

## LEGISLATIVE MATTERS

The Pacific Fishery Management Council's (Council's) Legislative Committee (Committee) is scheduled to meet Friday, March 4th at 2:00 p.m. to review a variety of legislative matters of interest to the Council. Council staff has provided a summary of legislation introduced in the 112<sup>th</sup> U.S. Congress (Agenda Item K.1.a, Attachment 1) for potential review at the March Council meeting. As time allows, the Committee may discuss other Federal legislation of interest to the Council.

Council Chair, Mr. Mark Cedergreen; Council Vice Chair, Mr. Dan Wolford; Council Vice Chair, Ms. Dorothy Lowman; Council Executive Director, Dr. Don McIsaac; and Special Assistant to the Executive Director, Mr. Don Hansen, represented the Council at the Council Coordination Committee's (CCC) interim meeting held January 11-12, 2011 in Washington, DC. While in Washington, the Council delegation also met with several U.S. Congressional members and/or their staff. They will brief the Committee on pertinent items from the CCC session and provide an overview of their meetings on Capitol Hill.

In January 2011, Congressman Doc Hastings, Chairman of the U.S. House of Representative's Committee on Natural Resources, posted a proposed Oversight Plan that outlines initial areas the Natural Resources Committee and its Subcommittees may focus on when considering its responsibility to determine whether existing laws and programs are being implemented in accordance with the intent of Congress (Agenda Item K.1.a, Attachment 2). The Oversight Plan topics of interest to the Council include, reauthorization of the Magnuson-Stevens Fishery Conservation Act, the Endangered Species Act, court rulings and administrative regulations relating to the National Environmental Policy Act, ocean governance, marine spatial planning, international fisheries, marine protected areas, and the Marine Mammal Protection Act.

On February 9th, 2011 the U.S. Department of Commerce (DOC) and the National Oceanic and Atmospheric Administration (NOAA) released draft aquaculture policies for public review (Agenda Item K.1.a, Attachment 3 and Agenda Item K.1.a, Attachment 4). NOAA is hosting public information briefings via teleconference during February and is requesting public comments on both policies through April 11, 2011 (see <http://aquaculture.noaa.gov/>). The Committee has reviewed previous policies and bills on marine aquaculture and may provide recommendations on this topic for Council consideration.

### **Council Action:**

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

Reference Materials:

1. Agenda Item K.1.a, Attachment 1: Staff Summary of Federal Legislation in the 112th U.S. Congress.
2. Agenda Item K.1.a, Attachment 2: U.S. House Committee on Natural Resources Oversight Plan, January 2011.
3. Agenda Item K.1.a, Attachment 3: Draft DOC Aquaculture Policy.
4. Agenda Item K.1.a, Attachment 4: Draft NOAA Aquaculture Policy.
5. Agenda Item K.1.b, Supplemental Legislative Committee Report.

Agenda Order:

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

Mike Burner  
Dave Hanson

PFMC  
02/09/11

## STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 112<sup>TH</sup> U.S. CONGRESS

This summary is intended as a general overview for discussion purposes. Full text of these bills, additional summary and background information, and current status can be found by entering the bill number in the search engine at the THOMAS web site of the Library of Congress (<http://thomas.gov>). Portions of this report are derived from summaries provided by the Congressional Research Service of the Library of Congress.

### Notable Legislation Recently Signed Into Law

#### **H.R. 81 Shark Conservation Act of 2009**

The bill became Public Law No. 111-348 when signed by President Barak Obama on January 4, 2011. Among other things, the law addresses two items previously discussed by the Legislative Committee; prohibitions on removal of shark fins at sea and important legislative fixes to laws implementing U.S. representation to the Western and Central Pacific Fisheries Commission and the Pacific Whiting Act of 2006 (Titles I and III below). Title II allows the U.S. and the New England Fishery Management Council to consider international agreements with Canada when specifying rebuilding timeframes and management measures for overfished fisheries. This law recently enabled the National Marine Fisheries Service (NMFS) to increase the Georges Bank yellowtail flounder quota for U.S. commercial fishermen in 2011 and extend rebuilding under this international agreement on a shared transboundary groundfish stock. This new law and recent developments in New England may have implications for groundfish rebuilding efforts and transboundary fishery management on the west coast. Also see the press releases from NOAA and U.S. Congressman Barney Frank on this topic at the end of this report in Appendix A.

*Title I International and Domestic Shark Conservation* - Amends the High Seas Driftnet Fishing Moratorium Protection Act to direct the Secretary of Commerce to urge international fishery management organizations to which the United States is a member to adopt shark conservation measures, including measures to prohibit removal any of the fins of a shark (including the tail) and discarding the shark carcass at sea. Amends the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to revise provisions prohibiting the removal of shark fins to make it a prohibited act to: (1) remove any shark fin (including the tail) at sea; (2) have a fin aboard a fishing vessel unless the fin is naturally attached to the carcass; (3) transfer a fin from one vessel to another or receive a fin unless it is naturally attached; or (4) land a fin that is not naturally attached to a carcass or land a carcass without fins naturally attached.

*Title II: International Fisheries Agreement Clarification Act* Allows the Secretary and the New England Fishery Management Council, for purposes of rebuilding portions of fish stocks covered by the United States-Canada Transboundary Resource Sharing Understanding, to: (1) take into account such Understanding and decisions made under such Understanding when specifying a time period for rebuilding a fishery that is overfished; and (2) consider decisions under such Understanding as management measures under an international agreement in which the United States participates when determining whether a rebuilding may exceed 10 years. Permits the

Secretary and the Council to establish catch levels for portions of fish stocks within their respective geographic areas that exceed catch levels otherwise required under the Northeast Multispecies Fishery Management Plan if: (1) overfishing is ended immediately; (2) the fishing mortality level ensures rebuilding within such a rebuilding time period; and (3) such catch levels are consistent with the Understanding.

*Title III: Miscellaneous* - Prohibits from being considered federal employees except for certain specified injury compensation or tort claims liability: (1) Commissioners of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, other than officers or employees of the U.S. government; (2) certain advisory committee members; and (3) other specified appointees under the Pacific Whiting Act of 2006. (Current law considers such individuals to be federal employees for: (1) certain injury compensation purposes; (2) ethics, conflicts-of-interest, and corruption requirements; and (3) criminal or civil statutes or regulations governing conduct of federal employees in that capacity.) Decreases the number of scientific experts on the joint technical committee under the Pacific Whiting Act of 2006 to 2 (currently at least 6 but not more than 12).

#### Update on Congressional Committee Membership

**U.S. House of Representatives, Committee on Natural Resources** – Chaired by Congressman Doc Hastings-WA.

Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs:

*Congressman John Fleming-LA (Chairman), Congressman Don Young-AK at large, Congressman Robert Wittman-VA, Congressman Jeff Duncan-SC, Congressman Steve Southerland-FL, Bill Flores-TX, Congressman Andy Harris-MD, Congressman Jeff Landry-LA, Congressman Jon Runyan-NJ and Congressman Doc Hastings-WA.*

**U.S. Senate, Committee on Commerce Science and Transportation** – Chaired by Senator John D. Rockefeller IV. Senator Kay Bailey Hutchinson, Ranking Member

Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard:

*Senator Maria Cantwell-WA (Chairwoman), Senator Olympia J. Snowe-ME (Ranking Member), Senator Daniel K. Inouye-HI, Senator John F. Kerry-MA, Senator Barbara Boxer-CA, Senator Frank R. Lautenberg-NJ, Senator Mark Begich-AK, Senator Roger F. Wicker-MS, Senator George S. LeMieux-FL, Senator Johnny Isakson-GA, Senator David Vitter-LA.*

#### Summary of Legislation introduced in the 112<sup>th</sup> Congress

**S. 52 International Fisheries Stewardship and Enforcement Act** - A bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes including implement the Antigua Convention.

Introduced January 25, 2011 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

The Committee and the Council reviewed a similar bill in the 11<sup>th</sup> Congress (see Agenda Item K.1.b, Supplemental Legislative Committee Report, April 2010).

**S. 238 FISH Act of 2011** - A bill to amend the MSA to require that Fishery Impact Statements (FIS) be updated each year. Requires such FISs to: (1) be prepared by an objective person (prohibits U.S. government officers, employees, or entities) selected by the Comptroller General; and (2) determine if the fishery management plan or amendment is consistent with specified national standards for fishery conservation and management, including whether the relevant measures provide for the sustained participation of fishing communities and minimize and mitigate for adverse economic impacts on such communities.

Introduced January 31, 2011 by Senator Brown, Massachusetts and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

**S.171 West Coast Ocean Protection Act of 2011** - A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf off the coast of California, Oregon, and Washington.

Introduced January 25, 2011 by Senator Boxer, California and cosponsored by the other five U.S. Senators from the West Coast States. The bill has been referred to the U.S. Senate Committee on Energy and Natural Resources.

**S.46 Coral Reef Conservation Amendments Act of 2011** – A bill to increase protective measures for the Nation’s coral reefs through amendment of the Coral Reef Conservation Act of 2000 and the development of a national coral reef ecosystem action strategy.

Introduced January 25, 2011 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

**S.229 and S.230 Pertaining to genetically-engineered fish** - Bills to amend the Federal Food, Drug, and Cosmetic Act to require labeling (S.229) or prevent the approval of (S.230) genetically-engineered fish.

Introduced January 25, 2011 by Senator Begich, Alaska and referred to the U.S. Senate Committee on Health, Education, Labor, and Pensions.

**S.50 Commercial Seafood Consumer Protection Act** – A bill To strengthen Federal consumer product safety programs and activities with respect to commercially marketed seafood by directing the Secretary of Commerce to coordinate with the Federal Trade Commission and other appropriate Federal agencies to strengthen and coordinate those programs and activities.

Introduced January 25, 2011 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

**H.R.574 Pertaining to Finfish Aquaculture** – A bill to prohibit the Secretary of the Interior and the Secretary of Commerce from authorizing commercial finfish aquaculture operations in the Exclusive Economic Zone except in accordance with a law authorizing such action.

Introduced February 9, 2011 by Congressman Young, Alaska and referred to the U.S. House Committee on Natural Resources.

## Appendix A

### NOAA News Release - February 9, 2011

#### **Negotiations with Canada Set Stage for Significant Increase in U.S. Yellowtail Flounder Quota on Georges Bank**

*More time to rebuild fish stock while still preventing overfishing*

Legislation recently signed by President Obama has paved the way for NOAA to move ahead to increase the Georges Bank yellowtail flounder quota for U.S. commercial fishermen in 2011. The quota will be increased to 2.5 million pounds, an 18 percent increase over 2010 levels and a 44 percent increase over the quota that fishermen originally expected to receive for the 2011 fishing year.

“Rebuilding economically valuable fisheries goes hand-in-hand with protecting fishing jobs and supporting coastal communities,” Secretary of Commerce Gary Locke said. “So we made reaching this agreement a priority, because it will allow us to increase the catch limits for valuable groundfish stocks and help fishermen.”

The legislation that enabled today’s agreement was signed by President Obama on January 4 and initiated by U.S. Sen. Olympia Snowe of Maine, U.S. Rep. Barney Frank of Massachusetts, and members of the New England congressional delegation. It allows NOAA to extend the rebuilding timeframe for the Georges Bank yellowtail flounder stock. This is one of several shared groundfish stocks that are jointly managed by the United States and Canada through an international understanding. With more time to rebuild, NOAA will be able to increase the amount of fish available to the fishing industry each year, and still prevent overfishing so that the stocks rebuild.

“This is another instance of our continuing effort to use whatever flexibility is available to us to protect fishing jobs and the long-term vitality of local fishing communities as we continue rebuilding the valuable groundfish stocks in the Northeast,” said Eric Schwaab, assistant NOAA administrator for NOAA’s Fisheries Service. “We are making meaningful progress in this effort, due in large part to the continued hard work and sacrifice of groundfish fishermen.”

As a first step, NOAA and members of the New England Fishery Management Council, which includes representation from states, fishing organizations and non-governmental organizations, met with Canadian fishery managers today to revisit the 2011 Georges Bank yellowtail catch limit for U.S. and Canadian fishermen. With bilateral support for the increase in the U.S. catch level, NOAA can now work quickly to modify current U.S. regulations to adjust the catch limits, which were previously set for 2011.

“A lot of people worked hard to provide flexibility in the U.S. legislation, which made this meeting possible,” said Rip Cunningham, chair of the U.S. negotiating team, who was one of four fishermen involved in the discussions with Canada today. “This is good news for U.S.

fishermen and will allow for increased catches of Georges Bank yellowtail and other species, like winter flounder and haddock which are caught in the same area.”

Separately, as part of the planned stock rebuilding effort, NOAA has also approved measures to increase catch limits for 11 other groundfish stocks when the new fishing year begins on May 1. The largest increases will be for Southern New England/Mid-Atlantic yellowtail flounder, which will be over one million pounds, up from around 683 thousand pounds (69 percent increase); witch flounder, which will increase to more than 2.7 million pounds from about 1.9 million pounds (45 percent increase); and Southern New England winter flounder, which will increase to 1.6 million pounds from about 1.1 million pounds (40 percent increase). These three stocks, and some of the others, required lower catch limits in 2010 to ensure enough fish reproduced to continue rebuilding and meet requirements under the law.

## **Congressman Barney Frank (MA) Press Release - February 9, 2011**

### **Frank Praises Outcome of US-CANADA Negotiations for Higher Fishing Allocation**

WASHINGTON – Congressman Barney Frank today praised the announcement by the Commerce Department that it has negotiated with Canada substantial increases in yellowtail flounder catch allocations for the 2011 fishing year. The new limits, which are pending a final approval by the NOAA – likely this week – will amount to an 18% increase over last year’s allocation, and a 44% increase in what had been proposed by NOAA for 2011.

This agreement was wholly made possible by legislation introduced by Congressman Barney Frank and Senator Olympia Snowe (R-ME), the International Fisheries Clarification Act, which makes it possible for the U.S. Transboundary Management Guidance Committee (TMGC) to negotiate higher catch limits with its Canadian counterparts.

Prior to the new law, the Canadian government had granted Canadian fishermen catch limits higher than those permitted by the US government to American fishermen. The law makes it possible for appointed representatives of the U.S. fishing industry to negotiate limits that do not put American fishermen at a disadvantage to their Canadian counterparts.

The negotiated limits would represent a significant improvement for both the groundfish the scallop industries.

The announcement by the Commerce Department today is a result of those negotiations, and is subject to final approval by the Commerce Department. Congressman Frank, who has gone toe-to-toe with Commerce over fish allocations in the past, will be arguing very strenuously for approval of the new limits.

PFMC  
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## U. S. DEPARTMENT OF COMMERCE AQUACULTURE POLICY

### Purpose

The purpose of this policy is to support the development of sustainable<sup>1</sup> marine aquaculture within the context of the Department of Commerce's (DOC) goals of encouraging economic growth and employment opportunities in the United States and of enhancing United States competitiveness in, and exports to, global markets. This policy applies to a broad range of responsibilities at DOC relating to trade, technology, innovation and entrepreneurship, economic development, and environmental stewardship.

For purposes of this policy, aquaculture is defined as the propagation and rearing of aquatic organisms in controlled or selected aquatic environments for commercial, recreational, or public purposes. This definition covers all authorized production of finfish, shellfish, plants, algae, and other aquatic organisms for 1) human consumption and other commercial and recreational uses; 2) wild stock replenishment; 3) rebuilding populations of threatened or endangered species; and 4) restoration and conservation of aquatic habitat.

The U.S. aquaculture industry (currently valued at about \$1 billion/year) is dominated by the production of freshwater fish for human consumption. The marine aquaculture segment (about 20 percent of current production) is mainly comprised of shellfish farming, but also includes farming of finfish and algae in coastal waters and on land. Another major component of U.S. aquaculture is hatchery production to replenish stocks of important commercial, recreational, and endangered species and to restore habitat (e.g., oyster reefs). Emerging technologies include land-based recirculating systems, algal rearing technologies for production of biofuels and other non-food products, systems that integrate different types of aquaculture or combine aquaculture with other uses, and systems in exposed open-ocean waters.

Aquaculture in the United States can make major contributions to the local, regional, and national economies by providing employment and diverse business opportunities from coastal communities to the agricultural heartland. By implementing this policy and working with partners, including the Department of Agriculture, U.S. Food and Drug Administration, Department of Interior, and the Joint Subcommittee on Aquaculture, DOC can also help to make the United States a world leader in developing, demonstrating, and employing innovative and sustainable aquaculture technologies and in encouraging worldwide adoption of sustainable aquaculture practices and systems.

### Background

Fisheries and seafood are important components of American life. In 2007, Americans consumed a total of nearly 5 billion pounds of seafood, which equates to approximately 16

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<sup>1</sup> Throughout this document, the term "sustainable" encompasses environmental, economic, and social sustainability.



pounds per person per year. The United States is the third largest consumer of seafood in the world and demand exceeds domestic supply from wild stocks. Currently, the United States imports 84 percent of its seafood, and about half of those imports are from aquaculture.<sup>2</sup> The current trade deficit in seafood is approximately \$9 billion. Growth of domestic aquaculture would support fishing and agricultural communities and new aquaculture-based industries in the United States.

### **Statement of Policy**

It is the policy of the DOC, consistent with the overarching National Aquaculture Act of 1980, to:

- 1) Create a business climate and technological base for industry to develop sustainable aquaculture in the United States that provides domestic jobs, products, and services while conserving aquatic resources.
- 2) Support environmentally sound and sustainable aquaculture innovation that increases the value of domestic aquaculture production and creates American business, jobs, and trade opportunities.
- 3) Advance scientific knowledge to develop and refine aquaculture technologies and methods to improve production, safeguard the environment, and sustain local food and cultural benefits.
- 4) Support the development and application of aquaculture technologies that provide economic and/or ecological value by enhancing or restoring depleted, threatened, and endangered wild fish stocks and restoring habitat (e.g., oyster reefs).
- 5) Promote a level playing field for U.S. aquaculture businesses to engage in international trade. Work to ensure that countries exporting cultured seafood products to the United States are meeting requirements relating to fair trade, food safety, and international agreements.
- 6) Work collaboratively with our federal, academic, and business partners to support the development of sustainable aquaculture.
- 7) Exchange scientific insights with other nations and promote joint participation in cooperative research that is of potential multinational value, including addressing impacts of aquaculture that breach international boundaries.
- 8) Advance public understanding of sustainable aquaculture and the associated environmental, social, and economic benefits and challenges.

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<sup>2</sup> See United Nations Food and Agriculture Organization, (2009). FISHSTAT Plus: Universal Software for Fishery Statistical Time Series (Food and Agriculture Organization, Rome). Version 2.32. This figure includes both freshwater and marine production. See also U.S. Department of Commerce, *Fisheries of the United States 2009*.

## **Policy Implementation**

To implement this policy, the DOC and its bureaus will work in partnership with other Federal agencies, Congress, state, local, and tribal governments, industry, academia, non-governmental organizations, and other stakeholders at the national, regional, and local levels to:

- 1) Deliver U.S. government services, such as technology transfer and trade assistance, to aquaculture and related industries in a comprehensive and coordinated manner.
- 2) Provide technical assistance to state and local governments to help plan and develop marine resource infrastructure needs including in coastal communities.
- 3) Accelerate the implementation of sustainable aquaculture production methods by developing pilot, demonstration, and technology transfer projects with seafood and related industries, nongovernmental organizations, state and local governments, and other partners.
- 4) Enhance the capabilities of federal research laboratories and participating research partners to provide the necessary ecological, technological, economic, and social data and analysis to effectively and sustainably develop, support, manage, and regulate private and public sector aquaculture.
- 5) Develop an efficient, coordinated, and transparent science-based permitting process and regulatory structure to ensure that marine aquaculture facilities are properly designed and sited and incorporate appropriate technologies and practices to minimize adverse impacts.

The Department of Commerce will begin to implement this policy immediately upon release of the final document. This policy will guide the Department and its bureaus actions with respect to marine aquaculture, until such time as it is amended or rescinded by the Secretary of Commerce.



## **National Oceanic and Atmospheric Administration DRAFT AQUACULTURE POLICY**

### **Purpose**

The purpose of this policy is to enable the development of sustainable marine aquaculture<sup>1</sup> within the context of NOAA's multiple stewardship missions and broader social and economic goals. Meeting this objective will require NOAA to integrate environmental, social, and economic considerations in management decisions concerning aquaculture. This policy reaffirms that aquaculture is an important component of NOAA's efforts to maintain healthy and productive marine and coastal ecosystems, protect special marine areas, rebuild overfished wild stocks, restore populations of endangered species, restore and conserve marine and coastal habitat, balance competing uses of the marine environment, create employment and business opportunities in coastal communities, and enable the production of safe and sustainable seafood.

### **Statement of Policy**

For purposes of this policy, aquaculture is defined as the propagation and rearing of aquatic organisms in selected aquatic environments (coastal and offshore) or land-based facilities for any commercial, recreational, or public purpose. This definition covers all authorized production of finfish, shellfish, plants, algae, and other marine organisms<sup>2</sup> for 1) human consumption and other commercial and recreational uses; 2) wild stock replenishment; 3) rebuilding populations of threatened or endangered species; and 4) restoration and conservation of marine and Great Lakes habitat.

It is the policy of NOAA, within the context of its marine stewardship missions and its strategic goals with respect to healthy oceans and resilient coastal communities and economies, to:

1. Enable sustainable aquaculture that provides domestic jobs, products, and services and that is in harmony with healthy, productive, and resilient marine ecosystems, compatible with other uses of the marine environment, and consistent with the National Policy for the Stewardship of the Ocean, our Coasts, and the Great Lakes (National Ocean Policy)<sup>3</sup>.

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<sup>1</sup> Throughout this document, the term "sustainable" encompasses environmental, economic, and social sustainability and the term "marine" includes the Great Lakes.

<sup>2</sup> This definition does not include marine mammals or birds.

<sup>3</sup> EO 13547, which adopts the final recommendations of the Interagency Ocean Policy Task Force (July 19, 2010) is available online at <http://www.whitehouse.gov/oceans>.

2. Ensure agency aquaculture decisions protect wild species and healthy, productive, and resilient coastal and ocean ecosystems, including the protecting of sensitive marine areas.
3. Advance scientific knowledge concerning sustainable aquaculture.
4. Make timely and unbiased aquaculture management decisions based upon the best scientific information available.
5. Support aquaculture innovation and investments that benefit the nation's coastal ecosystems, communities, seafood consumers, industry, and economy.
6. Advance public understanding of sustainable aquaculture practices; the associated environmental, social, and economic challenges and benefits; and the services NOAA has to offer in support of sustainable aquaculture.
7. Work with our federal partners, through the Joint Subcommittee on Aquaculture and other venues, to provide the depth of resources and expertise needed to address the challenges facing expansion of aquaculture in the United States.
8. Work internationally to learn from aquaculture practices around the world, highlight and demonstrate examples of safe and sustainable aquaculture, and encourage the worldwide adoption of sustainable practices and systems.
9. Support the integration of federal, regional, state, local, and tribal priorities into marine aquaculture siting and management and ensure aquaculture development is considered within other existing and potential marine uses to reduce potential conflicts.

### **Basis for the Policy**

NOAA has a long history of conducting regulatory, research, outreach, and international activities on marine aquaculture issues within the context of its missions of service, science, and environmental stewardship. The National Aquaculture Act of 1980, which applies to all federal agencies, states that it is “in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.” The statutory basis for NOAA’s aquaculture activities includes the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, the Endangered Species Act, the Coastal Zone Management Act, the National Marine Sanctuaries Act, and the Fish and Wildlife Coordination Act. Under these laws, in addition to the National Environmental Policy Act, NOAA is responsible for considering and preventing and/or mitigating the potential adverse environmental impacts of planned and existing marine aquaculture facilities through the development of fishery management plans, sanctuary management plans, permit actions, proper siting, and consultations with other regulatory agencies at the federal, state, and local levels. Other statutes, including the National Sea Grant College Program Act, the Saltonstall-Kennedy Act, the Merchant Marine Act, and the Agricultural Marketing Act, authorize NOAA to enable and provide assistance for

both public and private sector aquaculture. In addition, the Oceans and Human Health Act identifies aquaculture as a means of reducing human health threats from ocean sources.

NOAA may engage in regulatory actions in the Exclusive Economic Zone under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) depending on the species grown. NOAA may also engage in regulatory action under National Marine Sanctuaries Act (NMSA) authority with respect to aquaculture activities within or potentially affecting Sanctuaries. NOAA has a direct regulatory role for aquaculture within the sanctuaries, in both state and federal waters, except in state waters when limited by formal written agreement with the governor of that state. NOAA also engages in consultations with other federal permitting agencies under the authority of the Endangered Species Act, Marine Mammal Protection Act, the Essential Fish Habitat provisions of the Magnuson-Stevens Act, the National Environmental Policy Act, and other statutes. Through the Coastal Zone Management Act, NOAA also reviews and approves state coastal management programs, which identify permissible uses in the coastal zone, and oversees federal consistency with these programs.

In developing this policy, NOAA evaluated the application of past NOAA and Department of Commerce aquaculture policies and planning documents and considered the specific challenges and opportunities of today and tomorrow. Additionally, NOAA considered public input provided via a public comment period and a series of seven public listening sessions during April and May, 2010.<sup>4</sup> The policy also aligns with several objectives in NOAA's Next Generation Strategic Plan and is a primary component of NOAA's strategic objective for safe and sustainable seafood.<sup>5</sup>

This policy was also informed by the National Ocean Policy and the framework for effective coastal and marine spatial planning (CMSP).<sup>6</sup> Many of the themes found in the National Ocean Policy – such as protecting, maintaining, and restoring healthy and diverse ecosystems; supporting sustainable uses of the ocean; and increasing scientific understanding and applying that knowledge to make better decisions – are echoed in this document. This policy also mirrors the National Goals for CMSP, setting the stage for aquaculture to be properly considered within the CMSP process.

## Background

Approximately 84 percent of the seafood consumed in the United States is imported,<sup>7</sup> about half of which is sourced from aquaculture. In 2009, aquaculture crossed the threshold of providing more than half of all seafood consumed worldwide.<sup>8</sup> However, domestic aquaculture provides

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<sup>4</sup> Summaries of the listening sessions and all comments submitted as public input to the development of the NOAA aquaculture policy are posted online at <http://www.nmfs.noaa.gov/aquaculture/policy1/>

<sup>5</sup> Available at [http://www.ppi.noaa.gov/strategic\\_planning.html](http://www.ppi.noaa.gov/strategic_planning.html)

<sup>6</sup> Final Recommendations of the Interagency Ocean Policy Task Force. Available online at <http://www.whitehouse.gov/administration/eop/ceq/oceans>

<sup>7</sup> Source: U.S Department of Commerce, *Fisheries of the United States 2009*.

<sup>8</sup> United Nations Food and Agriculture Organization. (2009). FISHSTAT Plus: Universal Software for Fishery Statistical Time Series (Food and Agriculture Organization, Rome). Version 2.32. This figure includes both freshwater and marine production.

only about 5 percent of the seafood consumed in the United States.<sup>9</sup> Growing U.S. and worldwide demand for seafood is likely to continue as a result of increases in population and consumer awareness of seafood's health benefits. Because wild stocks are not projected to meet increased demand even with rebuilding efforts, future increases in supply are likely to come either from foreign aquaculture or increased domestic aquaculture production, or some combination of both.

The existing domestic marine aquaculture industry is mainly comprised of shellfish farming, but also includes farming of finfish and algae in coastal waters and hatchery production of fish and shellfish to replenish stocks of important commercial, recreational, and endangered species and to restore marine habitat (e.g., oyster reefs). Emerging technologies for marine aquaculture include land-based closed-recirculating systems, marine algae production technologies for biofuels and non-food products, systems that integrate different types of aquaculture or combine aquaculture with other uses, and systems in exposed open-ocean waters.

Federal support, engagement, and authorities related to aquaculture development span a number of agencies, in particular the Food and Drug Administration, Environmental Protection Agency, Army Corps of Engineers, Fish and Wildlife Service, and the U.S. Department of Agriculture. These agencies often collaborate with each other, industry, and academia to address issues related to aquaculture facilities and to promote the development of new technologies that improve the sustainability of the industry. This policy sets the stage for NOAA's continued involvement in these efforts.

## **Challenges and Benefits**

As interest in using the marine environment for commercial aquaculture production and wild species restoration has increased, so too has debate about the potential economic, environmental, and social effects of aquaculture and the need for better public understanding with respect to these issues. Benefits of sustainable aquaculture may include species and habitat restoration and conservation; nutrient removal; provision of safe, local seafood; increased production of low trophic-level seafood; and synergies with fishing (e.g., using fish processing trimmings in aquaculture feeds). Sustainable aquaculture will also contribute economic and social benefits by creating jobs in local communities and helping to maintain the cultural identity of working waterfronts. Environmental challenges posed by aquaculture, depending upon the type, scope, and location of aquaculture activity, may include nutrient and chemical wastes, water use demands, aquatic animal diseases and invasive species, potential competitive and genetic effects on wild species, effects on endangered or protected species, effects on protected and sensitive marine areas, effects on habitat for other species, and the use of forage fish for aquaculture feeds. Economic and social challenges may include market competition affecting the viability of domestic aquaculture and/or the prices U.S. fishermen receive for their wild seafood products;

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<sup>9</sup> This figure includes both freshwater and marine production. Not included in this figure is the amount of salmon produced in Alaska by regional aquaculture associations and others in Alaska's salmon stock enhancement program. In 2009, Alaska's salmon aquaculture stock enhancement programs produced over 45 million salmon, mostly pink and chum salmon.

competition with other uses of the marine environment; degraded habitats and ecosystem services; and impacts to diverse cultural traditions and values.

Growing consumer demand for safe, local, and sustainably produced seafood, increasing energy costs, and the decline of fishing-related industries and working waterfronts are emerging drivers that support sustainable domestic aquaculture production. Aquaculture production – both small-scale and large-scale – is evolving toward sustainable practices through regulations at the federal and state levels, scientific advancements, consumer demand, technological innovation, industry best management practices, and protocols for responsible stock replenishment and hatchery practices. This policy will allow NOAA to further advance these developments through the actions described below.

### **NOAA Aquaculture Priorities**

To implement the Statement of Policy, NOAA has identified the following priorities for action:

#### **Science and Research**

- Expand NOAA’s research portfolio to (1) provide the necessary ecological, technological, economic, and social data and analysis to effectively and sustainably develop, support, manage, and regulate private and public sector marine aquaculture and species restoration; (2) monitor, assess, and address the environmental and socioeconomic effects of marine aquaculture; and (3) complement the scientific work of our federal and academic partners.
- Evaluate alternative protein and lipid sources to be used in lieu of wild fish and fish oil in aquaculture feeds and develop cost-effective alternative feeds that maintain the human health benefits of seafood and reduce reliance on the use of wild forage fish in the diets of farmed fish.
- Develop methodologies to minimize potential adverse ecosystem and socioeconomic impacts of aquaculture.
- Monitor and assess the effects of ocean acidification and climate change on marine aquaculture and develop adaptation strategies.

#### **Regulation**

- Work with Congress, federal agencies, Fishery Management Councils, and federal advisory councils or committees to clarify NOAA’s regulatory authority related to aquaculture in federal waters and to establish a coordinated, comprehensive, transparent, and efficient regulatory program for marine aquaculture in federal waters based on criteria for sustainable marine aquaculture.

- Work with federal, state, local, tribal, and regional agencies and organizations to clarify regulatory requirements and to establish coordinated, comprehensive, science-based, transparent, and efficient processes for permit reviews, permit consultations, and other regulatory and management actions for marine aquaculture in state waters – taking into account existing authorities and regional, state, and local goals, policies, and objectives.
- Engage in coastal and marine spatial planning with other agencies and jurisdictions, including the Regional Planning Bodies being created under the National Ocean Council, to facilitate the siting of marine aquaculture, reduce conflicts among competing uses, minimize adverse impacts on the environment, and identify activities for potential co-location with aquaculture operations.

### **Innovation, Partnerships, and Outreach**

- Collaborate with federal partners, coastal communities, states, tribes, and other stakeholders to develop innovative initiatives that provide the basis for transitioning from laboratory studies to commercial and restoration projects, create jobs in coastal communities, produce healthful local seafood, revitalize working waterfronts, support traditional fishing communities, avoid impacts to protected areas, and restore depleted species and habitat. Work with extension and outreach services to transfer that knowledge.
- Support restoration and commercial shellfish aquaculture initiatives to restore shellfish populations that provide locally produced food and jobs, help improve water quality, and restore and conserve coastal habitat.
- Develop synergies among NOAA's fisheries management, enforcement, financial assistance, aquaculture, seafood inspection, Coastal Zone Management, National Marine Sanctuaries, and National Sea Grant programs to rebuild wild fish stocks and support alternative or supplemental economic options for fishermen.
- Engage with the National Ocean Council to coordinate among the federal agencies on aquaculture regulatory and science issues and highlight opportunities for collaboration.

### **International Cooperation**

- Work with other federal agencies to establish a coordinated, consistent, and comprehensive international strategy on sustainable marine aquaculture.
- Work with other nations, as appropriate, to adopt sustainable aquaculture and food safety approaches using the best practices and products from the United States and abroad as an example.
- Exchange scientific insights with other nations and promote joint participation in cooperative research that is of potential multinational value, including addressing impacts of aquaculture that breach international boundaries.



### **Implementation and Periodic Review**

NOAA will begin to implement this policy immediately upon release of the final document. This policy will henceforth guide all NOAA actions with respect to marine aquaculture, until such time as it is amended or rescinded by the NOAA Administrator.

### **Appendices**

NOAA will take a tiered approach with respect to this policy and may publish more detailed policies related to specific authority to regulate aquaculture activities. These tiered documents will be included as appendices to the overarching policy.

#### **Appendix 1. NOAA Principles for Aquaculture in Federal Waters**

Appendix 1 provides a list of principles to guide NOAA's regulatory actions with respect to aquaculture production in federal waters of the U.S. Exclusive Economic Zone.

## APPENDIX 1

### NOAA PRINCIPLES FOR AQUACULTURE IN FEDERAL WATERS

The purpose of these principles is to guide NOAA's regulatory actions with respect to aquaculture production in federal waters of the U.S. Exclusive Economic Zone. NOAA will implement these principles to the extent of the agency's discretion under relevant authorities and in coordination with our federal partners.

These principles are an extension of the NOAA Aquaculture Policy, which applies broadly to all marine aquaculture-related activities at NOAA.

**1. Ecosystem compatibility – Aquaculture development in federal waters should be compatible with the functioning of healthy, productive, and resilient marine ecosystems.**

NOAA will promote this principle by:

- developing, implementing, and enforcing ecosystem-based conservation and management measures for aquaculture that fulfill the agency's marine stewardship responsibilities to protect and restore healthy coastal and ocean ecosystems and to conserve living marine resources, their habitats, and other protected areas
- developing, implementing, and enforcing conservation and management measures for aquaculture designed to maintain the health, genetics, habitats, and populations of wild species; maintain water quality; prevent escapes (including non-native) and accidental discharges into the environment; and avoid harmful interactions with wild fish stock, marine mammals, birds, and protected species
- supporting the stocking of only native or naturalized species in federal waters unless best available science demonstrates use of non-native or other species in federal waters would not likely cause undue harm to wild species, habitats, or ecosystems in the event of an escape
- employing science-based adaptive management
- taking into account the cumulative impacts of aquaculture and aquaculture plus other activities on the marine environment throughout all trophic levels
- supporting initiatives to reduce reliance on forage fish in the diets of farmed fish while maintaining the important human health benefits of farmed seafood and encourage that any fish used in aquaculture feeds come from sustainably managed fisheries
- considering interactions with marine resources managed by other agencies and jurisdictions
- conducting programmatic and site-specific reviews, as warranted, of impacts related to proposed facilities in federal waters

**2. Compatibility with other uses – Aquaculture facilities in federal waters should be sited and operated in a manner that is compatible with other authorized uses of the marine environment.**

NOAA will promote this principle by:

- coordinating with other agencies to develop tools to facilitate the siting of aquaculture in federal waters, including tools to reduce conflicts among competing uses and identify activities for potential co-location with aquaculture operations, in the context of regional and national coastal and marine spatial planning (CMSP) activities
- considering the preferences of states with respect to aquaculture development in federal waters
- facilitating discussions among interested aquaculture developers, concerned state agencies, Fishery Management Councils, tribes, other federal agencies, federal advisory committees, and the public as early as possible in project planning and development
- promoting the safety of human life at sea and providing situational awareness for those working on offshore aquaculture operations, including coastal and marine forecasts and marine navigation weather

**3. Best available science and information – Management decisions for aquaculture in federal waters should be based upon the best available science and information.**

NOAA will promote this principle by:

- considering scientific information – including biological, technological, ecological, economic, and social data – in management decisions
- synthesizing and delivering information on the current state of scientific understanding about the observed and potential impacts and benefits of open ocean aquaculture
- identifying gaps and uncertainties associated with the current body of knowledge
- conducting and supporting scientific studies to inform agency decision-makers on open ocean aquaculture technologies, practices, benefits, costs, and risks and to develop new and improve existing sustainable practices and products
- monitoring, evaluating, and maintaining databases on the impacts of aquaculture on biodiversity, predator-prey relationships, and other important characteristics of healthy and productive ecosystems
- working with state and federal agencies, academia, tribes, and other entities to improve scientific understanding of the effects of open ocean aquaculture and to improve open ocean aquaculture technologies and practices
- updating and adapting conservation and management measures to reflect the best available scientific information
- incorporating the insights gained by other countries that actively participate in open ocean aquaculture activities

**4. Social and economic benefits – Investment in sustainable aquaculture in federal waters should provide a net benefit to the nation’s economy, coastal communities, and seafood consumers while considering regional and state goals and objectives.**

NOAA will promote this principle by:

- creating opportunities for new aquaculture jobs and economic growth for U.S. communities that complement commercial and recreational fishing, maintain and revitalize working waterfronts, provide upstream and downstream economic

opportunities throughout the U.S. economy, provide additional domestic seafood choices for U.S. consumers, and reduce reliance on imported seafood

- assessing the food safety and human health effects of consumption of aquaculture products (foreign and domestic) in coordination with other federal agencies
- making the agency's fee-for-service seafood inspection services available to aquaculture producers operating in federal waters
- assessing the likely positive and negative social, economic, and cultural impacts of management decisions, individually and cumulatively, over both the short and long term, on permit applicants, individual communities, the group of all affected communities identified, and the U.S. economy

**5. Goals for Industry Collaboration – To secure long-term access to operate aquaculture facilities in federal waters, operators should be held accountable for protecting the environment, wild species, and human safety and for conducting and reporting ongoing monitoring.**

NOAA will promote this principle by maintaining that operators of aquaculture facilities should:

- work with appropriate federal agencies to conduct a baseline environmental analysis of the proposed site prior to permit review
- prepare and implement, where appropriate, a broodstock management plan, an aquatic animal health plan, and a contingency plan for responding to emergencies
- use recognized best management practices to ensure good husbandry, biosecurity, and maintenance practices and be in compliance with laws governing use of drugs and feeds
- incorporate environmentally efficient and responsible management practices that reduce inputs and waste discharges into the environment from drugs, chemicals, feeds, etc.
- allow regular inspection of facilities by authorized officers
- provide, upon request, evidence of compliance with applicable laws, including those under the jurisdiction of other agencies
- meet all monitoring and reporting requirements, including reports of escapes, disease outbreaks, drug or chemical applications, and nutrient discharges as required by NOAA or other federal agencies
- consider conducting more comprehensive environmental monitoring and report these data on a regular basis
- provide evidence of an assurance bond to address facility removal and site remediation
- safely remove facilities and organisms once operations end and, to the extent necessary and practicable, restore environmental conditions of the site
- ensure the safety of human life at sea

**6. Approval process – Management decisions for aquaculture operations in federal waters should be made in an efficient and transparent manner that produces timely, unbiased, and scientifically based decisions.**

NOAA will promote this principle by:

- implementing efficient, coordinated, transparent processes for science-based permit review and issuance

- reducing regulatory uncertainty and minimizing unnecessary regulatory burden on individuals, private or public organizations, or Federal, state, tribal, or local governments
- coordinating permit review and approval, both internally and with other federal agencies, to ensure compliance with existing regulatory requirements and to foster an efficient and timely regulatory process
- providing public notice and opportunities for state, tribal, local government and stakeholder input on agency management decisions
- periodically reviewing federal statutory and regulatory requirements to identify gaps or overlaps in federal authority, clarify federal agency roles and responsibilities, and facilitate permitting of aquaculture in federal waters, in consultation with Congress, other federal agencies, Fishery Management Councils, and states

**7. Public information – Public understanding of sustainable aquaculture development in federal waters and the associated environmental, social, and economic challenges and benefits should be advanced; monitoring information should be readily available to the public.**

NOAA will promote this principle by:

- developing, widely disseminating, and effectively communicating regional and national informational materials on the merits, trade-offs, technologies, species, and practices used to conduct aquaculture in federal waters
- making publicly available all monitoring data, results, and information submitted by aquaculture facilities operating in federal waters and the results of research conducted by NOAA and others, in accordance with applicable standards for openness, transparency, and confidentiality
- communicating to the public, through extension or other outreach services, new research findings, particularly those from local research and demonstration projects

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An act to add Chapter 9 (commencing with Section 7095) to Part 1.7 of  
Division 6 of the Fish and Game Code, relating to marine fisheries.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 9 (commencing with Section 7095) is added to Part 1.7 of Division 6 of the Fish and Game Code, to read:

CHAPTER 9. FORAGE SPECIES

7095. This chapter shall be known, and may be cited, as the Forage Species Conservation and Management Act of 2011.

7096. The Legislature finds and declares all of the following:

(a) Forage species are an integral part of the California Current Large Marine Ecosystem and are of great ecological, economic, aesthetic, recreational, educational, scientific, nutritional, social, and historic importance to the people of California.

(b) Populations of forage species lack baseline scientific data and face a multitude of risks, including, but not limited to, ocean acidification, pollution, overfishing, global climate change, and demand for feeds in the agriculture and aquaculture industries.

7097. As used in this chapter:

(a) "Ecosystem-based management" means a management approach that recognizes the full array of interactions within an ecosystem, including humans, rather than considering single issues, species, or ecosystem services in isolation.

(b) "Emerging fishery," in regard to a marine fishery, means both of the following:

(1) A fishery that the director has determined is an emerging fishery, based on criteria that are approved by the commission and are related to a trend of increased



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landings or participants in the fishery and the degree of existing regulation of the fishery.

(2) A fishery that is not an established fishery. "Established fishery," in regard to a marine fishery, means, prior to January 1, 1999, one or more of the following:

(A) A restricted access fishery that has been established in this code or in regulations adopted by the commission.

(B) A fishery, for which a federal fishery management plan exists, and in which the catch is limited within a designated time period.

(C) A fishery for which a population estimate and catch quota is established annually.

(D) A fishery for which regulations for the fishery are considered at least biennially by the commission.

(E) A fishery for which this code or regulations adopted by the commission prescribes at least two management measures developed for the purpose of sustaining the fishery. Management measures include minimum or maximum size limits, seasons, time, gear, area restriction, and prohibition on sale or possession of fish.

(c) "Existing fisheries" means fisheries that, as of January 1, 2012, are prosecuted in the state waters of California or subject to management by the department in which forage species are targeted or are a major component of the catch.

(d) "Forage species" means any fish or invertebrate species that contributes significantly to the diets of fish, birds, mammals, or turtles, or otherwise contributes disproportionately to ecosystem function and resilience due to its role as prey.





(e) "Precautionary approach" means that if an action or policy has the potential of causing harm to public resources, in the absence of scientific consensus, the burden of proof is on the proposer of the action to show the lack of harm before an action or policy is implemented. If there is a threat of serious or irreversible damage to a forage species or an ecosystem in which the forage species plays a significant role, the lack of full scientific certainty shall not constitute a reason to postpone cost-effective measures to prevent environmental degradation.

(f) "Undeveloped fisheries" means potential fisheries for forage species that are not currently pursued in state waters.

7098. (a) It is the policy of the state to ensure the conservation, sustainable use, and, where feasible, restoration of California's forage species populations for the benefit of all citizens of the state. The objective of this policy shall be to achieve ecosystem-based management of marine forage species through application of a precautionary approach that recognizes, prioritizes, accounts for, and incorporates the ecological services rendered by forage species. It is the further policy of this state, regarding utilization of forage species landed in the state, to promote increased human consumption prioritized over other uses, with the goal of moving toward higher value products.

(b) (1) All management decisions of, and regulations promulgated by, the department, including, but not limited to, new fishery management plans and amendments to existing fishery management plans, shall be consistent with the policy described in subdivision (a).



(2) State representatives on the Pacific Fishery Management Council and in similar roles shall advocate for policies and management consistent with the policy described in subdivision (a).

(3) The commission shall restrict the development of an emerging fishery, or the significant expansion of an existing fishery, for a forage species, unless it finds both of the following:

(A) There is robust scientific information on the population status and ecosystem role of the forage species.

(B) The development or expansion of the fishery would not have a negative impact on the forage species or the ecological services rendered by the forage species in the larger ecosystem.



## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, \_\_\_\_\_.

General Subject: Marine fisheries: forage species.

Existing law, enacted as part of the Marine Life Management Act of 1998, generally establishes a comprehensive plan for the management of marine life resources. Existing law requires the Department of Fish and Game to develop a fishery management master plan, and provides for the preparation and approval of fishery management plans, which form the primary basis for managing California's sport and commercial marine fisheries.

This bill would enact the Forage Species Conservation and Management Act of 2011. The act would state the policy of the state with regard to forage species, as defined. The act would require management decisions of, and regulations promulgated by, the department, including, but not limited to, new fishery management plans and amendments to existing fishery management plans to be consistent with that policy. The bill would require state representatives on the Pacific Fishery Management Council



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and in similar roles to advocate for policies and management consistent with that policy. The bill would require the Fish and Game Commission to restrict the development of an emerging fishery, or the expansion of an existing fishery, for a forage species, unless it makes specified findings.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



## LEGISLATIVE COMMITTEE REPORT ON LEGISLATIVE MATTERS

The Legislative Committee (Committee) convened at 2:00 p.m. on Friday, March 4, 2011. In attendance were Committee members Dr. David Hanson (Chair), Mr. Rod Moore (Vice Chair), Pacific Fishery Management Council (Council) Vice Chair Mr. Dan Wolford, Council Vice Chair Ms. Dorothy Lowman, Mr. Dale Myer, and Mr. Gordy Williams. Also present were Council Executive Director Dr. Don McIsaac, Council Special Assistant to the Executive Director Mr. Don Hansen, Council Staff Officer Mr. Mike Burner, and Dr. Laura Hoberecht, the Northwest Regional Aquaculture Coordinator for the National Oceanic and Atmospheric Administration (NOAA) Aquaculture Program.

The Committee reviewed existing Federal legislation and the U.S. House Committee of Natural Resources Oversight Plan (Agenda Item K.1.a, Attachment 4). The Committee has received no specific requests for comments on these bills and has not identified substantial issues at this time, and recommends that Council staff continue to track these matters.

### DOC and NOAA Aquaculture Policies

Dr. Laura Hoberecht provided a brief overview of the draft Department of Commerce (DOC) and NOAA Aquaculture Policies (Agenda Item K.1.a, Attachment 1 and Agenda Item K.1.a, Attachment 2). Dr. Hoberecht took questions and noted that comments on both draft policies will be accepted through April 11, 2011. She confirmed for the Committee that although Federal legislation governing aquaculture practices may be pursued in the future, these draft policies do not carry the weight of law. They are intended to guide the review of future or existing aquaculture activities. She also confirmed that the policies are intended to cover the aquaculture of marine species whether in state or Federal waters or inland. The policies are intended to cover existing salmon hatchery practices.

The Committee discussed the draft policies and recommends the Council direct the Council Executive Director to submit the following comments by the April 11 deadline.

- The Committee stresses the importance of close coordination with the regional fishery management councils when developing aquaculture policies or considering aquaculture operations. The Committee recommends that the collaboration with the Council extend beyond potential habitat impacts from aquaculture facilities, including potential impacts from the sourcing of broodstock, unintentional releases, and the role of aquaculture in the enhancement of wild stocks.
- The Committee is concerned with the potential implications the draft policies may have on the operation of Pacific salmon hatchery operations. The Committee recommends that the draft Department of Commerce and NOAA aquaculture policies not apply to salmon hatchery practices because adequate oversight and coordination of these facilities exists under other state, Federal, and tribal policies and authorities.
- The Committee remains supportive of the ability of west coast states to opt out of aquaculture policies and regulations in either state or Federal waters off their coasts. The Committee recognized that these draft policies do not carry the weight of law and would

not directly permit such operations, but the Committee recommends that “opt-out” provisions be included in any subsequent legislation or regulations pertaining to aquaculture.

#### California Assembly Bill: Forage Species Conservation and Management Act of 2011 (AB 1299)

California State Assembly Member Jared Huffman (D-San Rafael) introduced AB 1299 (Agenda Item K.1.a, Supplemental Attachment 5) which, in summary, intends to implement a precautionary management policy that accounts for the ecological role of forage species and puts an emphasis on human consumption as a primary utilization of forage species landings. The bill would require the California Department of Fish and Game and California representatives to the Council to implement or advocate for management policies that are consistent with the policies of the bill. Additionally, the California Fish and Game Commission would be required to restrict the development of an emerging fishery or the expansion of an existing fishery for forage species without robust scientific information on the ecosystem role and population status that demonstrates no negative impacts to the ecological value of forage species.

The Committee’s primary focus has typically been on Federal legislation, but because Assembly Bill 1299 directly mentions the Council and its California State representation, the Committee briefly reviewed these matters. The Council practice has been to not formally comment on state legislation unless input is requested by the state. At this point, the Council has not received any request for comment. However, the Committee notes that individual Council members and other members of the Council family are not restricted from contacting California Assembly members.

#### Congressional Caucus on Wild Salmon

The Committee notes that a new caucus has formed in the 112<sup>th</sup> Congress with a focus on wild salmon conservation and management issues. The Congressional Caucus on Wild Salmon is chaired by Congressman Don Young (R-AK) and Congressman, Mike Thompson (D-CA) on the U.S. House side and Senator Ron Wyden (D-OR), and Senator Lisa Murkowski (R-AK) on the U.S. Senate side. The Committee welcomes this Congressional focus on wild Pacific salmon issues and will track the activities of this new caucus.

#### Future Meeting Plans

The Committee did not identify an urgent need to meet at the April 2011 Council meeting but notes that the April Council agenda will need to be finalized shortly after the March Council meeting ends. The Committee recommends the tentative scheduling of an April Committee meeting to preserve the option of responding to pressing legislative matters that may arise between the March and April Council meetings. If no pressing legislative matters arise, the Committee will recommend a postponement to a future Council meeting.

The Committee adjourned at 3:30 p.m.

## **Legislative Committee Recommendations**

**It is recommended the Council:**

- 1. Review and approve Committee comments and recommendations on the DOC and NOAA Aquaculture Policies and direct the Council or the Council's Executive Director to convey these comments by April 11, 2011.**
- 2. Tentatively schedule an April Committee meeting to preserve the option of responding to pressing legislative matters that may arise between the March and April Council meetings.**

PFMC  
03/09/11

## HABITAT COMMITTEE REPORT ON LEGISLATIVE MATTERS

### **Aquaculture Policies**

The Habitat Committee (HC) heard a presentation from Dr. Laura Hoberecht, NMFS Aquaculture Coordinator for the Northwest Regional Office, on NOAA's Draft Aquaculture Policy, which was released February 9, 2011. Dr. Hoberecht emphasized aspects of the policy that would most interest the HC, specifically the policy on restoration and conservation of marine and coastal habitat.

The Draft Aquaculture Policy currently has a public comment deadline of April 11th. In addition, the Department of Commerce has a parallel draft policy that is less specific than NOAA's policy in terms of ecosystem protection, and that has the same comment deadline. The Department of Commerce policy is focused on accelerating industry development and states that implementation of the policy will begin immediately upon release of the final document. Due to the great interest in aquaculture and how it will influence Council-managed species and fishing communities, the HC urges the Council to request an extension to allow adequate time for a Council response to these two policies. **The HC seeks additional direction from the Council regarding further action on this matter.**

Regarding the NOAA policy, it is unclear how future aquaculture activities will be sustainable while meeting the policy's stated efforts to maintain healthy and productive marine and coastal ecosystems, protect special marine areas, rebuild overfished wild stocks, restore populations of endangered species, and restore and conserve marine and coastal habitat, as described in the policy's first paragraph.

In addition, the HC believes the Aquaculture Policy lacks strategic guidance in how it will implement sustainable aquaculture activities while maintaining protection of critical ecological functions and achieving the other objectives noted above. The HC recommends developing a hierarchical framework that provides policy directions that will assist in making decisions.

Specifically, the HC had the following comments and concerns:

- The Policy needs to clearly prioritize the protection of ecological function (i.e., a "do no harm" precautionary approach); otherwise several of the primary objectives may be in conflict with one another.
- The draft plan should clearly identify how NOAA will engage local, state, and regional bodies, including all fishery management councils and the West Coast Governor's Agreement.
- NOAA should cite the science used to develop the draft policy, including how future aquaculture activities will be used to rebuild overfished wild stocks and restore populations of endangered species.
- The draft plan should include a policy on the introduction of non-native species. Among other things, the HC has concerns about the introduction of disease and accidental release of non-native species.
- HC seeks definition of "other marine organisms" authorized for aquaculture production, as well as what "commercial and recreational uses" may be included for purposes of



aquaculture production, which could have large scale implications for western states (e.g., algal biofuel development).

- The HC has strong concerns about the use of genetically modified organisms in aquaculture – an issue that is not currently addressed by this policy.

The HC is concerned that in a time of budget constraints, state and Federal agencies may have a difficult time giving adequate review to new aquaculture initiatives in order to ensure ecosystem protection.

### **Federal Budget Cuts**

The HC would like to inform the Council that funding for salmon restoration and other critical habitat initiatives, including legal obligations for the National Marine Fisheries Service regarding protected species along the West Coast, are in jeopardy. We are concerned that such budget cuts will curtail restoration of critical habitat and essential fish habitat for Council-managed species. Many of these restoration activities are necessary to restore listed species and/or prevent future listing of West Coast salmon; elimination of these programs may result in further curtailment of fishing opportunities.

Cuts to or elimination of the following programs, among many others, are being proposed in the Federal budget:

**Pacific Coastal Salmon Recovery (PCSRF) Funds.** The PCSRF funds many of the habitat restoration activities conducted by Pacific Coast Tribes, as well as the states of Washington, Idaho, Oregon, and California.

**NOAA's Operations, Research and Funding account (ORF).** ORF funds, among other programs, the collection of fisheries assessment data. The budget cuts proposed will severely reduce the agency's ability to collect fisheries data.

**National Fish Habitat (NFHAP) Program.** H.R. 1 would cut NFHAP funding by 28 percent, severely curtailing a community leveraged program restoring habitats that are critical to freshwater and anadromous species.

**The North American Wetlands Conservation Fund,** which provides funding for protection and restoration of important wetlands is zeroed out.

**San Joaquin River Restoration (Section 1475(b)).** Funding is also eliminated for San Joaquin River restoration, harming salmon populations and putting the legal settlement at risk of returning back to the courtrooms.

**Klamath River Restoration.** Budget cuts are proposed which will impair the Klamath River restoration, as well as provisions that would de-fund the on-going Secretarial review process for the removal of four dams from the Klamath River.

Other budget initiatives are proposed that would cut funds for implementing Biological Opinions, many of which involve and are critical to the recovery of Council managed species.

## APPROVAL OF COUNCIL MEETING MINUTES

The draft minutes for the March 2010 Council meeting are provided in Attachment 1 for your review and approval.

The full record of each Pacific Fishery Management Council (Council) meeting is maintained at the Council office, and consists of the following:

1. The proposed agenda (available online at <http://www.pcouncil.org/resources/archives/briefing-books/>).
2. The approved minutes (available online at <http://www.pcouncil.org/council-operations/council-meetings/past-meetings/>). The minutes summarize actual meeting proceedings, noting the time each agenda item was addressed and identifying relevant key documents. The agenda item summaries consist of a narrative on noteworthy elements of the gavel-to-gavel components of the Council meeting and summarize pertinent Council discussion for each Council Guidance, Discussion, or Action item, including detailed descriptions of rationale leading to a decision and discussion between an initial motion and the final vote.
3. Audio recordings of the testimony, presentations, and discussion occurring at the meeting. Recordings are labeled by agenda number and time to facilitate tape or CD-ROM review of a particular agenda item (available from our recorder, Mr. Craig Hess, Martin Enterprises, phone [360] 425-7507).
4. All written documents produced for consideration at the Council meeting, including (1) pre-meeting briefing book materials, (2) pre-meeting supplemental briefing book documents, (3) supplemental documents produced or received at the meeting, validated by a label assigned 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 (available online at <http://www.pcouncil.org/council-operations/council-meetings/past-meetings/>).
5. A copy of the Council Decision Document. This document is distributed immediately after the meeting and contains very brief descriptions of Council decisions (available online at <http://www.pcouncil.org/resources/archives/council-meeting-decisions/>).
6. A copy of Pacific Council News. Refer to the Spring Edition for March and April meetings; the Summer Edition for the June meeting; the Fall Edition for the September meeting; and the Winter Edition for the October-November Council meeting (available online at <http://www.pcouncil.org/resources/archives/newsletters/>).

### **Council Action:**

1. **Review and approve the draft March 2010 Council meeting minutes.**

Reference Materials:

1. Agenda Item K.2.a, Attachment 1: Draft Minutes: 202<sup>nd</sup> Session of the Pacific Fishery Management Council.

Agenda Order:

- a. Council Member Review and Comments
- b. **Council Action:** Approve March 2010 Council Meeting Minutes

Mark Cedergreen

PFMC  
02/10/11

**DRAFT MINUTES**  
**202<sup>nd</sup> Session of the**  
**Pacific Fishery Management Council**

**March 6-11, 2010**  
**Doubletree Hotel**  
2001 Point West Way, Sacramento, CA 95815  
Telephone 916-929-8855

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## **A. Call to Order**

### **A.1 Opening Remarks and Introductions**

Chairman David Ortmann called the 202<sup>nd</sup> session of the Pacific Fishery Management Council to order at 1:16 p.m. on Saturday, March 6, 2010. A closed session was held from 11 a.m. to 12:15 p.m. on Saturday, March 6.

### **A.2 Roll Call**

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

Mr. Phil Anderson (Washington State Official)  
Mr. William L. "Buzz" Brizendine (At-Large)  
Mr. Mark Cedergreen, Vice Chairman (Washington Obligatory)  
Mr. Brian Chambers (US Coast Guard, non-voting, designee)  
Mr. David Crabbe (California Obligatory)  
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting)  
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region)  
Ms. Dorothy Lowman (Oregon Obligatory)  
Mr. Jerry Mallet (State of Idaho Official, designee)  
Mr. Rod Moore (At-Large)  
Mr. Dale Myer (At-Large)  
Mr. Dave Ortmann, Chairman (Idaho Obligatory)  
Mr. Tim Roth (US Fish and Wildlife Service, non-voting)  
Mr. David Sones (Tribal Obligatory)  
Ms. Marija Vojkovich (State of California Official, designee)  
Mr. Gordon Williams (State of Alaska Official, non-voting)  
Mr. Steve Williams (State of Oregon Official, designee)  
Mr. Dan Wolford, Vice Chairman (At-Large)

The following Council member was absent for the entire meeting:

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

### **A.3 Executive Director's Report**

Dr. McIsaac provided a powerpoint presentation (Agenda Item A.3, Supplemental Executive Director's PowerPoint--"A Healthy, Sustainable Salmon Fishery off California and Oregon: Ideas for Bringing It Back").

He also provided an update on new Council staff personnel, the January Council Coordinating Committee (CCC) meeting and the upcoming CCC meeting in May.

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

Mr. Moore moved and Mr. Mallet seconded a motion (Motion 1) to approve the agenda as shown in Agenda Item A.4, Proposed Council Meeting Agenda, March 2010. Mr. Lockhart indicated he expects to be able to announce a final rule sometime during the week concerning the tribal whiting allocation. Motion 1 carried unanimously.

## **B. Open Comment Period**

### **B.1 Comments on Non-Agenda Items**

#### **B.1.a Management Entity and Advisory Body Comments**

None.

#### **B.1.b Public Comments**

Mr. Bill James, fisherman, Salem, Oregon. Requested that before the Council take on future groundfish management measures and amendments to the Fishery Management Plan (FMP), that the Council do a limited feasibility cost-benefit analysis. We have great economists that are involved in the Council process and we should use them. He felt the Council should find out the costs of a program before it goes into action.

Mr. Kenyon Hensel, Hensel's, Crescent City, California. Thanked the Council for the stipends that were distributed to Groundfish Advisory Body (GAP) members. He also thanked Mr. Bill James and Ms. Leesa Cobb for representing him during past Council meetings.

#### **B.1.c Council Discussion of Comments as Appropriate**

None.

## **C. Habitat**

### **C.1 Current Habitat Issues**

#### **C.1.a Agenda Item Overview**

Ms. Jennifer Gilden provided the agenda item overview.

#### **C.1.b Report of the Habitat Committee**

Mr. Joel Kawahara, Habitat Committee (HC) Chair provided the HC report.

#### **C.1.c Reports and Comments of Management Entities and Advisory Bodies**

None.

#### **C.1.d Public Comment**

None.

#### **C.1.e Council Action: Consider Habitat Committee Recommendations**

Mr. Anderson said he did not support sending the letter (Attachment 1) on Columbia River issues to the Secretary of Commerce (SOC). Many entities are working to address the shortcoming of the biological opinion (BO), and Mr. Anderson did not think the letter helped that effort. He did not believe that climate change, the benefits of spill, or the AFS recommendations were compelling enough to require a letter to the SOC. The rapid response section includes closure of Council-managed fisheries as one measure that will be taken, but we do not need to bring that recommendation to the attention of the SOC. Regarding the section on the solutions table, he did not have a problem with convening a group of stakeholders to talk about the remand; but he did not think

this was something the SOC should be asked to do. He had questions about the excerpts in Appendix A and whether they were correct or not. He did not think the points brought forward in the letter were necessary to bring to the SOC; but did not say these items were not important. The states, tribes, etc. are working to address those problems.

Mr. Mallet said he has spent over 55 years involved with salmon research or management in Idaho. He said he agreed that the letter might not be the way to go, but commended the HC on putting something together. He said he has been very disappointed with National Marine Fisheries Service (NMFS) in their BOs. There is a lot of frustration, and this letter focuses some of the frustration by the people that have the fish as a first concern. In California, water comes before fish in some places; electrical power comes before fish. Maybe that's the way the world is going –that fish don't matter that much anymore. But sooner or later the people that care about the fish have got to find an effective way to weigh in with NMFS, the politicians, and the other decision makers. He thanked the HC for its efforts.

Mr. Williams said he didn't know the exact tactical benefit of this letter. Except for the last paragraph on the first page, he's not sure it hurts to comment on spill and rapid response. He's concerned about Appendix A and how it all flows together; but while he agrees with some of Phil's points He's not sure it hurts to have our voice heard on some of these issues. There are a few things he would change in the letter, but he thinks it's something we should move forward.

Mr. Roth followed up on Mr. Mallet's points. Obviously, it's a very difficult issue and he applauds the HC for taking it on. He thinks the HC brought forth some good points. He understands where Mr. Anderson is coming from; some things could do more damage than good, in political terms. On the other hand, they have raised some important issues. He knows there was a draft previous to this that was much more generic, raised a lot of the same points but didn't get into the specifics, so the Council might look at that letter to see if they would rather move forward with that – or meld the two letters into one.

Mr. David Sones expressed concerns about the Columbia River regarding the discharge issue and the West Coast Governors' Agreement. He spoke about his concerns about the Hanford site, and the seepage into the water table. There are tremendous impacts on the people who need this water and the fish too. We brought this to the attention of the SOC a couple of years ago. Discharge in general is one of the biggest impact factors for the Columbia River. He would ask that we keep an eye on this situation.

Mr. Lockhart acknowledged that since this is a letter to the SOC, if there is a vote, he will be abstaining. His staff have reviewed the letter, and there were concerns about its accuracy. He offered his staff to assist with the language. He also said this is subject to a court case in which many people in this room are involved; does the Council want to send such a letter at this time, given what is happening with this court case? He urged review of the letter before sending it.

Ms. Marci Yaremko noted that this was the second or third time the HC has met on the Friday before the Council meeting and made quite substantive changes to a letter that was included in the Briefing Book. It takes a lot of legwork for the states to thoroughly comment on a letter. They were comfortable with the original generic content of the first letter, but not with these new specifics. Possibly they could look at some scheduling changes to when the HC meets, if this is going to be a recurring situation, or have them meet by phone or email in advance to discuss such letters so we can do that legwork in advance.

Mr. Anderson said the Council has taken a big interest in management of the Columbia River system. Their interest in the health of salmonids in the Columbia River Basin is huge. The issue of how to change, modify, or remove the Columbia/Snake River hydroelectric system has been a matter of conversation ever since the first meeting of this Council. The importance of the fish that come out of this system is huge. A lot of people around this table have tried to bring the voice of the fish to the table, and the fish are the underdog. The people around this table are responsible for the successes we've had to this point in making the voice of the fish heard. The

remand of the BO and the work that's gone on over the course of the last two years since that remand occurred, and the benefits to fish over what would have been accrued had the original BO been approved, are huge. And so if the Council wished to take the first letter (the one in the Briefing Book) and do a little work on it, and if it's the desire of the Council to send a letter to the SOC making them aware of our interests, he has no problem with that. He didn't think the supplemental revised one was compelling or helpful to the fish or the interests of the people we represent. So if the Council desires to send the letter he'd be willing to work with others to make edits to this original letter – if it's brought back for Council consideration later this week.

Mr. Williams moved (Motion 2) to move forward with the first letter from the HC (Attachment 1), recognizing that there will be a need for modifications during the week. Mr. Cedergreen seconded the motion.

Mr. Lockhart asked is the effect of the motion to make changes to the letter, submit it to the Council, then move forward with it? Allow for more Council decision? Mr. Williams said he envisioned having changes made to the letter and then looking at it again before the end of the Council meeting. Mr. McIsaac said staff would collect edits and bring the letter back under C.1 later in the week.

Motion 2 carried. Mr. Lockhart abstained.

Mr. Mallet moved (Motion 3) to send a letter to NMFS thanking them and acknowledging them for their actions regarding the Klamath River issue. Mr. Moore seconded the motion.

Mr. Mallet said we are quick to criticize, but in this case we should congratulate NMFS for doing something good. For clarification, Council staff will draft the letter. A simple acknowledgement and thank you, in particular the NMFS. Motion 3 carried. Mr. Lockhart abstained.

On the letter to the Bureau of Reclamation, Mr. Roth suggested that we wait until April. Mr. Joel Kawahara said that would be appropriate. Council provided guidance to staff to put this on the HC agenda for April.

(March 11, 2010; 10:03 a.m.) Council brought Agenda Item C.1.a, Supplemental Attachment 2 (letter to Gary Locke) back on the floor.

Mr. Steve Williams moved and Mr. Mallet seconded a motion (Motion 29) to adopt the letter as shown in Agenda Item C.1.a, Supplemental Attachment 2. Motion 29 carried. Mr. Lockhart abstained.

Mr. Steve Williams said the letter has been improved and includes language referencing Mitchell Act issues. Ms. Culver thanked John Coon for helping to coordinate the letter revisions.

#### **D. Administrative Matters (03/06/10; 3:15 p.m.)**

##### **D.1 National Oceanic and Atmospheric Administration Report on Activities of the Ocean Policy Task Force and Catch Shares Task Force**

###### **D.1.a Agenda Item Overview**

Kerry Griffin presented the agenda item overview.

Ms. Margaret Spring, National Oceanic and Atmospheric Administration (NOAA) Chief of Staff, presented information on the Administration's support for councils to consider catch shares (CS) as a management tool. She noted that 20 percent of the nation's fish stocks are still rebuilding, and even more are not meeting full economic potential. Ms. Spring said that CS are one of many management tools; not a panacea, and not appropriate for every fishery. The design options are almost limitless, and she noted that the Pacific Council has

already experimented with CS in the sablefish and groundfish fisheries. She discussed the NOAA Catch Shares Policy, which took lessons from other policies including community sustainability, resource rents, small businesses, etc. The following features are key considerations in developing a CS program:

- 1) Specific management goals for each CS program (e.g., to reduce overfishing, or to end a derby fishery);
- 2) Decide transfer protocols to allow flexibility but ensure long-term success of the program;
- 3) Evaluate CS designs that would set aside shares to allow new generations of fishermen or small businesses into the fishery;
- 4) Consider a royalty system as fisheries become profitable. This would be a Council decision;
- 5) Periodically review CS programs to ensure they're meeting program goals and objectives; and
- 6) Provide a mechanism for feedback on performance.

Ms. Spring stated that NOAA is committed to supporting councils as they explore the potential for CS, and that the Administration is requesting a \$36 million increase for this purpose, above the existing \$60 million in base funding for CS support. She encouraged comments, and commended the Council on its hard work on CS.

Ms. Spring then gave a brief report on the Ocean Policy Task Force (OPTF), directing the Council to Sam Rauch's presentation contained in the Briefing Book for more information. The OPTF released an interim report in September, 2009. This report included draft recommendations for a national ocean policy, a policy coordination framework, and a strategy for implementation. The OPTF also issued a Draft Interim Framework for Coastal and Marine Spatial Planning (CMSP) in December, 2009. Thousands of comments were received. A final report is scheduled to be submitted to the President in early 2010, but there is no specific date. Ms. Spring then asked if there were any questions of her.

Mr. Anderson asked for some clear answers about how marine spatial planning would work, especially regarding whether CMSP would be regulatory in nature and/or alter the existing coastal and ocean planning efforts. He wants to make sure the existing efforts are maintained, as well as reasonable deference to Tribes. Ms. Spring responded by saying that CMSP would be more planning than regulatory.

#### **D.1.b Reports and Comments of Management Entities or Advisory Bodies**

There were no reports or comments of Management Entities or Advisory Bodies.

#### **D.1.c Public Comment**

There was no public comment.

#### **D.1.d Council Discussion**

Mr. Jim Seger summarized the draft comment letter on the Draft CS Policy from the Council to NOAA. The draft letter expressed general support for the policy, noted the importance of the involvement of the states and councils in developing CS programs, suggested that there may be existing policies that can provide some of the same functions that the new policy would provide, requested assistance via in-place experts that can help with implementation of CS programs, noted that there are multiple opportunities within the document that could support the "informing and education of stakeholders," and commented on data collection and management. The Council decided via consensus to submit comments as soon as possible so that a final letter could be considered on Thursday of the meeting.

(03/11/10; 10:10 a.m.) The Council brought that letter back onto the floor.

Mr. Moore said his concerns were only partially addressed by the revisions that had been made. He was still troubled about one sentence about the national CS policy and if the Council is willing to remove that sentence, he would support the letter.

Mr. Moore moved and Mr. Mallet seconded a motion (Motion 30) to adopt Agenda Item D.1.a, Supplemental REVISED Attachment 3 with the following sentence removed: “On the whole, this policy represents a substantial step forward to improved management of the fishery resources held in trust for the American public.”

Mr. Moore said we have put a lot of work into our trawl rationalization program and his deletion of the one sentence is not a criticism of our program. The letter speaks to a national policy and that sentence he proposes to delete makes a value judgment. Dr. McIsaac said that he had crafted the sentence and wanted to put something in the letter that was on a more positive note. Ms. Lowman agreed with the need for some positive statement. She would like to see if we could give Council staff direction to make that element clear (to be supportive and in a softer way).

Mr. Moore suggested inserting “We agree with most elements of the national policy but have a few minor comments and suggestions.” Ms. Lowman moved to amend the motion to replace the sentence with “We agree with the elements of the draft national policy but have a few minor comments and suggestions.” Mr. Cedergreen seconded the amendment.

The amendment carried. Mr. Lockhart abstained.

Motion 30 carried as amended. Mr. Lockhart abstained.

## **D.2 Council Comments on Proposed Revisions to National Standard 2 Guidelines—Scientific Information (3:56 p.m.; 03/06/10)**

### **D.2.a Agenda Item Overview**

Mr. Mike Burner provided the agenda item overview.

### **D.2.b. Reports and Comments of Management Entities and Advisory Bodies**

Dr. Steve Ralston provided Agenda Item D.2.b, Supplemental SSC Report.

### **D.2.c. Public Comment**

None.

### **D.2.d. Council Action: Discuss and Approve Comments on the Proposed Rule**

Mr. Moore moved that the Council send a comment letter to NMFS reflecting the comments made by the Scientific and Statistical Committee (SSC) and the comments made by Mr. Burner regarding the mechanism and timeline for the proposed qualification of peer review processes. Mr. Myer seconded the motion. (Motion 4). Motion 4 carried. Mr. Lockhart abstained.

## **D.3 Legislative Matters**

### **D.3.a. Agenda Item Overview**

Mr. Burner provided the agenda item overview. (03/10/09; 8:18 a.m.)

#### **D.3.b Legislative Committee Report**

Mr. Burner provided Agenda Item D.3.b, Supplemental LC Report.

#### **D.3.c Reports and Comments of Management Entities and Advisory Bodies**

None.

#### **D.3.d Public Comment**

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

#### **D.3.e Council Action: Consider Legislative Committee Recommendations**

Mr. Roth spoke to the Landscape Conservation Cooperatives and agreed that the HC might be a more appropriate advisory body to track this matter and offered to coordinate such an effort as an HC member.

Dr. McIsaac referred to the third Legislative Committee (LC) recommendation regarding a letter of inquiry and asked Legal Council if such an inquiry was in conflict with lobbying restrictions. Ms. Lynch said if the letter was strictly a request for information regarding legislation there would be no problem, but the Council should carefully avoid stating a position.

Mr. Moore moved and Ms. Lowman seconded a motion (Motion 23) to adopt the report of the LC (Agenda Item D.3.b, Supplemental LC Report) and direct the Executive Director to send the three letters mentioned in that report. Motion 23 carried. Mr. Lockhart abstained.

### **D.4 Approval of Council Meeting Minutes (12:01 p.m.)**

#### **D.4.a Council Member Review and Comments**

Mr. Moore stated that he had one correction for page 18 that he would put in a motion.

#### **D.4.b Council Action: Approve June 2009 Council Meeting Minutes**

Mr. Moore moved and Ms. Culver seconded a motion (Motion 35) to adopt the Council meeting minutes for June 2009 as shown in Agenda Item D.4.a, Supplemental Attachment 1, with the following change on page 18: Under Motion 4, the roll call vote should be “(4 yes)” to match the four names listed.

### **D.5 Membership Appointments and Council Operating Procedures**

#### **D.5.a Agenda Item Overview (03/11/10; 12:04 p.m.)**

Dr. John Coon provided the agenda item overview in Agenda Item D.5, Situation Summary.

#### **D.5.b Reports and Comments of Management Entities and Advisory Bodies**

None.

### **D.5.c Public Comment**

None.

### **D.5.d Council Action: Consider Changes to Council Operating Procedures and Advisory Body Appointments as Needed**

Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 36) to have the Council appoint Mr. David Price to the Washington Department of Fish and Wildlife (WDFW) position on the HC (replacing Ms. Theresa Scott).

Motion 36 carried unanimously.

Mr. David Sones moved and Mr. Moore seconded a motion (Motion 37), that based on the review of ad hoc committees and recommendations by Council staff, to terminate the following Ad Hoc Committees:

- Coastal Pelagic Species Tribal Allocation Committee

- Highly Migratory Species Management Committee

- Marine Protected Area Committee

- Shore-based Whiting Amendment Workgroup

- Trawl Individual Quota Enforcement Group (Mr. Sones indicated that the Enforcement Consultants can provide any needed advice in the future and if necessary utilize the expertise of Dr. Freese in their meetings), and finally the

- Trawl Individual Quota Independent Experts Panel.

Motion 37 carried unanimously.

Regarding membership of the advisory bodies and ad hoc committees, Chairman Ortmann appointed Mr. Merrick Burden to replace Ms. Dorothy Lowman on the Trawl Individual Quota Committee. He did not see that there was a need to appoint a replacement for Mr. Hightower. He also proposed that we continue to look for a conservation representative for the Highly Migratory Species Advisory Subpanel, and allow a little more time to find a tribal representative for the ecosystem plan effort.

## **D.6 Future Council Meeting Agenda and Workload Planning**

### **D.6.a Agenda Item Overview**

Dr. McIsaac provided the Agenda Item overview in Agenda Item D.6, Situation Summary and supplemental attachments. He noted that he had added 5 hours for regulatory deeming on Amendment 20 in April and also a P\* workshop. He noted that the June agenda as presented would take 7 days and the Council will need to cut that back to 6 days.

### **D.6.b Reports and Comments of Advisory Bodies**

Dr. McIsaac referenced Agenda Item D.6.b, Supplemental Habitat Committee Report.

### **D.6.c Public Comment**

Mr. Joe Sullivan, The Nature Conservancy, Seattle, Washington. Spoke to the Amendment 20 control rule and other issues.

Mr. Ed Backus, Ecotrust, Portland, Oregon. Spoke to addressing community fishing association amendment issues in September and workshops over the summer.



**D.6.d Council Action: Adopt April 2010 Agenda and Provide Guidance on Future Council Meetings and Priorities for Advisory Body Consideration**

The Council worked with the Executive Director to adjust the proposed April and June agendas.

**E. Groundfish Management**

**E.1 National Marine Fisheries Service Report (03/07/10; 8:06 a.m.)**

**E.1.a Regulatory Activities**

Ms. Kelly Ames provided a brief agenda overview, noting three attachments: a summary of recent FR notices, a letter from NMFS declaring petrale sole overfished, and a summary of the Pacific whiting fishery. Mr. Frank Lockhart spoke about options under Agenda Item E.6.b, Supplemental NMFS Report 6; which lays out two schedules for the trawl rationalization implementation. He also spoke about the rules that came out in the *Federal Register*.

**E.1.b Fisheries Science Center Activities**

Dr. Clarke provided a brief report on Fisheries Science Center activities. The activities include operations to implement an inter-vessel calibration between the Miller Freeman and the new research vessel, Bell Shimada; proceeding with a series of coldwater coral surveys (responding to essential fish habitat concerns) beginning in June in the Olympic National Marine Sanctuary, then in southern California, and then in Grays Canyon; and a technical memo is due out shortly on the brown spotted stock assessment to help guide future catch limits.

**E.1.c Reports and Comments of Management Entities and Advisory Bodies**

None.

**E.1.d Public Comment**

None.

**E.1.e Council Discussion**

None.

**E.2 Stock Assessment Planning for 2013-2014 Management Measures (03/07/10; 8:25 a.m.)**

**E.2.a Agenda Item Overview**

Mr. John DeVore provided the agenda item overview.

**E.2.b. Reports and Comments of Management Entities and Advisory Bodies**

Dr. Jim Hastie provided Agenda Item E.2.b, NMFS Report and explained the proposed list of stock assessments for next year.

Mr. Williams asked about the color shading on Table 1 of the NMFS Report. Dr. Hastie explained that those assessments are shaded that are more than five years old and considered out of date, but are not on the proposed list for assessment next year. It is challenging keeping assessments up to date while conducting new

assessments and meeting these competing objectives.

Mr. Moore referred to Table 2 and the open slot in Stock Assessment Review (STAR) Panel 2. He asked if a more complicated assessment could be reviewed at that STAR Panel than Pacific ocean perch (POP) and Dr. Hastie said that was an option.

Ms. Vojkovich asked if NMFS had a plan for meeting the competing objectives for conducting out of date assessments as well as new assessments. Dr. Hastie said NMFS is developing new tools such as conducting data-poor assessments without a formal STAR review to meet these objectives. The hope is that a more limited assessment could still be useful for providing management advice. Ms. Vojkovich asked if the idea of doing an assessment for a complex of species is being developed and Dr. Hastie said there have been initiatives to accomplish these objectives. Ms. Vojkovich said doing an assessment of a complex of species is not immediately anticipated; however, is NMFS trying to establish a process for reviewing data-limited assessments? Dr. Hastie said this is being addressed; however, we need to develop a Terms of Reference for this new process.

Mr. Williams asked if any of the species highlighted as out of date could be candidates for the open STAR Panel slot and whether an additional assessment was not proposed due to data limitations. Dr. Hastie said that kelp greenling was discussed and an assessment of that stock may be considered. However, there are data limitations for the California substock.

Mr. Anderson asked if there has been discussion for a mop-up panel for Pacific hake if needed next year. Dr. Hastie said that was not initially discussed when developing a STAR panel schedule. However, there has been a lot of discussion at this meeting about that concept. One significant problem is the lack of available time for a hake assessment mop-up panel. There has been discussion regarding delaying the assessment review until later in the year to allow a better examination of late arriving assessment data for hake. There is also uncertainty regarding whether the treaty will be implemented next year. Mr. Anderson said a contingency plan for hake to allow a mop-up should be developed, given the circumstances this year.

Dr. McIsaac asked about the proposed model platform for full assessments and whether a particular model is recommended. Dr. Hastie said the modeling platform is not prescribed, although there are advantages to doing assessments in stock synthesis since most of the key reviewers understand that model.

Dr. McIsaac asked about the technical memo for bronzespotted rockfish and whether that memo would provide useful management advice. Dr. Hastie said he was not sure of the content of that memo, which is a proposed Southwest Fisheries Science Center (SWFSC) product. He suggested asking Dr. Ralston this question under the SSC report.

### SSC Report

Dr. Steve Ralston provided Agenda Item E.2.b, Supplemental SSC Report.

Ms. Vojkovich asked about an assessment for the Other Flatfish complex, as well as tech memos for bronzespotted and greenspotted rockfish and how these documents will provide management advice. Dr. Ralston said these tech memos are in development and were designed to develop a data-poor assessment method. Further work on this is needed, which is why a greenspotted rockfish assessment is proposed. The SSC believes the SSC Groundfish Subcommittee should review data-poor assessments rather than a STAR panel. An independent Committee of Independent Experts (CIE) reviewer is recommended in the subcommittee review. The concept of doing an assessment of the Other Flatfish complex is to use the relatively data-rich stocks (i.e., rex sole and Pacific sanddabs) to inform management advice for the entire complex. The process for reviewing such an assessment is still in development.

## GMT Report

Mr. Rob Jones provided Agenda Item E.2.b, Supplemental GMT Report.

Dr. McIsaac asked about the ad-hoc yelloweye survey design committee and whether NMFS would participate. Mr. Jones said a broader representation on the committee including NMFS representatives needs to be appointed. Dr. Clarke added that NMFS supports a workshop to conduct this business.

## GAP Report

Mr. Gerry Richter provided Agenda Item E.2.b, Supplemental GAP Report. Mr. Richter added the Groundfish Advisory Subpanel (GAP) did review the terms of references and did not have any recommended revisions.

### **E.2.c Public Comment**

None.

### **E.2.d Council Action: Adopt for Public Review the Preliminary Terms of Reference, List of Stocks to be Assessed, and Stock Assessment Review Schedule**

Mr. DeVore explained the proposed Council action and added that final action on this item is scheduled for June.

Mr. Moore moved and Mr. Anderson seconded a motion (Motion 5) for preliminary adoption of a revised stock assessment terms of reference with the SSC and Groundfish Management Team (GMT) suggestions added, as well as a definition of a status report. Mr. Moore suggested providing a revised terms of reference as soon as possible and no later than the June briefing book deadline to allow adequate public review. Ms. Vojkovich expressed some concerns on new terms in the terms of reference and Mr. Moore said this is why he would like to see a revised terms of reference in advance of the June Council meeting.

Motion 5 carried unanimously.

Mr. Moore moved and Mr. Williams seconded a motion (Motion 6) to preliminarily adopt the proposed list of stock assessments provided in Agenda Item E.2.b, NMFS Report with consideration for the SSC, GMT and GAP-proposed stocks for assessment. Mr. Ortmann asked if the proposed STAR schedule is part of the motion and Mr. Moore said yes.

Mr. Anderson said he would prefer asking the science centers to take a look at those species with the highest assessed vulnerability and examine data available for assessment. Mr. Moore said he overlooked that aspect and is amenable to using the vulnerability ranking to establish such a priority.

Mr. Anderson moved and Mr. Cedergreen seconded a motion to amend the motion (Amendment 1 to Motion 6) to have NMFS examine the GMT's vulnerability analysis and examine the nearshore species with the highest vulnerability for assessment priorities.

Ms. Vojkovich expressed concern with adding new stocks due to workload and therefore cannot support the motion.

Ms. Lowman asked if the motion or amended motion addresses the SSC concept to do an assessment of Other Flatfish and Mr. Anderson said the amendment did not include rex sole. Mr. Myers said he was confused since rex sole is in the main motion. Mr. Moore said he thought the amendment was to examine those species with

the highest vulnerability. Mr. Anderson added that if the main motion and amendment passed, it would include rex sole and all the species on the NMFS list as well as evaluation of China and quillback rockfish for a potential new assessment. The Council can make a final decision in June. Mr. Moore thought copper rockfish would also be part of the evaluation and Mr. Anderson said yes.

Amendment 1 to Motion 6 carried (Ms. Vojkovich voted no).

Motion 6 carried unanimously.

Mr. DeVore said he will presume the minor edits on the rebuilding terms of reference will be provided in the June briefing book by the SSC in “track changes mode.”

### **E.3 Pacific Whiting Harvest Specifications for 2010 (03/07/10; 10:20 a.m.)**

#### **E.3.a Agenda Item Overview**

Mr. DeVore provided the agenda item overview.

Mr. Lockhart added that the situation summary indicated a preliminary 50,000 mt yield set-aside for 2009 and 2010 tribal whiting fisheries was decided, which should read that the set-aside was only decided for 2009 tribal whiting fisheries.

#### **E.3.b Reports and Comments of Management Entities and Advisory Bodies**

##### Department of Fisheries and Oceans, British Columbia

Mr. Greg Workman noted that there is high uncertainty in the equally plausible assessment models proposed by the STAR panel and SSC, and urged caution in setting harvest specifications given this high uncertainty and divergent model results. In 2009, there was an aberrant distribution of hake and a large intrusion of Humboldt squid. The impact of these predatory squid is unknown and should be factored into a management decision. Mr. Workman said both pre-STAR models had similar management advice.

Mr. Moore noted the SSC recommendation for a separate terms of reference for a whiting assessment review and asked if Department of Fisheries and Oceans (DFO) is willing to aid in development of a jointly developed terms of reference. Mr. Workman said he would prefer timely treaty implementation, but was supportive of a jointly developed terms of reference.

##### NMFS Report

Mr. Lockhart said NMFS is strongly recommending a harvest specification decision that will prevent future overfishing.

##### SSC Report

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

Mr. Moore noted the SSC provided optimum yield (OY) values from both assessments and asked if the SSC is providing acceptable biological catch (ABC) values. Dr. Ralston said Table e in the Martell assessment provides OY projections with a 40-10 adjustment. Mr. Moore said we need these ABC values before final action. Dr. Ralston said the SSC can provide these values.

Mr. Anderson noted that the Martell assessment reports ABC values in Table d and the Northwest Fisheries

Science Center (NWFSC) assessment reports an ABC value as well. Dr. Ralston said those values are based on the maximum likelihood estimates and the SSC recommends using the Monte Carlo Markov Chain results for harvest specifications. Mr. Anderson asked if that meant the SSC needs to do additional model runs and Dr. Ralston said yes.

Mr. Anderson referred to page 13 of the STAR Panel report and asked if those values could be used for an ABC specification and Dr. Ralston said no. Ms. Vojkovich asked if these values will be presented and Dr. Ralston said the analysts should be able to provide this in short order.

Mr. Lockhart noted the assessment uncertainty underscored in the SSC statement and asked if there was more detailed risk assessment advice from the SSC. Dr. Ralston explained such consequences are addressed in the SSC statement but no further detail is provided.

Mr. Lockhart asked how an additional 2010 acoustic survey might help address this uncertainty and Dr. Ralston said target strength issues and impacts associated with squid presence might be addressed. Mr. Lockhart asked about biological sampling in the acoustic survey and how those data issues might be resolved. Dr. Ralston said part of the investigation is to develop a more rigorous biological sampling protocol.

Mr. Moore requested, if possible, ABC values under alternative constant catch streams could be provided as well as a version under an average catch stream of about 230,000 mt. Dr. Ralston said the catch streams in Table e are relevant to this request and only an F40 percent ABC catch stream is now needed.

Ms. Vojkovich asked for an estimate of how long a mop-up panel process would take this year. Dr. Ralston said there is no mop-up panel process developed for hake. Dr. Ralston thought a 3-day review meeting by the SSC Groundfish Subcommittee and the two stock assessment teams (STATs) could resolve this issue. He cannot speak to STAT availability or the potential availability of a CIE reviewer. This potentially could be done within two weeks.

Ms. Vojkovich asked who is supposed to do the requested research, and Dr. Ralston said the survey abundance estimates for whiting would be a NMFS responsibility. Representative biological sampling in the acoustic survey is a key part of this required research; however, staff resources may be limited. Ms. Vojkovich asked how these issues would be resolved under the new treaty, and Dr. Ralston said data and modeling issues do not disappear under the new treaty.

Mr. Williams asked about caution given squid predation impacts and asked if there is any quantification of the Chilean whiting issue. Dr. Ralston said that Dr. Dorn reviewed the Chilean whiting assessment and in two years the stock went from 50 percent whiting and 50 percent squid to 90 percent squid.

Mr. Myers asked how survey q is affected by squid and Dr. Ralston said q was not necessarily affected in the SS3 model but the 2009 survey data coefficient of variation was inflated to account for squid. Dr. Ralston suggested Dr. Hamel might be able to provide an answer.

Mr. Anderson said he would prefer deferring a decision pending a mop-up panel if that could occur. He asked if there is the potential for a mop-up panel this year and Dr. Ralston said he would have to consult with others.

Mr. Sones asked if there was an analysis of squid predation and Dr. Ralston said there has been some work by Dr. John Field on squid predation effects. Hake are definitely a preferred prey item for squid. Small salmon are also a squid prey item.

Mr. Lockhart said the NWFSC has been talking about a hake mop-up panel and asked if the panel needed to occur before the April Council meeting; Mr. Anderson said yes. Dr. McIsaac said the 23-day requirement for a *Federal Register* (FR) notice would put the mop-up panel the day before the April briefing book deadline. A

mop-up plan would have to consider these timing constraints.

Mr. Anderson would like to reserve time for additional questions to Dr. Ralston later today.

Mr. Lockhart suggested that NMFS and Council staff should discuss this during lunch today.

#### GMT Report

Mr. Rob Jones provided Agenda Item E.3.b, Supplemental GMT Report.

Mr. Moore noted Table 1 in the GMT report did not incorporate 2009 data, and Mr. Jones said the 2009 total mortality reports are not yet available.

#### GAP Report

Mr. Dan Waldeck provided Agenda Item E.3.b, Supplemental GAP Report.

#### **E.3.c Public Comment**

Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Joe Bersch, Supreme Alaska Seafoods, Seattle, WA  
Mr. Butch Scheer  
Mr. Pierre Marchand, Jessie's Ilwaco Fish Company, Ilwaco, WA  
Mr. Brad Pettinger, Oregon Trawl Commission, Bandon, OR  
Mr. Mike Hyde, American Seafoods Company, Seattle, WA

#### **E.3.d Council Action: Adopt Final 2010 Stock Assessment, Allowable Biological Catch, and Optimum Yield (Management Measures will be adopted under Agenda Item E.5)**

Mr. Lockhart provided an overview of the lunch meeting with Council and NMFS staff regarding the possibility of a hake mop-up panel this year. The earliest possible date would be the week of March 29, although it is not clear that all the critical participants can make it. This date would miss the April briefing book and supplemental briefing book deadlines. Further, the delay would prohibit a May 1 start to the fishery and even risks a June 1 opener given the regulatory process. Also, the same staff doing the rulemaking are working on trawl rationalization, risking timely implementation of that program. Dr. McIsaac agreed and added there are other negative implications to a mop-up panel this year.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 7) to adopt the Martell assessment (Attachment 1) and the NMFS NWFSC assessment (Attachment 2) for management decision-making. Mr. Anderson explained that the SSC recommended both assessments and their inability to recommend one assessment as preferred.

Mr. Lockhart believed this was an appropriate response to the scientific review impasse.

Motion 7 carried unanimously.

Mr. Anderson referred to Agenda Item E.3.b, Supplemental SSC Report 2 and moved (Motion 8) to adopt an average of the two modeled assessment ABC results to specify a coastwide (U.S. plus Canada) 455,550 mt ABC for 2010 fisheries. Mr. Myer seconded the motion.

Motion 8 carried (Mr. Lockhart abstained).

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 9) to adopt a 2010 Pacific whiting coastwide OY (U.S. + Canada) of 262,500 mt.

Mr. Anderson said he paid close attention to Mr. Workman's comments that urged caution in setting the OY. The harvest rate has been increasing in recent years and the spawning biomass is close to historic lows. There have also been significant changes in ocean conditions that compel a precautionary approach. This level of harvest was derived from an average of OY values from both assessments. The Martell assessment using the TINSS model estimated the harvest rate that produces a maximum sustainable yield (MSY) of F53 percent, which is more conservative than the proxy  $F_{MSY}$  harvest rate of F40 percent. The OY estimated in that assessment using the F53 percent harvest rate is 339,000 mt and projects the stocks depletion level to be 31 percent in 2011. Conversely, the SS3 assessment predicts a 2010 OY of 186,000 mt under an F40 percent harvest rate will cause the stock to decline to 25 percent in 2011. The 262,500 mt OY is therefore the average of the 339,000 mt from the TINSS assessment and the 186,000 mt from the SS3 assessment.

Mr. Lockhart explained his discomfort with an OY as large as in the motion. He did not believe splitting the difference between the two models was appropriate although this is more conservative than an actual average. Given the assessment uncertainty, he would prefer a lower OY and cannot automatically vote for this motion. He will be abstaining on this vote.

Mr. Moore complimented Mr. Anderson's reasoned approach. He would have offered a ten-year average of landings as an OY option, which is 270,561 mt and close to the OY in the motion. He therefore supports the motion.

Mr. Williams concurred and thanked Mr. Anderson.

Motion 9 carried (Mr. Lockhart abstained).

Mr. Anderson asked Mr. Lockhart if they are waiting on the proposed rule for the tribal set-aside and Mr. Lockhart said that should come out soon. Mr. Sones agreed that they need the proposed rule. Mr. Moore noted that once the coastwide ABC and OY are decided, the OY is automatically allocated between the U.S. and Canada according to the terms of the treaty. The tribal allocation is taken off the top of the U.S. OY, the amount of which is decided by the SOC. NMFS has been nice enough to talk to the Council about it. He asked Mr. Lockhart if there is a need for further Council action and Mr. Lockhart said no, but the Council has provided the guidance to the SOC in the past and that guidance has been taken into account when deciding the tribal allocation. Mr. Moore had concerns about staff workload on these allocation issues. He asked if the tribal allocation will be done in a timely manner and Mr. Lockhart said yes, the decision can be made relatively quickly. However, he was unsure the decision could be made by April 1. Mr. Moore noted, in the event the proposed rule for the tribal set-aside does not come out this week, there will not be any opportunity for the Council to comment and we cannot wait until the April meeting to comment. Mr. Lockhart said he thinks the proposed rule will have a comment period and there should be opportunity for the states, members of the industry, and tribes to comment. The Council could also choose a procedure to comment on the proposed rule.

Ms. Lowman moved and Mr. Anderson seconded a motion (Motion 10) to adopt a 3,000 mt set-aside to accommodate incidental bycatch in nonwhiting fisheries and research catch.

Motion 10 carried (Mr. Moore voted no).

Mr. Anderson asked how the Council's decision will be communicated to the DFO. Mr. DeVore said he informally communicates the decision to DFO staff and he sends a formal transmittal letter communicating the decision to the NMFS Northwest Region (NWR). Mr. Lockhart said he usually contacts international affairs division at NMFS Headquarters and they formally contact Canada. He also has informal contact with DFO staff.

## **E.4 Fishery Management Plan Amendment 23--Annual Catch Limits and Accountability Measures**

### **E.4.a Agenda Item Overview (03/09/10; 8:13 a.m.)**

Mr. John DeVore provided the agenda item overview.

Ms. Vojkovich noted that the Productivity and Susceptibility Assessment (PSA) methodology is included in the draft FMP language despite the fact that it was mentioned in the overview that such methodologies are not part of the Amendment 23 action. Mr. DeVore said that the PSA methodological approach is described in the draft FMP language as one of many tools that can aid decisions on harvest specifications. There is nothing prescriptive about the PSA approach.

Ms. Vojkovich asked if the underlined text in the draft FMP language represents Council staff's interpretation of Council direction on the new harvest specifications framework or whether this new text represents language recommended by advisory bodies. Mr. DeVore said he provided this language with an attempt to interpret Council direction on the framework as well as some recommended language from NMFS NWR staff. He explained that NOAA General Counsel, NWR staff, the SSC, and the GMT have all proposed language for the FMP and he has pledged to incorporate all their comments that are consistent with Council guidance in the version provided in the June briefing book. Ms. Vojkovich asked if additional guidance provided by the Council today will also be in the June version of the draft FMP language and Mr. DeVore said that was correct.

Mr. Moore asked if, for instance, 2011-12 ABCs are to be determined using the overfishing probability ( $P^*$ ) approach, shouldn't those framework decisions be made today to enable Council action on harvest specifications in April? Mr. DeVore said that was correct, the  $P^*$  approach is part of the framework. While the SSC decides the assessment uncertainty, the Council chooses the  $P^*$  value, which in turn, defines the ABC. One of the decisions to be made today is the range or the upper limit of  $P^*$  values that would be used so that the Council can have a clear pathway to an ABC decision in April.

Mr. Moore asked about the overfishing limits (OFLs) depicted in the table in Attachment 5. Mr. DeVore said those are the OFLs projected from assessments using proxy harvest rates ( $F_{MSY}$  harvest rates). The one change is the projected OFLs for petrale sole and other assessed flatfish species using the new F30 percent proxy harvest rate. Mr. Moore asked if these values would be equivalent to the projected ABCs under the old framework and Mr. DeVore said that was correct.

Ms. Culver asked for clarification on the draft FMP language under Attachment 2 and wanted to know how to best understand the key decisions that need to be made to adopt a new framework for public review. Mr. DeVore explained the draft language reflected the new NS1 guidelines, the work the SSC has done for Amendment 23, and Council guidance to date on their preferred framework. Ms. Culver requested a list of decisions to be made today and the available alternatives before action is taken. Mr. DeVore said he would provide this list.

Mr. Wolford noted that there still appears to be overly prescriptive draft FMP language in Attachment 2. He wanted to know when that should be addressed. Mr. DeVore recommended waiting until after hearing the advice of advisory bodies and the public and to make these decisions when the Council is scheduled to take action on this agenda item.

Mr. Moore asked if it was appropriate to make  $P^*$  decisions today for category 1, 2, and 3 stocks. Mr. DeVore said those decisions are more appropriate in April under the biennial specifications process. It is more appropriate to make some policy decisions today regarding the upper limit of  $P^*$  when that approach is used, as well as providing guidance on the analyses the Council would like to see in the April briefing book to better



enable a 2011-12 harvest specifications decision. Dr. McIsaac agreed some of the decisions and guidance under this agenda item are requested to make the April decisions easier.

Mr. Lockhart asked if Pacific whiting needs to be managed under this framework. Mr. DeVore said that the Council had invoked the international treaty exemption for Pacific whiting to not manage the stock under the new Amendment 23 framework. However, he was unsure whether there needed to be a contingency to manage whiting under the new framework if the treaty is not fully implemented in 2011. He thought this was more of a legal question and Mr. Lockhart agreed saying NMFS will need to look into that.

Ms. Culver asked if P\* would be a policy decision and frameworked in the FMP and Mr. DeVore said that was correct. The intent of the draft FMP language is to explain that the ABC decision is a two-step one where the first step is an SSC decision to decide the scientific uncertainty variance ( $\sigma$ ) and the second step is a Council policy decision regarding the risk of overfishing a stock due to scientific uncertainty, which is the P\* decision. The scientific uncertainty variance and the P\* together are used to decide a scientific uncertainty buffer. Mr. DeVore thought that this would make more sense after going through the SSC report.

#### **E.4.b Reports and Comments of Management Entities and Advisory Bodies (03/09/10; 9:05 a.m.)**

##### SSC Report

Dr. Steve Ralston provided Agenda Item E.4.b, Supplemental SSC Report 2.

Mr. Moore asked about scientific uncertainty buffers for category 2 and 3 species and whether a buffer percentage or a P\* approach should be used for these species. Dr. Ralston said the SSC focused primarily on category 1 species and has not focused as much on category 2 and 3 species. The SSC recommended on first principles that category 2 buffers would be greater than that for category 1 species and even greater buffers for category 3 species. The approach for category 2 and 3 species would be a Council decision.

Mr. Moore referred to the second paragraph regarding inter- vs. intra-assessment variance and whether this implies there is a greater intra-model variance for sardine than there is an inter-model variance for all the stocks in the meta-analysis. Dr. Ralston said that was correct. Of all the stocks used in the meta-analysis to determine inter-assessment variance ( $\sigma$ ), sardine was the one stock with a greater intra-model variance.

Mr. Wolford asked about the SSC discussion on P\* and whether this was an SSC construct. Dr. Ralston said this is a national construct and explained the process used to determine the methodological approach that includes a P\* policy decision.

Mr. Wolford asked what is meant by SSC endorsement of the methodological approach for determining scientific uncertainty and how binding that is. Dr. Ralston said this is a final SSC recommendation for Amendment 23 but it is clear that the approach does not currently quantify all sources of scientific uncertainty.

Mr. Wolford asked how the SSC might decide new and better methodologies as they are developed. Dr. Ralston said such decisions are more of an informal deliberative process within the SSC.

Ms. Vojkovich asked for clarification on the depletion-based stock reduction analysis methodology to determine ABCs/OFLs and the SSC recommendation that this is a better approach than current practices. She asked for clarification on current practices for determining ABCs. Dr. Ralston said that average harvest statistics are currently used, but all steps in deciding these older ABC values for unassessed stocks are not well documented.

Ms. Vojkovich asked if it is current practice to take a 25 percent reduction for category 2 stocks and a 50 percent reduction for category 3 stocks to decide OYs and Dr. Ralston said that was correct.

Ms. Vojkovich asked if the 40-10 rule is still necessary given the scientific uncertainty buffers. Dr. Ralston said the distinction is between overfishing and overfished. The 40-10 control rule is designed to prevent chronic overfishing so the stock does not become overfished. However, with a sufficiently risk-averse decision on an ABC (i.e., a larger scientific uncertainty buffer), there may be no need for a 40-10 control rule. Graphical representation of the two 40-10 options was presented with a more thorough explanation of how these options affect management decisions.

Mr. Lockhart said the Magnuson-Stevens Act (MSA) requires the SSC to set the ABC. He asked how the SSC sees their role in deciding scientific uncertainty buffers for category 2 and 3 species. Dr. Ralston said most of the SSC discussion has been on scientific uncertainty buffers for category 1 stocks. The SSC will likely recommend set buffer percentages for category 2 and 3 stocks.

Mr. Lockhart asked about the total variance ( $\sigma$ ) and why would there not be stock-specific variances. Dr. Ralston said this is the same reasoning used to manage with proxy  $F_{MSY}$  harvest rates and biomass reference points. Pooling makes sense without knowing stock-specific assessment variance better. However, stock-specific  $P^*$  values can be considered.

Ms. Culver asked if the SSC discussed the application of  $P^*$  of stocks managed within a complex and Dr. Ralston said they did not. She asked if the meta-analysis for calculating  $\sigma$  used species managed within a complex and Dr. Ralston said no.

Ms. Culver asked if the 25-5 control rule for flatfish is recommended by the SSC and Dr. Ralston said that discussion has not been had yet by the SSC. However, it does make sense given the Council decisions on biomass reference points.

Ms. Culver asked about the SSC process for deciding OFLs or certifying ABCs and Dr. Ralston said the SSC estimates  $\sigma$  and calculates buffer percentages relative to  $P^*$  values. Determining the buffer amounts once the  $\sigma$  is estimated is easily calculated. The GMT can do those calculations and the SSC would then certify whether the calculations were done correctly. Once the ABCs are decided by the Council through a  $P^*$  decision, those numbers are then provided to the SSC to verify the process was done appropriately.

Mr. Moore referred to Figure 7 in Supplemental SSC Report 1 and asked for clarification of that figure. Dr. Ralston said that is the SSC's ABC control rule and explains the effect of the  $P^*$  decision given a  $\sigma = 0.36$ , which is a pooled estimated biomass variance for 17 data-rich category 1 stocks. Mr. Moore asked if the decision/guidance for the Council would be something like a default  $P^*$  value for category 1 stocks and ultimately stock-specific values and Dr. Ralston agreed. He further explained the SSC recommends  $P^*$  should be less than 0.5 since a value of 0.5 infers no scientific uncertainty.

Mr. Moore asked about the default 25 percent and 50 percent adjustments for category 2 and 3 stocks, respectively and whether the SSC recommends maintaining those default adjustments. Dr. Ralston said that is reasonable; however, the main SSC recommendation is that buffers need to be progressively larger for category 2 and 3 stocks relative to category 1 stocks.

#### GMT Report

Mr. Rob Jones provided Agenda Item E.4.b, Supplemental GMT Report.

Ms. Culver asked how setting an annual catch limit (ACL) for dusky and dwarf-red rockfish would serve no purpose when these stocks are managed in a complex. Mr. Jones said that the ABC/ACL contribution of those species to the overall harvest specifications for the complex would be affected and, for these species, would serve no purpose in informing the complex specifications.

Ms. Culver noted the GMT statement regarding analyses needed to create harvest specifications for new complexes cannot be feasibly done at this time. She asked whether the GMT discussed how to create harvest specifications for existing complexes given that the component species are categorically mixed. Mr. Jones said the GMT did not have that specific discussion yet and that this was a subject that should be discussed on the upcoming conference call between the GMT and the SSC.

Ms. Culver referred to Table 2 in the GMT report and was confused by the probabilities of exceeding the OFL by 50 percent and 100 percent when the MSA does not tolerate any overage. Mr. Jones explained the P\* values themselves are the probabilities of exceeding the OFL. A P\* of 0.5 estimates a 50 percent probability of exceeding the OFL.

Ms. Culver was hopeful that the GMT would eventually provide a table of stock-specific ABC values under a range of P\* values. There was a general discussion of the P\* tables in the GMT report to better understand the implications of an eventual P\*/ABC decision in April. Mr. DeVore explained that one helpful decision that could be made today would be for the Council to decide an upper limit of P\* values that should be considered when deciding an ABC.

Ms. Lowman asked about the P\* criterion of economic concerns when that appears to be more of an ACL consideration and not one directly related to scientific uncertainty. Mr. Jones stated the P\* decision is a policy concern. Deciding a stock-specific P\* could take economic concerns into the P\* risk assessment decision. That is, a P\* for an economically important stock may require consideration of a more risk-averse buffer.

Mr. Moore asked if the species categorizations in Attachment 5 were consistent with status quo categories and Mr. DeVore said some of the species are categorized differently than they have been in the past. However, these are draft categories and will need to be finalized by the SSC in April. Mr. Moore asked if Council guidance today on species categories would be helpful and Mr. Jones said yes.

Mr. Moore asked about default P\* values and whether a decision on an upper limit of P\* as a default, similar to how rebuilding probability limits have been previously decided, is the way to think about this decision. Mr. Jones said the GMT did not have this discussion and does not have a specific recommendation yet.

Mr. Moore noted that OYs can equal ABCs under the old framework but, presumably, not under the new framework since a scientific uncertainty buffer will need to be decided; is it correct that the new ABC under the new framework will always then be below the OFL? Mr. Jones said that was correct as long as P\* is less than 0.5. Mr. Moore discussed the 40-10 options and asked whether the option 1 rule is the same as status quo and Mr. Jones said that was correct. He asked whether the option 2 rule would therefore result in a lower ACL than status quo when the 40-10 rule is applied since a scientific uncertainty buffer is applied before the 40-10 adjustment is made and Mr. Jones said that was correct as long as P\* is less than 0.5.

#### GAP Report

Mr. John Holloway provided Agenda Item E.4.b, Supplemental GAP Report.

#### **E.4.c Public Comment**

None.

#### **E.4.d Council Action: Adopt Preliminary Preferred Alternative for Public Review**

Ms. Culver moved and Mr. Myer seconded a motion (Motion 16) to adopt preliminary preferred FMP language for Amendment 23 which includes option 2 for the 40-10 harvest control rule, a 25-5 harvest control rule for

assessed flatfish, remove dusky and dwarf-red from the FMP, no ecosystem component species designation, and include an annual catch target (ACT) as an accountability measure (AM) that can be specified.

Ms. Culver believes option 2 with the 40-10 control rule is what we are currently doing. The 40-10 rule is not analogous to setting a scientific uncertainty buffer. We need more information before deciding an appropriate default  $P^*$  value for our stocks in April. The 25-5 rule for flatfish is appropriate and recommended by the SSC, and we will have both status quo and the new control rule analyzed in the next harvest specifications EIS. Removing dusky and dwarf-red rockfish from the FMP and not designating ecosystem component species is consistent with the GMT recommendations. The ACT is a good AM to add to the FMP and the Council staff paper (Attachment 4) presents a strong case for considering an ACT in our management framework.

Mr. Moore moved and Mr. Crabbe seconded a motion to amend the motion (Amendment 1 to Motion 16) to set a limit  $P^*$  of 0.45 and to go with the option 1 40-10 control rule.

Mr. Moore agreed with most of Ms. Culver's rationale for the elements of the main motion. However, the 40-10 rule brought in under Amendment 11 was addressing scientific uncertainty at that time before a more quantifiable approach for accounting for scientific uncertainty was available. He believes the option 1 40-10 rule with the addition of a scientific uncertainty buffer accomplishes our objective of preventing the stock from declining to an overfished condition. We can also set a lower ACL or an ACT if we need more precaution.

Ms. Culver does not believe the current framework adequately takes scientific uncertainty into account. She does not believe the 40-10 rule was established to account for scientific uncertainty. She therefore will not vote for the amendment.

Mr. Lockhart asked if this decision is more important for a final preferred alternative and Mr. Moore said this decision is a preliminary decision signaling the Council's intent on Amendment 23.

Mr. Wolford noted the amendment had two parts and he is concerned with the upper limit of  $P^*$ .

Amendment 1 to Motion 16 failed (all voted no except Mr. Moore and Mr. Crabbe).

Ms. Vojkovich said she would vote for the main motion with the assumption that the option 2 40-10 rule is the same policy we are currently operating under. Mr. Myer explained this is status quo only when there is no scientific uncertainty buffer and OFL equals ABC. Mr. Moore said he does not like option 2 of the 40-10 control rule, but he does like the other parts of the main motion and will therefore vote for the motion.

Dr. McIsaac asked if the main motion includes all the preliminary draft FMP language in Attachment 2 and Ms. Culver said no. She intends further discussion on the FMP language.

Mr. Lockhart moved and Mr. Moore seconded a motion to amend the main motion (Amendment 2 to Motion 16) to establish an upper limit of  $P^*$  of 0.45.

Mr. Lockhart said this element in the preliminary preferred alternative (PPA) will require folks to focus on this issue. Ms. Culver said she is not arguing against a  $P^*$  limit but has a problem putting this limit in the FMP. She would rather decide this in the biennial specifications process. The FMP would simply say we would apply scientific uncertainty buffers pending SSC and other advice. Mr. Myer asked if this would go forward with two options with no preference or a preference for a  $P^*$  limit of 0.45. Mr. Lockhart said NMFS would prefer more specificity but could go forward at this point without a preference. He simply wants focus on this issue.

Mr. Myer moved and Ms. Vojkovich seconded a motion to amend the amendment (Amendment 3 to Motion 16) to adopt two alternatives: 1) no  $P^*$  limit, and 2) a  $P^*$  limit of 0.45 with no preference for either. After discussion, Mr. Myer withdrew his amendment.

Mr. Moore moved and Ms. Lowman seconded a motion to amend the amendment (Amendment 4 to Motion 16) to include the P\* approach for category 1 stocks.

Mr. Moore explained his amendment is to specify an upper P\* limit of 0.45 for category 1 stocks.

Amendment 4 failed on a voice vote.

Ms. Culver moved and Dr. Caren Braby seconded a substitute amendment for Amendment 2 (Amendment 5 to Motion 16) to include the P\* concept as one approach that could be taken to decide scientific uncertainty buffers in the biennial specifications process.

Amendment 5 carried (Mr. Lockhart voted no).

Mr. Lockhart moved and Mr. Moore seconded a motion to amend the main motion (Amendment 6 to Motion 16) to specify an upper limit of P\* of 0.45 if a P\* approach is used to decide an ABC. He explained this limit is not prescriptive.

Amendment 6 passed (Dr. Braby voted no).

Motion 16 carried unanimously.

Dr. Ralston explained the SSC is recommending the P\* framework, which other SSCs around the nation are embracing. Other tools should be frameworked as well as the P\* concept and the P\* framework should not be limited to just category 1 stocks since category 2 and 3 stocks could also benefit from a P\* approach.

Mr. Wolford thought the draft FMP language in Attachment 2 was an improvement to the draft amendatory language provided at the last meeting. However, he was concerned there were portions that were still overly prescriptive. Mr. Wolford therefore moved and Mr. Crabbe seconded a motion (Motion 17) to adopt as part of the PPA the following changes to the draft FMP language in Attachment 2: on page 21, strike “Approaches to quantifying the variability in biomass estimates include using the standard error about the estimated biomass of a stock in the most recently approved assessment and estimating the between-assessment variance in biomass estimates for a stock with multiple assessments or for all category 1 stocks with multiple assessments in a meta-analysis. A proxy variance ( $\sigma$ ) can be calculated using this latter approach for all or some category 1 species. None of these approaches are mutually exclusive and the SSC may recommend stock-specific approaches to quantifying scientific uncertainty for category 1 species. Once scientific uncertainty is quantified, it is mapped to an estimated probability of overfishing (P\*) by the SSC.” Further, in the last sentence in that paragraph strike, “based on the estimated P\*.”

Mr. Moore asked if P\* can still be used to decide an ABC with this motion and Mr. Wolford said yes, but the use of P\* would not be prescribed.

Dr. McIsaac asked if the previous motion to framework the P\* concept would be violated with this motion, and Mr. Wolford said no. Other parts of the FMP could describe the P\* approach and other tools to use to decide scientific uncertainty buffers.

Mr. Lockhart said NMFS is not going to oppose this, but he is concerned regarding the flexibility vs. specificity issue. He believes there still should be modifications to this section, but he believes NMFS staff can work with Council staff to accommodate this motion while adding the necessary language NMFS thinks is appropriate.

Motion 17 carried unanimously.

Mr. Wolford moved and Mr. Crabbe seconded a motion (Motion 18) to make the following modification on page 21 of the draft FMP language in Attachment 2: delete the following sentence, “Since there is greater scientific uncertainty for category 2 stocks relative to category 1 stocks, the scientific uncertainty buffer is greater than that recommended for category 1 stocks. The SSC recommends the ABC for category 2 stocks.” The motion also strikes the analogous language on page 22 for category 3 stocks.

Mr. Wolford explained this is more of an editorial change, but it does get down to the issue of how much prescription is incorporated in the FMP. Mr. Lockhart thought the existing language is not overly prescriptive and is a first principle recommended by the SSC.

Dr. Braby agreed with Mr. Lockhart’s statement, as it clarifies the relationship among the three categories and is an important policy statement to make.

Ms. Culver noted on page 21, the word “generally” is stricken, and she thinks that including that qualifier helps since it is not prescriptive. If the language stayed in, we can talk more about that.

Motion 18 was withdrawn.

Mr. Moore moved and Ms. Culver seconded a motion (Motion 19) to add the word “generally” back into sections 4.4.2 and 4.4.3.

Motion 19 carried unanimously.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 20) to modify the draft FMP language in Attachment 2 as follows: On page 53, Section 4.7, strike out: “Numerical one-year OYs will be specified biennially, based on OFLs for major species or species groups, which are in turn based on quantitative or qualitative stock assessments.” (The motion includes the definition of OY in the first sentence be consistent with the one provided in the final rule for new National Standard 1 guidelines.)

Ms. Sheila Lynch, NOAA General Counsel, read the definition of OY from the MSA.

Motion 20 carried unanimously.

Mr. DeVore asked if he could incorporate the editorial changes from NMFS, NOAA General Counsel, the GMT, SSC, and GAP, provided they don’t change the document as changed by the motions made today. The Council agreed to the request.

Ms. Culver and Ms. Vojkovich offered the following guidance for the April decision on biennial specifications: develop a matrix of 2010, 2011, and 2012 ABCs based on the 2010, 2011, and 2012 OFLs across a range of P\* values; identify where scientific uncertainty adjustments were specifically used to construct ACL alternatives; and assume for non-overfished species the difference between 2010 ABCs and OYs was scientific uncertainty and calculate corresponding P\* values.

## **E.5 Consideration of Inseason Adjustments (Including Pacific Whiting Management Measures and Bycatch Limits)**

### **E.5.a Agenda Item Overview (03/10/10; 9:25 a.m.)**

Ms. Kelly Ames provided the agenda item overview.

### **E.5.b Reports and Comments of Management Entities and Advisory Bodies**

Mr. Rob Jones presented Agenda Item E.5.b, Supplemental GMT Report.  
Mr. Tommy Ancona presented Agenda Item E.5.b, Supplemental GAP Report.

### **E.5.c Public Comment**

Mr. Daniel Platt, open access fisherman, Fort Bragg, CA  
Mr. David Jincks, Midwater Trawlers Cooperative, Newport, OR  
Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Joe Birsch, United Catcher Boats, Seattle, WA

### **E.5.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2010 Groundfish Fisheries**

Mr. Moore asked Mr. Lockhart about NMFS' workload, given competing priorities like inseason, whiting specifications and allocations, trawl rationalization, and biennial specifications. Mr. Lockhart said NMFS cannot implement inseason changes from this meeting by April 1. He said the intent is to join the proposed tribal whiting allocation rule with the final whiting OY rule approximately in mid-April. Ideally, that same package would include any groundfish inseason actions made today. He said there may be some challenges in getting the biennial specifications done, as the same staff work on the trawl rationalization project. NMFS has had internal discussions on possible delays to the biennial specifications, but he said it was too early to predict whether NMFS would be late with the harvest specifications.

Ms. Culver moved (motion 24) to adopt the inseason recommendations by the GMT as specified in Supplemental GMT Report E.5.b, page 10 – adopt Recommendation #1 which are incidental landing limits for the shorebased whiting fishery to be included in the exempted fishing permit (EFP); Recommendation #2 – reduce the canary bycatch limit for the non-tribal whiting fishery to 14 mt; Recommendation #3 – increase widow bycatch limit for non-tribal whiting fishery to 279 mt; Recommendation #4 – remove the daily limit for the limited entry fixed gear sablefish fishery south of 36°. Mr. Myer seconded the motion.

Ms. Culver said, for the first recommendation—trip limits for the shorebased whiting fishery for the 2010 EFP – this is what we have been doing, with the exception of last year, allowing the fisherman to deliver and be paid for incidental catch. For the canary bycatch limit, 18.5 mt is currently shown in the whiting sector scorecard, which in combination with the other estimated impacts, puts us over the canary OY. I'm proposing to reduce that to 14 mt, which would free up roughly 4.5 mt, and result in a balance of 4.1 mt of canary in the scorecard. This strikes a balance between what the whiting sectors need to accommodate the higher whiting OY, and the high catch events that have occurred in all three whiting sectors in the past few years. The whiting sectors are strictly managed with hard bycatch limits and have a good catch reporting and monitoring system in place for inseason tracking. This proposed cap would free up about 4 mt in the scorecard to accommodate any overages in any of the other fisheries that may occur. Regarding the widow increase, based on the GMT analysis and the significant amount available in the scorecard, it is appropriate to increase the widow bycatch cap. The last recommendation, regarding the removal of the daily limit south of 36° N. latitude for the fixed gear fisheries, but keeping the cumulative weekly limit in place, accommodates the analysis and requests made by the GMT and GAP in their statement.

Ms. Vojkovich said when she asked the GAP about removing the daily limit south of 36° N. latitude, they no longer supported it. The GMT said the industry wanted it, and they could accommodate it.

Ms. Culver said she did not raise this when Ms. Vojkovich discussed this with the GAP. The current cumulative weekly limit is in place now; they don't get any more fish by having a daily trip limit, because they are held to the 1,500 lbs per week regardless.

Ms. Vojkovich said the way it is written now, it is not a *cumulative* weekly limit. It's different from what we normally have.

Ms. Culver asked for clarification.

Mr. Gerry Richter, GAP representative, said the limit is currently 400 lbs per day, or one landing of up to 1,500 lbs per week. By removing the daily trip limit, it could hinder the people landing under the daily limit of 400 lbs. Removing the limit might reduce bycatch, but it could hinder some of the smaller boats in the south that are fishing the daily limit. The 1,500 lbs per week constrains small vessels.

Ms. Culver said, so the current regulations allow 400 lbs per day without a cumulative weekly limit, so someone who fished five days could land 2,000 lbs.

Ms. Vojkovich moved to amend the motion to take out the recommendation from the GMT report to remove the daily trip limit in the limited entry sablefish south of 36°. Mr. Brizendine seconded the amendment.

Amendment to Motion 24 carried unanimously.

Mr. Lockhart said the scorecard has a value for the tribal whiting fishery based on the proposed rule, which he hopes will become final in April. If the tribal allocation amount changes, that would impact the scorecard. Is there any guidance from the Council on this?

Mr. Moore noted that the total tribal impact with the projected proposed rule becoming final is 4.3 mt of canary; if we approve the motion, there would be roughly 4 mt in residual, which is double the entire tribal impact. Unless we are talking about that increase in the proposed rule taking the entire whiting OY, he did not see it as a problem.

Main motion 24 carried unanimously.

Ms. Culver said she did not address the yelloweye catch in the scorecard. We are at 100 percent of the OY, taking into account the additional catch from the International Pacific Halibut Commission (IPHC) research and enhanced surveys in Washington and Oregon. Given that we can track and update that through inseason adjustments, she asked Mr. Lockhart if he saw a need to reduce other fisheries' impacts to ensure that there is some residual in the scorecard. Mr. Lockhart said no, the scorecard should be balanced (no more than 100 percent); there was not a need to require a residual at this time.

Ms. Ames said a revised scorecard based on action on this agenda item will be prepared for the final inseason on Thursday under Agenda Item E.8.

## **E.6 Regulatory Deeming for Fishery Management Plan Amendment 20—Trawl Rationalization and Amendment 21—Intersector Allocation, and Planning for Community Fishery Associations (CFA)**

### **E.6.a Agenda Item Overview (03/10/10; 11 a.m.)**

Mr. Jim Seger walked the Council through the action items and Agenda Item E.6.a, Supplemental Attachment 6.

[Note: On March 8, the Council was given a briefing for Agenda Item E.6 that was just a "check in" to bring the Council on board with the proposed schedule for the deeming and implementation of Amendments 20 and 21.]

### **E.6.b Reports and Comments of Management Entities and Advisory Bodies**



Mr. Barry Thom, NWR, provided opening comments and stated that NOAA wants to see the program implemented in January 2011. NOAA is committed to put all of its available resources in place to make this happen. He brought this commitment from the leadership of NMFS and NOAA. With respect to budget, the administration has included a little over 12 million dollars in their FY 2011 budget for the implementation of the west coast trawl program. He is looking for money in the 2010 budget to go through spring of next year to make sure the program stays on track. Mr. Williams asked if electronic fish tickets for the states are part of the 2010 funding plan. Mr. Thom responded that the state infrastructure component is part of that discussion. Ms. Culver asked to have discussions with NMFS about the type of resources that might be available at the state level to help with the implementation process.

Mr. Todd Lee, NWFSC, presented the powerpoint on Economics (Agenda Item E.6.b, Supplemental NMFS Powerpoint 2). Ms. Jamie Goen presented a powerpoint on Regulatory Deeming (Agenda Item E.6.b, Supplemental NMFS Powerpoint). Mr. Jim Seger, read Agenda Item E.6.b, Supplemental SSC Report. Mr. Jones provided Agenda Item E.6.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item E.6.b, Supplemental GAP Report. Mr. Mike Cenci provided Agenda Item E.6.b, Supplemental EC Report.

### **E.6.c Public Comment**

Mr. Merrick Burden, Environmental Defense, Seattle, WA  
Mr. Shems Judd, Environmental Defense, Portland, OR  
Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA  
Mr. Michael Bell, The Nature Conservancy,  
Mr. Joe Sullivan, The Nature Conservancy, Seattle, WA  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR  
Mr. David Jincks, Midwater Trawlers Cooperative, Newport, OR  
Council break until 3:12 p.m.  
Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Bob Dooley, United Catcher Boats, Seattle, WA  
Mr. Gerry Richter, B & G Seafoods, Inc., Santa Barbara, CA  
Mr. Edward Backus, North Pacific Fisheries Trust, Portland, OR  
Mr. Vince Doyle  
Ms. Leesa Cobb  
Mr. Daniel Platt, Fort Bragg, CA  
Ms. Michele Norville, Fort Bragg, CA  
Ms. Susan Chambers, West Coast Seafood Processors Association, Portland, OR  
Mr. Craig Urness, Pacific Seafood Group,  
Mr. Joe Bersch, Phoenix Seafoods Partnership, Seattle, WA  
Ms. Donna Parker, Arctic Storm Seafoods, Seattle, WA  
Mr. Bill James, fisherman, Salem, OR  
Mr. Steve Hughes  
Mr. Richard Carroll, Ocean Gold Seafoods, Westport, WA  
Ms. Heidi Hapman, Ocean Gold Seafoods/Jessie's Ilwaco Fish Company,  
Mr. Rick Algert, Morro Bay/Port San Luis Group, CA  
Mr. Chris Kubiak, Morro Bay fishermen, Morro Bay, CA  
Mr. Larry Collins, Crab Boat Owners Association, San Francisco, California  
Mr. Zeke Grader

**E.6.d Council Action: Deem Amendment Implementing Regulations, Adopt Plan Amendment Language for Amendment 21, and Consider Planning to Address CFA Alternatives**

Mr. Lockhart noted NOAA leadership commitment to implementation by January 1, 2011 and urged sticking to that implementation date. Mr. Moore asked if we stick to the 2011 date and resources do not show up, when would we make an adjustment? Mr. Lockhart indicated that the initial proposed rule on initial issuance needs to proceed at the April meeting and go out in May. Mr. Moore questioned the utility of choosing one schedule over another. He noted the testimony in support of slowing down and making sure implementation is done right. The chairman noted that the preponderance of testimony was in support of moving forward and the agency commitment. Mr. Williams noted that we are being asked to reaffirm the schedule we have been pursuing for quite some time. Ms. Culver said she was struggling with what the cost of January 1, 2011 would be. She would not want to rush ahead without it being done properly. The number one priority should be to get it done correctly and as a second priority strive for 2011 implementation. Mr. Myer said there is not much of a choice here. We should go forward with best effort to implement by 2011. Changing the schedule is a fall back position anyway. Mr. Lockhart said that the implementation rules need to be done for the April meeting regardless of whether the implementation date is 2011 or 2012. Ms. Lowman concurred that we needed to go forward, that everyone needed to give feedback on the draft regulations, and that quality should not be sacrificed.

Mr. Wolford moved, for the purpose of clarifying Council intent, that we will attempt to proceed with our best effort toward our intended date of January 1, 2011, recognizing that the importance of getting it right does not overshadow the schedule. Ms. Lowman seconded the motion. The motion passed (Mr. Moore voted no).

Ms. Vjokovich expressed concern that the NMFS statements on making the deadlines were not concrete, were nebulous. Further, she was concerned about finding money between this year's and next year's budgets for bridge money. Mr. Lockhart expressed his belief that the efforts were being made to make progress on locating the necessary resources between now and the April Council meeting.

The Council discussed how it would move forward procedurally at the March and April meetings. An example was given that many people felt we needed to tighten up the quota share (QS) control rules. If we want to do that, when would a specific issue like that be addressed? Mr. Lockhart noted that they had heard those comments and that they could take them into account when drafting the regulations for April. Mr. Hanson noted that specific suggested language had been provided in the public testimony by Joe Sullivan. Mr. Williams asked whether, as long as we had that version of what someone wanted, NMFS would consider it while drafting. Mr. Lockhart gave an affirmative response.

Ms. Culver moved (Motion 26) the following with regard to trawl rationalization and clarifications requested of the Council (Agenda Item E.6.b, Supplemental REVISED NMFS Report 2): With respect to Issue 1, transfer of limited entry permits during application process for QS permit, mothership (MS)/catcher vessel (CV) endorsed permit, or catcher-processor (C/P) endorsed permit, select Option C (*NMFS-preferred*). For issue 2, Status of QS and MS/CV endorsed permits pending appeal, adopt Option A (*NMFS-preferred*). For Issue 5, under the IFQ fishery and vessel accounts, all QP in a QS account must go into a Vessel Account each year, adopt Option B (*NMFS-preferred*). With regard to the mothership and catcher-processor co-ops, Issue 6, which pertains to the At-Sea Whiting Trawl Sector Set-Asides (Am 21), there is an inconsistency in the Council's motion from April 2009 on at-sea whiting trawl sector set-asides. In Supplemental Revised Report 2, page 7, select Option A: At least 5 mt minimum set-aside for any species [that is caught in the at-sea fisheries]. On Table 2-13 on page 7 in NMFS Supplemental Revised Report 2, adopt the amounts in Alternative 2, which are the values expressed in the GAC-recommended values, which includes a minimum of 5 mt for any species caught in at-sea fisheries, with the exception of yelloweye rockfish, which would remain at 0 mt. The 10 mt value for Pacific halibut accommodates bycatch in the at-sea whiting fishery and bottom trawl bycatch south of 40° 10' N. latitude. All of the at-sea set aside amounts may be adjusted in the biennial specifications and management measures process. With regard to mothership co-op program, permit transfers, Issue 8, adopt Option B (*NMFS-preferred*).

For catcher-processor co-op program, Co-op Failure – individual fishing quota (IFQ) Fishery, Issue 9, a adopt Option B (*NMFS-preferred*). With regard to Element A-2.1.3(d), processor initial allocation for whiting in the IFQ fishery (Agenda Item E.6.a, Attachment 2, page A-10), the dates should be specified as 1998-2004 not 1994-2004, per the Council's final motion in November 2008. Mr. Myer seconded the motion.

Ms. Culver spoke to the motion. She noted that for the most part she had gone with the NMFS-preferred alternatives, these were for the most part recommended by the GAP and we heard through public testimony concurrence going through the NMFS options. The EC also concurred with these in their statement, the alternative to the GAP-recommended options for the at-sea set asides is exactly what the Council adopted previously, and that was our intent. The clarification with regard to Pacific halibut was done through the Council action on Amendment 21. Through that process the Council decided the set asides would not be part of Amendment 21 but would be considered through the biennial specifications process. The motion as it is stated reaffirms the Council motion previously adopted. There were several questions to confirm the motion language. The motion passed unanimously.

Ms. Culver moved (Motion 27) with regard to trawl rationalization and the clarifications requested of the Council (Agenda Item E.6.b, Supplemental REVISED NMFS Report 2), that the Council consider the following issues at their April 2010 meeting. For the IFQ fishery and the Vessel Account, Issue 3 (the 30-day clock), when does the 30-day clock start for vessel overages? On Issue 4 (the 10 percent carryover), the 10 percent carryover provision can be calculated from the vessel account different ways. For the mothership and catcher-processor co-op, the deadline for co-op fishery declaration and permits, Issue 7, what is an appropriate deadline for a co-op permit (MS or C/P) and for a MS/CV endorsed permit to declare in to a MS coop or the non-co-op fishery? At the April 2010 meeting, the Council may reconsider the action taken previously relative to these issues.

Mr. Seger asked whether Issue 7 would include consideration of whether or not a permit would be required for the catcher-processor co-ops. Ms. Culver responded in the affirmative. Ms. Culver stated that for all of these items the clarifications sought to go beyond clarifications that we can address at this meeting. As part of that she asked that they have the actual motion language in front of the Council and then have the timing of the different motions (e.g. the meetings at which the motions occurred). She also asked that NMFS bring back implementation options that follow the motions exactly so that we can see how that compares to the other options being presented. In response to a question by Council members, Mr. Lockhart indicated that this process would not delay implementation. The motion passed unanimously.

Ms. Vojkovich addressed the need to strengthen the control language and the importance of it. One of the most important portions of the public testimony is the explicit statement that I think the Council made implicitly at this point about quota pounds (QP) being part of the control rule. Mr. Lockhart said he noted these comments and the public comments and could consider them between now and the April Council meeting.

Ms. Culver moved (Motion 28) that the Council adopt the staff draft amendatory language for Amendment 21 that is contained in Agenda Item E.6.a, Attachment 3. Mr. Cedergreen seconded the motion. Ms. Culver said she believed that the language contained in the document accurately reflects the Council action through Amendment 21. Mr. Moore stated that the motion accurately reflects among the three sectors. There has been interest and concern whether the pro rata distribution of bycatch species accurately reflects what occurs on the water and whether there should not be some tradeoffs among them. On approval of this amendment, would it require a further Council amendment to change the prorated distribution of bycatch species, or could that be done through the biennial specifications process? Mr. DeVore commented that for the species in question (widow, POP and canary) these were formal allocations to each of the trawl sectors, and an amendment process would be required to change the sector distributions of those species. The motion carried unanimously.

The Council then discussed the schedule for considering CFAs. Mr. Lockhart noted that it would be very difficult for the NMFS staff to spend much time on this in the very near future (June Council meeting). He noted the testimony that CFAs had started to form and that it would be good to have more information on what

the CFAs needed to function. Could some of the initial work be for them to organize among themselves and discuss what they need? Ms. Vjokovich supported Mr. Lockhart's assessment that not much could happen between now and June and that a workshop would be good, but that someone from the Council and regulatory side need to be part of the discussion. Mr. Lockhart thought that the community associations might do some work on what they need up front. Ms. Culver concurred that another committee was not needed but that communities might get together and do some of their own initial scoping work. She noted that even putting this on the September agenda appeared ambitious given the work needed on both trawl rationalization and the biennial specifications. Mr. Williams concurred that this should not be put on the schedule at this time. Finding something, e.g. a workshop, would give the communities an opportunity to get together and be heard. There was a lot of diversity in what the communities were identifying as their needs. He suggested that Pacific States Marine Fisheries Commission (PSMFC) might get the workshops together sometime this summer. Ms. Lowman concurred with previous Council members and the need for the workshops. She noted that there may be some longer term needs and some that are needed sooner in the process. Once the control limit regulations are out, that might help the communities better identify their needs and determine whether there are provisions that would be needed sooner rather than later. Mr. Ortmann noted that during the Council discussion many Council members were talking about workshops, however, no one had been identified to put on such workshops so there should not be a presumption that work on developing workshops is in progress. At this time we should identify a point in time at which the issue of planning for CFAs would be readdressed so that people know we are serious about it. Ms. Vjokovich expressed her concern that this was an important issue that needed to be addressed and stated that NMFS should come forward with money to be funneled through PSMFC and that she would get the right people from California to work on it. We cannot afford to continue to push this issue off. Mr. Lockhart made a commitment to take this back to the NOAA leadership and discuss the issue with them.

#### **E.7 Informational Briefing on Environmental Impact Statement Development for the 2011-2012 Management Specifications and Measures**

##### **E.7.a Agenda Item Overview**

Cancelled.

#### **E.8 Final Consideration of Inseason Adjustments (if Needed)**

##### **E.8.a Agenda Item Overview**

Agenda Item not needed. Agenda Item E.8.b, Supplemental GMT Report (updated scorecard) was referenced and distributed.

### **F. Pacific Halibut Management**

#### **F.1 Report on the International Pacific Halibut Commission Meeting**

##### **F.1.a Agenda Item Overview (3:02 p.m.; 03/07/10)**

Mr. Chuck Tracy provided the agenda item overview.

##### **F.1.b Meeting Summary**

Ms. Michele Culver and Mr. Cedergreen reviewed highlights of the IPHC January meeting and the meeting summary (Agenda Item F.1.b, Meeting Summary).

##### **F.1.c Reports and Comments of Management Entities and Advisory Bodies**

None.

**F.1.d Public Comment**

None.

**F.1.e Council Discussion**

Ms. Culver requested the Council send a letter to the IPHC notifying them that the Alaska Fisheries Science Center would be the point of contact for the IPHC to receive the estimate of the trawl and fixed gear fisheries halibut bycatch.

**F.2 Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries (03/07/10; 3:15 p.m.)**

**F.2.a Agenda Item Overview**

Mr. Tracy provided the agenda item overview.

**F.2.b Reports and Comments of Management Entities and Advisory Bodies**

Mr. Paul Heikkila read Agenda Item F.2.b, Supplemental SAS Report. Mr. Tracy read into the record Agenda Item F.2.b, Supplemental GAP Report.

**F.2.c Public Comment**

None.

**F.2.d Council Action: Adopt Public Review Options for 2010**

Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 11) to adopt, for public review, the following proposed regulations for the incidental catch of halibut in the salmon troll fishery: Option 1, status quo (1 halibut plus 1 halibut for each 2 Chinook and a trip limit of 35 halibut); and Option 2, 1 halibut plus 1 halibut per each 3 Chinook and a trip limit of 35 halibut.

Ms. Culver noted (Attachment 1) that we had Option 2 in place for about eight years prior to moving to the one halibut per two Chinook. This year there might be more Chinook available in the north than what has happened in the past and the halibut guideline might be going down and the Chinook guideline might be going up.

Motion 11 carried unanimously.

Council ended for the day.

**G. Salmon Management**

**G.1 National Marine Fisheries Service Report**

**G.1.a Regulatory Activities (03/08/10; 8:15 a.m.)**

Dr. Peter Dygert made the presentation contained in: [Agenda Item G.1.a Supplemental NWR LCR PowerPoint](#).  
Mr. Bob Turner gave an update on Mitchell Act hatchery funding activities.

#### **G.1.b Fisheries Science Center Activities**

Dr. Pete Lawson made a presentation contained in: [Agenda Item G.1.a Supplemental WC GSI PowerPoint](#).

#### **G.1.c Reports and Comments of Management Entities and Advisory Bodies**

Mr. Anderson alerted the Council to a letter from WDFW to NMFS (Agenda Item G.1.c, Supplemental WDFW Report) that contains an update on efforts by WDFW to work toward recovery of Lower Columbia Tule Chinook.

#### **G.1.d Public Comment**

Mr. Doug Fricke, Washington Trollers Association Hoquim, WA  
Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, CA  
Mr. Kent and Ms. Irene Martin, commercial gillnetters, Skamokawa, WA

#### **G.1.e Council Discussion**

Mr. David Sones stated the Makah Tribe has a huge bank of genetic stock identification (GSI) data taken from Pacific Salmon Commission (PSC) projects and the tribe is looking for a way to get that data into the database. Mr. Lockhart agreed to have NMFS contact Mr. Svec regarding how to accomplish that.

Mr. Anderson stated that there is a lot going on with regard to the stock recovery work in the Lower Columbia River and it is important for the agencies and local governments to have all the information that is available and to be working from the same information base and on the same timeline. There will be consequences if they are not.

### **G.2 Review of 2009 Fisheries and Summary of 2010 Stock Abundance Forecasts**

#### **G.2.a Agenda Item Overview (03/08/09; 10:18 a.m.)**

Mr. Tracy provided the agenda item overview.

#### **G.2.b Reports and Comments of Management Entities and Advisory Bodies**

Dr. Robert Kope, Salmon Technical Team (STT) Chairman, briefed the Council on the contents of the Review of 2009 Ocean Salmon Fisheries and Preseason Report I.

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

Mr. Mike Orcutt, Hoopa Valley Tribe, provided comments in Agenda Item G.2.b, Supplemental Comments of Hoopa Valley Tribe. He stated that with regard to the 2009 season, the tribal fishery resulted in a near full utilization of allocable harvest while meeting an elevated conservation standard of 40,700 naturally spawning adult fall Chinook. For 2010, Klamath River fall Chinook remain under the heightened protection of a rebuilding plan for a Council-managed stock subject to an Overfishing Concern. The 2010 forecasted abundance of KRFC is sufficient to accommodate limited fisheries while again meeting the elevated conservation standard of 40,700 adult natural area spawners.

Mr. Dave Hillemeier, Yurok Tribe, stated that the Tribe had managed for the 40,700 escapement goal in 2009 and had come within 300-400 fish of the goal. Management for 2010 will be decided after the April Council meeting, but will likely use the 40,700 goal as that is the standard the Council uses. He also noted that there are several reports on the internet which grossly exaggerate tribal harvest in the Klamath Basin. He also expressed appreciation for the signing of the Klamath Restoration and Hydro Agreements.

Mr. Larrie LaVoy provided Agenda Item G.2.b, MEW Report.

### **G.2.c Public Comment**

Mr. Robert Belke, Johnson's Bait and Tackle

Mr. Duncan MacLean, Half Moon Bay, CA

Mr. Bill Divens, Red Bluff, CA

### **G.2.d Council Action: Review and Discuss Relevant Fishery Information and Act on 2010 Abundance Forecasts as Necessary**

Mr. Anderson noted that while the most recent escapement number for Grays Harbor Chinook is not in the Preseason I report, that WDFW is working on that number and will be taking that stock into account as options are developed for 2010. Mr. Tracy confirmed that the number for Grays Harbor usually is not available for Preseason Report I, but is contained in Preseason Report III each year.

Ms. Vojkovich asked for the STT to put a confidence interval on the Sacramento Fall Chinook escapement estimate to aid deliberations later in the week under G.4.

Mr. Dan Wolford moved and Mr. Mallet seconded a motion (Motion 12) to adopt Preseason Report I, including the Sacramento Index included in the report as the basis for deliberations this week. Motion 12 carried unanimously.

## **G.3 Identification of Stocks Not Meeting Conservation Objectives (03/08/10; 1:12 p.m.)**

### **G.3.a Agenda Item Overview**

Mr. Tracy presented Agenda Item G.3, Situation Summary.

### **G.3.b Reports and Comments of Management Entities and Advisory Bodies**

Dr. Kope summarized Table I-3 in Preseason Report I.

Dr. Kope presented Agenda Item G.3.b, STT Report 1.

Dr. Kope presented Agenda Item G.3.b, STT Report 2.

Dr. Kope presented Agenda Item G.3.b, Supplemental STT Report 3.

Dr. Pete Lawson presented Agenda Item G.3.b, Supplemental SSC Report.

Mr. Anderson asked what the process would be to review and revise status determination criteria (SDC) for Strait of Juan de Fuca (SJDF) coho. Mr. Tracy replied the STT and NMFS NWR were drafting proposed language to address the new conservation objectives for Puget Sound coho adopted by the Council in November 2009, which would be vetted with the state/tribal co-managers before being brought back to the Council for approval.

Mr. Jim Olson presented Agenda Item G.3.b, Supplemental SAS Report.

Mr. David Sones presented Agenda Item G.3.b, Supplemental Tribal Report.

### **G.3.c Public Comment**

Mr. Ben Doane, KMZ Fisheries Coalition, Willow Creek, CA

Mr. E.B. Dugan, Inriver Sports Fishing, Trinity River, CA

Mr. Michael Caranci and Mr. Liam Goggan, Trinity River Guide Association, CA

### **G.3.d Council Action: Direct Necessary Actions Required by the Salmon Fishery Management Plan (2:45 p.m.)**

Mr. Anderson moved (Motion 13) Queets coho be considered rebuilt based on the Tribal Report and the STT Reports, indicating 2009 spawning escapement exceeded the 5,800 minimum conservation objective.

Mr. Cedergreen seconded the motion.

Motion 13 passed unanimously.

Mr. Anderson moved (Motion 14) to consider the combined SJDF coho stock not overfished based on the conservation objectives adopted by the Council in November 2009, and to submit the STT Reports to the co-managers for consideration of appropriate SDC for SJDF coho in September or November 2010. Mr. Cedergreen seconded the motion.

Mr. Lockhart asked if the process for adopting the combined SJDF coho stock into the fishery management unit was complete. Mr. Tracy replied yes, the Council took final action in November 2009; however the SSC did request additional technical information on the basis for the combined conservation objective.

Motion 14 passed unanimously.

Mr. Anderson recommended Grays Harbor coho be considered overfished and not assign the STT to conduct an assessment because the stock exceeded its conservation objective in 2009.

Mr. Lockhart asked if the preliminary nature of the 2009 spawning escapement would be a consideration. Mr. Tracy replied that unlike 2008 when the spawning escapement estimate was very near the conservation objective, in 2009 the estimate was well above the conservation objective and there was little danger of a final estimate below the conservation objective.

The Council concurred with Mr. Anderson's recommendation.

Ms. Vojkovich moved (Motion 15) to direct the STT to complete an Overfishing Assessment for Sacramento River fall Chinook (SRFC) and directed the HC to work with other managers to review the status of the habitat affecting the stock and if appropriate provide restoration measures; the reports would be provided to the Council in the March 2011 briefing materials. Mr. Buzz Brizendine seconded the motion.

Mr. Wolford recommended the STT and HC use the report developed by the SWFSC and NWFSC on "What Caused the Collapse of Sacramento River Fall Chinook" as a basis for their assessment.

Motion 15 passed unanimously.

## **G.4 Identification of Management Objectives and Preliminary Definition of 2010 Salmon**



## **Management Options (03/08/10; 3:11 p.m.)**

### **G.4.a Agenda Item Overview**

Mr. Tracy presented Agenda Item G.4, Situation Summary.

### **G.4.b Report of the Pacific Salmon Commission**

Mr. Gordy Williams reported the PSC expects to provide Aggregate Abundance Based Management Chinook quota numbers prior to the April Council meeting, which should be greater than 2009 levels.

### **G.4.c Reports and Comments of Management Entities and Advisory Bodies**

Dr. Peter Dygert presented Agenda Item G.4.c, Supplemental NMFS Report.

Mr. Dan Lawson and Ms. Penny Ruvelas presented Agenda Item G.4.c, Supplemental NMFS SWR PowerPoint.

Mr. Wolford asked if the STT would be able to review the models used to estimate the effects of season closures and size limits on Sacramento Winter Chinook. Mr. Lawson replied that there were no quantitative models available for review.

Ms. Vojkovich asked if effects from SRFC constraints were included in the qualitative analysis. Mr. Lawson replied no.

Mr. Anderson presented Agenda Item G.4.c, Supplemental WDFW/Tribal Recommendations.

Mr. Bruce Jim, Mr. Raphael Bill, Mr. Herb Jackson, and Mr. Stuart Ellis, Columbia River Treaty Tribes, presented Agenda Item G.4.c, Supplemental Tribal Report.

Mr. Mel Moon and Mr. Joe Gilbertson, Quileute Tribe, presented Agenda Item G.4.c, Supplemental Tribal Report 2.

Mr. Mike Orcutt, Hoopa Valley Tribe, presented Agenda Item G.4.c, Supplemental Tribal Report 3.

Messrs. Butch Smith, Jim Olson, Paul Heikkila, Duncan MacLean, Steve Watrous, Richard Heap, Mike Sorenson, and Craig Stone presented Agenda Item G.4.c, Supplemental SAS Report. Several corrections to the options were made, which are reflected in Agenda Item G.5.b, Supplemental STT Report.

Dr. Michael O'Farrell presented Agenda Item G.4.c, Supplemental STT Report.

### **G.4.d Public Comment**

Mr. Jim Yarnell, Humboldt Area Saltwater Anglers

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

Mr. Roger Thomas, Golden Gate Fishermen's Association, Sausalito, CA

Ms. Robin King, recreational fisher, Half Moon Bay, CA

Ms. Linda Nabbit, Coastside Fishing Club

Mr. Sean Hodges, CVP owner, Sausalito, CA

Mr. John Atkinson, sportfisher, Sausalito, CA

Mr. Jim Robertson, charterboat operator, Sausalito, CA

Mr. Dick Poole, salmon equipment manufacturer, CA

Mr. Michael Caperole, Coastside Fishing Club, San Jose, CA  
Mr. Kwan Tran, sportfisher, Fremont, CA  
Mr. John Wax, Coastside Fishing Club  
Mr. Mike Ranketore, sportfisherman, Bay Area, CA  
Mr. Mark Melcotch, river guide, Redding, CA  
Mr. Marc Gorelnik, Coastside Fishing Club, recreational angler  
Mr. Daryl Ticehurst, Coastside Fishing Club  
Mr. Robert Gallia, charterboat operator, Berkeley area, CA  
Mr. William Robinson  
Mr. Dwayne Winter  
Ms. Jackie Douglas, San Francisco, CA  
Mr. Richard Bennent

#### **G.4.e Council Recommendations for Initial Options for Salmon Technical Team Collation and Description**

Mr. Sones presented Agenda Item G.4.d, Supplemental Tribal Report 2. The Council concurred that the report be forwarded to the STT for analysis.

Ms. Vojkovich noted the options in Agenda Item G.4.c, Supplemental SAS report did not represent an appropriate range for California fisheries, and directed that Option III should have all fisheries closed except for sufficient impacts to conduct a catch and release GSI fishery.

The Council provided additional guidance to the STT for collation of preliminary salmon management options, as reflected in Agenda Item G.5.b, Supplemental STT Report.

#### **G.5 Council Recommendations for 2010 Management Option Analysis (03/09/10; 6:20 p.m.)**

##### **G.5.a Agenda Item Overview**

Mr. Tracy presented Agenda Item G.5, Situation Summary.

##### **G.5.b Reports and Comments of Management Entities and Advisory Bodies**

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

The Council adjourned for the day and went to Agenda Item D.3 on 03/10/10.

##### **G.5.c Public Comment (03/10/10; 8:35 a.m.)**

Mr. Ben Doane KMZ Fisheries Coalition, Willow Creek, CA

##### **G.5.d Council Direction to the Salmon Technical Team and Salmon Advisory Subpanel on Options Development and Analysis**

Ms. Vojkovich directed the STT and SAS to work together to meet a spawning escapement target of 180,000 SRFC in Option II by reducing recreational impacts in the Monterey cell during the early part of the season and reducing commercial and recreational impacts in the San Francisco cell.

Mr. Williams recommended NMFS take inseason action to close the Cape Falcon to Oregon/California border commercial fishery and the Cape Falcon to Humbug Mt. recreational fishery tentatively scheduled to open March 15 through April 30, 2010.

Mr. Wolford asked if the Sacramento Harvest Model accounted for catch reduction due to changes in the recreational size limit. Dr. O'Farrell replied that it did not.

The Council provided additional direction to the STT as reflected in Agenda Item G.6.b, Supplemental STT Report.

## **G.6 Further Council Direction for 2010 Management Options**

### **G.6.a Agenda Item Overview**

Mr. Tracy presented Agenda Item G.6, Situation Summary.

### **G.6.b Reports and Comments of Management Entities and Advisory Bodies (03/10/10; 5:06 p.m.)**

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

### **G.6.c Public Comment**

Mr. Dean Estep, Fort Bragg, CA

### **G.6.d Council Guidance and Direction**

Ms. Vojkovich asked the STT to report on whether the fall fisheries displayed in the options were of a similar magnitude compared to historical fall fisheries.

The Council provided additional direction to the STT as reflected in Agenda Item G.7.b, Supplemental STT Report.

## **G.7 Adoption of 2010 Management Options for Public Review**

### **G.7.a Agenda Item Overview (03/11/10; 11 a.m.)**

Mr. Tracy presented Agenda Item G.7, Situation Summary.

### **G.7.b Reports and Comments of Management Entities and Advisory Bodies**

Dr. Kope presented Agenda Item G.7.b, Supplemental STT Report.

Mr. Sones presented Agenda Item G.7.b, Supplemental Tribal Report.

Mr. Bruce Jim, Columbia River Treaty Tribes, presented Agenda Item G.7.b, Supplemental Tribal Report 2.

### **G.7.c Public Comment**

None.

### **G.7.d Council Action: Adopt Management Options for Public Review**

Mr. Lockhart stated NOAA Fisheries supported the proposed mark selective fishery options, but would meet with state and tribal co-managers to ensure that adequate monitoring and evaluation programs were in place and that allocation issues were addressed.

Mr. Sones moved (Motion 31) to adopt for public review the Treaty Indian ocean salmon fishing options as shown in Agenda Item G.7.d, Supplemental Tribal Motion. Mr. Cedergreen seconded the motion.

Motion 31 passed unanimously.

Mr. Patillo moved (Motion 32) to adopt the non-Indian commercial and recreational fisheries in the area north of Cape Falcon as presented in Agenda Item G.7.b, Supplemental STT Report with the following modifications:

- Page 1 Table 1 and Page 9 Table 2, Option II, Supplemental Management Information: change the overall non-Indian coho total allowable catch (TAC) from 100,000 to 90,000 and make adjustments to the sector and port allocations to reflect the overall TAC.
- Page 2, Table 1 Option I: change the landing limits from 200 Chinook north of Leadbetter Point or 200 Chinook south of Leadbetter Point to 150 Chinook north or 150 Chinook south of Leadbetter Point, and delete the remainder of the sentence beginning with “through July 27...”
- Page 2, Table 1 Option II: change the landing limits from 200 Chinook and 50 coho north of Leadbetter Point or 200 Chinook and 50 coho south of Leadbetter Point to 100 Chinook and 40 coho north or 100 Chinook and 40 coho south of Leadbetter Point, and delete the remainder of the sentence beginning with “through July 27...”
- Page 2, Table 1 Option III: change the landing limits from 150 Chinook and 50 coho north of Leadbetter Point or 150 Chinook and 50 coho south of Leadbetter Point to 75 Chinook and 30 coho north or 75 Chinook and 30 coho south of Leadbetter Point.

Mr. Cedergreen seconded the motion.

Motion 32 passed unanimously.

Mr. Steve Williams moved (Motion 33) to adopt the non-Indian commercial and recreational fisheries in the area from Cape Falcon to the Oregon/California border as presented in Agenda Item G.7.b, Supplemental STT Report with the following modification:

- Page 4 Table 1, Option I, Humbug Mt. to OR/CA Border: change the landing and possession limit date from prior to May 31 to prior to June 1.

Mr. Moore seconded the motion.

Motion 33 passed unanimously.

Ms. Vojkovich moved (Motion 34) to adopt the non-Indian commercial and recreational fisheries in the area from the Oregon/California border to the U.S./Mexico border as presented in Agenda Item G.7.b, Supplemental STT Report with the following modification:

- Page 5 Table 1, Option I, Pt. Arena to Pigeon Pt: reinsert the fall area target zone fishery from Pt. Reyes to Pt. San Pedro open Monday through Friday, October 4-13.

Mr. Brizendine seconded the motion.

Motion 34 passed unanimously.

## **G.8 Salmon Hearings Officers**

### **G.8.a Agenda Item Overview (11:57 a.m.)**

Mr. Chuck Tracy presented Agenda Item G.8, Situation Summary.

### **G.8.b Council Action: Appoint Hearings Officers**

The Council endorsed the following hearings officers for the upcoming salmon hearings:

March 29 in Westport, Washington – Mr. Mark Cedergreen, Hearings Officer; Mr. Doug Milward, STT representative; Dr. Peter Dygert, NMFS representative.

March 29 in Coos Bay, Oregon – Mr. Rod Moore, Hearings Officer; Mr. Craig Foster, STT representative; Ms. Peggy Busby, NMFS representative.

March 30 in Eureka, California – Mr. Dan Wolford, Hearings Officer; Mr. Chuck Tracy, STT representative; Mr. Mark Helvey, NMFS representative.

## **H. Coastal Pelagic Species Management**

### **H.1 National Marine Fisheries Service (NMFS) Report (03/09/10; 2:27 p.m.)**

#### **H.1.a Regulatory Activities**

Mr. Mark Helvey provided a brief update on a NMFS-sponsored workshop on CS that was held in February. He also noted that the final rule for the 2010 Pacific sardine fishery has published and is effective as of March 10.

#### **H.1.b Fishery Science Center Activities**

Dr. Russ Vetter gave an update on Science Center activities including an update on research cruise plans for 2010, a request for a methodology review in the spring of 2011 to examine the use of acoustics in assessments, and a report on a SWFSC initiative to hold a 2010 workshop to review survey methods with scientists and stakeholders.

#### **H.1.c Reports and Comments of Management Entities and Advisory Bodies**

Mr. Mike Okoniewski, and Mr. John Royal provided Agenda Item H.1.c, Supplemental CPSAS Report.

Mr. Helvey asked Mr. Okoniewski if the CPSAS report was supported unanimously and if the CPSAS discussed what “other management measures” they were interested in. Mr. Okoniewski said it was unanimous at the time of the discussion and that there was not a detailed discussion of what other management measures should be addressed, but he noted that general topics such as regional allocation were mentioned generically.

Ms. Lowman commented that she also attended the workshop on CS and there was good exchange of information and opinions. She also felt that the NMFS adequately allayed concerns about this matter being a new NMFS agenda.

#### **H.1.d Public Comment**

None.

#### **H.1.e Council Discussion on NMFS Report on CPS**

Ms. Culver echoed Ms. Lowman's comments and thanked NMFS for putting on the workshop. Ms. Culver asked Mr. Helvey if he could characterize incidental Pacific sardine catch in the squid fishery and provide total sardine catch figures for 2009. She also asked if NMFS is proposing any changes to the 2010 regulations. Mr. Helvey stated there were no changes regarding 2010 regulations. Mr. Helvey also reported that catch statistics are soft at this time as NMFS waits for final numbers from PacFIN and the States, but that it appears the fishery may have gone over the harvest guideline by less than 0.5 percent. NMFS plans to finalize the catch statistics and review the CPS FMP language and will inform the Council at a later time.

## **H.2 Fishery Management Plan Amendment 13--Annual Catch Limits and Accountability Measures**

### **H.2.a Agenda Item Overview (03/09/10 2:45 p.m.)**

Mr. Burner provided the agenda item overview.

### **H.2.b Reports and Comments of Management Entities and Advisory Bodies**

Dr. Steve Ralston provided Agenda Item H.2.b, Supplemental SSC Report.

(3:25 p.m.) Dr. Greg Krutzikowsky provided Agenda Item H.2.b, Supplemental CPSMT Report and presented Agenda Item H.2.b, Supplemental CPSMT Report 2.

Dr. Kevin Hill then came to the podium in response to SSC comments (4:03 p.m.). Dr. Hill stated that reviewing the temperature dependent  $F_{MSY}$  relationship in the Pacific sardine control rule is a worthwhile long-term endeavor, but is not feasible to complete the review by June. Further, Dr. Hill stated a preference for putting a higher research priority on finding new indices of sardine productivity.

Mr. Royal and Mr. Okoniewski provided Agenda Item H.2.b, CPSAS Report.

### **H.2.c Public Comment**

Ms. Dianne Pleschner-Steele, California Wetfish Producers Association, Buellton, CA

Mr. Jim Ayres, Oceana, Alaska

Mr. Whit Sheard, Oceana, Portland, OR

Mr. Ken Hinman, National Coalition for Marine Conservation, Leesburg, VA

### **H.2.d Council Action: Adopt Preliminary Preferred Alternative for Public Review**

Working from H.2.b, the Supplemental CPSMT Report, Ms. Yaremko moved and Mr. Crabbe seconded a motion (Motion 21) to adopt as a PPA for public review:

- Regarding stock classification (Section 2.1.3) adopt for review Alternative 2 - All species currently in the actively managed and monitored species categories of the CPS FMP are "in the fishery" and krill are reclassified as an ecosystem component species.
- Regarding SDC (Section 2.2.1), adopt for review Alternative 2 - Maintain existing SDCs for CPS FMP stocks and develop an MSY proxy for the Northern subpopulation of Northern anchovy.
- Regarding OFLs, ABCs, and ACLs for Actively Managed Species (Section 2.3.1), adopt for review Alternative 1 - Maintain the existing harvest control rules as modified to specify the new management reference points.
- Regarding OFLs, ABCs, and ACLs for Monitored Species (Section 2.3.2), adopt for review Alternative 1 - Maintain the default harvest control rules as modified to specify the new management reference points. ACLs would be specified for multiple years until such time as the species becomes actively managed or new scientific information becomes available. Market squid are also a monitored species

under the CPS FMP, but the current MSY proxy for market squid is completely different from the finfish species and uses an escapement method detailed in Section 3. Market squid are exempt from ACLs because of their one-year life cycle (see Table 3.3-1 of H.2.a, Supplemental Attachment 2).

- Regarding Sector Specific ACLs (Section 3.3.3) – identify no preferred alternative at this time, but rather, leave the options open and consider adding this mechanism under the FMP framework for potential use in the future.
- Regarding ACT and AM Alternatives (Section 2.4.4, corrected later to read 3.4), – identify no preferred alternative at this time, but rather, continue to analyze the alternatives for potential future Council action.

Mr. Moore asked if Ms. Yaremko intended to leave out items 3.4 and 3.5.

Ms. Yaremko clarified that the motion should also include the following:

- Regarding ACT and AM Alternatives (Section 3.4) – identify no preferred alternative at this time, but rather, leave the options open and consider adding this mechanism under the FMP framework for potential use in the future.
- Regarding State and Federal Management of Coastal Pelagic Species (Section 3.5), adopt for review, Alternative 1 – Status Quo, all species, including market squid and jack mackerel remain in the CPS FMP and no species is transferred to state management.

The seconder, Mr. Crabbe, concurred with these clarifications.

Ms. Yaremko confirmed for Ms. Culver that her choice of Alternative 1 regarding OFLs, ABCs, and ACLs for actively managed species was intended for both Pacific sardine and Pacific mackerel and that regarding sector-specific ACLs (Section 3.3.3) the motion did not include a preferred alternative, but also did not remove any of the alternatives from further analysis.

Ms. Yaremko spoke to her motion, specifically the choice of Alternative 1 for OFLs, ABCs, and ACLs for Actively Managed species. Ms. Yaremko stated that these species are frequently assessed giving us a much better understanding of the uncertainty associated with the resulting biomass estimates. She felt that the precaution built into the harvest control rule for these species has not been deemed inadequate by the SSC and can be used effectively to meet the requirements of the new guidelines. The harvest control rule for Pacific sardine results in a harvest rate of 12 percent or less and it has not been clearly established that this conservative approach requires any additional buffering.

Mr. Burner noted that the SSC did not definitively state that the existing harvest policies are inadequate to meet the new standards, but rather, that work on characterizing uncertainty continues and additional buffering will likely be required for Pacific mackerel and for Pacific sardine when cooler conditions prevail. This does not mean that the preferred alternative in the motion is invalid, but the Council should be aware that alternatives other than the preferred alternative will continue to be analyzed and any disagreement between the Council and the SSC may need to be addressed before Council final action in June. Regarding Section 3.3.3 – Sector-Specific ACLs, Mr. Burner asked if it was correct to characterize the motion as approving the existing alternatives for further review while adding a new alternative to add sector-specific ACLs to the CPS FMP framework as a tool for future use rather than for immediate implementation for a particular sector. Ms. Yaremko said that was an accurate characterization.

Mr. Burner clarified for Ms. Culver that the Council's choice of a preferred alternative under this motion would not limit the number of alternatives for analysis between now and June. The analysis may focus on the Council's preliminary preferences, but the motion does not exclude any alternatives. Regarding OFLs, ABCs, and ACLs for Actively Managed stocks, the SSC has recommended that the CPSMT continue to analyze the

suite of alternatives that include varying degrees of buffer for scientific uncertainty, and given their primary role in this matter it would be wise to continue with the full suite of alternatives for analysis.

Ms. Culver amended the motion (amendment to Motion 21) to keep the motion as specified, except in Section 2.3.1 – OFLs, ABCs, and ACLs for Actively Managed stocks, do not specify a Council-preferred alternative at this time. Mr. Myer seconded the amendment.

Ms. Culver stated that she is uncomfortable supporting a Council preferred alternative for the existing harvest control rule until more analyses are available and until such time as the SSC is able to make a more definitive statement to scientific uncertainty buffers.

Mr. Moore understands Ms. Culver’s concern about the uncertainty buffers, but noted that the choice of a PPA is not binding and that the Council can take different action in June based on new information.

Mr. Burner agreed with Dr. McIsaac that the use of the term “status-quo” in the briefing materials is a bit of a misnomer because it does not represent an exact application of the existing harvest control rule. T his terminology will be changed in future drafts.

In response to some confusion on the suite of alternatives to be analyzed, Mr. Burner noted that some of the alternatives on the table were first conceived at this meeting and new concepts and ideas may come to light as additional analyses are completed. Mr. Burner asked the Council for some flexibility in crafting the final suite of alternatives for June. The Council maker of the original motion concurred.

Ms. Lowman supported the amendment since the current conversation indicates there remains some indecision on this matter.

Mr. Burner clarified that the analysis for June will at least include the three alternatives in Agenda Item H.2.b, Supplemental CPSMT Report and will also likely consider a fourth alternative as recommended by the SSC and captured by the CPSMT in Agenda Item H.2.b, Supplemental CPSMT Report 2, and that there needs to be some flexibility to adjust these alternatives according to future analyses in advance of Council final action in June.

Amendment to Motion 21 carried. Mr. Sones, Mr. Moore, Mr. Crabbe, and Ms. Yaremko voted no.

Motion 21 as amended carried unanimously.

Ms. Culver noted that the motion did not speak to the addition of new forage species to the CPS FMP. Ms. Culver noted the CPSAS and the CPSMT have recommended that the addition of forage species would be a better fit for the emerging Ecosystem FMP (EFMP). Ms. Culver is not certain that this approach fits the current EFMP plans, and to ensure consideration of new forage species, as guidance rather than part of Amendment 13, Ms. Culver recommended that the CPSMT and CPSAS continue to review the species listed in H.2.a, Attachment 1, Table 3.1.1 for inclusion in the CPS FMP; particularly those species that are not currently in another Council FMP.

### **H.3 Exempted Fishing Permits (EFP) for 2010**

#### **H.3.a Agenda Item Overview (03/09/10; 5:36 p.m.)**

Mr. Burner provided the agenda item overview.

#### **H.3.b Reports and Comments of Management Entities and Advisory Bodies**



Dr. Ralston presented Agenda Item H.3.b, Supplemental SSC Report. Mr. Greg Krutzikowsky presented Agenda Item H.3.b, Supplemental CPSMT Report. Mr. Okoniewski presented Agenda Item H.3.b, Supplemental CPSAS Report.

### **H.3.c Public Comment**

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA

Mr. Tom Jagielo, contractor, Seattle, WA

Dr. Doyle Hannan, contractor, Rancho Santa Fe, CA

### **H.3.d Council Action: Adopt EFP Proposals for Public Review**

Chairman Dave Ortmann moved and Ms. Yaremko seconded a motion (Motion 22) to adopt the EFP proposals for public review (Agenda Item H.3.a, Attachment 1 and Agenda Item H.3.a, Supplemental Attachment 2) including the recommendations of the SSC that, 1) the summer survey design revisions be in accordance with May 2009 STAR Panel recommendations, 2) the summer survey design should address explicit protocols for spatial distribution of point sets, and 3) include the experimental design protocols for the autumn pilot study. Additionally, the motion includes the CPSMT recommendations in H.3.b, Supplemental CPSMT Report.

Motion 22 carried unanimously.

Ms. Culver supported the motion and echoed the CPSAS appreciation of the industry sponsored research. Ms. Culver also agreed with the CPSMT and stressed the importance of ensuring that data being collected are usable for consideration in stock assessments, particularly when the research activity happens outside the directed fishery in lieu of fleet-wide opportunity. Ms. Yaremko also expressed support for the motion and spoke in favor of the existing cooperation and future expansion of this research. She also encouraged the industry representatives focus first on carrying on the existing summer survey and secondarily work on developing the fall pilot study.

Chairman Ortmann noted that this EFP project was received very favorably at the national level by the CCC.

Mr. Burner recapped the motion and noted that final action is scheduled for April and that the applicants should strive to have final materials available by the March 24th briefing book deadline.

### **ADJOURN**

The Council adjourned at 1:14 p.m.

DRAFT VOTING LOG  
Pacific Fishery Management Council  
March 2010

**Motion 1:** Approve the meeting agenda as shown in Agenda Item A.4., Proposed Council Meeting Agenda, March 2010.

Moved by: Rod Moore

Seconded by: Jerry Mallet

Motion 1 carried unanimously.

**Motion 2:** Move forward with the first letter from the Habitat Committee, recognizing that there will be a need for modifications during the week.

Moved by: Steve Williams

Seconded by: Mark Cedergreen

Motion 2 carried. Mr. Lockhart abstained.

**Motion 3:** Send a letter to NMFS thanking them and acknowledging them for their actions regarding the Klamath river issue.

Moved by: Jerry Mallet

Seconded by: Rod Moore

Motion 3 carried. Mr. Lockhart abstained.

**Motion 4:** Have the Executive Director send a comment letter on behalf of the Council to NMFS reflecting the comments made by the SSC and the comments made by Mr. Burner regarding the mechanism and timeline for the proposed qualification of peer review processes.

Moved by: Rod Moore

Seconded by: Dale Myer

Motion 4 carried. Mr. Lockhart abstained.

**Motion 5:** Adopt for public review the preliminary Terms of Reference (TOR) shown in Supplemental Attachment 4 and include the suggestions by the SSC, the GMT, and a definition of status report as that term is now being used by the SSC.

Moved by: Rod Moore

Seconded by: Phil Anderson

Motion 5 carried unanimously.

**Motion 6:** Adopt for public review the list of stocks and STAR Panel schedule as shown in Supplemental NMFS Report E.2.b with consideration for the suggestions made by the GAP, SSC, and GMT for additional stocks to be assessed.

Moved by: Rod Moore

Seconded by: Steve Williams

Moved by: Phil Anderson                      Seconded by: Mark Cedergreen  
Amendment to Motion 6 carried. Ms. Vojkovich voted no.  
Main Motion 6 as amended carried unanimously.

Moved by: Phil Anderson                      Seconded by: Dale Myer  
Motion 7 carried unanimously.

Moved by: Phil Anderson                      Seconded by: Dale Myer  
Motion 8 carried. Mr. Lockhart abstained.

Moved by: Phil Anderson                      Seconded by: Dale Myer  
Motion 9 carried. Mr. Lockhart abstained.

Moved by: Dorothy Lowman                      Seconded by: Phil Anderson  
Motion 10 carried. Mr. Moore voted no.

Moved by: Michele Culver  
Motion 11 carried unanimously.

**Motion 13:** Consider Queets coho rebuilt based on the Quinault Tribal Report (Agenda Item G.3.b, Supplemental Tribal Report) and the STT Report (Agenda Item G.3.b, STT Report 1), indicating the 2009 spawning escapement exceeded the 5,800 minimum conservation objective.

Moved by: Phil Anderson  
Motion 13 carried unanimously.

Seconded by: Mark Cedergreen

**Motion 14:** Consider the combined Strait of Juan de Fuca coho stock not overfished based on the conservation objectives adopted by the Council in November 2009, and to submit the two STT Reports (Agenda Item G.3.b, STT Report 2 and Agenda Item G.3.b, Supplemental STT Report) to the co-managers (treaty tribes/WDFW) for consideration of appropriate status determination criteria for Strait of Juan de Fuca coho in September or November 2010.

Moved by: Phil Anderson  
Motion 14 carried unanimously.

Seconded by: Mark Cedergreen

**Motion 15:** Direct the STT to complete an Overfishing Assessment for Sacramento River fall Chinook and directed the Habitat Committee to work with other managers to review the status of the habitat affecting the stock and if appropriate provide restoration measures; the reports would be provided to the Council in the March 2011 briefing materials.

Moved by: Marija Vojkovich  
Motion 15 carried unanimously.

Seconded by: Buzz Brizendine

**Motion 16:** Adopt preliminary preferred FMP language for Amendment 23 which includes option 2 for the 40-10 harvest control rule, a 25-5 harvest control rule for assessed flatfish, remove dusky and dwarf-red from the FMP, no Ecosystem Component (EC) species designation, and include an annual catch target (ACT) as an accountability measure (AM) that can be specified.

Moved by: Michele Culver

Seconded by: Dale Myer

**Amdnt 1:** Amend Motion 16 to set a limit P\* of 0.45 and to go with the option 1, 40-10 control rule.

Moved by: Rod Moore  
Amendment 1 to Motion 16 failed (Mr. Moore and Mr. Crabbe voted yes).

Seconded by: David Crabbe

**Amdnt 2:** Amend the main motion (Amendment 2 to Motion 16) to establish an upper limit of P\* of 0.45.

Moved by: Frank Lockhart

Seconded by: Rod Moore

**Amdnt 3:** Amend the amendment (Amendment 3 to Motion 16) to adopt two alternatives: 1) no P\* limit, and 2) a P\* limit of 0.45 with no preference for either.

Moved by: Dale Meyer  
Amendment withdrawn, not voted on.

Seconded by: Marija Vojkovich

Amdnt 4: Amend Amendment 2 (Amendment 4 to Motion 16) to include the P\* approach for category 1 stocks.

Moved by: Rod Moore  
Motion failed on a voice vote.

Seconded by: Ms. Lowman

Amdnt 5: Adopt a substitute amendment for Amendment 2 (Amendment 5 to Motion 16) to include the P\* concept as one approach that could be taken to decide scientific uncertainty buffers in the biennial specifications process.

Move by: Michele Culver  
Amendment 5 to Motion 16 passed (Mr. Lockhart voted no).

Seconded by: Caren Braby

Amdnt 6: Amend the main motion (Amendment 6 to Motion 16) to specify an upper limit of P\* of 0.45 if a P\* approach is used to decide an ABC.

Moved by: Frank Lockhart  
Amendment 6 to Motion 16 passed (Dr. Braby voted no).  
Main Motion 16 passed unanimously.

Seconded by: Rod Moore

**Motion 17:** Adopt as part of the PPA the following changes to the draft FMP language in Attachment 2: on page 21, strike “Approaches to quantifying the variability in biomass estimates include using the standard error about the estimated biomass of a stock in the most recently approved assessment and estimating the between-assessment variance in biomass estimates for a stock with multiple assessments or for all category 1 stocks with multiple assessments in a meta-analysis. A proxy variance ( $\sigma$ ) can be calculated using this latter approach for all or some category 1 species. None of these approaches are mutually exclusive and the SSC may recommend stock-specific approaches to quantifying scientific uncertainty for category 1 species. Once scientific uncertainty is quantified, it is mapped to an estimated probability of overfishing (P\*) by the SSC.” Further, in the last sentence in that paragraph strike, “based on the estimated P\*.”

Moved by: Dan Wolford  
Motion 17 carried unanimously.

Seconded by: David Crabbe

**Motion 18:** Withdrawn; note voted on.

**Motion 19:** Add the word “generally” back into sections 4.4.2 and 4.4.3.

Moved by: Rod Moore  
Motion 19 carried unanimously.

Seconded by: Michele Culver

**Motion 20:** Modify the draft FMP language in Attachment 2 as follows: On page 53, Section 4.7, strike out: “Numerical one-year OYs will be specified biennially, based on overfishing limits (OFLs) for major species or species groups, which are in turn based on quantitative or qualitative stock assessments.” (The motion includes the definition of OY in the first sentence be consistent with the one provided in the final rule for new National Standard 1 guidelines.)

Moved by: Michelle Culver  
Motion 20 carried unanimously.

Seconded by: Dale Myer

**Motion 21:** Adopt as a preliminary preferred alternative for public review:

- Regarding stock classification (Section 2.1.3) adopt for review Alternative 2 - All species currently in the actively managed and monitored species categories of the CPS FMP are “in the fishery” and krill are reclassified as an EC species.
- Regarding Status Determination Criteria (Section 2.2.1, adopt for review Alternative 2 - Maintain existing SDCs for CPS FMP stocks and develop a maximum sustainable yield (MSY) proxy for the Northern subpopulation of Northern anchovy.
- Regarding OFLs, ABCs, and ACLs for Actively Managed Species (Section 2.3.1), adopt for review Alternative 1 - Maintain the existing harvest control rules as modified to specify the new management reference points.
- Regarding OFLs, ABCs, and ACLs for Monitored Species (Section 2.3.2), adopt for review Alternative 1 - Maintain the default harvest control rules as modified to specify the new management reference points. ACLs would be specified for multiple years until such time as the species becomes actively managed or new scientific information becomes available. Market squid are also a monitored species under the CPS FMP, but the current MSY proxy for market squid is completely different from the finfish species and uses an escapement method detailed in Section 3. Market squid are exempt from ACLs because of their one-year life cycle (see Table 3.3-1 of H.2.a, Supplemental Attachment 2).
- Regarding sector-specific ACLs (Section 3.3.3) – identify no preferred alternative at this time, but rather, leave the options open and consider adding this mechanism under the FMP framework for potential use in the future.
- Regarding ACT and AM Alternatives (Section 3.4) – identify no preferred alternative at this time, but rather, leave the options open and consider adding this mechanism under the FMP framework for potential use in the future.
- Regarding State and Federal Management of Coastal Pelagic Species (Section 3.5), adopt for review, Alternative 1 – Status Quo, all species, including market squid and jack mackerel remain in the CPS FMP and no species is transferred to state management.

Amndt: Keep the motion as specified, except in Section 2.3.1 – OFLs, ABCs, and ACLs for Actively Managed stocks, do not specify a Council-preferred alternative at this time.

Moved by: Michele Culver

Seconded by: Dale Myer

Amendment to Motion 21 carried. Mr. Sones, Mr. Moore, Mr. Crabbe, and Ms. Yaremko voted no.

Motion 21 as amended carried unanimously.

**Motion 22:** Adopt the EFP proposals for public review (Agenda Item H.3.a, Attachment 1 and Agenda Item H.3.a, Supplemental Attachment 2) including the recommendations of the SSC that, 1) the summer survey design revisions be in accordance with May 2009 STAR Panel recommendations, 2) the summer survey design should address explicit protocols for spatial distribution of point sets, and 3) include the experimental design protocols for the autumn pilot study. Additionally, the motion includes the CPSMT recommendations in H.3.b, Supplemental CPSMT Report.

Moved by: Dave Ortmann

Seconded by: Marci Yaremko

Motion 22 carried unanimously.

**Motion 23:** Adopt the report of the Legislative Committee (Agenda Item D.3.b, Supplemental LC Report) and direct the Executive Director to send the three letters mentioned in that report.

Moved by: Rod Moore

Seconded by: Dorothy Lowman

Motion 23 carried. Mr. Lockhart abstained.

**Motion 24:** Adopt the inseason recommendations by the GMT as specified in Supplemental GMT Report E.5.b, page 10 – adopt Recommendation #1 which are incidental landing limits for the shorebased whiting fishery to be included in the exempted fishing permit; Recommendation #2 – reduce the canary bycatch limit for the non-tribal whiting fishery to 14 mt; Recommendation #3 – increase widow bycatch limit for non-tribal whiting fishery to 279 mt; Recommendation #4 – remove the daily limit for the limited entry fixed gear sablefish fishery south of 36° N latitude.

Moved by: Michele Culver

Seconded by: Dale Myer

Amdt: Remove recommendation # 4 (remove the daily trip limit for the limited entry fixed gear fishery south of 36° N latitude).

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Amendment to Motion 24 carried unanimously.

Main motion 24 carried unanimously.

**Motion 25:** For the purpose of clarifying Council intent, that we will attempt to proceed with our best effort toward our intended date of January 1, 2011, recognizing that the importance of getting it right does not overshadow schedule.

Moved by: Dan Wolford

Seconded by: Dorothy Lowman

Motion 25 carried. Mr. Moore voted no.

**Motion 26:** Adopt the following with regard to trawl rationalization and the clarifications requested of the Council (Agenda Item E.6.b, Supplemental REVISED NMFS Report 2): With respect to Issue 1, transfer of limited entry permits during application process for QS permit, MS/CV endorsed permit, or C/P endorsed permit, select Option C (*NMFS-preferred*). For issue 2, Status of QS and MS/CV endorsed permits pending appeal, adopt Option A (*NMFS-preferred*). For Issue 5, under the IFQ fishery and vessel accounts, all QP in a QS account must go into a Vessel Account each year, adopt Option B (*NMFS-preferred*). With regard to the mothership and catcher-processor co-ops, Issue 6, which pertains to the At-Sea Whiting Trawl Sector Set-Asides (Amendment 21), there is an inconsistency in the Council's motion from April 2009 on a t-sea whiting trawl sector set-asides. In Supplemental Revised Report 2, page 7, select Option A: At least 5 mt minimum set-aside for any species [that is caught in the at-sea fisheries]. On Table 2-13 on page 7 in NMFS Supplemental Revised Report 2, adopt the amounts in Alternative 2, which are the values expressed in the GAC-recommended values, which includes a minimum of 5 mt for any species caught in at-sea fisheries, with the exception of yelloweye rockfish, which would remain at 0 mt. The 10 mt value for Pacific halibut accommodates bycatch in the at-sea whiting fishery and bottom trawl bycatch south of

40° 10' N. latitude. All of the at-sea set aside amounts may be adjusted in the biennial specifications and management measures process. With regard to mothership co-op program, permit transfers, Issue 8, adopt Option B (*NMFS-preferred*). For catcher-processor co-op program, Co-op Failure – IFQ Fishery, Issue 9, adopt Option B (*NMFS-preferred*). With regard to Element A-2.1.3(d), processor initial allocation for whiting in the IFQ fishery (Agenda Item E.6.a, Attachment 2, page A-10), the dates should be specified as 1998-2004 not 1994-2004, per the Council's final motion in November 2008.

Moved by: Michele Culver  
Motion 26 carried unanimously.

Seconded by: Dale Myer

**Motion 27:** Referring to Agenda Item E.6.b, Supplemental REVISED NMFS Report 2, that the Council consider the following issues at their April 2010 meeting. For the IFQ fishery and the Vessel Account, Issue 3 (the 30-day clock), when does the 30-day clock start for vessel overages? On Issue 4 (the 10 percent carryover), the 10 percent carryover provision can be calculated from the vessel account different ways. For the mothership and catcher-processor co-op, the deadline for co-op fishery declaration and permits, Issue 7, what is an appropriate deadline for a coop permit (MS or C/P) and for a MS/CV endorsed permit to declare into a MS coop or the non-coop fishery? At the April 2010 meeting, the Council may reconsider its previous actions on these issues.

Moved by: Michele Culver  
Motion 27 carried unanimously.

Seconded by: Dale Myer

**Motion 28:** Adopt the staff draft amendatory language for Amendment 21 that is contained in Agenda Item E.6.a, Attachment 3.

Moved by: Michele Culver  
Motion 28 carried unanimously.

Seconded by: Mark Cedargreen

**Motion 29:** Adopt sending the letter as shown in Agenda Item C.1.a, Supplemental Attachment 2.

Moved by: Steve Williams  
Motion 29 carried. Mr. Lockhart abstained.

Seconded by: Frank Lockhart

**Motion 30:** Adopt and send the letter in Agenda Item D.1.a, Supplemental REVISED Attachment 3 with the following sentence removed: "On the whole, this policy represents a substantial step forward to improved management of the fishery resources held in trust for the American public."

Moved by: Rod Moore

Seconded by: Jerry Mallett

**Amdnt:** Replace the removed sentence to read: "We agree with the elements of the draft national policy but have a few minor comments and suggestions."

Moved by: Dorothy Lowman  
Amendment to Motion 30 carried. Mr. Lockhart abstained.  
Motion 30 carried. Mr. Lockhart abstained.

Seconded by: Mark Cedergreen



**Motion 31:** Adopt for public review the Treaty Indian ocean salmon fishing options as shown in Agenda Item G.7.d, Supplemental Tribal Motion.

Moved by: David Sones  
Motion 31 carried unanimously.

Seconded by: Mark Cedergreen

**Motion 32:** Adopt the non-Indian commercial and recreational fisheries in the area north of Cape Falcon as presented in Agenda Item G.7.b, Supplemental STT Report with the following modifications:

- Page 1 Table 1 and Page 9 Table 2, Option II, Supplemental Management Information: change the overall non-Indian coho TAC from 100,000 to 90,000 and make adjustments to the sector and port allocations to reflect the overall TAC.
- Page 2, Table 1 Option I: change the landing limits from 200 Chinook north of Leadbetter Point or 200 Chinook south of Leadbetter Point to 150 Chinook north or 150 Chinook south of Leadbetter Point, and delete the remainder of the sentence beginning with “through July 27...”
- Page 2, Table 1 Option II: change the landing limits from 200 Chinook and 50 coho north of Leadbetter Point or 200 Chinook and 50 coho south of Leadbetter Point to 100 Chinook and 40 coho north or 100 Chinook and 40 coho south of Leadbetter Point, and delete the remainder of the sentence beginning with “through July 27...”
- Page 2, Table 1 Option III: change the landing limits from 150 Chinook and 50 coho north of Leadbetter Point or 150 Chinook and 50 coho south of Leadbetter Point to 75 Chinook and 30 coho north or 75 Chinook and 30 coho south of Leadbetter Point.

Moved by: Pat Patillo  
Motion 32 carried unanimously.

Seconded by: Mark Cedergreen

**Motion 33:** Adopt the non-Indian commercial and recreational fisheries in the area from Cape Falcon to the Oregon/California border as presented in Agenda Item G.7.b, Supplemental STT Report with the following modification:

- Page 4 Table 1, Option I, Humbug Mt. to OR/CA Border: change the landing and possession limit date from prior to May 31 to prior to June 1.

Moved by: Steve Williams  
Motion 33 carried unanimously.

Seconded by: Rod Moore

**Motion 34:** Adopt the non-Indian commercial and recreational fisheries in the area from the Oregon/California border to the U.S./Mexico border as presented in Agenda Item G.7.b, Supplemental STT Report with the following modification:

- Page 5 Table 1, Option I, Pt. Arena to Pigeon Pt: reinsert the fall area target zone fishery from Pt. Reyes to Pt. San Pedro open Monday through Friday, October 4-13.

Moved by: Marija Vojkovich  
Motion 34 carried unanimously.

Seconded by: Buzz Brizendine

**Motion 35:** Adopt the Council meeting minutes for June 2009 as shown in Agenda Item D.4.a, Supplemental Attachment 1, with the following change on page 18: Under Motion 4, the roll call vote should be “(4 yes)” to match the four names listed.

Moved by: Rod Moore

Seconded by: Michele Culver

Motion 35 carried unanimously.

**Motion 36:** Appoint Mr. David Price to the WDFW position on the Habitat Committee (replacing Ms. Theresa Scott).

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Motion 36 carried unanimously.

**Motion 37:** Based on the review of ad hoc committees and recommendations by Council staff, terminate the following Ad Hoc Committees:  
Coastal Pelagic Species tribal Allocation Committee  
Highly Migratory Species Management Committee  
Marine Protected Area Committee  
Shore-based Whiting Amendment Workgroup  
Trawl Individual Quota Enforcement Group (Mr. Sones indicated that the Enforcement Consultants can provide any needed advice in the future and if necessary utilize the expertise of Dr. Freese in their meetings), and finally the  
Trawl Individual Quota Independent Experts Panel.

Moved by: David Sones

Seconded by: Rod Moore

Motion 37 carried unanimously.

## MEMBERSHIP APPOINTMENTS AND COUNCIL OPERATING PROCEDURES

During this agenda item, the Council has the opportunity to consider personnel issues with regard to changes in the Council Membership Roster, including Council Members, advisory body membership, and also any relevant changes in Council Operating Procedures (COP) or the Council's Statement of Organization, Practices, and Procedures (SOPP).

### Council Members and Designees

Mr. William Stelle has designated Mr. Bob Turner as the fourth designee for the National Marine Fisheries Service (NMFS) Northwest Region Council representative. Mr. Turner will primarily handle salmon issues.

### Council Member Committee Appointments

No resignations, nominations, or other changes were identified by the Briefing Book deadline.

### Council Advisory Body Appointments

#### *Scientific and Statistical Committee (SSC)*

No resignations, nominations, or other changes were identified by the Briefing Book deadline.

#### *Management and Technical Teams*

##### **Ecosystem Plan Development Team (EPDT)**

The California Department of Fish and Game (CDFG) has nominated Ms. Deb Wilson-Vandenberg as the California State representative on the EPDT (Closed Session A.1.a, Attachment 1). The SSC Chair will provide the Council with an assessment of the nominee's qualifications.

#### *Advisory Subpanels*

No resignations, nominations, or other changes were identified by the Briefing Book deadline.

#### *Enforcement Consultants (EC)*

The Department of Oregon State Police has appointed LT David Anderson to replace LT Jeff Samuels as the Oregon representative on the EC (Closed Session A.1.a, Attachment 2).

#### *Groundfish Allocation Committee (GAC)*

No resignations, nominations, or other changes were identified by the Briefing Book deadline.

### *Habitat Committee (HC)*

No resignations, nominations, or other changes were identified by the Briefing Book deadline.

### *Groundfish Essential Fish Habitat Review Committee (EFHRC)*

No resignations, nominations, or other changes were identified by the Briefing Book deadline.

### *Ad Hoc Council Committees*

No resignations, nominations, or other changes were identified by the Briefing Book deadline.

### *Unfilled Vacancies*

None identified by the Briefing Book deadline that have not been addressed by the Council.

## **Appointments to Other Forums**

No appointments or other changes were identified by the Briefing Book deadline.

## **Changes to Council Operations and Procedures**

No changes have been made to the Council Operating Procedures since those instituting the required two-week notice for advisory body alternates that resulted from Council action at its September 2010 meeting. Council staff is working on revisions to the Council Statement of Organization, Practices, and Procedures in response to NMFS' final rule of September 27, 2010 on certain Regional Council operations and administrative matters. This may also result in proposed changes to the COP for Council review and approval, including implementation of the Council's November 2010 action formally designating which advisory bodies are Magnuson-Stevens Act 302(g)(2) advisory panels.

### **Council Action:**

- 1. Consider issues with regard to appointments and operating procedures, including:**
  - a. The nomination of Ms. Deb Wilson-Vandenberg to the CDFG position on the EPDT; and**
  - b. Confirming the appointment of LT David Anderson to the Oregon State Police position on the EC.**

### **Reference Materials:**

1. Closed Session A.1.a, Attachment 1: Nomination of Ms. Deb Wilson-Vandenberg to the CDFG Position on the EPDT.
2. Closed Session A.1.a, Attachment 2: Nomination of LT David Anderson to the Oregon State Police position on the EC.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Consider Changes to Council Operations and Procedures and Appointments to Advisory Bodies

John Coon

PFMC

02/11/11

## FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

This agenda item is intended to refine general planning for future Council meetings, especially in regard to the details of the proposed agenda for the April 2011 Council Meeting. The following attachments are intended to help the Council in this process:

1. An abbreviated display of potential agenda items for the next full year (Attachment 1).
2. A preliminary proposed April 2011 Council meeting Agenda (Attachment 2).

The Executive Director will assist the Council in reviewing the items listed above and discuss any other matters relevant to Council meeting agendas and workload. After considering supplemental material provided at the Council meeting, and any reports and comments from advisory bodies and public, the Council will provide guidance for future agenda development, a final proposed April Council meeting agenda, and workload priorities for Council staff and advisory bodies.

### **Council Action:**

- 1. Review pertinent information and provide guidance on potential agenda topics for future Council meetings.**
- 2. Provide final guidance on a proposed agenda for the April Council meeting.**
- 3. Identify priorities for advisory body considerations at the next Council meeting.**

### **Reference Materials:**

1. Agenda Item K.4.a, Attachment 1: Pacific Council Workload Planning: "Preliminary Year at a Glance Summary."
2. Agenda Item K.4.a, Attachment 2: Preliminary Proposed Council Meeting Agenda, April 9-14, 2011, San Mateo, California.

### **Agenda Order:**

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Approve April 2011 Agenda and Provide Guidance on Future Council Meeting Agendas and Priorities for Advisory Body Consideration

Don McIsaac

PFCM  
02/11/10

## Preliminary Pacific Council Workload Planning: Year-at-a-Glance Summary

(Parenthetical numbers mean multiple items per topic; shaded Items may be rescheduled re workload priorities; deletions= struck-out; border=new)

	<u><b>April 2011</b></u> (San Mateo)	<u><b>June 2011</b></u> (Spokane)	<u><b>September 2011</b></u> (San Mateo)	<u><b>November 2011</b></u> (Costa Mesa)	<u><b>March 2012</b></u> (Sacramento)
<b>CPS</b>	NMFS Report EFPs: Final Recom.	NMFS Rpt  Mackerel HG & Meas.	SWFSC & Industry Methods Workshop Rpt	NMFS Rpt Sardine Asmnt & Mgmt Meas.	EFPs: for Pub Rev
<b>Groundfish</b>	NMFS Report Inseason Mgmt (2) 13-14 BienSpx Proc & Sched: Initial Decision for Pub Rev  A16-5; & 2012 Spx & Mgmt Measures: Adopt PPA A20 Trailing Actions: Adopt PPA for 5 Issues  GF EFH: Confirm Process	NMFS Report Inseason Mgmt (2) 13-14 BienSpx Proc & Sched: Adopt Final Approve Stk Assessments A16-5; & 2012 Spx & Mgmt Measures: Adopt FPA A20 Trailing Actions & Amd: Adopt PPA or FPA for 8 Iss.  Prelim EFP Adoption	NMFS Report Inseason Mgmt (2) 13-14 Bien Spx & MM (Stage 1)  Approve Stk Assmnts Part 2  A20 Trlring Actions: Adopt FPAs (CFA, Risk P, Lenders, AMP) Plan Sci. Imprvmnts-Next Cycle Prelim EFP Adoption A20 Emerging & Prioritized Iss. GF EFH?	NMFS Report Inseason Mgmt (2) 13-14 BienSpx & MM (Stage 2) <del>Initial Bien Mgmt Rec</del> Approve Stk Assmnts-Final  Final EFPs A20 Emerging Iss.-Init. Analysis GF EFH	NMFS Report Inseason Mgmt (2) 13-14 BienSpx: Info Briefing on Selected Items  Pac Whiting Mgmt Meas. Adopt Stock Assmnt Plan
<b>HMS</b>	NMFS Report  Status of Albacore Fisheries	NMFS Report  Internat'l RFMO Matters Swordfish Workshop Rpt	NMFS Report	NMFS Report  Input to WCPFC	
<b>Salmon</b>	NMFS Rpt 2011 Method Rev.--Identify & Include CRT Update 2011 Season Setting (3)  EFH Rev: Accept Final Rpt	 Straits Coho Follow-up  A 16: Final Action Consider Amending EFH	NMFS Rpt Method Rev: Adopt Priorities Including CRT Update	NMFS Rpt 2011 Method Rev.--Final  2012 Preseas'n Mgmt Schd	NMFS Rpt  2012 Season Setting (6) Cons. Obj. Report
<b>Other</b>	Halibut-Incidntl Regs  Habitat Issues  Gulf of Maine Sec. Mgmt Rpt Marine Spatial Pln Update Routine Admin (7)	  Habitat Issues Ecosystem FMP Dev Plan  Routine Admin (8)	Pacific Halibut (2) Incidental Halibut Ret. in LE & OA Sablefish--Pub Rev CA State Enforcement Rpt Habitat Issues  Deepwater Coral Update & Research Recommendations Routine Admin (8)	Pac Halibut: Adopt Final CS  Habitat Issues Ecosystem FMP Dev Plan  Routine Admin (8)	Pacific Halibut (2) Incidental Halibut Ret. in LE & OA Sablefish--FPA  Habitat Issues  Routine Admin (7)
<b>Apx. Floor Time</b>	<b>6 days</b>	<b>6 days</b>	<b>6 days</b>	<b>6 days</b>	<b>5 days</b>

Agenda Item K.4.a  
Attachment 1  
March 2011

**PROPOSED COUNCIL MEETING AGENDA, APRIL 8-14, 2011 SAN MATEO, CALIFORNIA**  
(shaded items are tentative)

Fri, Apr 8	Sat, Apr 9	Sun, Apr 10	Mon, Apr 11	Tue, Apr 12	Wed, Apr 13	Thu, Apr 14
	<b>CLOSED SESSION 8:00 AM</b>  <b>OPEN SESSION 9:00 AM</b> 1-4. Opening Remarks & Approve Agenda (30 min)  <b>OPEN COMMENT</b> 1. Comments on Non-Agenda Items (45 min)  <b>COASTAL PELAGIC SPECIES</b> 1. NMFS Report (1 hr) 2. Final Recommendations for Sardine Aerial Survey EFP (2 hr)  <b>HABITAT</b> 1. Current Issues (45 min)  <b>ADMINISTRATIVE</b> 1. Marine Spatial Planning Update (1 hr 30 min)	<b>SALMON</b> 1. Tentative Adoption of 2011 Management Measures for Analysis (3 hr)  <b>PACIFIC HALIBUT</b> 1. Incidental 2011 Catch Regulations in the Salmon Troll Fishery (30 min)  <b>HIGHLY MIGRATORY MGMT</b> 1. NMFS Report (1 hr) 2. Status of Albacore Fisheries (2 hr)  <b>GROUNDFISH</b> 1. NMFS Report (1 hr)	<b>GROUNDFISH</b> 2. Adopt Tentative Revisions to the 2013-14 Groundfish Biennial Mgmt Process for Public Review (1 hr 30 min) 3. Adopt PPA Revisions to Amendment 16-5; & 2012 Specifications & Mgmt Measures (3 hr 30 min) 4. Adopt a Process for the Periodic Groundfish EFH Review (2 hr)  <b>SALMON</b> 2. Clarify Direction for 2011 Management Measures (1 hr)	<b>SALMON</b> 3. NMFS Report (1 hr) 4. 2011 Methodology Review Process and Preliminary Topic Selection for 2011 (1 hr) 5. Salmon EFH Review: Accept Final Report (2 hr 30 min)  <b>GROUNDFISH</b> 5. Consider Inseason Adjustments – Part I (2 hr) 6. Trawl Rationalization Trailing Actions: Adopt PPA for Cost Recovery, CFAs, Risk Pools, Lenders, & AMP (1 hr 30 min)	<b>GROUNDFISH</b> 6. Continue Trawl Rationalization Trailing Actions: Adopt PPA for Cost Recovery, CFAs, Risk Pools, Lenders, & AMP (6 hr)  <b>H. SALMON</b> 6. Final Action on 2010 Mgmt Measures (2 hr)	<b>GROUNDFISH</b> 7. If Necessary, Final Inseason Adjustments– Part II (1 hr 30 min)  <b>ADMINISTRATIVE</b> 2. Legislative Matters (30 min) 3. Approve Council Minutes (15 min) 4. Membership Appointments and COPs (15 min) 5. Future Meeting Agenda and Workload Planning (30 min)
	7 hr 30 min	7 hr 30 min	8 hr	8 hr	8 hr	3 hr
8 am Ballroom Setup 8 am HC 8 am Secretariat 8 am SSC 2 pm LC 4 pm ChrBrfg	8:00 am GAP & GMT 8:00 am HMSAS 8:00 am HMSMT 8:00 am SAS & STT 8:00 am SSC 3:00 pm EC	As Nec. EC 8:00 am GAP & GMT 8:00 am HMSAS & MT 8:00 am SAS & STT 8:00 am TPolGrp & WaTechGrp	As Nec. EC 8:00 am GAP & GMT 8:00 am SAS & STT 8:00 am TPolGrp & WaTechGrp	As Nec. EC 8:00 am GAP & GMT 8:00 am SAS & STT 8:00 am TPolGrp & WaTechGrp	As Nec. EC 8:00 am GAP & GMT 8:00 am SAS & STT 8:00 am TPolGrp & WaTechGrp	As Nec. EC 8:00 am GMT

**Council-sponsored evening sessions:** *Saturday 6 pm – Chairman's Reception*  
*Sunday 7:30 pm – Gulf of Maine Research Institute Case Study of Fishery Sector Mgmt*



## Pacific Council Workload Planning: Year-at-a-Glance Summary

(Parenthetical numbers mean multiple items per topic; shaded Items may be rescheduled re workload priorities; deletions= struck-out; border=new)

	<u>April 2011</u> (San Mateo)	<u>June 2011</u> (Spokane)	<u>September 2011</u> (San Mateo)	<u>November 2011</u> (Costa Mesa)	<u>March 2012</u> (Sacramento)
<b>CPS</b>	NMFS Report EFPs: Final Recom. <del>Approve New Methodology</del>	NMFS Rpt  Mackerel HG & Meas.	SWFSC & Industry Methods Workshop Rpt	NMFS Rpt Sardine Asmnt & Mgmt Meas.	EFPs: for Pub Rev
<b>Groundfish</b>	NMFS Report Inseason Mgmt (2) 13-14 BienSpx Proc & Sched: Initial Decision for Pub Rev  A16-5; & 2012 Spx & Mgmt Measures: Further Action A20 Trailing Actions: Further Development of Issues <del>Risk Pool Info Briefing</del>	NMFS Report Inseason Mgmt (2) 13-14 BienSpx Proc & Sched: Adopt Final Approve Stk Assessments A16-5; & 2012 Spx & Mgmt Measures: Adopt PPA A20 Trailing Actions & Amd: Adopt PPA/FPA for Issues	NMFS Report Inseason Mgmt (2) 13-14 Bien Spx & MM (Stage 1) Approve Stk Assmnts Part 2 A16-5; & 2012 Spx & Mgmt Measures: Adopt FPA A20 Tring Actions: Adopt FPAs (CFA, Risk P, Lenders, etc) Plan Sci. Imprvmnts-Next Cycle Prelim EFP Adoption A20 Emerging & Prioritized Iss. GF EFH?	NMFS Report Inseason Mgmt (2) 13-14 BienSpx & MM (Stage 2) <del>Initial Bien Mgmt Rec</del> Approve Stk Assmnts-Final    Final EFPs A20 Emerging Iss.-Init. Analysis GF EFH	NMFS Report Inseason Mgmt (2) 13-14 BienSpx: Info Briefing on Selected Items   Pac Whiting Mgmt Meas. Adopt Stock Assmnt Plan
<b>HMS</b>	NMFS Report  Status of Albacore Fisheries	NMFS Report  Econ Analysis of Albacore Internat'l RFMO Matters Swordfish Workshop Rpt	NMFS Report	NMFS Report  Input to WCPFC	
<b>Salmon</b>	NMFS Rpt 2011 Method Rev.--Identify & Include CRT Update 2011 Season Setting (3)  EFH Rev: Accept Final Rpt	  Straits Coho Follow-up  A 16: Final Action Consider Amending EFH	NMFS Rpt Method Rev: Adopt Priorities Including CRT Update	NMFS Rpt 2011 Method Rev.--Final  2012 Preseas'n Mgmt Schd	NMFS Rpt   2012 Season Setting (6) Cons. Obj. Report
<b>Other</b>	Halibut-Incidntl Regs  <del>MBNMS EBMI</del> Habitat Issues  Gulf of Maine Sec. Mgmt Rpt Marine Spatial Pln Update Routine Admin (7)	  Habitat Issues Ecosystem FMP Dev Plan  Routine Admin (8)	Pacific Halibut (2) Incidental Halibut Ret. in LE & OA Sablefish--Pub Rev CA State Enforcement Rpt Habitat Issues  Deepwater Coral Update & Research Recommendations Routine Admin (8)	Pac Halibut: Adopt Final CS  Habitat Issues Ecosystem FMP Dev Plan  Routine Admin (8)	Pacific Halibut (2) Incidental Halibut Ret. in LE & OA Sablefish--FPA  Habitat Issues  Routine Admin (7)
<b>Apx. Floor Time</b>	<b>6 days</b>	<b>6 days</b>	<b>6 days</b>	<b>6 days</b>	<b>5 days</b>

**PROPOSED COUNCIL MEETING AGENDA, APRIL 8-14, 2011 SAN MATEO, CALIFORNIA**  
(shaded items are tentative; a dashed border indicates a new item)

Fri, Apr 8	Sat, Apr 9	Sun, Apr 10	Mon, Apr 11	Tue, Apr 12	Wed, Apr 13	Thu, Apr 14
	<b>CLOSED SESSION 8:00 AM</b>  <b>OPEN SESSION 9:00 AM</b> 1-4. Opening Remarks & Approve Agenda (30 min)  <b>OPEN COMMENT</b> 1. Comments on Non-Agenda Items (45 min)  <b>COASTAL PELAGIC SPECIES</b> 1. NMFS Report (0.5 hr) 2. Final Recom'dations for Sardine Aerial Survey EFP (1.5 hr) 3. Approve CPS Survey Methodology (1.5 hr)  <b>HABITAT</b> 1. Current Issues (45 min)  <b>MARINE PROTECTED AREAS</b> 1. MBNMS Ecosystem-Based Mgmt Initiative (1 hr 30 min)	<b>SALMON</b> 1. NMFS Report (1 hr) 2. Tentative Adoption of 2011 Management Measures for Analysis (3 hr)  <b>PACIFIC HALIBUT</b> 1. Incidental 2011 Catch Regulations in the Salmon Troll Fishery (30 min)  <b>ADMINISTRATIVE</b> 1. Marine Spatial Planning Update (1 hr)  <b>HIGHLY MIGRATORY MGMT</b> 1. NMFS Report (1 hr) 2. Status of Albacore Fisheries (2 hr)	<b>GROUNDFISH</b> 1. NMFS Report (1 hr) 2. Adopt Process & Schedule for the 2013-14 Groundfish Biennial Mgmt Process for Public Review (2 hr) 3. Adopt a Process for the Periodic Groundfish EFH Review (2 hr)  <b>SALMON</b> 3. 2011 Methodology Review Process and Preliminary Topic Selection for 2011 (1 hr) 4. Clarify Direction for 2011 Management Measures (1 hr)  <b>GROUNDFISH</b> 4. Risk Pool Informational Briefing (1 hr)	<b>ADMINISTRATIVE</b> 2. Legislative Matters (30 min)  <b>SALMON</b> 5. Salmon EFH Review: Accept Final Report (2 hr)  <b>GROUNDFISH</b> 5. Consider Inseason Adjustments – Part I (2 hr) 6. Development of Trailing Groundfish Mgmt Actions Under Trawl Rationalization: Cost Recovery, PIE, CFAs, Risk Pools, Lenders, & AMP (4 hr)	<b>GROUNDFISH</b> 6. Continue Development of Trailing Groundfish Mgmt Actions Under Trawl Rationalization: Cost Recovery, PIE, CFAs, Risk Pools, Lenders, & AMP (4 hr 30 min)  <b>SALMON</b> 6. Final Action on 2010 Mgmt Measures (2 hr)  <b>GROUNDFISH</b> 7. If Nec., Final Inseason Adjustments–Part II (1 hr 30 min)	<b>GROUNDFISH</b> 8. If Nec., Consider NMFS Determination Regarding Amendment 16-5 & 2012 Specifications & Mgmt Measures (4 hr)  <b>ADMINISTRATIVE</b> 3. Approve Council Minutes (15 min) 4. Membership Appointments and COPs (15 min) 5. Future Meeting Agenda and Workload Planning (30 min)
	8 hr	8 hr 30 min	8 hr	8 hr 30 min	8 hr	5 hr
8 am Ballroom Setup 8 am HC 8 am Secretariat 8 am SSC 1 pm HMSAS & MT 2 pm LC 4 pm ChrBrfg	8:00 am GAP & GMT 8:00 am HMSAS 8:00 am HMSMT 8:00 am SAS & STT 8:00 am SSC 4:30 pm EC	As Nec. EC 8:00 am GAP & GMT 8:00 am HMSAS & MT 8:00 am SAS & STT 8:00 am TPolGrp & WaTechGrp M	As Nec. EC 8:00 am GAP & GMT 8:00 am SAS & STT 8:00 am TPolGrp & WaTechGrp	As Nec. EC 8:00 am GAP & GMT 8:00 am SAS & STT 8:00 am TPolGrp & WaTechGrp	As Nec. EC 8:00 am GAP & GMT 8:00 am SAS & STT 8:00 am TPolGrp & WaTechGrp	As Nec. EC

**Council-sponsored evening sessions:** Saturday 6 pm – Chairman's Reception

Saturday 7:30 pm – Gulf of Maine Research Institute Case Study of Fishery Sector Mgmt

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON  
FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

**Groundfish Workload Planning**

Mr. John DeVore briefed the Scientific and Statistical Committee (SSC) regarding the Council's Process Improvement Committee (PIC) for the groundfish biennial specification process. The SSC will make recommendations to the Council about the PIC proposals at the April Council meeting. In general, SSC review and input on science is desired by September 2011. The SSC would like to schedule a review of the Northwest Center's IO-PAC model that is used to evaluate economic impacts of management alternatives. The SSC recommends an initial outside expert review (i.e. a desk-review) to verify adequate documentation and develop recommendations for a more in-depth review by the SSC's Economics Subcommittee. The outside desk-review would likely need to occur in August with the Economics Subcommittee review occurring between then and the September Council meeting.

The SSC discussed whether to update sigma ( $\sigma$ ) using the current round of stock assessments. The SSC recommends that  $\sigma$  not be modified this year because there will be limited new information about  $\sigma$  from the assessments conducted this year. This will allow for more stability in the system, address workload concerns, and allow acceptable biological catches to be calculated for each assessment as it is finalized rather than waiting until all of the assessments are completed. After the completion of this assessment cycle,  $\sigma$  will be re-examined to determine if any changes should be made for the next cycle.

**Coastal Pelagic Species (CPS) Workload Planning**

CPS Methodology Review

To be able to clearly convey to the CPS Stock Assessment Teams how acoustic-trawl data should be treated in the 2011 CPS assessments, the SSC sees a need to review the results of the February 2011 CPS methodology review panel during the April Council meeting.

Pacific Sardine Stock Assessment Review (STAR) Panel

The current tentative dates of the Pacific sardine CPS STAR Panel are an issue for the proposed 2011 aerial survey because it leaves very little time for the finalization of data collection and analysis. The current dates of the sardine STAR Panel also conflict with the end of the September Council meeting. Moving this STAR Panel into the first week of October would provide more time to complete the 2011 aerial survey work, but will limit the time available to complete and review the post-STAR Panel draft of the assessment. There is a possibility that the STAR Panel report and post-STAR Panel draft will not be available in time for the November Council meeting Briefing Book. However, the SSC expects that an adequate review can be conducted under this schedule and recommends that the Pacific sardine STAR Panel occur from October 4-7, 2011.

February 25, 2011  
Supplemental Public Comment  
West Coast U.S. Commercial Albacore Fishery Economic Study

To the Council Chair and Members of the PFMC,

It is a pleasure to submit this letter to inform the Council that Lisa Wise Consulting, Inc. (LWC) is currently conducting an economic analysis of the west coast U.S. commercial albacore industry. The project is funded by a grant from the National Marine Fisheries Service (NMFS) with Dale Squires (NMFS Southwest Fisheries Science Center) as the Project Manager. The work began on January 4, 2011 and is intended to be presented to the Council at the June meeting in Spokane, WA.

LWC is working closely with the Highly Migratory Species Management Team (HMSMT) and the Highly Migratory Species Advisory Subpanel (HMSAS). Both will review the report at their April meetings and provide additional information to supplement the report as needed, as well as provide summaries and evaluations of it to the Council in June. We ask for your consideration to add the report to the agenda for the June PFMC meeting.

The report is intended to quantify, to the extent possible, the effects of economic influences on the west coast U.S. commercial albacore fishery, such as reliance on foreign processors, rising costs and stagnant prices, to augment and complement the stock assessment data. The methodology for this work relies heavily on stakeholder input to guide the LWC team in their research and analysis. As such, interviews are being conducted with fishermen, buyer/processors, regulators, enforcement personnel, and other industry stakeholders.

A voluntary Advisory Group has been named to help LWC identify and contact interview subjects, assist with the identification of appropriate data sources, and review and comment on portions of the draft report when necessary. The list of Advisory Group participants is attached to this letter.

We appreciate the opportunity to work with the HMSMT and HMSAS and present our findings to the Council at the June meeting and remain available for comments or questions at: 805.801.9646 or [henry@lisawiseconsulting.com](mailto:henry@lisawiseconsulting.com).

Henry Pontarelli, Vice President  
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## **West Coast Commercial Albacore Economic Study Advisory Group**

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The following individuals were chosen to advise Lisa Wise Consulting, Inc. based on their direct experience and knowledge of the commercial albacore industry as well as their willingness and interest. The group and/or individuals on the group were called on throughout the project to answer specific questions or direct the research team on the US, West Coast, and international commercial albacore industry. The group also helped LWC identify and contact a representative sample of industry participants for personal interviews. The interviews were critical in directing the consultant team in their research and providing a view of the industry from that of an insider.

### **Advisory Group**

August Felando

Peter Flournoy

Jeremiah O'Brien

Wayne Heikkila

Scott Hawkins

Stephen Stohs

Dale Squires

Chip Bissell