Agenda Item B.3.a, Attachment 3 and Attachment 4) was not received well by representatives of the Western Pacific Fishery Management Council (WPFMC), and it was not clear that the language in question best described the intent of the LC. The LC's strongest intent was to ensure Pacific Council and WPFMC interests in the region were equally represented under the WCPFC. The LC regrets any misunderstanding and recommends the following amended language be included in future Council correspondence on the matter:

The Pacific Council is concerned with those provisions in S. 2012 , the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005*, Title V, the *Western and Central Pacific Fisheries Convention Implementation Act* which add a Western Pacific Fishery Management Council (WPFMC) member as a United States Commissioner but, not a Pacific Council member. The Pacific Council notes significant West Coast interest in the WCPFC because of, 1) the fish stocks caught under Pacific Council jurisdiction also migrate into WCPFC waters and 2) many of the vessel owners, fisherman, and processors who participate in these fisheries or who maintain fishery support facilities in the Western Pacific are based on the West Coast. The Pacific Council recommends legislative language making it clear there is equitable Commission-level representation for both the Pacific and Western Pacific Fishery Management Councils.

Additionally, the LC discussed the inequitable burdens frequently placed on U.S. fisheries to rebuild depleted stocks harvested at the international level. The LC is encouraged by language in S. 2012 regarding this manner and recommends similar language be included in final legislation to reauthorize MSA.

Other Legislative Matters

American Fisheries Act

In March, the Council requested development of an amendment stating “all American Fisheries Act qualified vessels (original or replacement) - not just catcher/processor vessels - without West Coast landing history prior to June 29, 2000 be prohibited from participating in the Pacific

whiting fishery.” In response to public comments at the LC meeting, as well as written materials submitted to the Council under Open Public Comments, the LC reexamined this issue.

During public testimony, Mr. David Jincks requested the LC and the Council revise its recommendations in a March 17, 2006 letter to Ms. Margaret Spring, staff member of the U.S. Senate Committee on Commerce, Science, and Transportation, specify sector-specific landing histories in order to participate in a given sector of future Pacific whiting fisheries. As written, the Council recommendation would provide insufficient protection for the shore-based sector of the West Coast Pacific whiting fishery from the West Coast permitted AFA-qualified vessels because such vessels participated in other sectors of the Pacific whiting fishery prior to the control date.

Ms. Spring, recently informed Council staff that Council recommendations to expand protection of West Coast fisheries beyond the catcher/processor sector are unlikely and that legislative efforts to amend the AFA are currently progressing in the U.S. House. Based in part on this update, the LC recommends the Council consider revisiting Amendment 15 to the Pacific Coast Groundfish Fishery Management Plan as an alternate method of protecting West Coast fisheries from the entry of new AFA-qualified vessels.

LC Recommendations:

- 1. Adopt LC summary minutes and recommendations on H.R. 5018, S. 2012, and H.R. 1431 from the April 28, 2006 LC meeting.**
- 2. Approve proposed language changes to the April LC recommendations relative to U.S. representation to the WCPFC and rebuilding internationally managed stocks.**
- 3. Direct Council staff to draft a letter to appropriate Congressional contacts to reiterate Council comments on H.R. 5018.**
- 4. Direct Council Executive Director and Council Chairman to submit Council recommendations on MSA reauthorization to a future Congressional Conference Committee on MSA reauthorization should such a Conference Committee convene before the September Council meeting.**
- 5. Include in Council correspondence with Congressional contacts, a strong recommendation that clarification on fishery regulatory authority within national marine sanctuaries occur through reauthorization of the MSA and/or the NMSA in the near future.**
- 6. Consider revisiting Amendment 15 to the Pacific Coast Groundfish Fishery Management Plan as a means of protecting West Coast fisheries from the entry of new AFA-qualified vessels.**

PPMC
06/15/06

CALIFORNIA FISHERIES COALITION

April 17, 2006

Alliance of Communities for
Sustainable Fisheries

American Albacore Fishing Association

California Abalone Growers

California Lobster & Trap Association

California Fisheries & Seafood Institute

California Sea Urchin Commission

California Wetfish Producers
Association

Central Coast Fisheries Conservation
Coalition

Commercial Fishermen of Santa
Barbara
Inc.

Federation of Independent Seafood
Harvesters

Fishermen's Alliance of California

Fishermen's Association of Moss
Landing

Golden Gate Fishermen's Association

I.S.P. Alginates Kelp Harvesters

Kingfisher Trading Inc.

Monterey Commercial Fishermen's
Association

Morro Bay Commercial Fisherman's
Organization

Port San Luis Commercial Fishermen's
Association

Recreational Fishing Alliance

South Central Nearshore Trap
Organization

Southern CA Trawlers Association

Sportfishing Association of California

Ventura County Commercial
Fishermen's
Association

For further information, contact
Vern Goehring, CFC Manager

Congressman Richard Pombo, Chair
House Committee on Resources
U.S. Congress
2411 Rayburn HOB
Washington DC 20515
(email: rpombo@mail.house.gov)
(fax: 202-226-0861)

RE: American Fisheries Management and Marine-Life Enhancement Act –
HR 5018

Dear Mr. Pombo and members of the California Congressional delegation:

The California Fishing Coalition includes 24 recreational and commercial fishing associations, seafood processors, abalone growers, and kelp harvesters. Our collective membership and economic reach includes more than 14,000 commercial fishermen, 4,000 fishing vessels, several million recreational anglers, and approximately 172,000 persons employed directly by our partner businesses. Needless to say we are vitally interested in California's ocean and its coastal communities. We depend on a healthy marine environment for our livelihood and our recreation. Similarly our activities support the livelihood and recreation of hundreds of thousands of other California citizens and visitors, and the local fish and shellfish produced by our coalition members reach millions of seafood consumers both in California and overseas.

We are writing to voice our strong support for HR 5018, with particular reference to Subsection 10(d), clarifying that management of fisheries within marine sanctuary waters will be governed by the Magnuson-Stevens Act. We view this provision as a clarification, not an unnecessary change, as marine sanctuary designation documents now prohibit managing fisheries. Rather than weakening the National Marine Sanctuaries Act, as some interests claim, this provision will require that fisheries management be governed by peer-reviewed science, in a full public process with a goal of adaptive management. Neither the sanctuaries, nor the NMSA as currently written, provide for those essential elements.

We firmly believe that fishery management is best addressed through the ecosystem-based policies of the federal Magnuson-Stevens Act and the ecosystem-based policies of the State of California. CFC members concur that the Sanctuaries have neither the scientific expertise nor the public decision-making process to implement fishery management effectively; further, we oppose the recent proposals advanced by the Sanctuaries to amend designation documents to authorize Sanctuary regulation of fisheries in Sanctuary waters.

There is no need for an additional, duplicative layer of authority to regulate fishing activities beyond the strict regulations already implemented by NOAA Fisheries and

the State of California. In fact, considering the budget deficit currently engulfing the federal government, we believe Sanctuary efforts seeking to duplicate existing fishery management authorities, which would likely entail competition for funding for duplicative programs between the National Ocean Service and NOAA Fisheries, is a wasteful use of taxpayers' dollars.

When the marine sanctuaries were first implemented years ago, with the intent to prohibit oil development among other purposes, their designation documents expressly excluded management of fisheries in sanctuary waters. In order to win support from fishermen, sanctuary officials promised that they would not manage fisheries. However, in recent years three California marine sanctuaries – Monterey, Cordell Banks and Channel Islands – have requested changes to their designation documents for the express purpose of managing fisheries, alleging that the Magnuson Act does not protect ecosystems.

Since passage of the Magnuson Sustainable Fisheries Act a decade ago, fisheries management has adopted a strong ecosystem focus, particularly on the west coast. For example, the Pacific Fishery Management Council has made huge strides to protect essential fish habitat as well as the six groundfish stocks that were designated as over-fished. The Council also has worked cooperatively with the National Marine Sanctuaries in our region. As one example of this cooperation, the Council recently acted to implement a harvest prohibition on krill throughout the west coast EEZ, at the request of the sanctuaries. The current policy maintaining fisheries management authority under the Magnuson Act should be fostered, and that is precisely what Subsection 10(d) accomplishes.

Both the PEW and US Oceans Commissions recommended better coordination in managing U.S. fisheries and coastal resources. Right now, however, with the National Marine Sanctuary Program strongly asserting its interest in managing fisheries resources under what we believe are erroneous pretenses, there is public confusion as to who does what. This also leads to economic confusion, with fishing industry people reluctant to invest in sustainable fisheries, which provide wholesome seafood products to consumers in the U.S. and abroad, when they are uncertain as to the future of fishing in the Sanctuaries. Subsection 10(d) provides both guidance and coordination as well as protection of resources utilizing the best available science. Nothing in HR 5018 or Subsection 10(d) diminishes the existing cooperation with the Sanctuaries to achieve the mutual goals of protecting ecosystems and fishery resources. Moreover, utilizing the existing scientific expertise and public processes now imbedded in the Magnuson Act is the best use of taxpayer dollars.

We disagree with the claims of some members of the environmental community, whom we understand have launched a campaign to remove Subsection 10(d) from HR 5018. Retaining this provision is essential to assure that fisheries will continue to be managed under the strict provisions and policies of the Magnuson Act, which requires best available, peer reviewed science to guide management decisions, as well as a full public process and a goal of adaptive management, none of which are present under current sanctuary authorities.

Thank you for your attention and consideration of our concerns. Thank you also for including Subsection 10(d) in HR 5018. We urge you to retain and support this essential provision in your continuing deliberations, and to approve HR 5018 as written.

Sincerely,
Trustees for the California Fisheries Coalition

Bob Fletcher
Sportfishing Association of California

Jim Martin
Recreational Fishing Alliance

Steve Scheiblaue
Alliance of Communities for Sustainable Fisheries

Peter Halmay
California Sea Urchin Commission

Diane Pleschner-Steele
California Wetfish Producers Association



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Marine Sanctuary Program

West Coast Region
99 Pacific Street, Bldg 200, Suite K
Monterey, CA 93940

May 19, 2006

Fred Meurer, City Manager
City of Monterey
City Hall
Monterey, CA 93940

Dear Fred:

It was nice to see you Tuesday in front of the Farmer's Market. Let me know if there is more help the National Marine Sanctuary Program can offer on the storm water runoff issues.

On the matter I mentioned to you regarding the City of Monterey's implied endorsement of a position raised by the "California Fisheries Coalition", I have attached a letter from that new group that includes the City's harbormaster, Steve Scheiblaue, as a signatory. I asked you whether the City of Monterey's position was consistent with the position reflected in the letter – new federal legislation is needed to keep the National Marine Sanctuary Program (NMSP) entirely out of regulatory issues related to fishing. This may be a case where a city employee has signed a letter that does not necessarily reflect the position of the City Council. However, given that Mr. Scheiblaue is authorized by the City to "staff" the Alliance of Communities for Sustainable Fisheries and given his extensive efforts to pursue a position that the Monterey Bay National Marine Sanctuary should not adopt new fishing regulations, it is reasonable that readers of this letter will assume he is reflecting policy of the City of Monterey.

The objective of the attached letter is to advocate for new federal legislation to remove the NMSP's authority, nationwide, to adopt regulations affecting fishing that might be necessary to protect ecosystems and natural resources in a national marine sanctuary. Rather, the signatories only want federal fishery managers to have the authority to enact regulations that affect fishing in a national marine sanctuary. I do not recall the Monterey City Council ever taking up this matter. The City Council has taken a position in the past that it does not believe the MBNMS should adopt regulations that affect fishing. But to my knowledge, the City Council has never tackled this much larger and frankly much more complex issue of amending federal laws to affect national marine sanctuaries nationwide.

Were the City Council to deliberate on this larger issue, it seems it would need to consider whether or not there might be a good reason for any of the other 12 national marine sanctuaries to have the authority to regulate fishing. I would suggest other matters the City Council would need to consider before taking a position on this matter are:

- Whether or not a circumstance would ever arise in the future where the City, or its harbor master, or local fishermen, would instead *want* the MBNMS to have the authority to adopt a fishing regulation – maybe circumstances would arise wherein the City would want to advocate locally for a new regulation.

Olympic Coast
National Marine Sanctuary
115 E. Railroad Ave., Ste 301
Port Angeles, WA 98362

Cordell Bank
National Marine Sanctuary
P.O. Box 159
Olema, CA 94950

Gulf of the Farallones
National Marine Sanctuary
Building 991, Presidio of SF
San Francisco, CA 94129

Monterey Bay
National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Channel Islands
National Marine Sanctuary
113 Harbor Way
Santa Barbara, CA 93109

- Should other "single issue" agencies be allowed sole authority to set regulations in a national marine sanctuary, for instance if the Minerals Management Service should solely set regulations for oil and gas development in national marine sanctuaries? (This proposed change related to fishing would create a unique precedent in natural resource protection by allowing a "single issue" agency sole authority over certain regulations in national marine sanctuaries.)
- Why is it appropriate for the National Parks Service or Fish and Wildlife Service to set fishing regulations in a park or refuge, or to make their own rules over hunting or logging, but a national marine sanctuary should not have the *potential* to regulate similar extractive activities?

The letter includes statements or implications that I believe the City Council will undoubtedly agree are inaccurate. For instance, the letter states that the NMSP does not engage in "a full public process". Yet, the NMSP is regularly recognized as having the most inclusive, transparent public process operating in coastal governance. A multitude of stakeholders representing many ocean users, not just one user group, are involved in regular business and help tackle special resource management issues. The letter also creates the incorrect impression that the NMSP has formally proposed to amend designation documents to authorize regulation of fishing in national marine sanctuaries. That has not happened; the matter is still being evaluated. Although the NMSP has consulted with affected agencies about potential changes to designation documents, no decision has been made on these matters yet. The letter also incorrectly states that all national marine sanctuaries were created to stop oil and gas development and that all sanctuaries are excluded from regulating fishing. Most existing sanctuaries are in areas never threatened with oil development, and five of the 13 sanctuaries regulate fishing in some fashion.

I have also attached a copy of an editorial that ran in Wednesday's Washington Post on this matter. Many other editorials that all have taken the same position. They underscore the magnitude of the issue the letter raised.

The national legislative issues will be considered over the next year, and if the City of Monterey does not support making a sweeping, nationwide statutory adjustment, it would be helpful for it to make such a clarification.

Sincerely,



William Douros, Regional Superintendent (acting)
West Coast Region
National Marine Sanctuary Program

Attachments:

April 17, 2006 letter from California Fisheries Coalition

May 17, 2006 Editorial, Washington Post

cc: Monterey City Council, w/attachments



**American
Tunaboat
Association**

2535 Kettner Blvd.
Suite 3c1
San Diego, CA 92101
Phone: 619-238-1838
Fax: (619) 238-1708
Email: krampepaul@aol.com

May 2, 2006

Honorable Ted Stevens, Chairman
Chairman, Committee on Commerce,
Science and Transportation
United States Senate
SD-508 Senate Office Building
Washington, D.C. 20510

**Subject: Needed Revision to the Magnuson-Stevens Fishery Conservation
and Management Act (MSFCMA)**

Dear Chairman Stevens:

The American Tunaboat Association represents the U.S. tuna purse seine fleet. Our vessels currently operate in the Eastern Pacific Ocean (EPO) and the Western and Central Pacific Ocean (WCPO). Our fleet catches the great majority of light meat tuna (primarily skipjack, yellowfin, and bigeye tuna) caught by U.S. flag fishing vessels operating in these areas.

While there are a number of amendments being considered for the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), I would like to request your assistance in modifying the treatment of highly migratory species (HMS). As you know, the main thrust of the MSFCMA is to manage fisheries that are conducted in U.S. waters. This is an important law that is needed for this purpose. However, the behavior and distribution of HMS, prevents the U.S. from effectively managing these species unilaterally. Additionally, only a very small percentage of HMS in the oceans bordering on our country are caught in our territorial waters. Effective management of HMS can

only take place through the actions of international Regional Fishery Management Organizations (RFMOs). The Inter-American Tropical Tuna Commission (IATTC) and the Western and Central Pacific Fishery Commission (WCPFC) manage the tuna fisheries in the Pacific Ocean. The U.S. has had a meaningful impact on the effective management of HMS through its participation in these organizations. The U.S. must continue to be included in these important multilateral organizations. The U.S. activities in these organizations are conducted by representatives from the U.S. Department of Commerce National Marine Fisheries Service (NMFS) and the U.S. Department of State (DOS). While the NMFS has been given the lead position in working with these RFMOs, it is conducted with the close cooperation and support of the DOS.

One shortcoming of the current legislation as it is currently drafted is that it thrusts U.S. Fishery Management Councils into an extraordinarily important position on certain issues involving HMS which, in the big picture, they actually have a minor involvement. It is our belief that these HMS issues should be handled directly by the NMFS with the agency being provided advice and guidance by the various constituents (including the Councils) that have an interest in these issues. This input from all constituents can be provided through the use of Advisory Councils and U.S. Commissioners.

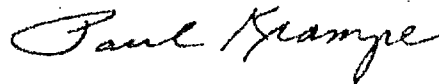
An example of what I am talking about can be found in the handling of a finding by the NMFS that overfishing of yellowfin is taking place in the western and central Pacific Ocean (WCPO). The attached Federal Register Notice (71 FR 14837) reports this finding and, in accordance with the MSFCMA, gives an official notice of the finding to the Western Pacific Fishery Management Council (WPFMC) and requests the WPFMC to address this situation. At the same time, the notice explains that the U.S. harvest of yellowfin in the WCPO is only about 4% of the total WCPO yellowfin catch and the majority of that catch is in waters of other Pacific Island nations. Less than 1% of the catch is made inside the U.S. EEZ. The Federal Register Notice further advises that the agency welcomes the WPFMC's participation as a member of the delegation to the WCPFC (as are other involved or interested constituents).

We suggest that the current procedure of requesting Councils to address fishery conditions for HMS issues is a complex process that is unnecessary and a waste of time and effort for virtually everyone involved in this process. The NMFS should have the responsibility to address problem HMS stock conditions and should not be required to ask Councils to address the situation. The NMFS advises in the Notice that they will work with the WPFMC to implement the necessary domestic management measures. This is an internationally oriented task that can be handled best directly by the NMFS and DOS.

Our request is not unusual, or extraordinary. It is our understanding that the treatment of HMS caught in the Atlantic Ocean is consistent with our request. An exception on the handling of HMS was made for the Pacific Ocean during the previous reauthorization of the MSFCMA. Time has shown that this exception should not be continued.

Thank you for your consideration.

Sincerely,



Paul Krampe
Executive Director

[Federal Register: March 24, 2006 (Volume 71, Number 57)]

[Notices]

[Page 14837]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr24mr06-30]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032006D]

Fisheries Off West Coast States and in the Western Pacific;
Pelagic Fisheries; Overfishing Determination on Yellowfin Tuna; Western
and Central Pacific Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of overfishing determination.

SUMMARY: This action serves as notice that NMFS, on behalf of the
Secretary of Commerce, has determined that overfishing is occurring on
the yellowfin tuna (*Thunnus albacares*) stock in the western and central
Pacific Ocean (WCPO), and requests that the Western Pacific Fishery
Management Council (Council) address this overfishing condition
pursuant to the Magnuson-Stevens Fishery Conservation and Management
Act. The intent of this action is to notify interested persons that
yellowfin tuna is undergoing overfishing in the WCPO.

SUPPLEMENTARY INFORMATION: The following reprint of the March 16, 2006,
letter from NMFS to the Council notifies the Council of a determination
that overfishing is occurring on the yellowfin tuna stock in the WCPO,
provides background on how NMFS made the determination, provides the
legal basis for the Council to act in response to a determination that
overfishing is occurring, and requests the Council to take appropriate
action to address the overfishing condition.

Mr. Frank McCoy, Sr.,
Chairperson,

Western Pacific Fishery Management Council, 1164 Bishop Street,
Suite 1400, Honolulu, HI 96813.

Dear Chairman McCoy:

By this letter, NOAA's National Marine Fisheries Service (NMFS), on behalf of the Secretary of Commerce, notifies the Western Pacific Fishery Management Council (Council) that overfishing is occurring on the yellowfin tuna (*Thunnus albacares*) stock in the western and central Pacific Ocean (WCPO). NMFS requests the Council to take appropriate action pursuant to section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

According to Amendment 8 Supplement to the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP), effective July 3, 2003 (68 FR 46112, August 5, 2003), the maximum fishing mortality threshold (MFMT) for stocks managed under the Pelagics FMP would be exceeded if the fishing mortality rate exceeded the rate associated with maximum sustainable yield (MSY). The most recent stock assessment (August 2005) on WCPO yellowfin tuna by the Scientific Committee of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, indicates that the then-current rate of fishing mortality ($F_{current}$) is likely to be in excess of the rate associated with MSY (F_{MSY}). For the base case analysis, the assessment results indicate an $F_{current}/F_{MSY}$ ratio of 1.22 with a range from 1.0 to 2.33 for the four analyses using alternative sets of assumptions\1\.

\\ Hampton, J., P. Kleiber, A. Langley, Y. Takeuchi, and M. Ichinokawa. 2005. Stock assessment of yellowfin tuna in the western and central Pacific Ocean. WCPFC-SA WP-1, 1st Meeting of the Scientific and Committee of the Western and Central Pacific Fisheries Commission, WCPFC-SC1, Noumea, New Caledonia, 8-19 August 2005. July 2005. 79p.

The latest estimate of $F_{current}/F_{MSY}$ (1.22) for WCPO yellowfin tuna in 2005 was substantially higher than in the 2004 assessment (0.63) \2\ Scientists at the NMFS Pacific Islands Fisheries Science Center (PIFSC) consider the 2005 assessment model to be an improvement over the 2004 model, and the results to be more reliable. Based on these assessment results and relying on the expertise and advice of the PIFSC Director (October

28, 2005), NMFS has determined that overfishing of the WCPO yellowfin tuna stock is occurring.

\\ Hampton, J., P. Kleiber, A. Langley, and K. Hiramatsu. 2004. Stock assessment of yellowfin tuna in the western and central Pacific Ocean. WCPFC SCTB17 Working Paper SA-1. 17th Meeting of the Standing Committee on Tuna and Billfish, Majuro, Marshall Islands, 9-18 August 2004. July 2004. 74 p.

The Pacific-wide distribution of yellowfin tuna and the scope of fisheries (international and domestic) exploiting this important species dictate that the U.S. government pursue a strategy to end overfishing through the relevant Regional Fisheries Management Organization, in this instance, the Western and Central Pacific Fisheries Commission (WCPFC). The entire U.S. harvest of yellowfin tuna in the WCPO is only about 4% of the total WCPO catch and the majority of the U.S. harvest is by purse seine vessels fishing within the EEZs of Pacific Island nations (under the authority of the South Pacific Tuna Treaty) or on the high seas. NMFS welcomes the Council's participation as a member of the U.S. Delegation to the WCPFC and looks forward to working with the Council to develop and implement domestic management measures necessary to implement WCPFC decisions. According to Section 304(e) of the MSA, the Council has one year from the date of this notification to prepare and submit an FMP, FMP amendment, or proposed regulations to address the overfishing condition of the yellowfin tuna stock.

Sincerely,

William L. Robinson,
Regional Administrator.

Dated: March 20, 2006.
Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine
Fisheries Service.
[FR Doc. E6-4322 Filed 3-23-06; 8:45 am]

BILLING CODE 3510-22-P

FISCAL MATTERS

The Council's Budget Committee will meet on Monday June 12, 2006 at 10:30 A.M. to consider budget issues as outlined in Ancillary G, Budget Committee Agenda.

The Budget Committee's report will be provided to the Council for review and approval on Friday, June 16.

Council Action:

1. Consider recommendations of the Budget Committee.

Reference Materials:

1. Agenda Item B.4.b, Supplemental Budget Committee Report.

Agenda Order:

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

John Coon
Jim Harp

PFMC
05/18/06

Fact Sheet

FY 2007 Budget and Funding the Regional Fishery Management Councils at \$25 M

U.S. Marine Fisheries generate economic activity valued at \$60 billion.

- The Regional Fishery Management Councils are charged with front line management responsibility to develop federal fishing regulations to conserve fish stocks and manage these offshore commercial and sport fisheries to sustain strong long-term economic viability.

The Magnuson – Stevens Act is expected to be reauthorized in this Congress.

- The Regional Fishery Management Councils need to be properly funded to meet this responsibility.

The Regional Fishery Management Councils line item needs to be funded at the \$25 M level for FY 2007.

- \$25 M in dedicated funding will allow the Regional Fishery Management Councils to implement existing Fishery Management Plans, including initiation of such matters as ecosystem management and improved control programs for commercial fisheries.
 - \$25 M is 0.04% of value of generated economic activity.
- \$33 M was identified in the NOAA Budget Preparation Process as the amount needed for Regional Fishery Management Councils to fully meet all requirements of the current Magnuson Stevens Act.¹
- \$25 M represents the same level of funding to the Regional Fishery Management Councils as provided in FY 2004, increased by 2% per year since 2004.
 - Recent year funding was provided by Congress via \$15 M in the Regional Fishery Management Councils line item and the balance from relevant line items within the National Marine Fisheries Service budget.
 - It is important the Regional Fishery Management Councils line item be set at \$25 M to insure that the Councils receive adequate funding.
- The President's 2007 Request Budget lists the Regional Fishery Management Councils line item at \$18 M.
 - While \$18 M is an increase over the \$15 M in this line item from the FY 2006 enacted amount, it is \$7 M less than the Councils need to adequately implement the current Fishery Management Plans currently in place.

¹ *Regional Fishery Management Council Requirements Analysis*. July 2004. A report prepared under NOAA Fisheries contract using the NOAA Planning, Programming, Budgeting and Execution System for the NOAA FY 2007 – 2011 budget submission process. 32 pages plus appendices.

REPORT OF THE BUDGET COMMITTEE

The Budget Committee met on June 12, 2006, and received the Executive Director's Budget Report from Dr. Donald McIsaac. The report included the current status of funding and expenditures for calendar year 2006, and preliminary expectations for future funding. In addition, the committee considered the need for a new committee chairman and committee member replacement in view of the expected departure of Mr. Jim Harp. The following Budget Committee members were present:

Mr. James Harp, Chairman
Mr. Donald K. Hansen
Mr. Mark Helvey

Mr. Jerry Mallet
Mr. Frank Lockhart

Current Status of Funding and Expenditures for Calendar Year 2006

Dr. McIsaac began his presentation by referring the committee to the range of funding expectations and resulting program and staffing levels outlined in the November 2005 Budget Committee Report. He noted that new funding received for 2006 (the regional council line item and supplemental funding) corresponds to the funding level identified in November as the best possible scenario. The new funding received and the carryover funding from the 2005 budget total \$3,605,145.

Dr. McIsaac presented the committee with a total proposed 2006 operational budget of \$3,491,361. This budget provides for continuation of status quo programs and Council staffing (including continuation of the highly migratory species effort), adds staff and capability primarily for the development of Groundfish Amendment 16-4 and the 2007-2008 Biennial Management Specification Environmental Impact Statement (EIS), and allows a small increase in the coastal state contracts. The budget includes a carryover obligation from 2005 for development of Phase I of the Trawl Individual Quota (TIQ) EIS. This obligation, somewhat less than \$200,000, has mostly been expended at this time and includes the contract with Northern Economics, Incorporated. Total expenditure of the proposed 2006 budget is proceeding within normal expectations for the first four months of the year.

Preliminary Expectations for Future Funding

Dr. McIsaac briefed the committee on his ongoing efforts to obtain additional funding to complete the TIQ EIS and proceed with an EIS defining intersector allocation. He met with Dr. Bill Hogarth, NMFS Assistant Administrator, and requested additional funding to keep the effort proceeding without a break this year. Full funding to complete final Council action in November 2007 would require \$1.7 million; \$600,000 was identified as the level necessary to continue without interruption through the end of 2006. Dr. Hogarth indicated he would give strong consideration to the request and expressed intent to provide an answer in a reasonably short timeframe.

For 2007, Dr. McIsaac reported that the President's budget includes \$18 million for regional councils. If this level were enacted, it would be an increase over the recent funding level of \$15 million, but would not provide hard funding at the level the councils need to maintain status quo operations under the combination of hard and soft funding they have been receiving. The regional councils have prepared a one-page fact sheet (attached) that identifies a needed funding level of \$25 million for 2007. The fact sheet includes a rationale for this level.

At this time there is considerable uncertainty in Council funding for 2007, with the associated risk that funding for status quo operations will be insufficient.

Appointment of a New Committee Chairman and Committee Membership

After 18 years as a Council member and chairman of the Budget Committee, Mr. Jim Harp will be ending his term in August. Following a discussion with the committee, Council Chairman Don Hansen, appointed Mr. Jerry Mallet as the new chairman to begin service with the September Council meeting. Appointment of an additional Council member to replace Mr. Harp will be made by the Council Chairman after new Council members have been appointed and begin service in August. The committee wishes to thank Jim for his many years of dedicated service.

Budget Committee Action and Recommendations

Mr. Donald Hansen moved and Mr. Jerry Mallet seconded a motion to adopt the budget proposed by Dr. McIsaac as the operational budget for 2006 (\$3,491,361) and to reserve \$113,784 from total available funds for use in 2007.

The Budget Committee recommends the Council approve the proposed 2006 operational budget and 2007 reserve.

PFMC
06/15/06

APPOINTMENTS TO ADVISORY BODIES, STANDING COMMITTEES,
AND OTHER FORUMS, INCLUDING ANY NECESSARY CHANGES TO COUNCIL
OPERATING PROCEDURES (COP)

The Oregon Department of Fish and Wildlife (ODFW) has requested Mr. Ethan Clemons replace Mr. Curt Melcher on the Model Evaluation Workgroup (MEW) (Closed Session Agenda Item A.1.a, Attachment 1).

The following advisory body vacancies are scheduled to be filled:

GROUND FISH ADVISORY SUBPANEL (GAP)

Nominee	Nominated/Supported By
<u>Sport Fisheries at Large</u> (Closed Session Agenda Item A.1.a, Attachment 2)	
Mr. R. Daniel Leinan Forks, WA	Nedra Reed, Mayor, City of Forks, WA
Mr. Gordon Zumach Sequim, WA	David Croonquist, Puget Sound Anglers, North Olympic Peninsula Chapter, Sequim, WA

HIGHLY MIGRATORY SPECIED ADVISORY SUBPANEL (HMSAS)

Nominee	Nominated/Supported By
<u>Northern Processor Representative</u> (Closed Session Agenda Item A.1.a, Attachment 3)	
Mr. Reid McIntyre Owner, Astoria Pacific Seafoods, Astoria, OR	Heather Munro Mann, Deputy Executive Director, West Coast Seafood Processors Association
Mr. Michael Brown Manager, Pacific Seafood, Warrenton, OR	Mike Okoniewski, Manager, Pacific Seafood, Woodland Division, Woodland, WA
Ms. Gayle Parker Bornstein Seafoods, Astoria, OR	Self Myer J. Bornstein, President, Bornstein Seafoods, Inc., Astoria, OR
Mr. Richard Carroll VP, Ocean Gold Seafoods, Inc., Westport, WA	Self

SALMON ADVISORY SUBPANEL (SAS)

Nominee	Nominated/Supported By
<u>Oregon Troll</u> (Closed Session Agenda Item A.1.a, Attachment 4) Mr. Jeff Feldner Logsdon, OR	Oregon Salmon Commission

The following Advisory Body vacancies remain:

- One vacancy on the Habitat Committee (HC) for the California Department of Fish and Game Representative seat.

The Department of State (DOS) notified the Council that Mr. David Hogan would be the new designee, replacing Mr. Stetson Tinkham, and that Ms. Amanda Johnson-Miller would be first Alternate (Closed Session Agenda Item A.1.a, Attachment 5).

Council Action:

Appoint new members as necessary.

Reference Materials:

1. Closed Session Agenda Item A.1.a, Attachment 1: MEW nomination.
2. Closed Session Agenda Item A.1.a, Attachment 2: GAP nominations.
3. Closed Session Agenda Item A.1.a, Attachment 3: HMSAS nominations.
4. Closed Session Agenda Item A.1.a, Attachment 4: SAS nomination.
5. Closed Session Agenda Item A.1.a, Attachment 5: DOS Appointment Letter.

Agenda Order:

- a. Agenda Item Overview
 - b. Reports and Comments of Advisory Bodies
 - c. Public Comment
 - d. **Council Action:** Consider Changes to COP, Appoint New Members and Decide on Nomination Solicitations as Necessary
- Chuck Tracy

PFMC
05/23/06

COUNCIL THREE MEETING OUTLOOK, DRAFT SEPTEMBER 2006 COUNCIL
MEETING AGENDA, AND WORKLOAD PRIORITIES

This agenda item requests guidance on the following three matters:

1. The Council three-meeting outlook (September, November, and March).
2. The draft agenda for the September 2006 Council meeting in Foster City, California.
3. Council staff workload priorities for June 19, 2006 through September 15, 2006.

The Council preliminarily reviewed items 1 and 2 above under Agenda Item B.1 on Tuesday, June 13, 2006. With the inclusion of any input gathered from that review or other Council actions during the week, the Executive Director will review supplemental proposed drafts of the three items listed above and discuss any other matters relevant to the Council meeting agendas and workload. After considering any reports and comments from advisory bodies and public, the Council is scheduled to provide appropriate guidance for final agenda development and also has the opportunity to identify priorities for advisory body consideration for the September Council meeting.

Council Tasks:

- 1. Provide guidance on potential agenda topics for the next three Council meetings.**
- 2. Provide guidance on the draft agenda for the September 2006 Council meeting.**
- 3. Provide guidance on priorities for Council workload management between the June and September Council meetings.**
- 4. Identify priorities for advisory body consideration at the next Council meeting.**

Reference Materials:

1. Exhibit B.6.a, Supplemental Attachment 1: Proposed Preliminary Three-Meeting Outlook for the Pacific Council.
2. Exhibit B.6.a, Supplemental Attachment 2: Preliminary Draft Council Meeting Agenda, September 10-15, 2006, Foster City, California.
3. Exhibit B.6.a, Supplemental Attachment 3: Council Workload Priorities June 19, 2006 Through September 15, 2006.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Guidance on Three Meeting Outlook, September Council Agenda, Council Staff Workload, and Priorities for Advisory Body Consideration

Don McIsaac

PFCMC
05/22/06

Preliminary Three Meeting Outlook for the Pacific Council

(Shaded Items are Contingent, but Counted in Time Estimate; Changes from B.1.a , Att.1are in Dashed Boxes)

September Foster City, CA 9/10-9/15/06 Estimated Percent of Standard Floor Time = 112%	November Del Mar, CA 11/12-11/17/06 Estimated Percent of Standard Floor Time = 109%	March Sacramento, CA 3/4-3/9/2007 Estimated Percent of Standard Floor Time = 88%
<u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Appointments to Adv. Bodies for 2007-2009 Term: Consider Composition & Solicit Nominations 3 Mtg Outlook, Final November Agenda, Workload Public Comment on Non-Agenda Items Res. & Data Needs: Adopt for Public Review Regulatory Streamlining ROA Ecosystem Based Fishery Mgmt Planning	<u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Appointments to Adv. Bodies for 2007-2009 Term: Confirm Composition & Appoint Members 3 Mtg Outlook, Draft March Agenda, Workload Public Comment on Non-Agenda Items Res. & Data Needs: Adopt Final Document for Distribution Ecosystem Based Fishery Mgmt Planning	<u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Interim Appointments to Advisory Bodies 3 Mtg Outlook, Draft April Agenda, Workload Public Comment on Non-Agenda Items
<u>Coastal Pelagic Species</u>	<u>Coastal Pelagic Species</u>	<u>Coastal Pelagic Species</u>
	Pac. Sardine Stock Assessment & HG for 2007: Adopt Final	NMFS Rpt Pacific Mackerel: Consider Need for Mop-up Fishery
<u>Enforcement Issues</u>	<u>Enforcement Issues</u>	<u>Enforcement Issues</u>
State Activity Rpt--CDFG	State Activity Rpt--CDFG	USCG Annual Fishery Enforcement Report
<u>Groundfish</u>	<u>Groundfish</u>	<u>Groundfish</u>
NMFS Report 2006 Inseason Management (2 Sessions)	NMFS Report 2006 Inseason Mgmt (2 Sessions)	NMFS Report 2006 Inseason Management (1 Session)
Pac. Whiting: Adopt Final 2007 Spx & Mgmt Measures		
Groundfish Bycatch Work plan: Approve for Public Rev Open Access Limitation: Initial Regulatory Streamlinng Planning	Groundfish Bycatch Work plan: Approve Final Open Access Limitation: Next Steps	
Whiting Monitoring (Amend. 10): Adopt Alts. for Pub Rev Trawl IQ: Confirm Stage I & Update for Stage II	Whiting Monitoring (Amend. 10): Adopt Final Preferred Alt. Trawl IQ: Status Rpt	
Intersector Allocation EIS: Next Steps	Intersector Allocation EIS	Intersector Allocation EIS
EFPs for 2007: Final Recommendations for Approval to NMFS FMP A-15 (AFA): Review Legal Basis, Previous Alts., & Assess Current Needs & Capabilities		

Agenda Item B.6.a
 Supplemental Attachment 1
 June 2006

Preliminary Three Meeting Outlook for the Pacific Council

(Shaded Items are Contingent, but Counted in Time Estimate; Changes from B.1.a , Att.1 are in Dashed Boxes)

September	November	March
Foster City, CA 9/10-9/15/06 Estimated Percent of Standard Floor Time = 112%	Del Mar, CA 11/12-11/17/06 Estimated Percent of Standard Floor Time = 109%	Sacramento, CA 3/4-3/9/2007 Estimated Percent of Standard Floor Time = 88%

Habitat Issues

Habitat Committee Report

Habitat Issues

Habitat Committee Report

Habitat Issues

Habitat Committee Report

Highly Migratory Species

NMFS Rpt (IATTC, Bigeye, Yellowfin)
Routine Mgmt Measures: Adopt Proposed Changes &
Draft EA for Public Review

Albacore Mgmt: Historical Effort & Effort Controls

EFPs for 2007: Final Recommendations to NMFS

Mgmt Regime for HS Longline Fishery: Consider
Adopting FMP Amendment Alts. For Public Rev.

Highly Migratory Species

NMFS Rpt
Routine Mgmt Measures: Adopt Final Changes
Reference Points for Overfishing Determinations

EFPs for 2007: Consider Continuation of Drift Gillnet EFP in
2007 & Approve Longline EFP Alts. for Public Review

Highly Migratory Species

EFPs for 2007: Final Review & Approval

Marine Protected Areas

Perceptions on Mgmt Intent of Marine Sanctuaries:

Discussion & Guidance

CINMS: Consider Research Plans for Basis of Regs

Marine Protected Areas

Marine Protected Areas

Pacific Halibut

Proposed Changes to CSP & Ann. Regs.: Adopt for
Public Review
Bycatch Est. for IPHC Adoption: Review

Pacific Halibut

Proposed Changes to CSP & Ann. Regs.: Adopt Final

Pacific Halibut

Rpt on IPHC Annual Mtg
Incidental Catch Regs for 2006: Adopt Options for
Public Rev

Salmon

Fishery Update--Info Rpt
Methodology Review: Establish Priorities for 2007 Season
Presentation on Disease Issues for Klamath Basin Salmon

FMP Amend. 15 (*de minimus* Fisheries): Adopt Alts. &
Initial Preferred Alternative for Public Review

Salmon

Fishery Update--Info Rpt
2006 Methodology Review: Approve Changes for Use in 2007

FMP Amend. 15 (*de minimus* Fisheries): Adopt Final
Preferred Alternative

Salmon

2007 Mgmt Options: Adopt Range for Public Rev
& Appt. Hearings Officers
Inseason Mgmt: Review and Consider Recommending any
Necessary Inseason Mgmt Changes
Mass Marking & CWT Information Briefing

Information Reports

Salmon Fishery Update

Information Reports

Salmon Fishery Update

Information Reports

Special Sessions

Special Sessions

Special Sessions

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 10-15, 2006, FOSTER CITY, CA

ANCILLARY MEETINGS AND COUNCIL AGENDA TOPICS	Est. Time In Hrs	ADVISORY BODY MAILINGS
SUNDAY, SEPTEMBER 10		
Ancillary Meetings		
A. TIQC 1 pm through 5 pm		
MONDAY, SEPTEMBER 11		
Ancillary Meetings --GMT continues		
A. GAP 8 am through Friday		
B. GMT 8 Am through Friday		
C. HMSAS 8 am through Tuesday noon		
D. SSC 8 am through Tuesday		
E. HC 9 am through 5 pm		
F. Budget 10:30 am through noon		
G. Legislative 1 pm through 3 pm		
Chairs Briefing 3:30 pm		
H. EC 4:30 pm through Friday		
Council Chair's Reception--6 pm		
TUESDAY, SEPTEMBER 12 - 8:00 am to 5:30 pm		
Ancillary Meetings -- GAP, GMT, HMSAS, SSC, EC cont.		
CLOSED EXECUTIVE SESSION (PERSONNEL & LITIGATION) - 8 am to 9 am	1.00	
Adv. Body Issues - Appointments & COP Changes		SSC
Litigation Status (E. Cooney)		None
GENERAL SESSION - 9 am		
A. Call to Order	0.50	
A.1-3 Opening, Roll Call, ED Rpt		
A.4 Approve Agenda		
B. Administrative Matters		
B.1 Future Council Meeting Agenda Planning-- <i>Discussion of Future CM Agenda Topics</i>	0.25	All
C. Habitat		
C.1 Current Habitat Issues-- Action: <i>Consider HC Recommendations</i>	0.75	HC; SAS; GAP; CPSAS
D. Highly Migratory Species Mgmt		
D.1 Changes to Routine Mgmt Measures-- Action: <i>Adopt Proposed Changes to 2007 Routine Mgmt Measures for Public Review</i>	1.50	HMSAS; HMSMT; EC
E.2 Exempted Fishery Permits (EFPs)--Action: <i>Adopt Final Recommendations to NMFS for EFPs Proposed for the 2007 Season</i>	0.00	HMSAS; HMSMT; EC
E.3 Albacore Mgmt--Historical Effort & Effort Controls	0.00	HMSAS; HMSMT
D.2 Mgmt Regime for High Seas Longline Fishery-- <i>Consideration of and Guidance on Developing FMP Amendment Alternatives for Public Review</i>	2.00	HMSAS; HMSMT
D.3 NMFS Rpt (Region & Science Ctr)-- <i>Discussion--including IATTC Rpt, PFMC Bigeye Overfishing Response, & Yellowfin Stock Status</i>	1.25	HMSAS; HMSMT
Public Comment Period for Non-Agenda Items	0.75	
	8.00	

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 10-15, 2006, FOSTER CITY, CA

ANCILLARY MEETINGS AND COUNCIL AGENDA TOPICS	Est. Time In Hrs	ADVISORY BODY MAILINGS
WEDNESDAY, SEPTEMBER 13 - 8 am to 5:30 pm		
<i>Ancillary Meetings</i> --GAP, GMT, EC continue		
E. Enforcement Issues		
E.1 State Enforcement Activity Report by CDFG--Discussion	0.00	All Adv. except SSC & HC
F. Groundfish Mgmt		
F.1 NMFS Rpt (Region & Science Center)	1.00	GMT; GAP; EC
F.2 Groundfish Bycatch Work Plan-- Action: <i>Adopt for Public Review</i>	2.00	GMT; GAP, EC; SAS
F.3 Consideration of Inseason Adjustments-- Action: Preliminary or Final Recommendations for Adjustments to 2006 Fisheries	2.00	GMT; GAP; EC
B. Administrative Matters (continued)		
B.2 Updated Research & Data Needs-- Action: <i>Adopt for Public Review</i>	1.00	All
B.3 Ecosystem Based Fishery Mgmt--Planning	1.00	All
G. Marine Protected Areas		
G.1 Fishery Regs within CINMS-- Action: <i>Consider Further Recommendations to NMFS re. Utilizing Research Plans for Establishing Regs</i>	1.00	All
	8.00	
THURSDAY, SEPTEMBER 14 - 8 am to 6:30 pm		
<i>Ancillary Meetings</i> - GAP, GMT, EC continue		
I. SAS 8 am through 6 pm		
J. STT 8 am through 6 pm		
B. Administrative Matters (continued)		
B.4 Council Meeting Minutes-- Action: <i>Approve March 2006 Minutes</i>	0.25	
B.5 Legislative Matters-- Action: <i>Consider Recommendations of the Legislative Committee</i>	0.50	
B.6 Fiscal Matters-- Action: <i>Consider Recommendations of the Budget Committee</i>	0.50	
B.7 Appointments to Adv. Bodies, Standing Com., & Other Forums, Including Necessary Changes to COPs-- Action: <i>Consider Changes to COPs, Appoint New Members & Solicit Nominations as Necessary (2007-2009 Term & EFH Committee)</i>	0.50	All
B.8 Regulatory Streamlining-- <i>Review Development of Regional Operating Agreements</i>	0.75	
F. Groundfish Mgmt (continued)		
F.4 Trawl IQ Update--Confirm Stage 1 Results & Review Progress Update for Stage II	3.00	GMT; GAP, EC; SAS
F.5 Intersector Allocation EIS-- <i>Discuss & Guide the Next Steps</i>	1.50	GMT; GAP, EC; SAS
F.6 Open Access Fishery Limitation-- <i>Guidance on Initial Regulatory Streamlining Planning</i>	2.00	GMT; GAP, EC; SAS
	9.00	

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 10-15, 2006, FOSTER CITY, CA

ANCILLARY MEETINGS AND COUNCIL AGENDA TOPICS	Est. Time In Hrs	ADVISORY BODY MAILINGS
FRIDAY, SEPTEMBER 15 - 8 am to 6:30 pm		
<i>Ancillary Meetings</i> --EC, SAS, STT continue as necessary		
H. Pacific Halibut Mgmt		
H.1 Proposed Changes to Catch Sharing Plan & 2007 Annual Regs.-- Action: <i>Adopt for Public Review</i>	1.00	STT; SAS; SSC
H.2 Bycatch Estimate for IPHC Adoption-- <i>Review and Guidance</i>	0.50	STT; SAS; SSC
I. Salmon Mgmt		
I.1 Salmon Methodology Review--Action: Establish Priorities for 2007 Salmon Season	0.75	STT; SAS; SSC
I.2 Disease Issues for Klamath Basin Salmon--Discussion & Guidance	0.00	SAS; STT; EC
I.3 FMP Amendment 15 (de minimis fisheries)--Action: Provide Direction on Selection & Analysis of Preliminary Draft Alternatives	3.00	STT; SAS; SSC
F. Groundfish Mgmt (continued)		
F.7 Final Consideration of Inseason Adjustments, if Necessary-- Action: Adopt or Confirm Final Recommendations for Adjustments to 2006 Fisheries, if Necessary	1.00	GMT; GAP; EC
F.8 Shore-based Whiting Monitoring (Amendment 10)-- Action: <i>Adopt Preliminary Alts. for Public Review</i>	2.00	GMT; GAP, EC; SAS
G. Marine Protected Areas		
G.1 Perceptions on Mgmt Intent of Marine Sanctuaries--Discussion and Guidance	0.00	All
B. Administrative Matters (continued)		
B.9 Three Mtg Outlook, Draft Sept Agenda, & Workload Priorities-- <i>Guidance on Outlook, Agenda, and Workload, Including Adv. Body Priorities</i>	0.50	All
	8.75	
Grand Total Hours	33.75	105%

Informational Reports (available in Briefing Book, but no time scheduled on Agenda):		
1 Salmon Fishery Update		All
2 HMS SAFE Doc		HMSMT
		GAP; GMT; SSC
		GAP; GMT; SSC

Candidate Agenda Items Not Scheduled		
F. Groundfish Mgmt (continued)		
F.4 FMP Amendment 15-- Action: Review Legal Basis, Previous Alts., & Assess Current Needs & Capabilities	2.00	GMT; GAP, EC; SAS
I. Salmon Mgmt		
I.2 Disease Issues for Klamath Basin Salmon--Discussion & Guidance	1.00	SAS; STT; EC
Total	36.75	

Due Dates (all dates COB):	
Meeting Invitation Memo Distributed:	28-Jul
Public Meeting Notice Mailed:	11-Aug
FR Meeting Notice transmitted:	16-Aug
Final day to receive public comments for placement in BB:	23-Aug
Final deadline to submit all BB materials:	23-Aug
Final deadline to submit cover memos for Ancillary Meetings:	24-Aug
Briefing Book Mailing:	31-Aug
Final deadline for distribution of public comments on first day of mtg:	5-Sep

COUNCIL WORK LOAD PRIORITIES JUNE 19, THROUGH SEPTEMBER 15, 2006

(Bolded tasks represent a Core Program Responsibility)

	Salmon	Groundfish	CPS	HMS	Other
ACTIVE	Inseason Mgmt	SAFE 2005: Volume II		SAFE Doc	Admin Necessities
		Inseason Mgmt	Final 2006 SAFE Doc	Routine Mgmt Measures	(Briefing Book, minutes,
	FMP Amend.15 (<i>de minimis</i>	2007-08 Biennial Specifications & EIS		EFP Permit Rev	Newsletter, Website, E-Filing
	Fisheries) Draft & Anal. Alts.	Amend. 16-4 Rebuilding Plan Rev & EIS			COP (EFH), Fiscal Matters, Office Move)
	Methodology Review	Trawl IQ Program: Complete Phase I of		Albacore Mgmt Issues	Pacific Halibut Mgmt
		EIS; Initiate Component & Impact Anal.		DGN EFP EA: P&E & Trans.	Inseason Mgmt
		Initiate Intersector Alloc. EIS			Proposed Changes for 2007
		Bycatch Workplan for Pub Rev			MSA Reauthorization
	Update Historic DataSets	(implementation of Amendment 18)			New Term for Advisory Bodies
		Review of EFPs for 2007		Fishery Reference Points	Research & Data Needs
CONTINGENT		Science Workshop Planning		Longline EFP: Prep. Prelim.	Habitat Letters (FERC-Klamath; LNG)
		Amend. 10 (Monitor Shore-based Whiting)		Alts. for Nov. CM	CINMS Regs via MSA & State Auth.
		Prepare for Public Review			Reg. Streamlining: ROA for OA Limit. &
		Open Access Limitations--Dev. Amend.			Mackerel HG)
	SAC DS Mtg--mid June	Data & Modeling Wrkshp--Aug 8-10	CPSMT Mtg--None	HMSMT Mtg--Aug	Leg. Com Mtg
	SAC Mtg--2nd wk. in Aug	RecFin Wrkshp--Aug 28-31	CPSAS Mtg--None	HMSAS Mtg--Aug; Sept CM	HC Mtg--Sept
	STT Mtg--Sept Council Mtg	Prerecruit Survey Wrkshp--Sept 13-15			SSC Mtg--Sept
	SAS Mtg--Sept Council Mtg	TIQC Mtg--Sept			
	MEW Mtgs--Aug & Oct	GMT Mtg--Sept			
	SSC Sal Subcom--Sept CM	GAP Mtg--Sept			
DELAYED				Dev. Alts. for Longline EFP	
	EFH Update (5 year review)	AFA Issues (Amendment 15)		Joint WPFMC-PFMC Mtg	PacFIN/RecFIN/EFIN issues
				Amend. : Mgmt Regime for	
				HS Longline Fishery	Communication Plan
				International HMS	
				Forum Participation	Ecosystem-Based Mgt.
	Amendments:				
	OCN Coho Matrix	Alternative Mgmt Approaches	International Mgmt		
	SOF Coho Allocation	GF Strategic Plan Formal Review			Economic Data
	Cons. Objectives:	SSC Bycatch Workshop II			Collection Program
DETERMINED	Puget S. Chinook & Coho	Amend. 14--Ownership Limits			
	LCR Coho	Spiny Dogfish Endorsement FMP Amend.			
	Sacramento River Chinook				

September 2006 Pacific Council Meeting Agenda Quick Reference

Tuesday September 12	Wednesday September 13	Thursday September 14	Friday September 15
<u>CLOSED SESSION</u> 8 a.m. Start (1 hr) <u>CALL TO ORDER</u> A.1 through A.4 (30 min) <u>ADMINISTRATIVE</u> B.1 Future Agenda Planning (15 min) <u>HABITAT</u> C.1 Current Habitat Issues (45 min) <u>HIGHLY MIGRATORY SPECIES</u> D.1 Changes to Routine Mgmt Measure for 2007 (1 hr 30 min) D.2 High Seas Longline Fishery (2 hr) D.3 NMFS Report (1 hr 30 min) <u>OPEN PUBLIC COMMENT</u> (45 min)	<u>GROUNDFISH</u> E.1 NMFS Report (1 hr) E.2 Bycatch Work Plan (2 hr) E.3 Consider Inseason Adjustments (2 hr) <u>ADMINISTRATIVE</u> B.2 Updated Research & Data Needs (1 hr) B.3 Ecosystem-Based Fishery Mgt Planning (1 hr) <u>MARINE PROTECTED AREAS</u> F.1 Fishery Regulations within CINMS (1 hr)	<u>ADMINISTRATIVE</u> B.4 Council Mtg Minutes (15 min) B.5 Legislative Issues (30 min) B.6 Fiscal Matters (30 min) B.7 Appointments & Operating Procedures (30 min) B.8 Regulatory Streamlining Regional Operating Agreement (45 min) <u>GROUNDFISH (CONTINUED)</u> E.4 Trawl IQ Update (3 hr) E.5 Intersector Allocation EIS (1 hr 30 min) E.6 Open Access Fishery Limitation (2 hr)	<u>PACIFIC HALIBUT</u> G.1 Changes to Catch Sharing Plan & 2007 Regulations (1 hr) G.2 Bycatch Estimate for IPHC (30 min) <u>SALMON</u> H.1 Salmon Methodology Review (45 min) H.2 FMP Amendment 15 (<i>de minimis</i> fisheries) (3 hr) <u>GROUNDFISH (CONTINUED)</u> E.7 Final Consideration of Inseason Adjustments (1 hr) E.8 Shore-based Whiting Monitoring (2 hr) <u>ADMINISTRATIVE</u> B.9 Three Meeting Outlook, Draft November Agenda & Workload (30 min)
8 HOURS TOTAL	8 HOURS TOTAL	9 HOURS TOTAL	8 HRS 45 MIN TOTAL

September 2006 Pacific Council Meeting Agenda Quick Reference

Tuesday September 12	Wednesday September 13	Thursday September 14	Friday September 15
<u>CLOSED SESSION</u> 8 a.m. Start (1 hr) <u>CALL TO ORDER</u> A.1 through A.4 (30 min) <u>ADMINISTRATIVE</u> B.1 Future Agenda Planning (15 min) <u>HABITAT</u> C.1 Current Habitat Issues (45 min) <u>HIGHLY MIGRATORY SPECIES</u> D.1 Changes to Routine Mgmt Measure for 2007 (1 hr 30 min) <div style="border: 1px solid black; padding: 2px;">D.2 High Seas Longline Fishery (2 hr)</div> D.3 NMFS Report (1 hr 15 min) <u>OPEN PUBLIC COMMENT</u> (45 min)	<u>GROUND FISH</u> E.1 NMFS Report (1 hr) <div style="border: 1px solid black; padding: 2px;">E.2 Bycatch Work Plan (2 hr)</div> E.3 Consider Inseason Adjustments (2 hr) <u>ADMINISTRATIVE</u> B.2 Updated Research & Data Needs (1 hr) B.3 Ecosystem-Based Fishery Mgt Planning (1 hr) <u>MARINE PROTECTED AREAS</u> F.1 Fishery Regulations within CINMS (1 hr) <div style="border: 1px solid black; border-radius: 50%; padding: 5px; display: inline-block;"> <u>GROUND FISH</u> E.X FMP Amend 15 (AFA): Restart Activity </div>	<u>ADMINISTRATIVE</u> B.4 Council Mtg Minutes (15 min) B.5 Legislative Issues (30 min) B.6 Fiscal Matters (30 min) B.7 Appointments & Operating Procedures (15 min) B.8 Regulatory Streamlining Regional Operating Agreement (45 min) <u>GROUND FISH (CONTINUED)</u> E.4 Trawl IQ Update (3 hr) E.5 Intersector Allocation EIS (1 hr 30 min) <div style="border: 1px solid black; padding: 2px;">E.6 Open Access Fishery Limitation (2 hr)</div>	<u>PACIFIC HALIBUT</u> G.1 Changes to Catch Sharing Plan & 2007 Regulations (1 hr) G.2 Bycatch Estimate for IPHC (30 min) <u>SALMON</u> H.1 Salmon Methodology Review (45 min) H.2 FMP Amendment 15 (<i>de minimis</i> fisheries) (3 hr) <u>GROUND FISH</u> E.7 Final Consideration of Inseason Adjustments (1 hr) <div style="border: 1px solid black; padding: 2px;">E.8 Shore-based Whiting Monitoring (2 hr)</div> <u>ADMINISTRATIVE</u> B.9 Three Meeting Outlook, Draft November Agenda & Workload (30 min)
8 HOURS TOTAL	8 HOURS TOTAL	9 HOURS TOTAL	8 HRS 45 MIN TOTAL

Possible Additional
Agenda Item

Possible Replacement Choices

September 2006 Pacific Council Ancillary Meetings

Sunday Sept 10	Monday Sept 11	Tuesday Sept 12	Wednesday Sept 13	Thursday September 14	Friday Sept 15
	Groundfish Advisory Subpanel Groundfish Mgt Team Highly Migratory Species Adv Subpanel Scientific & Statistical Committee Habitat Committee Budget Committee Legislative Committee Enforcement Consultants	Groundfish Advisory Subpanel Groundfish Mgt Team Highly Migratory Species Adv Subpanel Scientific & Statistical Committee Enforcement Consultants	Groundfish Advisory Subpanel Groundfish Mgt Team Enforcement Consultants	Groundfish Advisory Subpanel Groundfish Mgt Team Salmon Adv Subpanel Salmon Tech Team Enforcement Consultants	Salmon Adv Subpanel Salmon Tech Team Enforcement Consultants
	Chair's Reception				

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM REPORT ON
THREE-MEETING OUTLOOK, DRAFT SEPTEMBER 2006 COUNCIL MEETING
AGENDA, AND WORKLOAD PRIORITIES

In an effort to develop a Highly Migratory Species Management Team (HMSMT) workplan for the next year, the HMSMT identified the following HMS management issues and tasks to be addressed:

Management Issues

1. Albacore management
 - a. U.S./Canada
 - b. Response to IATTC and WCPFC resolutions
2. Bigeye tuna overfishing response
3. Potential yellowfin tuna overfishing (based on 2005 stock assessment)
4. Development of biological reference points for stocks with MSY proxies
5. High seas longline limited entry
6. Coordination with Western Pacific Council's Pelagic Management Team

Routine Tasks

1. Management measures for 2007-08 season
 - a. Vessel Marking Requirements
 - b. Drift Gillnet Turtle Closure Northern Boundary
 - c. Drift Gillnet Gear Requirements
 - d. Recreational Bag Limits for Washington and California
 - e. Recreational Thresher Shark Harvest in California
2. Exempted fishing permits for 2007-08
 - a. Drift gillnet EFP
 - b. Longline EFP
3. SAFE document
4. Council guidance on level of observer coverage for HMS fisheries

The HMSMT also reviewed the Council's current three-meeting outlook, the timing of the issues listed above, and the processes needed to address them, and came up with this revised outlook:

Sept 2006

1. Provide alternative management measures for 2007-08 season and draft EA (for 1a-e); Council approve for public review
2. Develop alternatives for albacore management
3. Address bigeye tuna overfishing (implement IATTC action from June)
4. Present final SAFE document to Council for 2005 season

Nov 2006

1. Provide final management measures and EA for 2007-08 season; Council adopt measures (final action)
2. Provide draft preliminary report on drift gillnet EFP; Council consider whether to proceed with drift gillnet EFP in 2007

3. Present alternatives for longline EFP; Council consider whether to proceed with longline EFP in 2007
4. Provide draft alternatives for HMS biological reference points
5. Potentially address yellowfin tuna overfishing

Mar 2007

1. Present final report on drift gillnet EFP; provide EFP modifications; Council approve for public review
2. Present draft EA for longline EFP; Council adopt preferred alternative (final action)
3. Provide revised recommendations for HMS biological reference points; Council approve for public review

The workload associated with the plan described above is considerable for Team members, Council staff, and the Council, especially given the other items already scheduled on the Council's upcoming agendas. Therefore, HMSMT would appreciate constructive guidance from the Council on workload priorities, and the proposed schedule to address them.

HMSMT Recommendation:

1. Provide guidance to the Team on HMS workload priorities and the proposed schedule

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON COUNCIL
THREE-MEETING OUTLOOK, DRAFT SEPTEMBER 2006 COUNCIL MEETING
AGENDA, AND WORKLOAD PRIORITIES

The Highly Migratory Species Advisory Subpanel (HMSAS) reviewed the list of issues and tasks listed by the Highly Migratory Species Management Team (HMSMT) contained in Agenda Item B.6.b, HMSMT Report; understanding that the priorities may need to be adjusted based on the recommendations of international bodies and the recommendations of the HMSAS, as described in this report. For example, the issue of drift gillnet gear requirements was delegated to an HMSAS subcommittee for further discussion; this should relieve some of the routine items listed by the team.

PFMC
06/13/06