

LEGISLATIVE MATTERS

The Pacific Fishery Management Council's (Council's) Legislative Committee (Committee) is scheduled to meet Tuesday, June 7th at 2:00 p.m. to review a variety of legislative matters of interest to the Council and is anticipated to respond to a formal request from the H.S. House Committee on Natural Resources regarding legislation intended to reduce predation on endangered Columbia River salmon. Council staff has provided a summary of legislation introduced in the 112th U.S. Congress (Agenda Item F.1.a, Attachment 1) for potential review at the June Council meeting.

On March 8th, Congressman Doc Hastings, Chairman of the U.S. House of Representative's Committee on Natural Resources, along with four cosponsors introduced H.R. 946, the Endangered Salmon Predation Prevention Act (Agenda Item F.1.a_Attachment 2). H.R. 946 Amends the Marine Mammal Protection Act of 1972 to authorize the Secretary of Commerce (Secretary) to issue permits for the lethal taking of California sea lions on the Columbia River or its tributaries if the Secretary determines that alternative measures to reduce sea lion predation on salmonid stocks listed under the Endangered Species Act provide inadequate protection. On May 5th, 2011, Council Chairman Mark Cedergreen and Council Executive Director Don McIsaac received a formal request for Council comments on H.R. 946 from Congressman Hastings via an email from Mr. Todd Ungerecht, Director of Northwest Energy & Environmental Policy/Senior Counsel, U.S. House of Representatives Committee on Natural Resources (Agenda Item F.1.a, Attachment 2). The Committee is anticipated to review the legislation and provide recommendations to the Council on a response to Congressman Hastings.

At the March Council meeting, the Council, the Legislative Committee, and the Habitat Committee reviewed draft aquaculture policies from the Department of Commerce (DOC) and the National Oceanic and Atmospheric Administration (NOAA). On April 9th, 2011 at the request of the Council, Council Executive Director, Don McIsaac conveyed Council comments on the draft policies (Agenda Item F.1.a, Attachment 4). The comment period has closed and at the time of this writing, it does not appear that the requested extension of the comment period will occur. The NOAA Aquaculture Program and the DOC are currently reviewing all submitted comments with plans to release final policies in the summer of 2011.

Council Action:

- 1. Consider the recommendations of the Legislative Committee.**
- 2. Approve a response to Congressman Hastings and the U.S. House of Representatives Committee on Natural Resources regarding H.R. 946.**

Reference Materials:

1. Agenda Item F.1.a, Attachment 1: June 2011 Staff Summary of Federal Legislation in the 112th U.S. Congress.
2. Agenda Item F.1.a, Attachment 2: H.R. 946, the Endangered Salmon Predation Prevention Act.
3. Agenda Item F.1.a, Attachment 3: May 5, 2011 formal request for Council comments on H.R. 946 from Congressman Hastings via an email from Mr. Todd Ungerecht.
4. Agenda Item F.1.a, Attachment 4: April 9, 2011 letter from Dr. Donald McIsaac to Ms. Susan Bunsick regarding Council comments on the draft NOAA and DOC Aquaculture Policies.
5. Agenda Item F.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
05/16/11

STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 112TH 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.

Legislation Discussed at the March 2011 Legislative Committee (Committee) Meeting

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

The Committee reviewed AB 1299 and concluded that the Committee's primary focus has typically been on Federal legislation and that Council practice has been to not formally comment on State legislation unless input is requested by the State. The Committee noted that individual Council members and other members of the Council family are not restricted from contacting California Assembly members. The Council has not received any request for comment and it is not anticipated that the Committee will spend considerable time on this bill in June.

California AB1299 has been amended twice since its introduction in the California Assembly. The bill was favorably reviewed the California Assembly Committee on Water, Parks and Wildlife and has been referred to the Committee on Appropriations.

Draft Aquaculture Policies from the Department of Commerce (DOC) and the National Oceanic and Atmospheric Administration (NOAA).

The On April 9th, 2011 at the request of the Council, Council Executive Director, Don McIsaac, conveyed Council comments on the draft policies (Agenda Item F.1.a, Attachment 4). The comment period has closed and at the time of this writing, it does not appear that the requested extension of the comment period will occur. The NOAA Aquaculture Program and the DOC are currently reviewing all submitted comments with plans to release final policies in the summer of 2011.

Summary of Legislation introduced in the 112th Congress

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.

Update: On May 5, 2011, the Committee on Commerce, Science, and Transportation ordered the bill be reported to the full Senate without amendment favorably.

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. *No new activity as of May 19, 2011.*

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. Includes the Antigua Convention Implementing Act of 2011 that amends the Tuna Conventions Act of 1950 to revise provisions regarding: (1) the Inter-American Tropical Tuna Commission; (2) the General Advisory Committee; (3) the Scientific Advisory Subcommittee; (4) prohibited acts; and (5) enforcement.

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

Update: On May 5, 2011, the Committee on Commerce, Science, and Transportation ordered the bill be reported to the full Senate without amendment favorably.

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

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. *No new activity as of May 19, 2011.*

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. Similar legislation has been introduced in the U.S. House.

Introduced January 25, 2011 by Senator Begich, Alaska and referred to the U.S. Senate Committee on Health, Education, Labor, and Pensions. *No new activity as of May 19, 2011.*

S. 238 FISH Act of 2011 - A bill to amend the MSA to require that Fishery Impact Statements (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 adverse economic impacts.

Introduced January 31, 2011 by Senator Brown, Massachusetts and referred to the U.S. Senate Committee on Commerce, Science, and Transportation. *No new activity as of May 19, 2011.*

S. 632 Flexibility in Rebuilding American Fisheries Act of 2011 - Amends the Magnuson-Stevens Fishery Conservation and Management Act to require fishery management plans, amendments, or regulations for overfished fisheries to specify a time period for ending overfishing and rebuilding the fishery that is as short as practicable (under current law, as short as possible). Modifies the exceptions to the requirement that such period not exceed ten years.

Introduced March 17, 2011, by Senator Schumer, New York and referred to referred to the U.S. Senate Committee on Commerce, Science, and Transportation. Similar bill introduced in the U.S. House. Similar bills have been introduced in previous Congresses and reviewed by the Committee.

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. *No new activity as of May 19, 2011.*

H.R. 946 Endangered Salmon Predation Prevention Act - Amends the Marine Mammal Protection Act of 1972 to authorize the Secretary of the department in which the National Oceanic and Atmospheric Administration (NOAA) is operating to issue one-year permits for the lethal taking of California sea lions on the waters of the Columbia River or its tributaries if the Secretary determines that alternative measures to reduce sea lion predation on salmonid stocks listed as threatened or endangered under the ESA do not adequately protect such stocks.

Introduced March 8, 2011 by Congressman Hastings, Washington Status: Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs on March 10th.

H.R.1251 -- More Water for Our Valley Act, 2011 - To provide congressional direction for implementation of the Endangered Species Act as it relates to operation of the Central Valley Project and the California State Water Project and for water relief in the State of California.

Introduced March 30, 2011 by Congressman Costa, California and referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs on March 10th.

H.R. 1646 - American Angler Preservation Act - Amends the MSA to require each SSC of the eight Regional Councils to provide ongoing risk neutral scientific advice. Prohibits SSCs from recommending to increase or decrease an annual catch limit by 20% or greater unless the recommendation has been approved in a nongovernmental peer review process. Requires fishery management plans, amendments, or regulations for overfished fisheries to specify a time period for ending overfishing and rebuilding the fishery as short as practicable (under current law, as short as possible). Modifies the exceptions to the requirement that such period not exceed ten years.

Introduced April 15, 2011 by Congressman Runyan, New Jersey and referred to the House Committee on Natural Resources.

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112TH CONGRESS
1ST SESSION

H. R. 946

To amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2011

Mr. HASTINGS of Washington (for himself, Mr. DICKS, Mr. WALDEN, and Ms. HERRERA BEUTLER) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Endangered Salmon
5 Predation Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) There are 13 groups of salmon and
9 steelhead that are listed as threatened species or en-

1 dangered species under the Endangered Species Act
2 of 1973 that migrate through the lower Columbia
3 River.

4 (2) The people of the Northwest United States
5 are united in their desire to restore healthy salmon
6 and steelhead runs, as they are integral to the re-
7 gion's culture and economy.

8 (3) The Columbia River treaty tribes retain im-
9 portant rights with respect to salmon and steelhead.

10 (4) Federal, State, and tribal governments have
11 spent billions of dollars to assist the recovery of Co-
12 lumbia River salmon and steelhead populations.

13 (5) One of the factors impacting salmonid pop-
14 ulations is increased predation by marine mammals,
15 including California sea lions.

16 (6) The population of California sea lions has
17 increased 6-fold over the last 3 decades, and is cur-
18 rently greater than 300,000.

19 (7) In recent years, over 1,000 California sea
20 lions have been entering the lower 205 miles of the
21 Columbia River up to Miller Island during the peak
22 spring salmonid run before returning to the Cali-
23 fornia coast to mate.

1 (8) The percentage of the spring salmonid run
2 that has been eaten or killed by California sea lions
3 at Bonneville dam has increased 7-fold since 2002.

4 (9) In recent years, California sea lions have
5 with greater frequency congregated near Bonneville
6 dam and have entered the fish ladders.

7 (10) Some of these California sea lions have not
8 been responsive to extensive hazing methods em-
9 ployed near Bonneville dam to discourage this be-
10 havior.

11 (11) The process established under the 1994
12 amendment to the Marine Mammal Protection Act
13 of 1972 to address aggressive sea lion behavior is
14 protracted and will not work in a timely enough
15 manner to protect threatened and endangered
16 salmonids in the near term.

17 (12) In the interest of protecting Columbia
18 River threatened and endangered salmonids, a tem-
19 porary expedited procedure is urgently needed to
20 allow removal of the minimum number of California
21 sea lions as is necessary to protect the passage of
22 threatened and endangered salmonids in the Colum-
23 bia River or its tributaries.

24 (13) On December 21, 2010, the independent
25 Pinniped-Fishery Interaction Task Force rec-

1 ommended lethally removing more of the California
2 sea lions in 2011.

3 **SEC. 3. TAKING OF CALIFORNIA SEA LIONS ON THE COLUM-**
4 **BIA RIVER OR ITS TRIBUTARIES TO PROTECT**
5 **ENDANGERED AND THREATENED SPECIES OF**
6 **SALMON.**

7 (a) AMENDMENT TO MARINE MAMMAL PROTECTION
8 ACT OF 1972.—Section 120 of the Marine Mammal Pro-
9 tection Act of 1972 (16 U.S.C. 1389) is amended by add-
10 ing at the end the following:

11 “(k) TEMPORARY MARINE MAMMAL REMOVAL AU-
12 THORITY ON THE WATERS OF THE COLUMBIA RIVER OR
13 ITS TRIBUTARIES.—

14 “(1) DETERMINATION OF ALTERNATIVE MEAS-
15 URES.—

16 “(A) IN GENERAL.—The Secretary shall
17 determine whether alternative measures to re-
18 duce sea lion predation of salmonid stocks in
19 the waters of the Columbia River or its tribu-
20 taries listed as threatened species or endan-
21 gered species under the Endangered Species
22 Act of 1973 (16 U.S.C. 1531 et seq.) ade-
23 quately protect the salmonid stocks from Cali-
24 fornia sea lion predation.

1 “(B) DEADLINE.—The Secretary shall
2 make such determination not later than 90 days
3 after the date of the enactment of this sub-
4 section.

5 “(C) PUBLIC COMMENT.—The Secretary
6 shall, within such 90-day period, provide up to
7 30 days for the submission of public comments
8 on the determination.

9 “(D) FEDERAL REGISTER.—The Secretary
10 shall publish the determination in the Federal
11 Register.

12 “(2) REMOVAL AUTHORITY.—In addition to
13 other authority under this section, and notwith-
14 standing any other provision of this title, the Sec-
15 retary may issue a permit to an eligible entity au-
16 thorizing the intentional lethal taking on the waters
17 of the Columbia River or its tributaries California
18 sea lions if the Secretary determines under para-
19 graph (1) that alternative measures to reduce sea
20 lion predation on salmonid stocks in such waters
21 listed as threatened species or endangered species
22 under the Endangered Species Act of 1973 (16
23 U.S.C. 1531 et seq.) do not adequately protect the
24 salmonid stocks from California sea lion predation.

25 “(3) PERMIT PROCESS.—

1 “(A) IN GENERAL.—An eligible entity may
2 apply to the Secretary of Commerce for a per-
3 mit under paragraph (2) authorizing the lethal
4 taking of California sea lions.

5 “(B) DEADLINE FOR CONSIDERATION OF
6 APPLICATION.—The Secretary shall approve or
7 deny an application for a permit under this sub-
8 section by not later than 30 days after receiving
9 the application.

10 “(C) AUTHORITY TO ISSUE MULTIPLE
11 PERMITS.—The Secretary may issue more than
12 one permit under this subsection to an eligible
13 entity. No more than one permit may be uti-
14 lized in any 14-day period by the same eligible
15 entity.

16 “(D) DURATION OF PERMITS.—A permit
17 under this subsection shall be effective for no
18 more than one year after the date it is issued.

19 “(E) CONSULTATION.—In issuing a permit
20 to an eligible entity, the Secretary shall—

21 “(i) consult with other eligible entities
22 and other such entities as the Secretary
23 considers appropriate, including the Corps
24 of Engineers; and

1 “(ii) consider the number of other
2 permits issued to other eligible entities in
3 the same time period.

4 “(F) REPORTS.—Not later than January
5 31 following the end of each year in which a le-
6 thal taking occurs under a permit under this
7 subsection, the Secretary shall publish a brief
8 report describing the implementation of this
9 subsection and the effect of all such takings in
10 such year on Columbia River salmonid stocks
11 and on the California sea lion population in the
12 area where each taking occurs.

13 “(4) LIMITATIONS.—

14 “(A) LIMITATION ON PERMIT AUTHOR-
15 ITY.—A permit issued under this subsection
16 shall not authorize the lethal taking of more
17 than 10 California sea lions.

18 “(B) LIMITATION ON ANNUAL TAKINGS.—
19 The cumulative number of California sea lions
20 authorized to be taken each year under all per-
21 mits in effect under this subsection shall not ex-
22 ceed one percent of the annual potential biologi-
23 cal removal level of California sea lions.

24 “(C) LIMITATION ON ANIMAL AUTHORIZED
25 TO BE TAKEN.—

1 “(i) DETERMINATION REQUIRED.—A
2 California sea lion may not be taken under
3 a permit under this subsection unless the
4 permit holder has determined that—

5 “(I) such sea lion has preyed
6 upon salmonid stocks in the Columbia
7 River; and

8 “(II) with respect to such sea
9 lion, nonlethal alternative measures to
10 prevent preying on salmonid stocks
11 have in general not been effective.

12 “(ii) CONSULTATION.—In making
13 such determination, the permit holder shall
14 consult with the National Marine Fisheries
15 Service, and may consult with any other
16 Federal agency or eligible entity as appro-
17 priate.

18 “(5) DELEGATION OF PERMIT AUTHORITY.—
19 The State of Washington and the State of Oregon
20 may each designate the Pacific States Marine Fish-
21 eries Commission to administer its permit authority
22 under this subsection. Any other eligible entity may
23 designate the Columbia River Inter-Tribal Fish
24 Commission to administer its permit authority under
25 this subsection.

1 “(6) NEPA.—Section 102(2)(C) of the Na-
2 tional Environmental Policy Act of 1969 (42 U.S.C.
3 4332(2)(C)) shall not apply with respect to this sub-
4 section and the issuance of any permit under this
5 subsection during the 3-year period beginning on the
6 date of the enactment of this Act.

7 “(7) TERMINATION OF PERMITTING AUTHOR-
8 ITY.—The Secretary may not issue any permit under
9 this subsection after the earlier of—

10 “(A) the end of the 5-year period begin-
11 ning on the date of the enactment of this sub-
12 section; or

13 “(B) the date the Secretary determines
14 that lethal removal authority is no longer nec-
15 essary to protect salmonid stocks from Cali-
16 fornia sea lion predation.

17 “(8) ELIGIBLE ENTITY DEFINED.—In this sub-
18 section, the term ‘eligible entity’ means each of the
19 State of Washington, the State of Oregon, the Nez
20 Perce Tribe, the Confederated Tribes of the
21 Umatilla Indian Reservation, the Confederated
22 Tribes of the Warm Springs Reservation of Oregon,
23 and the Confederated Tribes and Bands of the
24 Yakama Nation.”

1 (b) RECOMMENDED LEGISLATION.—Not later than
2 two years after the date of the enactment of this Act, the
3 Secretary of Commerce shall submit to the Congress a re-
4 port on the need for additional legislation to amend the
5 Marine Mammal Protection Act of 1972 to address the
6 general issue of predation by marine mammals on fish spe-
7 cies listed as threatened species or endangered species
8 under the Endangered Species Act of 1973 (16 U.S.C.
9 1531 et seq.).

10 **SEC. 4. SENSE OF CONGRESS.**

11 It is the sense of the Congress that—

12 (1) nonlethal means of preventing predation of
13 listed salmonid stocks in the Columbia River by
14 California sea lions is preferable to lethal means;

15 (2) permit holders exercising lethal removal au-
16 thority pursuant to the amendment made by this
17 Act should be trained in wildlife management; and

18 (3) the Federal Government should continue to
19 fund, research, and support effective nonlethal alter-
20 native measures for preventing such predation.

○

From: Ungerecht, Todd
Sent: Thursday, May 05, 2011 1:49 PM
To: 'mcedergreen@olynet.com'; 'Donald.mcisaac@noaa.gov'
Subject: Request for PFMC comment on H.R. 946

Dear Chairman Cedergreen:

As you may know, Chairman Hastings recently introduced H.R. 946, the Endangered Salmon Predation Prevention Act, to authorize the Secretary of the Commerce to issue one-year permits for the lethal taking of California sea lions on the waters of the Columbia River or its tributaries if the Secretary determines that alternative measures to reduce sea lion predation on salmonid stocks listed as threatened or endangered under the Endangered Species Act of 1973 do not adequately protect such stocks.

This legislation is a bipartisan effort to address a continuing and growing problem with marine mammal predation on threatened or endangered salmon stocks.

Chairman Hastings would appreciate if the Pacific Fishery Management Council could review this legislation and provide any comments or suggestions for improvements to the legislation as well as any position statements the Council may wish to provide on the legislation or on the underlying problem.

I have attached a copy of the legislation for your review.

If you have any questions, please feel free to have your staff contact me or Dave Whaley of the House Natural Resources Committee.

Thank you.

Todd Ungerecht

Director of Northwest Energy & Environmental Policy/Senior Counsel
Committee on Natural Resources, Doc Hastings, Chairman
U.S. House of Representatives



Pacific Fishery Management Council

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Mark Cedergreen, Chairman Donald O. McIsaac, Executive Director

April 09, 2011

Ms. Susan Bunsick
NOAA Aquaculture Program
1315 East-West Highway
SSMC#3–13th Floor, Room 13152
Silver Spring, MD 20910

Subject: Pacific Fishery Management Council (Pacific Council) comments on the draft National Atmospheric and Oceanic Administration (NOAA) and Department of Commerce (DOC) Aquaculture Policies

Dear Ms. Bunsick:

Thank you for the opportunity to comment on the draft NOAA and DOC Aquaculture Policies. At its March 2011 meeting, the Pacific Council, its Habitat Committee, and its Legislative Committee reviewed the draft policies and the Pacific Council directed me to convey the following comments. I would also like to thank Dr. Laura Hoberecht, the NOAA Aquaculture Program's Northwest Regional Aquaculture Coordinator, for graciously attending the March 2011 Pacific Council meeting and for responding to questions from our committees.

The Pacific Council has long been interested in aquaculture policy and legislation and has commented on proposed legislation in the past. Although these policies do not carry the weight of law, these policies are intended to guide the review of future or existing aquaculture activities and will likely influence potential future Federal legislation governing aquaculture. Due to the importance of these policies and the potential impacts aquaculture may have on Pacific Council-managed fisheries and west coast fishing communities, the Pacific Council requests additional information on several of the following topics, as well as an extension of the public comment period.

The Pacific Council believes that the DOC and NOAA must closely coordinate with local, state, and regional bodies, including the regional fishery management councils and the West Coast Governor's Agreement when developing aquaculture policies or reviewing aquaculture operations. Moreover, the Pacific Council recommends that collaboration with the regional fishery management councils extend beyond habitat impacts from aquaculture facilities to include potential impacts to existing fish stocks such as the sourcing of brood stock, unintentional releases, and the role of aquaculture in the enhancement of wild stocks. The Pacific Council recommends that the DOC and NOAA develop a framework that specifies the analyses and coordination required for informed, scientifically-based decision-making.

The Pacific Council understands that both of these draft policies are intended to cover the aquaculture of marine species whether in state or Federal marine waters, or inland; including

existing salmon hatcheries. The Pacific Council is concerned with the potential implications the draft policies may have on the operation of Pacific salmon hatchery programs. The Pacific Council recommends that the draft aquaculture policies be revised to exclude their application to salmon hatchery practices because adequate oversight and coordination of these facilities exists under other state, Federal, and tribal policies and authorities.

The Pacific Council 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. It is recognized that these draft policies do not carry the weight of law and would not directly permit such operations, but the Pacific Council recommends that the draft policies are compatible with “opt out” provisions and that “opt out” provisions be included in any subsequent legislation or regulations pertaining to aquaculture.

The draft NOAA policy lacks sufficient strategic guidance on how future aquaculture activities will be sustainable while maintaining the intended goals of protecting critical ecological functions and productive marine and coastal ecosystems, rebuilding overfished wild stocks, and restoring populations of endangered species. Specifically, the policies should:

- 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
- Cite the science used to develop the policies
- Include a policy on the introduction or unintentional release of non-native species and diseases
- Define “other marine organisms” authorized for aquaculture production, as well as what commercial and recreational uses may be included within the scope of aquaculture production which could have large scale implications for western states (e.g., algal biofuel development), and
- Address the use of genetically modified organisms in aquaculture activities.

Thank you again for providing the Pacific Council an opportunity to provide comments on these important policies and for considering an extension of the review period. Should you or your staff have any questions about this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,



D. O. McIsaac, Ph.D.
Executive Director

MDB:kam

c: Pacific Fishery Management Council Members
Dr. Laura Hoberecht, NOAA Aquaculture Program, Northwest Regional Coordinator
Ms. Diane Windham, NOAA Aquaculture Program, Southwest Regional Coordinator



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

MAY 25 2011

Mr. Jim Kellogg
President, California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, California 95814

Dear Mr. Kellogg:

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) has reviewed the latest version of the Forage Species Conservation and Management Act of 2011 (AB 1299) as of May 12, 2011. It is my understanding that this proposed legislation will be discussed at today's Fish and Game Commission's Marine Resources Committee meeting. Because NMFS see aspects of the bill possibly duplicating existing Federal fishery management, potentially creating management requirements that overlook cyclical stock fluctuations, and perhaps hindering opportunities for the fishing and processing sectors mentioned in the bill, I wanted to bring these points to your attention.

First, we note that although AB 1299 mentions only applying to state-managed species, the bill's definition of "forage species" includes all of the species currently managed in the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Fishery Management Plan (FMP) and some species in the Pacific Coast Groundfish FMP. The Council and NMFS effectively manage the species in these FMPs as required under the ten National Standards of the Magnuson-Stevens Conservation and Management Act (MSA). For instance, under National Standards 2 and 5, the Coastal Pelagic Species FMP uses conservative harvest control rules that consider the species ecological role as forage in the California Current ecosystem while still providing long-term consistent fishing yields. Additionally, with new management requirements incorporated into the reauthorized MSA for preventing overfishing, management of these species will more fully account for scientific and management uncertainties.

The Council's management plans are also managed under the Essential Fish Habitat provisions of MSA. These provisions require that "biological habitat," that is, the prey or forage of managed species, are adequately addressed in the analysis required for all FMPs or their amendments. Federal fisheries are also managed under the provisions of the Endangered Species Act that also provide for the foraging needs of listed species.

NMFS also notes that the bill would restrict an increase in catch rates of forage species above maximum levels "in the previous 20 years." As you are aware the productivity of marine species is strongly affected by natural environmental fluctuations. Favorable and unfavorable periods for these species tend to occur in cycles from several years to decades, meaning that episodes of low abundance for these species are inevitable, even in the absence of fishing. Federal management of coastal pelagic species recognizes this relationship between the environment and stock status when setting catch limits and rates. This typically occurs by restricting catch rates during conditions when stocks are less productive while allowing higher harvest rates during productive periods. Therefore,



restricting catch rates from increasing beyond what has been allowed in the previous 20 years creates an artificial performance measure that lacks a scientific basis. We are surprised that this requirement remains in the current version.

The bill takes on the large task of addressing "forage" species in the California Current Large Marine Ecosystem (CCLME), an area extending from north-central Vancouver Island southward to southern tip of the Baja California and far offshore. Additionally, the majority of marine organisms in the CCLME all function as forage during all or some part of their life cycle. Depending on the growth strategy or life history of the diverse array of organisms comprising the CCLME, some remain as prey or forage while others subsequently become predators. Consequently, we question why the bill has at the same time so narrowly defined forage species yet included a list of transboundary species that range beyond California state waters across adjacent state and national boundaries.

NMFS observes that the bill requires several analytical reviews based on available information that must be undertaken by either the California Department of Fish and Game or the Fish and Game Commission prior to undertaking new or amended FMPs. We believe that much of this information, especially that dealing with the forage habits and stock status of state-managed species, may not exist or may be outdated such that the information may no longer have relevance under the prevailing ecosystem regime. Consequently, we do not see how agency staff can complete these reviews without the collection of new field data not to mention supplemental funding to support the reviews.

In closing, NMFS sees AB 1299 as possibly impeding, not helping, ecosystem-based fishery management. Based on our experience with the Pacific Council process, fishermen can still be provided fishing opportunities while equally maintaining ecosystem protections. Such a workable balance allows fishermen to maintain a diverse fishery portfolio for maintaining jobs year round and contributing to local economies. We do not find this same approach being used in AB 1299.

Thank you for the opportunity to comment and express NMFS' perspective.

Sincerely,



Rodney R. McInnis
Regional Administrator

cc:

John McCammon – CDFG
Richard Rogers – F&GC
Michael Sutton - F&GC
Don McIsaac - PPMC

112TH CONGRESS
1ST SESSION

H. R. 1837

To address certain water-related concerns on the San Joaquin River, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2011

Mr. NUNES (for himself, Mr. MCCARTHY of California, and Mr. DENHAM) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To address certain water-related concerns on the San
Joaquin River, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “San Joaquin Valley
5 Water Reliability Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—CENTRAL VALLEY PROJECT IMPROVEMENT ACT
REFORMS

- Sec. 101. Amendment to purposes.
- Sec. 102. Amendment to definition.
- Sec. 103. Limitation on contracting and contract reform.
- Sec. 104. Water transfers, improved water management, and conservation.
- Sec. 105. Fish, wildlife, and habitat restoration.
- Sec. 106. Restoration Fund.
- Sec. 107. Additional authorities.
- Sec. 108. Compliance with Endangered Species Act of 1973.
- Sec. 109. Authorized service area.
- Sec. 110. Area of origin and prior rights.
- Sec. 111. Water storage.

TITLE II—SAN JOAQUIN RIVER RESTORATION

- Sec. 201. Reference.
- Sec. 202. Preemption of State law.
- Sec. 203. Repeal of the San Joaquin River Settlement.
- Sec. 204. Satisfaction and discharge of obligations.
- Sec. 205. San Joaquin River Habitat Restoration.
- Sec. 206. Restoration Fund.
- Sec. 207. Natural and artificially spawned species.

TITLE III—REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS

- Sec. 301. Repayment contracts and acceleration of repayment of construction costs.

1 **TITLE I—CENTRAL VALLEY** 2 **PROJECT IMPROVEMENT ACT** 3 **REFORMS**

4 **SEC. 101. AMENDMENT TO PURPOSES.**

5 Section 3402 of the Central Valley Project Improve-
6 ment Act (106 Stat. 4706) is amended—

7 (1) in subsection (f), by striking the period at
8 the end; and

9 (2) by adding at the end the following:

10 “(g) to ensure that water dedicated to fish and wild-
11 life purposes by this title is replaced and provided to Cen-
12 tral Valley Project water contractors by December 31,
13 2016, at the lowest cost reasonably achievable; and

1 “(h) to facilitate and expedite water transfers in ac-
2 cordance with this Act.”.

3 **SEC. 102. AMENDMENT TO DEFINITION.**

4 Section 3403(a) of the Central Valley Project Im-
5 provement Act (106 Stat. 4707) is amended to read as
6 follows:

7 “(a) the term ‘anadromous fish’ means those native
8 stocks of salmon (including steelhead) and sturgeon that,
9 as of October 30, 1992, were present in the Sacramento
10 and San Joaquin Rivers and their tributaries and ascend
11 those rivers and their tributaries to reproduce after matur-
12 ing in San Francisco Bay or the Pacific Ocean;”.

13 **SEC. 103. LIMITATION ON CONTRACTING AND CONTRACT**
14 **REFORM.**

15 Section 3404 of the Central Valley Project Improve-
16 ment Act (106 Stat. 4710) is amended by striking the lan-
17 guage of the section and by adding:

18 “(a) RENEWAL OF EXISTING LONG-TERM CON-
19 TRACTS.—Upon request of the contractor, the Secretary
20 shall renew any existing long-term repayment or water
21 service contract that provides for the delivery of water
22 from the Central Valley Project for a period of 40 years,
23 and renew such contracts for successive periods of 40
24 years each.

1 “(b) DELIVERY CHARGE.—Beginning on the date of
2 the enactment of this Act, a contract entered into or re-
3 newed pursuant to this section shall include a provision
4 that requires the Secretary to charge the other party to
5 such contract only for water actually delivered by the Sec-
6 retary.”.

7 **SEC. 104. WATER TRANSFERS, IMPROVED WATER MANAGE-**
8 **MENT, AND CONSERVATION.**

9 Section 3405 of the Central Valley Project Improve-
10 ment Act (106 Stat. 4710) is amended as follows:

11 (1) In subsection (a)—

12 (A) by inserting before “Except as pro-
13 vided herein” the following: “The Secretary
14 shall take all necessary actions to facilitate and
15 expedite transfers of Central Valley Project
16 water in accordance with such Act or any other
17 provision of law.”;

18 (B) in paragraph (1)(A), by striking “to
19 combination” and inserting “or combination”;

20 (C) in paragraph (2), by adding at the end
21 the following:

22 “(E) The contracting district from which
23 the water is coming, the agency, or the Sec-
24 retary shall determine if a written transfer pro-
25 posal is complete within 45 days after the date

1 of submission of such proposal. If such district
2 or agency or the Secretary determines that such
3 proposal is incomplete, such district or agency
4 or the Secretary shall state with specificity
5 what must be added to or revised in order for
6 such proposal to be complete.

7 “(F) Except as provided in this section,
8 the Secretary shall not impose mitigation or
9 other requirements on a proposed transfer, but
10 the contracting district from which the water is
11 coming or the agency shall retain all authority
12 under State law to approve or condition a pro-
13 posed transfer.”; and

14 (D) by adding at the end the following:

15 “(4) Notwithstanding any other provision of
16 law—

17 “(A) the authority to make transfers or ex-
18 changes of, or banking or recharge arrange-
19 ments using, Central Valley Project water that
20 could have been conducted before October 30,
21 1992, is valid, and such transfers, exchanges,
22 or arrangements shall not be subject to, limited,
23 or conditioned by this title; and

24 “(B) this title shall not supersede or re-
25 voke the authority to transfer, exchange, bank,

1 or recharge Central Valley Project water that
2 existed prior to October 30, 1992.”.

3 (2) In subsection (b)—

4 (A) in the heading, by striking “METER-
5 ING” and inserting “MEASUREMENT”; and

6 (B) by inserting after the first sentence
7 the following: “The contracting district or agen-
8 cy, not including contracting districts serving
9 multiple agencies with separate governing
10 boards, shall ensure that all contractor-owned
11 water delivery systems within its boundaries
12 measure surface water at the district or agen-
13 cy’s facilities up to the point the surface water
14 is commingled with other water supplies.”.

15 (3) By striking subsection (d).

16 (4) By redesignating subsections (e) and (f) as
17 subsections (d) and (e), respectively.

18 (5) By amending subsection (e) (as redesign-
19 ated by paragraph (4)) to read as follows:

20 “(e) RESTORATION FUND.—All revenues received by
21 the Secretary that exceed the cost-of-service rate applica-
22 ble to the delivery of water transferred from irrigation use
23 to municipal and industrial use under subsection (a) shall
24 be deposited into the Restoration Fund, as established
25 under section 3407.”.

1 **SEC. 105. FISH, WILDLIFE, AND HABITAT RESTORATION.**

2 Section 3406 of the Central Valley Project Improve-
3 ment Act (106 Stat. 4714) is amended as follows:

4 (1) In subsection (b)—

5 (A) in paragraph (1), by amending sub-
6 paragraph (B) to read as follows:

7 “(B) MODIFICATION OF PROGRAM.—

8 “(i) IN GENERAL.—As needed to
9 achieve the goals of the program estab-
10 lished under this paragraph, the Secretary
11 may modify Central Valley Project oper-
12 ations to provide reasonable water flows of
13 suitable quality, quantity, and timing to
14 protect all life stages of anadromous fish.
15 Such flows shall be provided—

16 “(I) from the quantity of water
17 dedicated for fish, wildlife, and habi-
18 tat restoration purposes under para-
19 graph (2);

20 “(II) from the water supplies ac-
21 quired pursuant to paragraph (3); and

22 “(III) from other sources that do
23 not conflict with fulfillment of the
24 Secretary’s remaining contractual ob-
25 ligations to provide Central Valley

1 Project water for other authorized
2 purposes.

3 “(ii) INSTREAM FLOW NEEDS.—Rea-
4 sonable instream flow needs for all Central
5 Valley Project controlled streams and riv-
6 ers shall be determined by the Secretary
7 based on recommendations of the United
8 States Fish and Wildlife Service and the
9 National Marine Fisheries Service after
10 consultation with the United States Geo-
11 logical Survey.”;

12 (B) by amending paragraph (2) to read as
13 follows:

14 “(2) upon October 30, 1992, dedicate and man-
15 age annually 800,000 acre-feet of Central Valley
16 Project yield for the purposes of implementing the
17 fish, wildlife, and habitat restoration purposes and
18 measures authorized by such Act; assisting the State
19 of California in its efforts to protect the waters of
20 the San Francisco Bay/Sacramento-San Joaquin
21 Delta Estuary; and helping to meet such obligations
22 as may be legally imposed upon the Central Valley
23 Project under State or Federal law following Octo-
24 ber 30, 1992, including additional obligations under
25 the Endangered Species Act of 1973 (16 U.S.C.

1 1531 et seq.). For the purpose of this section, the
2 term 'Central Valley Project yield' means the deliv-
3 ery capability of the Central Valley Project during
4 the 1928 to 1934 drought period after fishery, water
5 quality, and other flow and operational requirements
6 imposed by terms and conditions existing in licenses,
7 permits, and other agreements pertaining to the
8 Central Valley Project under applicable State or
9 Federal law existing on October 30, 1992, have been
10 met. All Central Valley Project water used for the
11 purposes specified in this paragraph shall be cred-
12 ited to the quantity of Central Valley Project yield
13 dedicated and managed under this paragraph by de-
14 termining how the dedication and management of
15 such water would affect the delivery capability of the
16 Central Valley Project during the 1928 to 1934
17 drought period after fishery, water quality, and
18 other flow and operational requirements imposed by
19 terms and conditions existing in licenses, permits,
20 and other agreements pertaining to the Central Val-
21 ley Project under applicable State or Federal law ex-
22 isting on October 30, 1992, have been met. To the
23 fullest extent possible and in accordance with section
24 3411, Central Valley Project water dedicated and
25 managed pursuant to this paragraph shall be reused

1 to fulfill the Secretary's remaining contractual obli-
2 gations to provide Central Valley Project water for
3 agricultural or municipal and industrial purposes.”;
4 and

5 (C) by amending paragraph (2)(C) to read:

6 “(C) If by March 15th of any year the
7 quantity of Central Valley Project water fore-
8 casted to be made available to water service or
9 repayment contractors in the Delta Division of
10 the Central Valley Project is below 75 percent
11 of the total quantity of water to be made avail-
12 able under said contracts, the quantity of Cen-
13 tral Valley Project yield dedicated and managed
14 for that year under this paragraph shall be re-
15 duced by 25 percent.”

16 (2) By adding at the end the following:

17 “(i) SATISFACTION OF PURPOSES.—By pursuing the
18 programs and activities authorized by this section, the
19 Secretary shall be deemed to have met the mitigation, pro-
20 tection, restoration, and enhancement purposes of section
21 2 of the Act of August 26, 1937 (Chapter 832; 50 Stat.
22 850).”.

23 **SEC. 106. RESTORATION FUND.**

24 Section 3407 of the Central Valley Project Improve-
25 ment Act (106 Stat. 4714) is amended as follows:

1 (1) By amending subsection (a) to read as fol-
2 lows:

3 “(a) RESTORATION FUND ESTABLISHED.—

4 “(1) IN GENERAL.—There is established in the
5 Treasury the ‘Central Valley Project Restoration
6 Fund’, which shall be available for deposit of dona-
7 tions from any source and revenues collected under
8 sections 3404(c)(3), 3405(f), 3406(c)(1), and
9 3407(d). Funds donated to the Restoration Fund by
10 a non-Federal entity for a specific purpose shall be
11 expended for such purpose only and shall not be
12 subject to appropriation. Amounts deposited shall be
13 credited as offsetting collections. Not less than 50
14 percent of the amounts deposited to the Restoration
15 Fund shall be expended for purposes of the Central
16 Valley Project unit or division regarding which the
17 amounts were collected.

18 “(2) PROHIBITION.—The Secretary may not—

19 “(A) directly or indirectly require a dona-
20 tion or other payment to the Restoration Fund,
21 or environmental restoration or mitigation fees
22 not otherwise provided by law, as—

23 “(i) a condition to providing for the
24 storage or conveyance of non-Central Val-

1 ley Project water pursuant to Federal rec-
2 lamation laws; or

3 “(ii) a condition to the delivery of
4 water pursuant to section 215 of the Rec-
5 lamation Reform Act of 1982 (Public Law
6 97–293; 96 Stat. 1270); or

7 “(B) require a donation or other payment
8 to the Restoration Fund for any water that is
9 delivered with the sole intent of groundwater re-
10 charge.

11 “(3) USE OF CERTAIN AMOUNTS.—The Sec-
12 retary shall use the amounts collected pursuant to
13 section 3406(c)(1)—

14 “(A) to assist in improving water quality,
15 riparian values, and fish habitat in the San
16 Joaquin River from Friant Dam to Mendota
17 Pool; or

18 “(B) to support other projects benefitting
19 land within the Friant Division.

20 “(4) CERTAIN USE OF RESTORATION FUND.—
21 Except as provided under paragraph (1), funds de-
22 posited into the Restoration Fund may be appro-
23 priated for the acquisition of water supplies and the
24 construction of facilities used to implement projects

1 or programs undertaken pursuant to section
2 3408(j).”.

3 (2) In subsection (c), by amending paragraph
4 (1) to read as follows:

5 “(1) To the extent required in Acts of appro-
6 priation, the Secretary shall assess and collect addi-
7 tional annual payments, in addition to the charges
8 collected under sections 3404(c)(3), 3405(a)(1)(C),
9 3405(f), and 3406(c)(1), consisting of charges to di-
10 rect beneficiaries of the Central Valley Project under
11 subsection (d) of this section in order to recover a
12 portion or all of the costs of carrying out programs,
13 projects, plans, habitat restoration, improvement,
14 and acquisition provisions of this title.”.

15 (3) By adding at the end the following:

16 “(g) REPORT ON EXPENDITURE OF FUNDS.—At the
17 end of each fiscal year, the Secretary, in consultation with
18 the Restoration Fund Advisory Board, shall submit to
19 Congress a plan for the expenditure of all of the funds
20 deposited into the Restoration Fund during the preceding
21 fiscal year. Such plan shall contain a cost effectiveness
22 analysis of each expenditure.

23 “(h) ADVISORY BOARD.—

24 “(1) ESTABLISHMENT.—There is hereby estab-
25 lished the Restoration Fund Advisory Board (herein-

1 after in this section referred to as the ‘Advisory
2 Board’) composed of 12 members selected by the
3 Secretary, each for four year terms, one of whom
4 shall be designated by the Secretary as Chairman.
5 The members shall be selected so as to represent the
6 various Central Valley Project stakeholders, four of
7 whom shall be from CVP agricultural users, three
8 from CVP municipal and industrial users, three
9 from CVP power contractors, and two at the discre-
10 tion of the Secretary. The Secretary and the Sec-
11 retary of Commerce may each designate a represent-
12 ative to act as an observer of the Advisory Board.

13 “(2) DUTIES.—The duties of the Advisory
14 Board are as follows:

15 “(A) To meet at least semi-annually to de-
16 velop and make recommendations to the Sec-
17 retary regarding priorities and spending levels
18 on projects and programs carried out pursuant
19 to the Central Valley Project Improvement Act.

20 “(B) To ensure that any advice or rec-
21 ommendation made by the Advisory Board to
22 the Secretary reflect the independent judgment
23 of the Advisory Board.

24 “(C) Not later than December 31, 2012,
25 and annually thereafter, to transmit to the Sec-

1 retary and Congress recommendations required
2 under subparagraph (A).

3 “(D) Not later than December 31, 2012,
4 and biennially thereafter, to transmit to Con-
5 gress a report that details the progress made in
6 achieving the goals of the Restoration Fund as
7 identified in this Act.

8 “(3) ADMINISTRATION.—With the consent of
9 the appropriate agency head, the Advisory Board
10 may use the facilities and services of any Federal
11 agency. Non-Federal members of the Advisory
12 Board, while engaged in the performance of their
13 duties away from their homes or regular places of
14 business, may be allowed travel expenses, including
15 per diem in lieu of subsistence under section 5703
16 of title 5, United States Code. Funds from the Res-
17 toration Fund may be used to carry out this para-
18 graph.

19 “(4) FACA.—The Federal Advisory Committee
20 Act (5 U.S.C. App.) shall not apply to the Advisory
21 Board.”.

22 **SEC. 107. ADDITIONAL AUTHORITIES.**

23 (a) AUTHORITY FOR CERTAIN ACTIVITIES.—Section
24 3408(c) of the Central Valley Project Improvement Act
25 (106 Stat. 4728) is amended to read as follows:

1 “(c) CONTRACTS FOR ADDITIONAL STORAGE AND
2 DELIVERY OF WATER.—

3 “(1) IN GENERAL.—The Secretary is authorized
4 to enter into contracts pursuant to Federal reclama-
5 tion law and this title with any Federal agency, Cali-
6 fornia water user or water agency, State agency, or
7 private organization for the exchange, impoundment,
8 storage, carriage, and delivery of non-project water
9 for domestic, municipal, industrial, fish and wildlife,
10 and any other beneficial purpose.

11 “(2) LIMITATION.—Nothing in this subsection
12 shall be deemed to supersede the provisions of sec-
13 tion 103 of Public Law 99–546 (100 Stat. 3051).

14 “(3) AUTHORITY FOR CERTAIN ACTIVITIES.—
15 The Secretary shall use the authority granted by
16 this subsection in connection with requests to ex-
17 change, impound, store, carry, or deliver nonproject
18 water using Central Valley Project facilities for any
19 beneficial purpose.

20 “(4) RATES.—

21 “(A) IN GENERAL.—The Secretary shall
22 develop rates not to exceed the amount required
23 to recover the reasonable costs incurred by the
24 Secretary in connection with a beneficial pur-
25 pose under this subsection. Such rates shall be

1 charged to a party using Central Valley Project
2 facilities for such purpose. Such costs shall not
3 include any donation or other payment to the
4 Restoration Fund.

5 “(B) REDUCTION IN OPERATIONS AND
6 MAINTENANCE.—Any payment received in con-
7 nection with the use of Central Valley Project
8 facilities shall be applied to reduce the current-
9 year operations and maintenance expenses, oth-
10 erwise payable by Central Valley Project con-
11 tractors, for such facilities used.

12 “(5) CONSTRUCTION.—This subsection shall be
13 construed and implemented to facilitate and encour-
14 age the use of Central Valley Project facilities to ex-
15 change, impound, store, carry, or deliver nonproject
16 water for any beneficial purpose.”.

17 (b) REPORTING REQUIREMENTS.—Section 3408(f) of
18 the Central Valley Project Improvement Act (106 Stat.
19 4729) is amended—

20 (1) by striking “Interior and Insular Affairs
21 and Merchant Marine and Fisheries” and inserting
22 “Natural Resources”;

23 (2) in the second sentence, by inserting before
24 the period at the end the following: “, including
25 progress on the plan required by subsection (j)”; and

1 (3) by adding at the end the following: “The fil-
2 ing and adequacy of such report shall be personally
3 certified to the Committees referenced above by the
4 Regional Director of the Mid-Pacific Region of the
5 Bureau of Reclamation.”.

6 (c) PROJECT YIELD INCREASE.—Section 3408(j) of
7 the Central Valley Project Improvement Act (106 Stat.
8 4730) is amended to read as follows:

9 “(j) PROJECT YIELD INCREASE.—

10 “(1) PLAN REQUIRED.—In order to minimize
11 adverse effects upon existing Central Valley Project
12 water contractors resulting from the water dedicated
13 for fish and wildlife under this title, and to assist
14 the State of California in meeting its future water
15 needs, the Secretary, on a priority basis and not
16 later than September 30, 2012, shall submit to Con-
17 gress a least-cost plan to increase, as soon as pos-
18 sible but not later than September 30, 2016 (except
19 for the construction of new facilities which shall not
20 be limited by that deadline), the water of the Central
21 Valley Project by the amount dedicated and man-
22 aged for fish and wildlife purposes under this title
23 and otherwise required to meet the purposes of the
24 Central Valley Project including satisfying contrac-
25 tual obligations.

1 “(2) CONTENTS OF PLAN.—The plan required
2 by paragraph (1) shall include—

3 “(A) recommendations on appropriate cost-
4 sharing arrangements and authorizing legisla-
5 tion or other measures needed to implement the
6 intent, purposes, and provisions of this sub-
7 section; and

8 “(B) a description of how the Secretary in-
9 tends to use the following options:

10 “(i) Improvements in, modification of,
11 or additions to the facilities and operations
12 of the project and construction of new
13 water storage facilities.

14 “(ii) Conservation.

15 “(iii) Transfers.

16 “(iv) Conjunctive use.

17 “(v) Purchase of water.

18 “(vi) Purchase and idling of agricul-
19 tural land.

20 “(vii) Direct purchase of water rights.

21 “(viii) Water banking and recharge.

22 “(3) IMPLEMENTATION OF PLAN.—Subject to
23 the availability of appropriated funds, the Secretary
24 shall implement the plan required by paragraph (1)
25 commencing on October 1, 2012. In order to carry

1 out this subsection, the Secretary shall coordinate
 2 with the State of California in implementing meas-
 3 ures for the long-term resolution of problems in the
 4 San Francisco Bay/Sacramento-San Joaquin Delta
 5 Estuary.

6 “(4) FAILURE OF THE PLAN.—Not with-
 7 standing any other provision of law, if by September
 8 30, 2016, the plan required by paragraph (1) fails
 9 to increase the annual delivery capability of the Cen-
 10 tral Valley Project by 800,000 acre-feet, implemen-
 11 tation of section 3406(b)(2) shall be suspended until
 12 the plan achieves an increase in the annual delivery
 13 capability of the Central Valley Project by 800,000
 14 acre-feet.”.

15 (d) TECHNICAL CORRECTION.—Section 3408(h) of
 16 the Central Valley Project Improvement Act (106 Stat.
 17 4729) is amended—

18 (1) in paragraph (1), by striking “paragraph
 19 (h)(2)” and inserting “paragraph (2)”; and

20 (2) in paragraph (2), by striking “paragraph
 21 (h)(i)” and inserting “paragraph (1)”.

22 **SEC. 108. COMPLIANCE WITH ENDANGERED SPECIES ACT**
 23 **OF 1973.**

24 (a) COMPLIANCE.—

1 (1) IN GENERAL.—All requirements of the En-
2 dangered Species Act of 1973 (16 U.S.C. 1531 et
3 seq.) shall be considered to be fully met for the pro-
4 tection and conservation of the species listed pursu-
5 ant to the Act for the operations of the Central Val-
6 ley Project and the California State Water Project,
7 if the Central Valley Project and the California
8 State Water Project are operated in a manner con-
9 sistent with the “Principles for Agreement on the
10 Bay-Delta Standards Between the State of Cali-
11 fornia and the Federal Government” dated Decem-
12 ber 15, 1994.

13 (2) BIOLOGICAL OPINIONS AND MODIFICA-
14 TION.—The Secretary of the Interior and the Sec-
15 retary of Commerce shall issue biological opinions
16 for coordinated operations of the Central Valley
17 Project and the California State Water Project that
18 are no more restrictive than provisions of the “Prin-
19 ciples for Agreement on the Bay-Delta Standards
20 Between the State of California and the Federal
21 Government” dated December 15, 1994. Such bio-
22 logical opinions may be modified only with the con-
23 sent of the signatories to the “Principles for Agree-
24 ment on the Bay-Delta Standards Between the State

1 of California and the Federal Government” dated
2 December 15, 1994.

3 (b) PREEMPTION OF STATE LAW.—

4 (1) STATE LAW PREEMPTION.—Neither the
5 State of California, an agency of the State, nor any
6 political subdivision of the State shall adopt or en-
7 force any requirement for the protection or conserva-
8 tion of any species listed under the Endangered Spe-
9 cies Act for the operations of the Central Valley
10 Project or the California State Water Project that is
11 more restrictive than the requirements of this sec-
12 tion. Any provision of California State law that au-
13 thorizes the imposition of conditions or restrictions
14 on the operations of the Central Valley Project or
15 the California State Water Project for the protection
16 or conservation of a species that is more restrictive
17 than this section is preempted.

18 (2) NATIVE SPECIES PROTECTION.—Any re-
19 striction imposed under California law on the take
20 or harvest of any nonnative or introduced aquatic or
21 terrestrial species that preys upon a native fish spe-
22 cies that occupies the Sacramento and San Joaquin
23 Rivers and their tributaries or the Sacramento-San
24 Joaquin Rivers Delta shall be void and is preempted.

1 **SEC. 109. AUTHORIZED SERVICE AREA.**

2 The authorized service area of the Central Valley
3 Project shall include the area within the boundaries of the
4 Kettleman City Community Services District, California,
5 as those boundaries exist on the date of the enactment
6 of this title. Notwithstanding the provisions of the Act of
7 October 30, 1992, (Public Law 102-575, 106 Stat. 4600
8 et seq.) upon enactment of this title, the Secretary is au-
9 thorized and directed to enter into a long-term contract
10 in accordance with the Reclamation laws with the
11 Kettleman City Community Services District, California,
12 for the delivery of up to 900 acre-feet of Central Valley
13 Project water for municipal and industrial use. The Sec-
14 retary may temporarily reduce deliveries of the quantity
15 of water made available pursuant to up to 25 percent of
16 such total whenever reductions due to hydrologic cir-
17 cumstances are imposed upon agricultural deliveries of
18 Central Valley Project water.

19 **SEC. 110. AREA OF ORIGIN AND PRIOR RIGHTS.**

20 Nothing in this title shall affect the Secretary's duty
21 to operate the Central Valley Project in a manner con-
22 sistent with applicable provisions of State water law pro-
23 tecting any area of origin, watershed of origin, county of
24 origin, or any other water rights, such as senior appropria-
25 tive rights, including rights appropriated prior to Decem-
26 ber 19, 1914.

1 **SEC. 111. WATER STORAGE.**

2 The Secretary, acting through the Commissioner of
3 the Bureau of Reclamation, may provide funds authorized
4 to be appropriated to the surface storage projects identi-
5 fied in section 103(d)(1) of the Water Supply, Reliability,
6 and Environmental Improvement Act (Public Law 108–
7 361) and Acts supplemental and amendatory of that Act,
8 to local joint powers authorities formed pursuant to State
9 law by irrigation districts and other local water districts
10 and local governments within the applicable hydrologic re-
11 gion, to advance those projects.

12 **TITLE II—SAN JOAQUIN RIVER**
13 **RESTORATION**

14 **SEC. 201. REFERENCE.**

15 Subtitle A of title X of Public Law 111–11 is hereby
16 repealed.

17 **SEC. 202. PREEMPTION OF STATE LAW.**

18 Notwithstanding section 8 of the Reclamation Act of
19 1902, except as provided herein, this title preempts and
20 supersedes any State law, regulation, or requirement that
21 imposes more restrictive requirements or regulations on
22 the activities authorized under such title. Provided nothing
23 herein shall exempt the Friant Division, Hidden Unit, and
24 Buchanan Unit of the Central Valley Project from orders
25 issued by the State Water Resources Control Board pursu-

1 ant to the Porter-Cologne Water Quality Control Act
2 (California Water Code Sections 13000 et seq.).

3 **SEC. 203. REPEAL OF THE SAN JOAQUIN RIVER SETTLE-**
4 **MENT.**

5 As of the date of enactment of this title, the Secretary
6 shall cease any action to implement the San Joaquin River
7 Restoration Settlement Act (subtitle A of title X of Public
8 Law 111–11) and the Stipulation of Settlement (Natural
9 Resources Defense Council, et al. v. Kirk Rodgers, et al.,
10 Eastern District of California, No. Civ. S–88–1658 LKK/
11 GGH).

12 **SEC. 204. SATISFACTION AND DISCHARGE OF OBLIGA-**
13 **TIONS.**

14 Congress finds and declares that the enactment of
15 this section satisfies and discharges all of the following
16 obligations:

17 (1) Those of the Secretary contained in section
18 3406(c)(1) of the Reclamation Projects Authoriza-
19 tion and Adjustment Act of 1992 (Public Law 102–
20 575), except that the Secretary shall continue to as-
21 sess and collect the charges described in such section
22 3406(c)(1).

23 (2) Those of the Secretary and all other parties
24 to protect and keep in good condition any fish that
25 may be planted or exist below Friant Dam, including

1 any obligations under section 5937 of the California
2 Fish and Game Code and the public trust doctrine.

3 **SEC. 205. SAN JOAQUIN RIVER HABITAT RESTORATION.**

4 (a) PURPOSE.—The purpose of this section is to im-
5 plement a program of increased water releases from
6 Friant Dam to address environmental, habitat, fisheries,
7 and water quality concerns on the San Joaquin River from
8 Friant Dam to Sack Dam.

9 (b) DEFINITIONS.—For the purposes of this section:

10 (1) RESTORATION FLOWS.—The term “Res-
11 toration Flows” means the minimum flow of 50
12 cubic feet per second at Sack Dam, located approxi-
13 mately 85 river miles downstream from Friant Dam.

14 (2) SECRETARY.—The term “Secretary” means
15 the Secretary of the Interior.

16 (3) WATER YEAR.—The term “Water Year”
17 means October 1 through the following September
18 30.

19 (c) CRITICAL WATER YEAR.—For purposes of this
20 section a Critical Water Year is when the total unimpaired
21 runoff at Friant Dam is less than 400,000 acre-feet.

22 (d) RELEASE OF RESTORATION FLOWS.—In each
23 Water Year, commencing in the Water Year starting on
24 October 1, 2012, the Secretary—

1 (1) shall modify Friant Dam operations so as
2 to release the Restoration Flows for that Water
3 Year, except in any critical water year;

4 (2) shall ensure that the release of Restoration
5 Flows are maintained at the levels prescribed by this
6 section;

7 (3) shall release the Restoration Flows in a
8 manner that improves the fishery in the San Joa-
9 quin River below Friant Dam, but upstream of
10 Gravelly Ford in existence as of the date of the en-
11 actment of this section, and the associated riparian
12 habitat, while improving water quality in the San
13 Joaquin River at Vernalis and achieving such other
14 environmental benefits as the Secretary may reason-
15 ably determine; and

16 (4) may, without limiting the actions required
17 under paragraphs (1) through (3) and subject to
18 subsection (m), use the Restoration Flows to en-
19 hance or restore a warm water fishery if the Sec-
20 retary determines that it is reasonable, prudent, and
21 feasible to do so.

22 (e) EFFECT ON EXISTING OBLIGATIONS.—Except as
23 described in subsection (f), nothing in this section shall
24 modify any existing obligation of the United States under
25 Federal Reclamation law to operate the Central Valley

1 Project in conformity with State law and existing or to
2 be renewed water service, repayment, purchase, or ex-
3 change contracts.

4 (f) RECOVERY OF RESTORATION FLOWS.—Not later
5 than 1 year after the date of the enactment of this section,
6 the Secretary shall develop and implement a least-cost
7 plan to fully recover or replace all Restoration Flows and
8 provide such recovered or replacement flows to those water
9 service contractors within the Friant Division, Hidden
10 Unit, and Buchanan Unit of the Central Valley Project
11 that relinquished the Restoration Flows so recovered or
12 replaced. Such a program shall not impact the water sup-
13 ply or water rights of any entity outside the Friant Divi-
14 sion, Hidden Unit, and Buchanan Unit of the Central Val-
15 ley Project.

16 (g) GROUNDWATER IMPACT PLAN.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of the enactment of this section, the Sec-
19 retary, in cooperation with representatives of af-
20 fected landowners, shall develop and implement a
21 least-cost plan to fully mitigate the impact on
22 groundwater resources within the service area of the
23 Friant Division, Hidden Unit, and Buchanan Unit
24 of the Central Valley Project caused by the release
25 of Restoration Flows.

1 (2) MITIGATION.—The mitigation required
2 under paragraph (1) may include one or more of the
3 following: the development of new water supplies,
4 land retirement, and groundwater banking and re-
5 charge projects. To the extent Restoration Flows are
6 recovered or replaced pursuant to subsection (g) in
7 a manner that mitigates the impact on groundwater
8 resources caused by the release of Restoration
9 Flows, such recovery or replacement may be consid-
10 ered to be a part of the plan to be implemented
11 under this subsection.

12 (h) PRIVATE RIGHTS OF ACTION.—Nothing in this
13 section shall confer upon any person or entity a private
14 right of action or claim for relief to interpret or enforce
15 the provisions of this section. Any Central Valley Project
16 long-term water service or repayment contractor within
17 the Friant Division, Hidden Unit, or Buchanan Unit ad-
18 versely affected by the Secretary's failure to comply with
19 subsection (f) or (g) may bring an action against the Sec-
20 retary for injunctive relief or damages, or both. Any action
21 for damages shall be brought in the United States Court
22 of Federal Claims.

23 (i) NO IMPACTS ON OTHER INTERESTS.—No Central
24 Valley Project or other water other than San Joaquin
25 River water impounded by or bypassed from Friant Dam

1 shall be used to implement subsection (d) unless such use
2 is on a voluntary basis. No cost associated with the imple-
3 mentation of this section shall be imposed directly or indi-
4 rectly on any Central Valley Project contractor, or any
5 other person or entity, outside the Friant Division, the
6 Hidden Unit, or the Buchanan Unit, unless such costs are
7 incurred on a voluntary basis. The implementation of this
8 section shall not result directly or indirectly in any reduc-
9 tion in water supplies or water reliability on any Central
10 Valley Project contractor, any State Water Project con-
11 tractor, or any other person or entity, outside the Friant
12 Division, the Hidden Unit, or the Buchanan Unit, unless
13 such reductions or costs are incurred on a voluntary basis.

14 (j) PRIORITY.—

15 (1) IN GENERAL.—All actions taken under this
16 section shall be subordinate to the Secretary's use of
17 Central Valley Project facilities to make Project
18 water, other than water released from the Friant
19 Dam pursuant to this section, and the Secretary's
20 performance of the Agreement.

21 (2) DEFINITION OF AGREEMENT.—For the pur-
22 poses of this subsection, the term "Agreement"
23 means the Agreement of November 24, 1986, be-
24 tween the United States and the Department of
25 Water Resources of the State of California for the

1 coordinated operation of the Central Valley Project
2 and the State Water Project as authorized by sec-
3 tion 103 of Public Law 99-546, including any
4 agreement to resolve conflicts arising from that
5 Agreement.

6 **SEC. 206. RESTORATION FUND.**

7 There is hereby established within the Treasury of
8 the United States a fund, to be known as the San Joaquin
9 River Fishery Restoration Fund, into which the following
10 funds shall be deposited and used solely for the purpose
11 of implementing this title:

12 (1) All payments received pursuant to section
13 3406(c)(1) of the Reclamation Projects Authoriza-
14 tion and Adjustment Act of 1992 (Public Law 102-
15 575; 106 Stat. 4721).

16 (2) Any non-Federal funds, including State
17 cost-sharing funds, contributed to the United States
18 for this purpose.

19 (3) Funds in the San Joaquin River Restora-
20 tion Fund, (Public Law 111-11 section
21 10009(c)(1)), on the day before the date of the en-
22 actment of this Act.

23 **SEC. 207. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.**

24 After the date of the enactment of this title, the Sec-
25 retary shall not distinguish between natural-spawned and

1 hatchery-spawned or otherwise artificially propagated
 2 strains of a species in making any determination under
 3 the Endangered Species Act of 1973 (16 U.S.C. 1531 et
 4 seq.) that relates to any anadromous fish species present
 5 in the Sacramento and San Joaquin Rivers or their tribu-
 6 taries and ascend those rivers and their tributaries to re-
 7 produce after maturing in San Francisco Bay or the Pa-
 8 cific Ocean.

9 **TITLE III—REPAYMENT CON-**
 10 **TRACTS AND ACCELERATION**
 11 **OF REPAYMENT OF CON-**
 12 **STRUCTION COSTS**

13 **SEC. 301. REPAYMENT CONTRACTS AND ACCELERATION OF**
 14 **REPAYMENT OF CONSTRUCTION COSTS.**

15 (a) **CONVERSION OF CONTRACTS.—**

16 (1) Not later than 1 year after enactment, the
 17 Secretary of the Interior, upon request of the con-
 18 tractor, shall convert all existing long-term contracts
 19 with any Central Valley Project contracts entered
 20 under subsection (e) of section 9 of the Act of Au-
 21 gust 4, 1939 (53 Stat. 1196), to contracts under
 22 subsection (d) of section 9 of said Act (53 Stat.
 23 1195), under mutually agreeable terms and condi-
 24 tions.

1 (2) Upon request of the contractor, the Sec-
2 retary is further authorized to convert, not later
3 than 1 year after enactment, any Central Valley
4 Project long-term contract entered under subsection
5 (c)(2) of section 9 of the Act of August 4, 1939 (53
6 Stat. 1194), to a contract under subsection (c)(1) of
7 section 9 of said Act, under mutually agreeable
8 terms and conditions.

9 (3) All contracts entered into pursuant to para-
10 graph (1) shall—

11 (A) require the repayment, either in lump
12 sum or by accelerated prepayment, of the re-
13 maining amount of construction costs identified
14 in the most current version of the Central Val-
15 ley Project Schedule of Irrigation Capital Allo-
16 cations by Contractor, as adjusted to reflect
17 payments not reflected in such schedule, and
18 properly assignable for ultimate return by the
19 contractor, no later than January 31, 2013, or
20 if made in approximately equal annual install-
21 ments, no later than January 31, 2016; such
22 amount to be discounted by $\frac{1}{2}$ the Treasury
23 Rate. An estimate of the remaining amount of
24 construction costs as of January 31, 2013, as
25 adjusted, shall be provided by the Secretary of

1 the Interior to each contractor no later than
2 180 days after enactment;

3 (B) require that, notwithstanding sub-
4 section (c)(2), construction costs or other cap-
5 italized costs incurred after the effective date of
6 the contract or not reflected in the schedule ref-
7 erenced in subparagraph (A), and properly as-
8 signable to such contractor, shall be repaid in
9 not more than 5 years after notification of the
10 allocation if such amount is a result of a collec-
11 tive annual allocation of capital costs to the
12 contractors exercising contract conversions
13 under this subsection of less than \$5,000,000.
14 If such amount is \$5,000,000 or greater, such
15 cost shall be repaid as provided by applicable
16 Reclamation law, provided that the reference to
17 the amount of \$5,000,000 shall not be a prece-
18 dent in any other context; and

19 (C) provide that power revenues will not be
20 available to aid in repayment of construction
21 costs allocated to irrigation under the contract.

22 (4) All contracts entered into pursuant to para-
23 graph (2) shall—

24 (A) require the repayment in lump sum of
25 the remaining amount of construction costs

1 identified in the most current version of the
2 Central Valley Project Schedule of Municipal
3 and Industrial Water Rates, as adjusted to re-
4 flect payments not reflected in such schedule,
5 and properly assignable for ultimate return by
6 the contractor, no later than January 31, 2016.
7 An estimate of the remaining amount of con-
8 struction costs as of January 31, 2016, as ad-
9 justed, shall be provided by the Secretary of the
10 Interior to each contractor no later than 180
11 days after enactment; and

12 (B) require that, notwithstanding sub-
13 section (c)(2), construction costs or other cap-
14 italized costs incurred after the effective date of
15 the contract or not reflected in the schedule ref-
16 erenced in subparagraph (A), and properly as-
17 signable to such contractor, shall be repaid in
18 not more than 5 years after notification of the
19 allocation if such amount is a result of a collec-
20 tive annual allocation of capital costs to the
21 contractors exercising contract conversions
22 under this subsection of less than \$5,000,000.
23 If such amount is \$5,000,000 or greater, such
24 cost shall be repaid as provided by applicable
25 Reclamation law, provided that the reference to

1 the amount of \$5,000,000 shall not be a prece-
2 dent in any other context.

3 (b) FINAL ADJUSTMENT.—The amounts paid pursu-
4 ant to subsection (a) shall be subject to adjustment fol-
5 lowing a final cost allocation by the Secretary of the Inte-
6 rior upon completion of the construction of the Central
7 Valley Project. In the event that the final cost allocation
8 indicates that the costs properly assignable to the con-
9 tractor are greater than what has been paid by the con-
10 tractor, the contractor shall be obligated to pay the re-
11 maining allocated costs. The term of such additional re-
12 payment contract shall be no less than 1 year and no more
13 than 10 years, however, mutually agreeable provisions re-
14 garding the rate of repayment of such amount may be de-
15 veloped by the parties. In the event that the final cost allo-
16 cation indicates that the costs properly assignable to the
17 contractor are less than what the contractor has paid, the
18 Secretary of the Interior is authorized and directed to
19 credit such overpayment as an offset against any out-
20 standing or future obligation of the contractor.

21 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

22 (1) Notwithstanding any repayment obligation
23 under subsection (a)(3)(B) or subsection (b), upon a
24 contractor's compliance with and discharge of the
25 obligation of repayment of the construction costs as

1 provided in subsection (a)(3)(A), the ownership and
2 full-cost pricing limitations of any provision of Fed-
3 eral Reclamation Law shall not apply to lands in
4 such district.

5 (2) Notwithstanding any repayment obligation
6 under paragraph (3)(B) or paragraph (4)(B) of sub-
7 section (a), or subsection (b), upon a contractor's
8 compliance with and discharge of the obligation of
9 repayment of the construction costs as provided in
10 paragraphs (3)(A) and (4)(A) of subsection (a), the
11 Secretary of the Interior shall waive the pricing pro-
12 visions of section 3405(d) of the Reclamation
13 Projects Authorization and Adjustment Act of 1992
14 (Public Law 102-575) for such contractor, provided
15 that such contractor shall continue to pay applicable
16 operation and maintenance costs and other charges
17 applicable to such repayment contracts pursuant to
18 the then-current rate-setting policy and applicable
19 law.

20 (d) CERTAIN REPAYMENT OBLIGATIONS NOT AL-
21 TERED.—Implementation of the provisions of this section
22 shall not alter the repayment obligation of any other long-
23 term water service or repayment contractor receiving
24 water from the Central Valley Project, or shift any costs
25 that would otherwise have been properly assignable to any

1 contractors absent this section, including operations and
2 maintenance costs, construction costs, or other capitalized
3 costs incurred after the date of enactment of this Act, to
4 other such contractors.

5 (e) STATUTORY INTERPRETATION.—Nothing in this
6 part shall be construed to affect the right of any long-
7 term contractor to use a particular type of financing to
8 make the payments required in paragraph (3)(A) or para-
9 graph (4)(A) of subsection (a).

○



DRAFT

May 30, 2011

Honorable Tom McClintock
Chairman, Subcommittee on Water and Power
U.S. House of Representatives
428 Cannon Bldg.
Washington DC 20515

Re: Opposition to H.R. 1837 The San Joaquin Valley Water Reliability Act.

Dear Chairman McClintock:

This letter will provide the comments of the California salmon fishing industry and the hundreds of thousands of businesses and individuals that care about the future of the California Central Valley salmon populations.

We strongly oppose H.R. 1837. This bill is a radical attempt to place the water demands of some of California's most junior water rights holders ahead of all other California interests in a blatant water grab. It is intended to significantly enrich a small group of land owners and their water agency(s) by allowing them to purchase the maximum amount of below market, taxpayer-subsidized, government-developed water -- no matter what the water year or other needs for water may exist -- in order to irrigate some highly problematic or marginal lands, or to profit by

reselling that water at market rates. This is not welfare for the needy; this is welfare for the greedy.

Mr. Nunes bill would block necessary protections for the Bay-Delta – the most important estuary on the West Coast of the Americas – along with its fisheries, including the West Coast’s second largest salmon runs. It would preempt state water laws, overturn state water rights and undermine efforts to find solutions to the problems facing the Bay-Delta Estuary. There are no words strong enough to describe the complete devastation this bill would bring to the California Central Valley salmon runs and those who depend on them for their livelihoods, recreation and food sources. The bill might better be titled “The Salmon Extinction Bill of 2011”.

No industry has suffered more than the salmon industry over the political maneuvering of these people and the contributors behind them. The problem started in year 2000 when agricultural export pumping from the San Francisco Bay Delta first reached over 6 million acre feet of water annually. This resulted in significantly altered San Francisco Bay Delta flows destroying millions of baby salmon smolts as they attempted to migrate through the Delta. Massive water movements from the upstream reservoirs like Shasta, Orville and Folsom were required to feed the Delta pumps. These movements destroyed much of the upriver salmon habitat. As flows were cycled up and down to meet pumping requirements, salmon eggs were left high and dry. In addition, water temperatures in the spawning areas were frequently lethal at salmon spawning time. The result was the beginning of one of the largest salmon population crashes in history.

In 2004 National Marine Fisheries Service (NMFS) scientists recognized the problem and prepared a “jeopardy” declaration to stop the carnage. Unfortunately politics trumped science that year and the agency, under considerable political pressure, wrongly issued a “no jeopardy” opinion that was subsequently overturned in 2008. A Federal District Judge in the Eastern District of California found the increased pumping operations were in serious violation of the Endangered Species Act and a new biological opinion was ordered. The Federal Court decision, however, was too late to prevent the carnage that occurred between the time pumping had increased and the order came mandating protections be put in place for fish and the estuary during pumping operations.

In June 2009 the new biological opinion was put in place by NMFS which curtailed some water exports and implemented other safeguards to avoid salmon extinctions. Since that time the junior water rights holders have filed 13 lawsuits and have introduced six bills in Congress in an attempt to overturn the salmon protections – protections essential for maintaining California’s salmon fishery, and the infrastructure of fishing communities along the coast, including Oregon.

The salmon damage has been severe. There are four separate runs of Central Valley Chinook salmon and they have all crashed due to past policies. The Winter Run was declared endangered

in the early 1990s when only 191 fish returned to spawn. With extensive recovery efforts, the run reached 16,926 fish in 2006 only to crash again 91% to only 1,555 fish in 2010. Between 2005 and 2010 the ESA threatened Spring Run dropped 85% and the late fall run dropped 50%. The most serious drop was the Fall Run which declined 97% from 1,490,468 fish in 2002 to 39,500 in 2009. The Fall Run has no ESA protections and has suffered the most from the Delta exports and the lethal upriver habitat conditions.

Because of the Fall Run crash, the commercial and recreational ocean salmon fishing seasons were halted completely in 2008 and 2009. In 2010 there was only a token season. The seasons were stopped by the federal government to avoid a complete loss of the fishery. The impact on the salmon industry and its associated businesses was devastating. Unemployment was 100% and tens of thousands of jobs were lost. The economic cost of the shutdown was estimated at \$1.4 billion annually.

The State of California, the Federal Government along with the salmon industry and others are now working closely together to restore the Delta environment and bring the salmon back. There are early signs that this program is starting to work. We believe this is the right answer. H.R 1837 is the wrong answer and would bring all of this activity to a halt.

- The California State Water Resources Control Board determined that additional fresh water flows are needed through the San Francisco Bay Delta to recover the Delta and restore the fisheries. H.R 1837 would add no flows and would take away the 800,000 acre feet of water reserved by Congress for salmon recovery.
- Water fees currently provide in excess of \$50 million annually for a Restoration fund that is used by the fishery agencies in part for salmon recovery. H.R. 1837 reallocates these funds to purchase additional water supplies.
- The 2009 biological opinion does not recover salmon but it keeps them from going extinct. This opinion curtailed springtime pumping when baby salmon are attempting to migrate through the Delta. H.R. 1837 takes away the water used to implement the biological opinion.
- H.R 1837 renders the Endangered Species Act moot by declaring that the state and federal water projects have already fully complied with the ESA.

- H.R. 1837 rewrites California law and takes the water away from existing users and environmental needs by requiring 40 year renewals of all existing state and federal water contracts.

In short, every current and future water and habitat condition that salmon need to survive and recover is removed by H.R. 1837. The bill is unquestionably a path to extinction for salmon and many other aquatic species. We know of no reputable scientist who would say anything different. Following are some scientific references.

- Dr. Peter B. Moyle of the U.C. Davis Watershed Science Center is one of the leading scientists in the state on the needs of fish in estuaries, rivers and tributaries. In 2008 he completed a two year study of the 31 remaining native salmonid species in California. His conclusions were that unless water conditions are improved substantially that two thirds of these species including salmon would be extinct within a few decades. Dr Moyle said, “The fish don’t lie. The story they tell is that California’s environment is unraveling. Their demise is symptomatic of a much larger water crisis that, unless addressed, will severely impact every Californian in the years to come.”
- In 2010 the California Water Quality Control Board completed its study of the amount of fresh water that must flow through the San Francisco Bay Delta to recover salmon and other aquatic species. The study concluded that up to double the amount of water that is currently allowed to flow through was needed. This study was reviewed and supported by fifteen of the top independent scientists in the state. The California Department of Fish and Game conducted a similar study with the same conclusions.
- The National Academy of Science reviewed the scientific basis of the 2009 biological opinion. The NAS supported the basic conclusions of the water modifications of the opinion.

The salmon industry and its supporters are requesting a rejection of all the provisions of H.R. 1837. Congress has never approved a provision that would lead to the extinction of a wildlife species, leastwise one with the economic importance of salmon. This is not the time to start. H.R. 1837 is not about reliability, but enriching the junior water rights holders on the west side of the San Joaquin River at the expense of farmers in other parts of the Central Valley, the California and Oregon salmon fisheries, and California and Federal taxpayers. Instead of this bill, we strongly support the activity that is currently underway by the State and federal administrations to find the best water solutions for all of California. Water is clearly a crisis in the state and should not be subject to a non scientific political power play of any special interest group.

It is particularly concerning that a major industry like the salmon industry should be put out of business to satisfy the political whims of a small portion of California's agricultural sector. If the proposal were to impact some remote pesky insect it might have some merit. But the salmon industry is very different.

- The salmon industry is a major piece of the California economy. It directly and indirectly impacts tens of thousands of good-paying jobs. It is also the economic engine of hundreds of small communities from Morro Bay to Crescent City – not to mention Oregon coastal communities which historically relied on Central Valley salmon for as much as 50 percent of their ocean harvest. There are over 2,000 separate businesses directly involved in the industry. These include commercial boats, fish processors, marinas, equipment manufacturers, charter boats, guides and 1,000 retail businesses. These retailers range from small mom and pop stores to giants like Wal-Mart and West Marine.
- The salmon industry is a food producer. With recovery of the fresh water side of the salmon life cycle, the industry is capable of producing more than fifteen million pounds of fresh salmon annually. The economic impact of this production is over \$5 billion annually.
- Salmon production is a non-polluting activity. There are no pesticide runoffs and no poison runoffs such as the selenium contamination associated with the marginal west-side San Joaquin Valley irrigated lands.
- Approximately 500,000 recreational anglers fish for salmon in California annually when the seasons are open. It is a healthy family outdoor activity enjoyed by all ages.
- Salmon is the seafood of choice by millions of people. It is continually ranked as one of the top choices in restaurants. It is also the best source of omega 3 proteins which have significant heart benefits. The California Chinook salmon is one most desired salmon species in the country. It is unmatched in taste and texture.

Finally, we resent the name calling that has been going on referring to those of us who are concerned for our jobs, livelihoods and life style as “radical environmentalists.” The salmon fishing community encompasses individuals from all segments of our society – we are conservatives, liberals and moderates, we are Republicans, Democrats and independents. The name calling that has been going on is boorish, childish and reflects a basic lack of decency. We want to engage with all in serious discussions on how to ensure we have sustainable farm and fish food production, on how to make our water supplies more dependable and how we can preserve for future generations of Californians the natural wonders of this state – its rivers and estuary, fish and wildlife. This is no time for radicalism, but for all of us to work together, in earnestness and good faith, to resolve the problems we are confronted with - without name

calling, partisan rancor or demagoguery – to protect the jobs in the fields and at sea, to preserve California’s natural and cultural heritage. HR 1837, unfortunately, is not part of such a discussion; it is, instead, a one-sided and short-sighted measure that should be roundly rejected now.

We appreciate your hearing our views.

Sincerely,

Zeke Grader

Pacific Coast Federation.
of Fishermen’s Associations

Dick Pool

Water4Fish

Bill Jennings

California Sportfishing .
Protection Alliance

Victor Gonella

Golden Gate Salmon Assn.

Paul Johnson

Monterey Fish Market

Darrel Ticehurst

Coastside Fishing Club

Ken Elie

Outdoor Pro Shop

Mike Hudson

Small Boat Commercial
Salmon Fishermen’s Assn.

Mark Mlcoch

Nor Cal Guides Assn.

Dan Bacher

The Fish Sniffer

Roger Thomas

Golden Gate Fishermen’s Assn.

Mark Rockwell

Nor Cal Fed of Fly Fishers

Bruce Tokars

Salmon Water Now

Gordon Robertson

American Sportfishing Assn.

cc.

Hon. Edmund G Brown Jr.

Hon. Diane Feinstein

Hon. Barbara Boxer

Hon. Ron Wyden

Hon. Jeff Markley

Hon. George Miller

Hon. John Garamendi

Hon. Jackie Speier

Hon. Grace Napolitano

Hon. Doris Matsui

Hon. Dan Lundgren

Hon. Mike Thompson

Hon. Doc Hastings

Hon. Edward Markey

Hon. Wally Herger

Hon. Jerry McNerney

Hon. Sam Farr

Hon. Jim Costa

Hon. Anna Eshoo

Hon. Lynn Woolsey

Hon. Peter DeFazio

Hon. Lois Capps

Hon. David Wu

Hon. Greg Walden

Hon. Earl Blumenauer

Hon. Fran Pavley, California Senate

Hon. Wesley Chesbro, California
Assembly

Hon. Jared Huffman, California
Assembly
Hon. Ken Salazar, Sec of Interior
Hon. Gary Locke, Sec of Commerce
Hon. John Laird, CA Resources
Secretary
Mr. David Hayes Deputy Interior
Secretary
Mr. Michael Connor, USBR
Commissioner
Mr. John McCamman, Acting
Director CDFG
Mr. David Nawi, Senior CA Advisor
DOI
Dr. Don McIsaac, Executive Director
PFMC

Dr. Jane Leebchen, Administrator
of NOAA
Mr. Eric Schwaab, Director NMFS
Mr. Rodney McInnis, Regional
Director NMFS
Mr. Ren Lohofener Regional
Director NMFS
Mr. Don Glazer, Regional Director
USBR

LEGISLATIVE COMMITTEE REPORT ON LEGISLATIVE MATTERS

The Legislative Committee (Committee) convened at 2:00 p.m. on Tuesday, June 7, 2011. In attendance were Committee members 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 Chairman Mr. Mark Cedergreen, Council Member Mr. Steve Williams, Council Executive Director Dr. Don McIsaac, Council Special Assistant to the Executive Director Mr. Don Hansen, National Marine Fisheries Service Southwest Assistant Regional Administrator Mr. Mark Helvey, Salmon Advisory Subpanel Alternate Ms. Irene Martin, and Council Staff Officer Mr. Mike Burner.

H.R. 946, Endangered Salmon Predation Prevention Act

H.R. 946 amends the Marine Mammal Protection Act of 1972 to authorize the Secretary of Commerce (Secretary) to issue permits for the lethal taking of California sea lions on the Columbia River or its tributaries if the Secretary determines that alternative measures to reduce sea lion predation on salmonid stocks listed under the Endangered Species Act provide inadequate protection.

On May 5, 2011, Council Chairman Mark Cedergreen and Council Executive Director Don McIsaac received a formal request for Council comments on H.R. 946 from Congressman Hastings via an email from Mr. Todd Ungerecht, Senior Counsel and Director of Northwest Energy & Environmental Policy of the U.S. House of Representatives Committee on Natural Resources. Additionally, the House Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs is holding a hearing on H.R. 946 on June 14, 2011 that will be followed by a 10-day public comment period. The Committee recommends that any comments approved by the Council be submitted to Congressman Hastings and the House Committees by June 24, 2011.

The Committee reviewed the bill and heard Oregon Department of Fish and Wildlife perspectives from Mr. Williams. The Committee was generally supportive of the bill, its intended purpose, and the State positions expressed by Mr. Williams. The Committee developed the following specific comments on H.R. 946:

- Although lethal removal of California sea lions has occurred in the absence of new legislation, the current process is cumbersome, requiring a lengthy approval process that results in limited and/or delayed removals. H.R. 946 would simplify and streamline the permitting process allowing a more rapid response to time-sensitive salmon conservation situations.
- Existing efforts are the result of strong coordination between the Oregon, Washington, the Federal government, and the Tribes. The Committee believes that this coordination is critical for future management decisions and is supportive of H.R. 946's continuation of this cooperative environment.
- In general, the Committee believes that the States and Tribes have conducted and documented extensive field studies on this issue and have demonstrated sound and responsible stewardship. Therefore, the Committee recommends the permitting process afford greater management flexibility and authority to the States and Tribes. The

Committee remains supportive of strong Federal oversight, but believes more decisions could be delegated to the permitted State and Tribal entities.

- Under the current version of H.R. 946, issued permits would be effective for 14 days. The Committee believes that this timeframe is too short and would result in an unnecessarily repetitive renewal process.
- H.R. 946 requires the State and Tribes to document predation by individual animals and to exhaust non-lethal methods before lethal removal permits can be issued. The Committee believes that the States and Tribes have considerable experience and expertise in this matter and that the limited effectiveness of non-lethal methods has been clearly documented. The Committee recommends continued use of careful documentation and the allowance of non-lethal methods to control predation, but believes the requirement to indentify individual animals before a permit can be issued is unnecessary.
- The Committee notes that analyses in compliance with the National Environmental Policy Act (NEPA) have been conducted for previous efforts to manage marine mammal predation. In the interest of streamlining the permitting process and to allow a more rapid response to urgent predation issues, the Committee is supportive of the provisions in H.R. 946 that would exempt the proposed process from the NEPA so long as this exemption would not delay or diminish the program's effectiveness.

Future Meeting Plans

There are two Congressional bills of particular interest to the Committee that may warrant additional review at the September Council meeting in San Mateo, California. However, no formal requests for Council comments on these bills have been received to date.

The International Fisheries Stewardship and Enforcement Act (S. 52), would establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and includes the Antigua Convention Implementing Act of 2011 that amends the Tuna Conventions Act of 1950 to revise provisions regarding: (1) the Inter-American Tropical Tuna Commission; (2) the General Advisory Committee; (3) the Scientific Advisory Subcommittee; (4) prohibited acts; and (5) enforcement. In April 2010, the Committee and the Council reviewed similar legislation that was introduced in the previous Congress.

The San Joaquin Valley Water Reliability Act (H.R. 1837, Agenda Item F.1.a, Attachment 6) amends the Central Valley Project Improvement Act and includes provisions that would alter water use policy in the Sacramento and San Joaquin River basins. The legislation has raised concerns among California's salmon fishing industry as expressed in a draft letter to Congressman Tom McClintock, the Chairman of the House Subcommittee on Water and Power (Agenda Item F.1.a, Supplemental Attachment 7).

The Committee adjourned at 3:15 p.m.

Legislative Committee Recommendations

It is recommended the Council:

- 1. Direct the Council Executive Director to send a letter responding to a request from Congressman Hastings and staff of the U.S. House of Representatives Committee on Natural Resources that conveys Committee comments on H.R. 946 by June 24, 2011.**
- 2. Tentatively schedule a September Committee meeting in anticipation of additional Committee review and discussion of HR. 1837, S. 52 and other legislative matters, as necessary.**

PFMC
06/10/11

APPROVAL OF COUNCIL MEETING MINUTES

The draft minutes for the June 2010 Council meeting are provided in Attachment 1 and the draft minutes of the March 2011 Council meeting will be provided in Supplemental Attachment 2 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 June 2010 and draft March 2011 Council meeting minutes.**

Reference Materials:

1. Agenda Item F.2.a, Attachment 1: Draft Minutes: 204th Session of the Pacific Fishery Management Council.
2. Agenda Item F.2.a, Supplemental Attachment 2: Draft Minutes: 207th Session of the Pacific Fishery Management Council.

Agenda Order:

- a. **Council Action:** Approve June 2010 and March 2011 Council Meeting Minutes

PFMC
05/25/11



DRAFT MINUTES
204th Session of the
Pacific Fishery Management Council
June 12-17, 2010
Crowne Plaza Hotel
1221 Chess Drive, Foster City, California

Table of Contents

A.	Call to Order	5
A.1	Opening Remarks.....	5
A.2	Roll Call.....	5
A.3	Executive Director's Report	5
A.4	Agenda	6
A.4.a	Council Action: Approve Agenda.....	6
B.	Groundfish Management.....	6
B.1	National Marine Fisheries Service Report (06/12/2010; 11:20 a.m.)	6
B.1.a	Regulatory Activities	6
B.1.b	Fisheries Science Center Activities.....	6
B.1.c	Reports and Comments of Advisory Bodies and Management Entities	6
B.1.d	Public Comment.....	7
B.1.e	Council Discussion	7
B.2	Fishery Management Plan Amendment 23, Annual Catch Limits and Accountability Measures (06/13/10; 2:18 p.m.)	7
B.2.a	Agenda Item Overview	7
B.2.b	Reports and Comments of Advisory Bodies and Management Entities	7
B.2.c	Public Comment.....	7
B.2.d	Council Action: Adopt Final Amendment (06/13/10; 4:41 p.m.)	7
B.3	Tentative Adoption of Harvest Specifications, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries.....	10
B.3.a	Agenda Item Overview (06/14/10; 8:01 a.m.)	10
B.3.b	Reports and Comments of Advisory Bodies and Management Entities (06/14/10; 9:55 a.m.)	11
B.3.c	Public Comment.....	11
B.3.d	Council Action: Tentatively Adopt Overfishing Limits, Acceptable Biological Catches, Annual Catch Limits, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries	11
B.4	Stock Assessment Planning for 2013-2014 Fishery Guidance	21

B.4.a	Agenda Item Overview (06/15/10; 11:28 a.m.)	21
B.4.b	Stock Assessment Options	22
B.4.c	Reports and Comments of Advisory Bodies and Management Entities (06/15/10; 1:02 p.m.)	22
B.4.d	Public Comment.....	22
B.4.e	Council Action: Adopt Final Terms of Reference, Stock Assessments list and Assessment Schedule for 2011	22
B.5	Consideration of Inseason Adjustments.....	23
B.5.a	Agenda Item Overview (06/16/10; 8:12 a.m.)	23
B.5.b	Reports and Comments of Advisory Bodies and Management Entities	23
B.5.c	Public Comment.....	23
B.5.d	Council Action: Adopt Final Recommendations for Adjustments to 2010 Groundfish Fisheries (06/16/10; 9:07 a.m.)	23
B.6	Regulatory Deeming for Fishery Management Plan (FMP) Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation).....	24
B.6.a	Agenda Item Overview (06/16/10; 9:50 a.m.)	24
B.6.b	Reports and Comments of Advisory Bodies and Management Entities	25
B.6.c	Public Comment.....	25
B.6.d	Council Action: Consider Regulatory Deeming and Implementing Issues for the FMP Amendments	26
B.7	Final Adoption of Harvest Specifications, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries (9:50 a.m.)	28
B.7.a	Agenda Item Overview	28
B.7.b	Reports and Comments of Advisory Bodies and Management Entities	28
B.7.c	Public Comment.....	28
B.7.d	Council Action: Adopt Final Overfishing Limits, Acceptable Biological Catches, Annual Catch Limits, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries	29
C.	Salmon Management	35
C.1	Fishery Management Plan Amendment 16, Annual Catch Limits and Accountability Measures..	35
C.1.a	Agenda Item Overview (06/12/10; 1 p.m.)	35
C.1.b	Reports and Comments of Advisory Bodies and Management Entities	36
C.1.c	Public Comment.....	38
C.1.d	Council Action: Adopt Preliminary Alternative for Public Review (06/12/10; 4:33 p.m.).....	38
D.	Habitat.....	39
D.1	Current Habitat Issues (06/13/10; 8:07 a.m.)	39
D.1.a	Agenda Item Overview	39

D.1.b	Report of the Habitat Committee	39
D.1.c	Reports and Comments of Advisory Bodies and Management Entities	39
D.1.d	Public Comment.....	39
D.1.e	Council Action: Consider Habitat Committee Recommendations	39
E.	Highly Migratory Species Management	40
E.1	Recommendations to International Fishery Management Organizations	40
E.1.a	Agenda Item Overview (06/13/10; 8:48 a.m.)	41
E.1.b	Reports and Comments of Advisory Bodies and Management Entities	41
E.1.c	Public Comment.....	41
E.1.d	Council Action: Approve Process and Recommendations for Input to the Northern Committee of the Western and Central Pacific Fisheries Commission and Inter-American Tropical Tuna Commission.....	41
E.2	Fishery Management Plan Amendment 2, Annual Catch Limits and Accountability Measures	42
E.2.a	Agenda Item Overview (06/13/10; 10:45 a.m.)	42
E.2.b	Reports and Comments of Advisory Bodies and Management Entities	42
E.2.c	Public Comment (06/13/10; 1:05 p.m.).....	42
E.2.d	Council Action: Adopt Final Amendment (06/13/10; 1:06 p.m.)	42
E.3	Changes to Routine Management Measures for 2011-2012 (06/13/10; 1:55 p.m.).....	46
E.3.a	Agenda Item Overview	46
E.3.b	Reports and Comments of Advisory Bodies and Management Entities	46
E.3.c	Public Comment.....	46
E.3.d	Council Action: Initial Identification of Preliminary Management Changes for Further Consideration	46
F.	Coastal Pelagic Species Management.....	46
F.1	Pacific Mackerel Management for 2010-2011 (06/15/10; 1:35 p.m.).....	46
F.1.a	Agenda Overview	46
F.1.b	Reports and Comments of Advisory Bodies and Management Entities	46
F.1.c	Public Comment.....	47
F.1.d	Council Action: Approve Stock Assessment and Essential Fish Habitat review; Harvest Guideline; and Management Measures.....	47
F.2	Fishery Management Plan Amendment 13, Annual Catch Limits and Accountability Measures 49	
F.2.a	Agenda Item Overview (06/16/10; 3:13 p.m.)	49
F.2.b	Reports and Comments of Advisory Bodies and Management Entities	49
F.2.c	Public Comment (06/15/10; 4:23 p.m.).....	49
F.2.d	Council Action: Adopt Final Amendment	49
G.	Administrative Matters	52
G.1	Approval of Council Meeting Minutes	52

G.1.a	Council Member Review and Comments	52
G.1.b	Council Action: Approve September 2009 Council Meeting Minutes	52
G.2	Fiscal Matters	52
G.2.a	Agenda Item Overview (06/17/2010; 5:39 p.m.)	53
G.2.b	Budget Committee Report	53
G.2.c	Reports and Comments of Advisory Bodies and Management Entities	53
G.2.d	Public Comment.....	53
G.2.e	Council Action: Consider Budget Committee Recommendations.....	53
G.3	Membership Appointments and Council Operating Procedures.....	53
G.3.a	Agenda Item Overview (06/17/2010; 5:49 p.m.)	53
G.3.b	Reports and Comments of Advisory Bodies and Management Entities	53
G.3.c	Public Comment.....	53
G.3.d	Council Action: Elect New Council Chair and Vice Chairs, Consider Changes to Council Operating Procedures and Advisory Body Appointments	53
G.4	Future Council Meeting Agenda and Workload Planning (06/17/10; 6:04 p.m.).....	54
G.4.a.	Agenda Item Overview	54
G.4.b	Reports and Comments of Advisory Bodies and Management Entities	54
G.4.c	Public Comment.....	55
G.4.d	Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning	55

A. Call to Order

A.1 Opening Remarks

Mr. Dave Ortmann, Chair, called the 204th meeting of the Pacific Fishery Management Council (Council) to order on Saturday, June 12, 2010 at 10:45 a.m. Prior to the beginning of the open session, a closed session was held from 8 a.m. to 10:40 a.m. to discuss litigation and personnel matters.

A.2 Roll Call

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

Mr. William L. “Buzz” Brizendine (At-Large)
Mr. Mark Cedergreen, Vice Chairman (Washington Obligatory)
Mr. Brian Corrigan (US Coast Guard, non-voting, designee)
Ms. Michele Culver (Washington State Official, designee)
Mr. David Crabbe (California Obligatory)
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region, designee)
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, designee)
Mr. Steve Williams (State of Oregon Official, designee)
Mr. Dan Wolford, Vice Chairman (At-Large)

The following Council members and/or designees were present for portions of the meeting:

Mr. Phil Anderson (Washington State Official), present from 06/12 through 06/17.
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting), present from 06/13 through 06/17.
Mr. Mark Helvey (National Marine Fisheries Service, Southwest Region, designee), present 06/12 through 06/17.

The following Council members and/or designees were absent for the entire meeting:

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

A.3 Executive Director's Report

Dr. Donald McIsaac; spoke about the four attachments to this agenda item and the one informational report in the briefing book. With regard to Attachment 3, Review of NOAA Fisheries Enforcement Programs and Operations, he noted that the Enforcement Consultants (EC) would provide a response later in the week for Council consideration.

Dr. McIsaac also expressed appreciation for Council Chair, Mr. Dave Ortmann, who is ending his third Council member term with this meeting.

On Thursday, June 17, at 8:09 a.m. Deputy Chief Cenci provided Agenda Item A.3, Supplemental Enforcement Report. Chairman Ortmann opened the floor to comments and questions. He and others expressed the Council's appreciation to our enforcement personnel and noted how important enforcement is to the fishery operations. Mr. Moore recommended that the Council have the Executive Director forward the EC's report to the appropriate personnel in National Oceanic and Atmospheric Administration (NOAA) as a reflection of what our Council does and how it deals with enforcement issues. He felt it was unfortunate that they did not include the west coast enforcement operations in their review and much of what was criticized in the report applied mainly to areas under the authority of other regional councils. In response to a question, Deputy Chief Cenci said a letter might be more constructive and more likely to be read. The Council concurred that the Executive Director send a letter.

A.4 Agenda

Dr. McIsaac asked Mr. Lockhart to speak to the current status of the Magnuson-Stevens Act (MSA) approval process for Groundfish Amendments 20 and 21 (Agenda Item B.6) and to the question of what was appropriate public comment and Council action on Agenda Item B.6 with regard to the intent and notice provided in the Council agenda. (10:58 a.m.)

Mr. Lockhart reviewed the timing of the approval process and noted that on August 10 the Secretary of Commerce must make a decision to approve, partially approve, or disapprove the trawl rationalization program as submitted in Amendment 20. He and Ms. Eileen Cooney clarified that this agenda item is for deeming the regulations implementing Amendments 20 and 21 and that the appropriate comments and action for this agenda item would be in regard to the implementing regulations, not with regard to approval, disapproval, or delay of the amendments.

A.4.a Council Action: Approve Agenda

Mr. Rod Moore moved and Mr. Mark Cedergreen seconded a motion (Motion 1) to approve the meeting agenda as shown in Agenda Item A.4, June Council Meeting Agenda.

B. Groundfish Management

B.1 National Marine Fisheries Service Report (06/12/2010; 11:20 a.m.)

B.1.a Regulatory Activities

Mr. Frank Lockhart introduced new staff at the Northwest Region, Mr. Sean Matson. Mr. Matson will be nominated to serve on the Groundfish Management Team. He spoke about Pacific whiting issues including the upcoming treaty and the progress of the fishery to date.

B.1.b Fisheries Science Center Activities

Dr. Jim Hastie provided an update on Northwest Fisheries Science Center activities.

B.1.c Reports and Comments of Advisory Bodies and Management Entities

None.

B.1.d Public Comment

Mr. Joe Sullivan, The Nature Conservancy, Seattle, WA
Mr. Merrick Burden, Environmental Defense Fund, Seattle, WA

B.1.e Council Discussion

Ms. Culver asked Mr. Lockhart questions regarding upcoming meetings on the treaty tribal whiting rights. Mr. Lockhart said he intends to work with the states. National Marine Fisheries Service (NMFS) is planning on three separate meetings and at least one of those meetings would be a joint meeting with the states.

B.2 Fishery Management Plan Amendment 23, Annual Catch Limits and Accountability Measures (06/13/10; 2:18 p.m.)

B.2.a Agenda Item Overview

Mr. John DeVore provided the agenda item overview.

B.2.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Frank Lockhart summarized Agenda Item B.2.b, Supplemental NMFS Report. Dr. Martin Dorn provided Agenda Item B.2.b, Supplemental SSC Report. Dr. Jason Cope provided Agenda Item B.2.b, Supplemental GMT Report.

B.2.c Public Comment

Dr. Geoff Shester, Oceana, Monterey, CA
Mr. Whit Sheard, Oceana, Monterey, CA
Ms. Laura Pagano, NRDC, San Francisco, CA
Mr. Jeff Russell, NRDC, San Francisco, CA
Ms. Dayna Wolf, Ocean Conservancy, San Francisco, CA

B.2.d Council Action: Adopt Final Amendment (06/13/10; 4:41 p.m.)

Mr. Anderson moved and Mr. Myer seconded Motion 8 to:

Adopt Amendment 23 to the Pacific Coast Groundfish Management Plan, as presented in Agenda Item B.2.a, Attachment 2, June 2010 with the following modifications:

- 1) Adopt the Scientific and Statistical Committee (SSC) recommendations contained in Agenda Item B.2.b, Supplemental SSC Report, June 2010.
- 2) Adopt Groundfish Management Team (GMT) recommendations 1, 2, and 5 contained in Agenda Item B.2.b, Supplemental GMT Report, June 2010.
- 3) Under the description of factors to be considered in the determination of annual catch limits (ACLs), the Council will add the consideration of ecological factors.

Council staff is directed to revise the Preliminary Draft Environmental Assessment (Agenda Item B.2.a., Attachment 1, June 2010) consistent with the provisions of this motion and other clarifications as necessary.

Mr. Anderson explained Amendment 23 is a work in progress, but it provides an important and improved process for deciding harvest specifications. There is a clearer pathway for accommodating scientific uncertainty in deciding acceptable biological catch (ABC) and new tools that will help prevent overfishing. The SSC's report had some explicit recommendations. The GMT's recommendations (1, 2, and 5) are important elements of this action. However, GMT recommendations 3 and 4 should be considered but could reduce flexibility if the annual catch target (ACT) is included in the FMP only as an accountability measure and not a harvest guideline.

Ms. Vojkovich asked Mr. Lockhart if the GMT recommendation to affirm the option 2, 40-10 rule (recommendation 2) could be interpreted that option 1 is contrary to National Standard 1 (NS1) guidelines because ACLs could be set higher than overfishing limits (OFLs). Mr. Lockhart said that NMFS could not approve an ACL that is higher than an OFL.

Mr. Anderson explained that the option 1, 40-10 rule troubled him in that it may not rebuild stocks in the precautionary zone as quickly as he would like. Mr. Moore said that he has championed an option 1 control rule because he believes the option 2 rule is more precautionary than he believes is needed. However, he will not oppose this motion on this basis.

Mr. Lockhart asked for clarification that the motion reaffirms the option 2, 40-10 rule and Mr. Anderson said that was correct.

Mr. Wolford had trouble with the SSC's first recommendation that the SSC will use a probability of overfishing (P^*) approach. He asked Mr. DeVore how that is characterized in the draft FMP language and Mr. DeVore answered that a P^* approach is one of many possible approaches for accommodating scientific uncertainty contemplated in the FMP. Mr. DeVore said there should be clarification in the motion regarding whether a P^* approach is to be an exclusive one.

Mr. Lockhart moved and Ms. Lowman seconded an amendment to Motion 8 (Amendment 1 to Motion 8) to add the following language to the FMP to improve its clarity:

1) In Section 4.4.1 (Attachment 2) add:

"Approaches to quantifying the variability on 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 (σ) can be calculated using this latter approach for all or some category 1 species. These approaches are not exclusive and the SSC may recommend additional approaches to quantifying scientific uncertainty for category 1 species, including approaches that are specific to individual stocks. Once scientific uncertainty is quantified, it is mapped to an estimated probability of overfishing (P^*). The Council chooses the ABC from the SSC-recommended range based on its choice of P^* , which is a risk-assessment policy decision."

2) Insert as options for use by the Council into both Section 4.4.2 and 4.4.3

a) Continue to apply a buffer of 0.25 for category 2 stocks and of 0.5 for category 3 stocks for consistency with current practice until the SSC has developed and applied an appropriate analytical framework.

b) Set the value of sigma for category 2 and 3 stocks to two and four times the coefficient of variation (CV) for category 1 stocks. These specific values are not based on a formal analysis of assessment outcomes and could change substantially when the SSC reviews additional analyses.

3) In Section 4.4 replace the statement:

"The ABC is decided by the Council based on its preferred level of risk aversion."

With

"The ABC is adopted by the Council based on its preferred level of risk aversion in combination with the recommendations of the SSC regarding scientific uncertainty."

4) Direct the staff to work with the SSC to develop language for insertion into the FMP that states that other sources of uncertainty may be included in the determination of the ABC where the SSC can recommend an approach to analyze those sources of uncertainty.

5) For Section 6.2.1 of the Pacific Coast Groundfish FMP (page 69):

After the sentence—

"The current list of routine management measures is published in Federal regulations at 50 CFR 660.370."

Add--

"Routine management measures have been developed to deal with management uncertainty in the groundfish fishery. The process allows timely adjustment of measures inseason to respond to the most current scientific and management information. These routine management measures are accountability measures under the Magnuson-Stevens Act as amended."

6) Add a statement to the existing description of stock complexes that states that current stock complexes will be used until Council advisory bodies can complete their analysis and provide recommendations regarding reconfiguration of those complexes according to the factors discussed in the NS1 guidelines.

7) At the end of Section 4.1 (Attachment 2) insert:

"The ACLs are established to achieve OY in the fishery. The long-term OY for a stock or stock complex is the average of the stock's or stock complex's ACLs."

NMFS will work with Council staff to edit the amendment language to conform to the motions.

The Council briefly discussed the amendment and learned that the Council's April actions in determining preliminary preferred harvest specifications for the 2011-12 fishery were consistent with this amendment and that approaches for determining scientific uncertainty buffers can be flexibly considered and applied.

Amendment 1 to Motion 8 carried unanimously.

Ms. Vojkovich explained there is no compelling need to keep the term harvest guideline (HG) in the FMP since the state of California always pursues a regulatory action consistent with Council action and there is no need to keep the HG term in the FMP based on California regulations.

Mr. Crabbe asked if the motion means the SSC would be approving the ABC and Mr. Anderson said he interprets the SSC recommendation to be that the SSC is going to determine the sigma value (estimated biomass variance). The P^* values would be determined by the Council and the combination of sigma and P^* defines the size of the scientific uncertainty buffer and hence the ABC. The SSC would review these decisions and provide us their recommendations on an ABC. The SSC would give us their opinion if it would cover scientific uncertainty and, coupled with that, our determination of risk associated with management measures for overfishing.

Mr. Crabbe moved and Ms. Vojkovich seconded an amendment to the main motion (Amendment 2 to Motion 8) to strike the last sentence, "SSC would provide final endorsement of all ABCs" from the SSC report.

Mr. Anderson asked Ms. Sheila Lynch, NOAA General Counsel (GC), how the NS1 guidelines describe the SSC's role in recommending ABCs to the Council. Ms. Lynch said the NS1 guidelines state the SSC must recommend ABCs to the Council. Mr. Crabbe asked if recommend and endorse mean the same thing. Ms. Cooney said the statute says the SSC recommends the ABCs and the Council cannot set harvest levels above it. The SSC quantifies the scientific uncertainty and the Council decides the level of risk aversion to determine an ABC. The SSC reviews the final ABCs to ensure the math was done correctly and the ABC is correctly specified.

Mr. Lockhart asked Mr. Crabbe about the concern since he was unclear as to why he is making the amendment. Mr. Crabbe thought the Council was in the position to set P^* and the SSC determines the appropriate sigma value. The way the motion is worded, it sounds like the SSC can determine the ABC value. He wanted clarity that the Council would be setting P^* and the SSC would set sigma.

Mr. Myer moved and Mr. Anderson seconded a substitute amendment to the main motion (Amendment 3 to Motion 8) to change the word "endorsement" to "recommendation" in the last sentence of the SSC Report.

Amendment 3 to Motion 8 carried. Mr. Williams and Mr. Mallet voted no. Main Motion 8 as amended carried unanimously.

Mr. Lockhart said NMFS would volunteer to work with Council staff on developing language to characterize how considerations for ecological factors in setting harvest specifications are incorporated in the FMP. The Council concurred.

B.3 Tentative Adoption of Harvest Specifications, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries

B.3.a Agenda Item Overview (06/14/10; 8:01 a.m.)

Ms. Kelly Ames and Mr. John DeVore provided the agenda item overview. A bullet list of the decision steps for Council action was provided under this agenda item. It was decided to parse the decision by independently deciding the harvest specifications for non-overfished species separately from management measures, which will be done under Agenda item B.7. Additionally, the OFLs and ABCs for overfished species will be adopted today.

B.3.b Reports and Comments of Advisory Bodies and Management Entities (06/14/10; 9:55 a.m.)

Dr. Martin Dorn provided Agenda Item B.3.b, Supplemental SSC Report. Mr. Rob Jones provided Agenda Item B.3.b, Supplemental GMT Report 2. He also offered to answer any questions regarding Agenda Item B.3.b, GMT Report 1. Mr. Tom Ancona provided Agenda Item B.3.b, Supplemental GAP Report. Deputy Chief Mike Cenci provided Agenda Item B.3.b, Supplemental EC Report.

B.3.c Public Comment

Part One

Mr. Bill James, open access fishermen, Salem, OR
Mr. Ralph Brown, trawler, Gold Beach, OR
Mr. Kenyon Hensel, Hensel's, Crescent City, CA
Mr. Steve Moore, Patriot Sportfishing, Avila Beach, CA
Ms. Laura Pagano, NRDC, San Francisco, CA
Mr. Jeff Russell, NRDC, San Francisco, CA
Mr. Geoff Shester, Oceana, Monterey, CA
Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, CA

Part Two (06/15/10; 8:12 a.m.)

Mr. Merrick Burden, Environmental Defense Fund, Seattle, WA
Mr. Chris Kubiak, Point Conception Groundfishermen's Association, Morro Bay, CA
Mr. Gerry Richter, Point Conception Groundfishermen's Association, Santa Barbara, CA
Mr. Kenyon Hensel, Hensel's, Crescent City, CA
Mr. Daniel Platt, Fort Bragg, CA
Mr. Steve Moore, Patriot Sportfishing, Avila Beach, CA
Mr. Michael Deach, longliner, Bellingham, WA
Mr. Robert Ingles, Golden Gate Fishermen's Association, Hayward, CA
Mr. Bill James, speaking for Pt. San Luis Commercial Fishermen's Association, Salem, OR
Mr. Tom Marking, McKinleyville, CA

B.3.d Council Action: Tentatively Adopt Overfishing Limits, Acceptable Biological Catches, Annual Catch Limits, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries

Council action on non-overfished species harvest specifications (06/14/10; 2 p.m.)

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 11) to adopt the overfishing limits (OFLs) and acceptable biological catches (ABCs) for 2011 and 2012 for all groundfish species (overfished and non-overfished), except shortbelly rockfish, as described in Table 2-1, on pages 1 and 2 of Chapter 2 (Agenda Item B.3.a, Attachment 2). For shortbelly rockfish, adopt an OFL of 6,950 mt and an ABC of 5,789 mt for 2011 and 2012, consistent with the Council's specification of a scientific uncertainty buffer for category 2 stocks (i.e., a P* of 0.40 and a sigma value of 0.72) as described in Table 2-5, on page 15 of Chapter 2.

Mr. Anderson said the proposed motion is consistent with our preliminary preferred alternative from April. He did not have values for shortbelly at that time but there was an assessment for shortbelly in 2007. He used the status quo shortbelly ABC/optimum yield (OY) 6,950 mt to specify the 2011-2012

OFL and our new approach for deciding an ABC for category 2 stocks. The balance of the specifications are consistent with the SSC recommendations. The motion includes specifying OFL and ABCs only; ACLs will be included in a separate motion to avoid confusion.

Ms. Kirchner asked if the motion included ABCs and OFLs for the complexes and Mr. Anderson said yes.

Dr. McIsaac explained the table in the motion shows an N/A for minor nearshore rockfish. He asked if the motion includes OFLs and ABCs for those complexes and Mr. Anderson said those specifications will be determined in a subsequent motion.

Mr. Lockhart asked if the OFL and ABC levels for the complexes are the sums of the OFLs reviewed by the GMT and SSC and Mr. DeVore said yes, the complex values are the aggregated sum of OFLs determined for component stocks in the complexes.

Mr. Moore asked if the derivative ABCs come from the P* values determined in April and Mr. DeVore said yes.

Motion 11 carried unanimously.

Ms. Vojkovich explained she had some concerns with Motion 11. Therefore, Mr. Moore moved and Mr. Anderson seconded a motion (Motion 12) to reconsider Motion 11.

Motion 12 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 13) to withdraw Motion 11.

Motion 13 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 14) to adopt the OFLs and ABCs considered under Motion 11 with the exception that this is characterized as “tentative adoption.”

Ms. Vojkovich moved and Ms. Kirchner seconded an amendment to the motion (Amendment 1 to Motion 14) to remove any tentative adoption of OFLs and ABCs for stock complexes contained in the tables referenced in Motion 14.

Ms. Vojkovich said the intent of the amendment was to have a separate discussion of harvest specifications for stock complexes.

Amendment 1 to Motion 14 carried unanimously. Motion 14 as amended carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 15) to tentatively adopt the preliminary preferred 2011 and 2012 ACLs for non-overfished species as shown on Tables 2-8 and 2-9 on pages 21 and 22 in Agenda Item B.3.a, Attachment 2; except for sablefish, shortbelly rockfish, Dover sole, chilipepper rockfish, splitnose rockfish and minor rockfish north and south. For splitnose rockfish, use the preliminary preferred ACLs shown in Table 2-1 on page 2 of Attachment 2. For sablefish, adopt northern and southern 2011 ACLs of 5,515 mt and 1,298 mt, respectively, and northern and southern 2012 ACLs of 5,347 mt and 1,258 mt, respectively. For shortbelly rockfish, adopt an ACL of 50 mt for 2011 and 2012. For Dover sole, adopt an ACL of 25,000 mt for 2011 and 2012.

Mr. Anderson explained the preferred ACLs for sablefish were derived from values provided by the GMT in Table 3 on page 18 of their report and represent a 68:32 north:south apportionment using the swept area biomass estimates from the trawl survey. The GMT stated the choice of apportionment method is largely a policy call and the ACLs in the motion are consistent with the Groundfish Advisory Subpanel (GAP) recommendation. For shortbelly, the low ACL recognizes the stock's ecological importance as a forage species; a fact underscored in public comment. This ACL should accommodate the incidental bycatch of the stock, given the recent catch history. For Dover sole, the understanding is we have had landings of under 25,000 mt in recent years due to the inability to access these fish and market conditions. This is an important stock for the trawl fishery that may be more accessible under trawl rationalization. This higher ACL also provides the industry the chance to develop new markets for Dover sole. He did not include ACLs for chilipepper rockfish, minor rockfish north and south, or for the overfished species. Separate motions and discussions are needed for those decisions.

Ms. Vojkovich and Mr. Roth spoke in favor of the motion and agreed with the ecological importance of shortbelly rockfish in the California Current ecosystem.

Motion 15 carried unanimously.

Ms. Vojkovich moved and Ms. Kirchner seconded a motion (Motion 16) that the Council adopt the following OFLs, ABCs, and ACLs for the complexes and sub-complexes as identified below:

Complex	2011 & 2012 OFLs ¹	2011 & 2012 ABCs ²	2011 & 2012 ACLs ³	% of Minor Rockfish North
Minor Rockfish North	3,678	2,553	2,283	
Nearshore species	250	173	155	6.8%
Shelf Species	1,559	1,082	968	42.4%
Slope Species	1,869	1,297	1,160	50.8%

Complex	2011 & 2012 OFLs	2011 & 2012 ABCs ¹	2011 & 2012 ACLs	% of Minor Rockfish South
Minor Rockfish South	3,382	2,347	1,990	
Nearshore species	1,105	767	650	32.7%
Shelf Species	1,213	842	714	35.9%
Slope Species	1,064	738	626	31.5%

¹ Shading represents new OFLs which = 2010ABC (OFL) * subcomplex%.

² Based on determining the 2010 OY (ABC) sub-complex percentages components and applying those percentages to the 2010 ABC (OFL), then applying the Council chosen $P^* = 0.4$ and $\Sigma = 1.44$ for category 3 stocks (buffer of 30.6%).

³ This is the same as 2010 OYs (ACLs).

Ms. Vojkovich said the rationale for taking this approach bases 2011 and 2012 on the 2010 OYs, so the ACLs column reflects what was specified in 2010 as OYs. She felt there were some process issues with using the new depletion-corrected average catch (DCAC) and depletion-based stock reduction analysis (DB-SRA) approaches for the 2011 and 2012 OFLs. She explained the scientific basis for determining these harvest specifications in the last management cycle and that a peer review of the new methods should occur before implementing them. She is not saying the methods recommended by the SSC are wrong or not the right approach; she is concerned that the review process should have been slower and more deliberate.

Ms. Kirchner said she was supportive of the motion and added that she did not know if the Council has ever accepted a stock assessment with the limited amount of review that this went through. She would like to see a workshop to better develop these new methods.

Mr. Lockhart said he appreciated the explanation and agreed the review process could have been conducted better. However, the reauthorized MSA implemented new requirements that now apply. One of those requirements is the development of the OFLs, ACLs, and potentially ACTs for all of these stocks. The choice, as we move forward, was that the SSC and GMT had to develop a series of OFLs, ABCs, and ACLs to be consistent with the reauthorized MSA and revised NS1 guidelines. They chose to develop new methodologies that they thought were more scientifically sound. While these methodologies have not gone through a formal review, they have at least been reviewed and endorsed by the SSC. These methodologies are not as complex as a full stock assessment and may not need the formal review used to evaluate new full assessments (i.e., a stock assessment review, or STAR panel). NMFS believes we have to go forward with the recommendations of the SSC as the best available science. The MSA also puts a lot more weight on SSC recommendations with respect to OFLs and ABCs, and scientific questions as well. He recognizes the process would have been different if we could have had more time to implement the new harvest specification framework and develop these new methods. Regardless, the GMT and SSC have quickly developed these methods, which were reviewed and endorsed by the SSC. If the motion is inconsistent with the SSC's recommendation of best available science, it might call into question the ability of NMFS to approve the Council recommendations. He is going to vote against the motion.

Mr. Moore appreciates Mr. Lockhart's concerns about the process, but in looking at the SSC statement, the SSC recommends that the OFLs and ABCs for complexes be set at the smallest groupings practicable. He believes this motion does that. Mr. Lockhart said the problem lies in the development of the complex OFLs and ABCs, which are the summed contributions of the individual component stocks in these complexes. The motion sets up the situation where the ABCs would be larger than the ABCs recommended by the SSC. Mr. Moore asked if, in the example of minor rockfish north, the OFL of 250 mt exceeds the individual species OFLs when those are summed, and Mr. Lockhart said yes. Ms. Lowman said she understands a lot of the points Mr. Lockhart has made and will therefore vote against the motion. She does understand and appreciate the need for review of these stocks. Ms. Vojkovich said she has an issue with how the coastwide OFLs were apportioned north and south.

Mr. Crabbe asked if the motion were to be approved by the Council and rejected by NMFS, what would be the implications. Mr. Lockhart said the Secretary of Commerce (SOC) has authority to approve/disapprove or partially approve Council recommendations. Mr. Crabbe was wondering how the disapproval process would work and Mr. Lockhart said if the Council makes a recommendation and if the SOC disapproves/partially approves, we would have to refer the issue back to the Council to make the appropriate changes. The issue is that the timing of implementation of the final specifications would require the rulemaking process be extended into late November. This could potentially put a serious burden on NMFS staff to properly implement the trawl rationalization program if it is approved on August 10. Ms. Cooney spoke about the process if something is disapproved by the agency. The issue is sent back to the Council for reconsideration. The SOC could ask for an emergency rule and NMFS would have to spend time figuring out what was done, what are the problems, and what is the appropriate response.

Mr. Wolford asked what the recommendation was that this motion would be replacing. Mr. DeVore referred to the values in Table 2-16 on page 57 in Attachment 2.

Mr. Anderson said we need to adopt OFLs consistent with those recommended by the SSC.

Motion 16 failed. Ms. Vojkovich voted yes.

Ms. Vojkovich moved and Ms. Kirchner seconded a motion (Motion 17) to tentatively adopt the OFLs and ABCs for minor rockfish north and south, as well as the nearshore, shelf, and slope subcomplexes shown in Table 1 on page 5 of Agenda Item B.3.b, GMT Report 1. The ABCs would be determined using a P^* of 0.45: Treat each stock with its “original” SSC-approved stock category and resultant sigma.

Ms. Vojkovich proposes that the Council choose a P^* of 0.45 in deciding the complex ABCs. This choice meets the NS1 guidelines, takes into consideration the needs of fishing communities in California and Oregon, and uses the recommended apportionment scheme for stratifying these complex specifications north and south of 40°10' N. latitude that the SSC used in their methodology.

Mr. Moore asked if the subcomplex OFLs considered in the motion are the sum of the individual species' OFLs and Mr. DeVore said that was correct. Mr. Moore then asked about the resultant sigma and Mr. DeVore explained those values were derived by the SSC.

Mr. Lockhart asked if the P^* value (0.45) was chosen to avoid significant negative socioeconomic impacts to affected fishing communities and Ms. Vojkovich said yes.

Mr. Moore said the Council in this instance is willing to take a slightly higher risk on overfishing because of the significant importance of these stocks to coastal communities. These are not overfished stocks and the rebuilding prescriptions in Judge Larson's order don't apply. These stocks are economically important; therefore, we are willing to take a higher risk.

Ms. Kirchner supports Ms. Vojkovich's motion since it is a good compromise and it follows the SSC's recommendations. These stocks are important in our recreational fisheries. These specifications are more conservative than status quo and take into account scientific uncertainty. She is hopeful that we will look at this again in two years and have more information.

Mr. Anderson noted that recent year catches of species in these complexes are shown in Table 4 on page 20 of Agenda Item B.3.b, Supplemental GMT Report 2. He wanted to make sure he understands the problem since it does not seem like the proposed ABCs would constrain the fishery. Ms. Kirchner said she was speaking for the northern minor nearshore rockfish subcomplex where there has been a 100 mt harvest and the proposed ABC is 99 mt.

Motion 17 carried. Mr. Anderson, Ms. Lowman, and Mr. Myer voted no. Mr. DeVore noted this is for tentative adoption and the GMT will report back later under Agenda Item B.7.

Mr. Moore moved and Mr. Crabbe seconded a motion (Motion 18) to adopt the 2011 and 2012 ACLs for chilipepper rockfish as shown in Table 2-1 on page 2 of Agenda Item B.3.a, Attachment 2.

Mr. Moore said these are the preliminary preferred ACLs and equal to the ABCs decided for chilipepper. There is interest in access to this healthy stock and the ACLs comply with NS1 guidelines and SSC recommendations.

Motion 18 carried unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded a motion (Motion 19) to adopt 2011 and 2012 ACLs for the minor rockfish subcomplexes as shown on Table 2-16 on page 57 of Agenda Item B.3.a, Attachment 2 as follows: ACLs for northern and southern minor rockfish nearshore of 99 mt and 1,001

mt, respectively; northern and southern minor shelf rockfish of 968 mt and 714 mt, respectively; and northern and southern minor slope rockfish of 1,160 mt and 626 mt, respectively.

Motion 19 carried unanimously.

Ms. Ames outlined the Council action under part two of Agenda Item B.3. Then the Council heard the reports from the advisory body entities on the part two action. Following that, the Council took public comment (those providing public comment are listed above under part 2 public comment).

Council Action- Part Two, June 15, 2010 9:30 a.m.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 20) to tentatively confirm the preliminary preferred alternative for ACLs for 2011 and 2012 for the following overfished species: petrale sole; canary rockfish; Pacific ocean perch; widow rockfish; and yelloweye rockfish, as shown in Table 2-1 on page 1 of Chapter 2 (Agenda Item B.3.a, Attachment 2), and tentatively adopt ACLs for bocaccio, cowcod, and darkblotched rockfish that are different than those in the preliminary preferred alternative. Specifically, to tentatively adopt the following:

Species	T _{TARGET}	Median Time to Rebuild	2011 ACL (mt)	2012 ACL (mt)	SPR
Bocaccio	2026	2022	263	274	77.7%
Canary	2027	2027	102	107	88.7%
Cowcod	2072	2068	3	3	82.7%
Darkblotched	2028	2025	298	296	64.9%
Pacific ocean perch ¹	2020	2020	180	183	86.4%
Widow	2015	2010	600	600	constant catch
Yelloweye ²	2084	2084	20	20	72.8%
Petrale sole	T _{MAX} = 2021	2016	976	1,160	ABC in 2011; 25:5 rule thereafter

¹ For Pacific ocean perch, the ACL would be set at 180 mt in 2011 and 183 mt in 2012 with an annual catch target (ACT) of 150 mt. The ACT would apply to total mortality from all harvest sources and the intent would be to limit harvest to stay within the ACT by adopting the appropriate management measures. The purpose of the 30-33 mt difference between the ACT and the ACL would be to provide a buffer for management uncertainty associated with all harvest sources, including commercial, recreational, tribal, and research catches.

² For yelloweye, the ACL would be set at 20 mt with an ACT of 17 mt. The ACT would apply to total mortality from all harvest sources and the intent would be to limit harvest to stay within the ACT by adopting the appropriate management measures. The purpose of the 3 mt difference between the ACT and the ACL would be to provide a buffer for management uncertainty associated with all harvest sources, including commercial, recreational, tribal, and research catches.

Mr. Anderson noted that through this action, the median time to rebuild would replace the current T_{TARGET} values in the rebuilding plans.

With regard to petrale, because the intersector allocations adopted through Amendment 21 are suspended when a species either becomes overfished or is rebuilt, Mr. Anderson stated he would like to request the

GMT review the non-trawl allocation of petrale of 5 percent as compared to recent harvest levels so the Council could consider whether to revise its trawl/non-trawl petrale allocation.

The intent of the motion is to provide guidance to the GMT so they can review and discuss the management measures associated with these preliminary preferred ACLs with the GAP, and provide time for the Council to review the economic and protected resources data that we have recently received. The Council would then consider final approval of the actions taken under Agenda Item B.3 on Thursday under Agenda Item B.7.

Mr. Anderson said the GMT provided a table showing the relative rate of increase in stock biomass under each of the rebuilding alternatives. He thought this table was informative and cited specific species' rebuilding trajectories to explain the tradeoffs across these alternatives. The proposed yelloweye alternative is designed to structure our fisheries to stay under the 17 mt ACT, while addressing the management uncertainty inherent in managing this stock. A yelloweye ACL of 20 mt and an ACT of 17 mt allows for research take, which is critically needed to understand rebuilding progress. Mr. Anderson noted the GMT reports that if a 20 mt yelloweye constant catch scenario were adopted, the stock would rebuild three years later than the constant spawning biomass per recruit (SPR) harvest rate scenario that results in a 13 mt ACL in 2011. The specifications can be manipulated to achieve faster rebuilding, but what we are attempting to do is rebuild in a scientifically sound and responsible way. While the SPR under the 20 mt ACL sets the target year, we are attempting to rebuild faster than that with the specification of a lower ACT. Likewise, the Pacific ocean perch (POP) specifications in the motion attempt to do the same thing by setting a lower ACT.

Mr. Lockhart asked Mr. Anderson if he believed lowering the yelloweye ACL further would have an economic impact to coastal communities. Mr. Anderson said that we have heard as much from public testimony ever since we got into rebuilding yelloweye and systematically reducing the OYs to rebuild the species; we recognize this species interacts with just about every fishery on the west coast. The 17 mt level of harvest is extremely small and there is a point at which our main west coast fisheries (e.g., salmon, halibut, and groundfish) simply collapse. In Washington, we are trying to deal with keeping our halibut fishery going due to interactions with yelloweye. The same considerations are made in Washington with the salmon fishery to reduce impacts on yelloweye. Recreational and commercial groundfish fisheries are strictly managed with depth restrictions and closed areas (yelloweye rockfish conservation areas or YRCAs) implemented to reduce yelloweye impacts. Dire socioeconomic consequences are apparent if we try to rebuild in a shorter period of time by lowering the yelloweye ACL further. Specifying an allowable harvest below 17 mt would result in many sectors of the fishing industry going out of business, leading to infrastructure collapse. We are at a critical point in terms of the amount of yelloweye needed.

Ms. Vojkovich concurred with Mr. Anderson's rationale. When we talk about overfished species and setting ACLs, we use the term "catch," but the term really should be "bycatch." Yelloweye and cowcod rebuilding strategies have resulted in significant avoidance of these species and in reality, we cannot even get data to find out how they are rebuilding. So many fisheries have been reduced to having a thin strip of coastline to fish with consequent lack of access to healthy stocks and a raised concern regarding safety at sea. The long-term impacts of the fishing restrictions from Federal and State of California actions have to be considered as a whole when we talk about the decisions made in assuring our depleted species are going to get rebuilt. She supports the motion. We cannot construct seasons that have detrimental impacts to our states unless we support the levels of bycatch allowance.

Ms. Kirchner supports the motion and agrees with the strategy of setting ACTs. Rebuilding strategies for yelloweye and canary have affected all of our fisheries. We have lost whole fishing communities due to

the constraints currently in place. She also supports having a high enough ACL to allow a research take and maintaining the scraps of fisheries that we have left.

Mr. Lockhart said he will be supporting the motion since this is preliminary action. He does need to look at the economic impacts in a more detailed manner. But for now, he is thinking this is a very good start on a motion.

Mr. Wolford noted the public testimony provided by Mr. Tom Marking. A few dollars into these communities is important not for the short-term, but for their long-term survival as well. That difference of dollars has tremendous impacts to these communities. Survival of the communities is critical at this point.

Motion 20 carried unanimously.

Mr. Anderson provided advice on proposed recreational management measures for the state of Washington by referencing Agenda Item B.3.b, WDFW Report. They held public meetings in Washington to develop and discuss groundfish proposals. The intent of the proposed alternatives provided as guidance follows:

Coastwide (Marine Catch Areas 1-4)

Status quo seasons and sublimits for lingcod (two per angler per day) and rockfish (10 per angler per day) would remain in place.

Relative to the aggregate bottomfish limit, WDFW prefers Alternative 2, which is to reduce the bag limit to 12 bottomfish. While the current limit is 15, angler interview data indicate that 99.9% of the anglers do not retain more than 12 bottomfish.

Cabazon are subject to the aggregate bottomfish limit, but currently do not have a separate sublimit in coastal waters; however, there is a sublimit of two cabazon inside Puget Sound (i.e., east of the Bonilla-Tatoosh line and in Marine Catch Areas 5-13). As the status of cabazon off Washington is unknown and catches have recently increased on the coast, WDFW would prefer to place a sublimit of two cabazon per angler per day, which would promote consistency between the coast and Puget Sound.

North Coast (Marine Catch Areas 3 and 4)

WDFW prefers Alternative 2, which is: Prohibit retention of bottomfish seaward of 20 fms from June 1 through September 30 in Areas 3 and 4A, and seaward of 20 fms in Area 4B year-round, except on days halibut fishing is open; cannot fish for, retain, or possess bottomfish or halibut in YRCA.

South Coast (Marine Catch Area 2)

WDFW prefers Alternative 2, which is: Prohibit retention of bottomfish, except rockfish, seaward of 30 fms from March 15 through June 15, except sablefish and Pacific cod retention is allowed May 1 through June 15; no retention of bottomfish, except lingcod, during primary halibut season; no retention of lingcod south of 46 deg. 58' and seaward of 30 fms on Fridays and Saturdays from July 1 through August 31; and cannot fish for, retain, or possess bottomfish or halibut in South Coast YRCA and Westport Offshore YRCA.

Columbia Area (Marine Catch Area 1)

Minimal amounts (i.e., less than 0.1 mt) of yelloweye and canary rockfish are caught in Marine Catch Area 1; therefore, WDFW prefers to keep the status quo bottomfish fishing regulations in place through 2011 and 2012.

WDFW believes that the range of management measure alternatives presented above is sufficient to stay within the state harvest targets or guidelines for yelloweye and canary rockfish. We are committed to monitoring our catch inseason and will take action as appropriate to ensure our harvest targets or guidelines are not exceeded.

Mr. David Sones referenced Agenda Item B.3.b, Tribal report. There was one error in the tribal report – the lingcod harvest guideline will be 250 mt in 2011 and 2012 (not 2009 and 2010). In the past, the tribes have referenced matching the limited entry trawl trip limits, but that will no longer be the case under trawl rationalization. Mr. Frank Lockhart then noted that both the Quileute and Quinault Tribes have notified NMFS that they will be entering the tribal whiting fishery in 2011.

Ms. Gway Kirchner referenced the three Oregon Department of Fish and Wildlife (ODFW) reports in the briefing book under this agenda item as guidance on proposed management measures for the state of Oregon.

Ms. Vojkovich referenced the following issues as Council guidance in shaping California recreational management measures:

The California Department of Fish and Game (CDFG) is proposing adoption of the following recreational management measures in 2011 and 2012 under all of the ACL alternatives. Details of the management measure analyses are provided in the draft version of Chapter 4 Regulatory Specifications Environmental Impact Statement (EIS) Document under Agenda Item B.3.a Attachment 1 and CDFG Supplemental Report 2 under Agenda Item B.3.b.

1. Eliminate the lingcod spawning closure in the California recreational fishery for all fishing modes, making lingcod seasons consistent with those for rockfish in each management area. (Agenda Item B.3.b, CDFG Supplemental Report 2, page 12);
2. Change the California scorpionfish (sculpin) depth restriction in the Southern Management Area during the closed season from rockfish from 40 fm to 60 fm. (Agenda Item B.3.b CDFG Supplemental Report 2, page 14);
3. Eliminate the ten fathom depth closure around the Farallon Islands and Noonday Rock. (Agenda Item B.3.b, CDFG Supplemental Report 2 under, page 18);
4. Combining the Monterey South-Central and Morro Bay-South Central recreational management areas. (Agenda Item B.3.b, CDFG Supplemental Report 2 under, page 20);
5. Add a management line at Cape Vizcaino (39° 44' N. latitude). (Agenda Item B.3.b, CDFG Supplemental Report 2, page 20);
6. Increase the cabezon bag limit to 3 fish statewide. (Agenda Item B.3.b, CDFG Supplemental Report 2 under, page 20);
7. Decrease the lingcod size limit to 22 inches statewide. (Agenda Item B.3.b, CDFG Supplemental Report 2, page 21);
8. Increase the recreational depth restriction in the Cowcod Conservation Area from 20 fm to 30. (Agenda Item B.3.a, Attachment 1, page 77);
9. Modify the list of groundfish species allowed to be taken recreationally in the Cowcod Conservation Area to include shelf and slope rockfish. (Agenda Item B.3.b, CDFG Supplemental Report 2, page 23);
10. Modify cabezon and kelp greenling gear restrictions to be consistent with rockfish regulations (1 rod with no more than 2 hooks). (Agenda Item B.3.b, CDFG Supplemental Report 2, page 24); and
11. Revising the naming convention for the California recreational management areas. (Agenda Item B.3.b, CDFG Supplemental Report 2, page 25).

Ms. Ames displayed the highlighted items that needed to be discussed for guidance. She referred the Council to Table 1 on page 3 of Supplemental GMT Report 3 for GMT recommendations on overfished species' set-asides.

Mr. Moore noted the correct number for the petrale exempted fishing permit (EFP) set-aside should be proportionally reduced to 2 mt based on the new petrale ACLs. Most of the EFP petrale catch came from The Nature Conservancy (TNC). He talked with Mr. Michael Bell about the need for the EFP since it was designed to give us good information about co-ops and so forth in preparation for the trawl rationalization program. They discussed whether an EFP was needed once trawl rationalization was implemented, and Mr. Bell agreed it would not be needed. Therefore, Mr. Moore recommended the EFP set-aside be reduced by 4 mt to 2 mt. That would still provide 2 mt for the TNC EFP in the event there is an EFP requested. Mr. Lockhart noted that Amendments 20 and 21 are still under Secretarial review and asked Mr. Moore if he is assuming the SOC will approve these amendments. Mr. Moore said he understands that we are currently recommending set-asides based on the assumption these amendments are going to be approved. Ms. Lowman said maybe we need two options for EFP set-asides in the event the amendments are not approved. Mr. Lockhart was comfortable with Ms. Lowman's suggestion. Mr. Anderson asked if the Council is therefore recommending a 2-6 mt range for a petrale EFP set-aside. Mr. Lockhart said he is unclear of the implications of a 2 mt vs. a 6 mt set-aside and he did not want to commit to a single number. Ms. Ames said a range of overfished species' set-asides is fine since this is preliminary action.

Mr. Moore moved and Mr. Anderson seconded a motion (Motion 21) to tentatively adopt the set-asides shown in Table 1 on page 3 of Supplemental GMT Report 3, with the following changes and corrections: for petrale, set-aside 1 mt for incidental open access; adopt a petrale EFP set-aside of 2 mt; for a total petrale set-aside of 65.4 mt.

Mr. Moore explained this is a tentative adoption of set-asides that can be modified on Thursday once further results are available from the GMT. This guidance is necessary at this point since it enables further detailed analysis. He added that these set-asides were recommended by the GMT in their report.

Mr. Crabbe asked if a motion was necessary and if it would limit the range of analysis for the GMT. Ms. Ames said it would not limit the range and an adequate range will be provided in the analysis.

Motion 21 carried unanimously.

Ms. Kirchner referred to Table 5 on page 7 of Supplemental GMT Report 4 for guidance on commercial nearshore fisheries. That table shows the projected impacts/harvest guidelines for a 17 mt ACL. These impacts could be considered for the 17 mt ACT alternative. The preliminary preferred sector catch sharing alternative for yelloweye is also shown. She noted it looks like all the fisheries on this table are whole with the exception of the nearshore fixed gear fishery, which is not accommodated in the alternative. She gave the GMT guidance to re-allocate yelloweye yield to make all the fisheries in the table whole. She advised a look at the allocation between the open access sablefish daily-trip-limit harvest guideline and the nearshore fixed gear harvest guideline. She said the GMT should also look at the projected impacts for the other commercial sectors to evaluate whether there are some sectors projected to be significantly under their harvest guidelines, so each fishery is accommodated. Ms. Vojkovich asked for clarification on whether this guidance referred to just the open access fisheries or the apparent sharing over the long-term vs. the most recent catch. Ms. Kirchner said it was her understanding that in one of the specifications cycles the sharing within the open access-directed fisheries was adjusted, so she would like that looked at first. If there are other needs, look at other commercial fisheries. Ms. Vojkovich concurred.

Ms. Kirchner said we need to allocate yield within the nearshore fixed gear fishery between California and Oregon. She advised the GMT to look at Table 4-10 on page 9 of Supplemental Attachment 2 for the proportional impacts in the north using this catch data to develop yelloweye and canary sharing schemes

for nearshore fisheries in California and Oregon. Ms. Vojkovich said the percentages offered by Mr. Hensel in his public testimony should also be part of the GMT analysis.

Ms. Vojkovich asked the GMT to evaluate a single trip limit for the limited entry and open access fixed gear fisheries south of 36° N lat., as well as another option that gives a preference to the limited entry fixed gear sector while taking into account current and historical activities by each sector. She also wanted the GMT to analyze the elimination of the daily limit in the southern daily trip limit (DTL) fishery with an increase in the weekly trip limit for both fixed gear sectors.

Mr. Moore asked Mr. Lockhart and Ms. Cooney if the Pacific halibut bycatch amount for the trawl fishery can be changed in the biennial specifications process under the proposed Amendment 21 regulations. He noted the public comment expressing concern about the initial bycatch limits that were set for halibut. If the Council decides to adjust the bycatch limits, can that be done in the specifications process this week? If not, what process could be followed, assuming Amendment 21 is approved? Mr. Lockhart said the cleanest way of doing it is by a trailing action. The SOC would consider those comments in the decision-making process. Ms. Cooney did not know what the initial issuance rule said, but thought the bycatch limit could be adjusted in the biennial specifications process. She was not sure there was adequate public notice for the trailing amendment and that action would have to be appropriately noticed. Dr. Hanson said the trailing amendment would be the best way to do it; however, there has been no notice that this would be considered this week.

Ms. Kirchner noted the Rockfish Conservation Areas (RCA) corrections in waters off Oregon provided in Agenda Item B.3.a, Attachment 1 and in GMT Supplemental Report 2. She asked if analysis of a 200 fm line could be added. She also asked if we are giving the GMT flexibility to come back to us with questions if they need, and Vice Chair Cedergreen said yes.

Mr. Anderson recommended separate state recreational harvest guidelines for yelloweye be analyzed.

Ms. Vojkovich moved and Mr. Anderson seconded a motion (Motion 22) to tentatively adopt the three recommendations in the Supplemental EC Report that deal with the definition of dressed sablefish, stowage of gear, and the issue of federally-managed groundfish landed in the Exclusive Economic Zone (EEZ).

Motion 22 carried unanimously.

Ms. Lowman asked the GMT to look at separate RCA categories for hook-and-line and trap. She did not have the history of the discussions on this issue that occurred in the last cycle. She noted that our management regime is changing with implementation of Amendments 20 and 21. Trawlers might now be able to utilize more selective gears. Mr. Moore asked Ms. Lowman if she was asking for evaluation of separate RCAs for trawl vessels that are engaged in gear switching or for the fixed gear sectors as well. Ms. Lowman said she hopes that would come out of the analysis. She said hopefully the EC and GAP would be able to assist in this analysis.

Mr. Anderson said the biennial specifications process was initiated last November. He cannot support asking the GMT to do this analysis this week and consider making this decision without public notice. While this idea has merit, it should be considered at a future time. Ms. Lowman said that is a valid point and withdrew her suggestion.

B.4 Stock Assessment Planning for 2013-2014 Fishery Guidance

B.4.a Agenda Item Overview (06/15/10; 11:28 a.m.)

Before this agenda item, Mr. Will Stelle was introduced as the new Northwest Region (NWR) Regional Administrator. Mr. DeVore provided the agenda item overview.

B.4.b Stock Assessment Options

Dr. Jim Hastie provided Agenda Item B.4.b, Supplemental NMFS PowerPoint.

B.4.c Reports and Comments of Advisory Bodies and Management Entities (06/15/10; 1:02 p.m.)

Dr. Martin Dorn provided Agenda Item B.4.c, Supplemental SSC Report. Mr. Gerry Richter provided Agenda Item B.4.c, Supplemental GAP Report.

B.4.d Public Comment

None.

B.4.e Council Action: Adopt Final Terms of Reference, Stock Assessments list and Assessment Schedule for 2011

Mr. Moore moved and Ms. Kirchner seconded Motion 23 to adopt the terms of reference for Groundfish Stock Assessment and Review and Groundfish Rebuilding Analysis shown in Agenda item B.4.a, Attachment 1 and Attachment 2, and a list of groundfish stock assessments and reviews as follows:

Using Table 2 on Agenda Item B.4.b, NMFS Report, modify the table as follows:

	Dates	Species 1	Species 2	Location
Whiting	Feb	Whiting		Seattle
Panel 1	Early May	Methods for determining harvest specifications for data-poor species		Santa Cruz
Panel 2	Late June	Pacific ocean perch	Petrale sole	Seattle
Panel 3	Mid July	Widow rockfish	Spiny dogfish	Newport OR
Panel 4	Late July	Sablefish	Dover sole	Seattle
Panel 5	Early August	Greenspotted	Blackgill	Santa Cruz
Updates	Mid-June	Bocaccio, canary, cowcod (data report) darkblotched, yelloweye		TBD
Mop-up	Late Sept/ Early Oct	TBD		Seattle

Regarding Panel 1, the Southwest Fisheries Science Center is requested to prepare for a STAR panel type review of the report “Estimating Yield for Unassessed Species” (Agenda item B.3.a attachment 7), associated vulnerability analyses, and alternate methods for identifying overfishing levels (OFLs) for tier 2 and tier 3 stocks.

Mr. Lockhart asked Mr. Moore if the motion allowed flexibility for dates of the meetings? Mr. Moore replied that he assumes some flexibility as long as it is done within reason so we are not dropping things.

Mr. Anderson moved and Ms. Vojkovich seconded an amendment to Motion 23 to add the two recommendations from Agenda Item B.4.c, Supplemental SSC Report – 1) that a separate Pacific whiting assessment TOR be developed jointly with Canada; and also to add that recommendation to the TOR Introduction; and 2) that three weeks prior to a STAR panel is a reasonable deadline for a stock assessment draft; the text in the TOR should be modified to remove “no less than” prior to “three full weeks.”

Dr. McIsaac asked about the joint TOR. Mr. Anderson said if that TOR would be developed, then it would come back to us for approval on our side and the Canadian side as well.

Amendment to Motion 23 carried unanimously. Motion 23 as amended carried unanimously.

B.5 Consideration of Inseason Adjustments

B.5.a Agenda Item Overview (06/16/10; 8:12 a.m.)

Ms. Kelly Ames provided the agenda item overview.

B.5.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Rob Jones provided Agenda Item B.5.b, Supplemental GMT Report 2 (and briefly referred to Agenda Item B.5.b, GMT Report 1). Mr. Tommy Ancona provided Agenda Item B.5.b, Supplemental GAP Report. Ms. Vojkovich spoke to Agenda Item B.5.b, Supplemental CDFG Report. Mr. Lockhart summarized Agenda Item B.5.b, NMFS Report.

B.5.c Public Comment

Mr. Michael Deach, longliner, WA

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

Mr. Kenyon Hensel, Hensel’s, Crescent City, CA

Mr. Robert Alverson, Fishing Vessel Owner’s Association, Seattle, WA

B.5.d Council Action: Adopt Final Recommendations for Adjustments to 2010 Groundfish Fisheries (06/16/10; 9:07 a.m.)

Mr. Steve Williams moved and Mr. Moore seconded Motion 26 to adopt the following recommendations in Agenda Item B.5.b, Supplemental GMT Report 2, page 7, with some slight modifications: adopt limited entry trawl trip limits outlined in Table 3 (with the exception of slope rockfish limit in Period 1 North) for implementation by July 1, 2010 to keep projected impacts to sablefish within the trawl allocation and to keep projected impacts to petrale sole below the 2010 petrale sole optimal yield; to increase the chilipepper bimonthly trip limit in the limited entry trawl fishery south of 40°10' N. latitude from 12,000 to 17,000 pounds per two months, to be implemented by July 1, 2010 or as soon as possible; increase the limited entry daily trip limit fishery bimonthly sablefish limit north of 36° N. latitude from 7,000 pounds per two months to 8,500 pounds per two months beginning July 1, 2010 for periods 4 and 5, and 8,000 pounds per two months for period 6.

Mr. Williams spoke to his motion referencing the analysis in the GMT report.

Motion 26 carried unanimously.

Mr. Steve Williams moved and Mr. Moore seconded Motion 27 to follow the reductions outlined in Agenda Item B.5.b, Supplemental GAP Report. The reductions are as follows: reduce the Oregon Exempted Fishing Permit (EFP) yelloweye rockfish allowance by 0.1 mt; reduce the nearshore yelloweye impacts from 1.3 mt to 1.1 mt; reduce California recreational fisheries impact to yelloweye by 0.1 mt – from 2.8 mt to 2.7 mt; and 0.2 mt off the Washington and Oregon recreational fisheries – from 5.1 mt to 4.9 mt.

Mr. Williams spoke to his motion referencing public testimony and the advisory body statements. Mr. Lockhart referenced the GAP report and noted that the reduction to 14 mt in the yelloweye rockfish optimal yield impacts both the fishing communities and planned research. Mr. Lockhart said the yelloweye rockfish research is important to inform the stock assessment and future management. However, given the timing of the court order there are very few options. Mr. Moore commented that the court order requires reductions now and in future years that provide harvest levels based on the best science available. He noted that it is difficult to get the best scientific information available if the optimal yield is not set high enough to provide for research. Given these circumstances, Mr. Moore felt that the Council action was the right thing to do, given the mandate for short-term action, however, we need to further explore solutions for the future.

Mr. Sones said the tribes did not reduce their projected impacts to yelloweye but are sensitive to the issue. The tribes were asked to consider further reductions; however, it is difficult given that three or four tribes are involved in fisheries that impact the resource. Further, the fisheries are at different stages of completion and it was difficult to accurately project the level of reductions that could be accomplished.

Mr. Wolford said the reductions in the motion do not sound too big, but in reality these are long-term impacts to the community. We are taking advantage, for example, that individuals in Shelter Cove have gone out of business, lowering impacts to yelloweye in this region. All of these short-term cuts are resulting in long-term impacts. The changes in the motion do not sound dramatic, but taken in total with all of the other reductions, it is a significant impact.

Mr. Lockhart asked if the motion would change the harvest guidelines for the recreational fisheries. Mr. Steve Williams said yes.

Motion 27 carried unanimously.

Mr. Steve Williams discussed the incidental retention of lingcod in the salmon troll fishery mentioned in the GMT report. He did not believe it was ever the intent of the Council to restrict fishermen who fish in the open access fishery to stay outside the rockfish conservation areas (RCA) boundary.

Mr. Anderson moved and Ms. Vojkovich seconded Motion 28 to request that NMFS modify their regulations as needed to correct the allowances for incidental retention of lingcod in the salmon troll fishery, and to allow vessels that do not enter an RCA during a single trip be allowed to retain lingcod under current open access fixed gear fishery regulations.

Motion 28 carried unanimously.

B.6 Regulatory Deeming for Fishery Management Plan (FMP) Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation)

B.6.a Agenda Item Overview (06/16/10; 9:50 a.m.)

Dr. McIsaac expressed his appreciation for the personnel who will be providing their expertise during this agenda item. Mr. Lockhart and Ms. Cooney both provided insight on what was properly noticed as to what proper actions the Council could take during this agenda item. On May 7, 2010, the Council transmitted the FMP amendments themselves and the regulations that were deemed by the Council and the Executive Director. That transmittal started the “Magnuson clock.” As far as the FMP amendments are concerned, there is no way to delay that, there cannot be additional recommendations provided. As has been mentioned, because this program is so complex, NMFS believes we needed to break it up into two regulatory packages. Today’s agenda item focuses on the “deeming” for the second regulatory package. If the Council has a comment on the entire amendment, it should use the public comment procedure as listed in the Federal Register notice.

Dr. John Coon provided the agenda item overview. (06/16/10; 10:06 a.m.)

Ms. Jamie Goen provided a PowerPoint (Agenda Item B.6.a, Supplemental NMFS PowerPoint 1 [Goen]). During her presentation, she noted there were a couple of corrections to the program components rule document: on page 46, delete “other fish” from vessel limit table; and on page 69 delete “gear switching.”

Dr. Todd Lee provided a PowerPoint presentation (Agenda Item B.6.a, Supplemental NMFS PowerPoint 2 [T. Lee]).

B.6.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Merrick Burden provided Agenda Item B.2.b, Regulatory Deeming Workgroup Report and Agenda Item B.2.b, Supplemental Regulatory Deeming Workgroup Report 2.

Mr. Ancona provided Agenda Item B.6.b, Supplemental GAP Report.

Deputy Chief Cenci provided Agenda Item B.6.b, Supplemental EC Report.

Then Council went back to the NMFS response. Ms. Goen quickly went through the response document. She then said that NMFS would go through the Regulatory Deeming Workgroup (RDW) Report 2 line by line at their next meeting.

B.6.c Public Comment

Mr. Paul Kujala, F/V Cape Windy, Warrenton, OR
Mr. Peter Leipzig, Fisherman’s Marketing Association, Eureka, CA
Ms. Michele Norvell, trawler, Fort Bragg, CA
Mr. Ernie Norvell, trawler, Fort Bragg, CA
Mr. Tom Estes, trawler, Fort Bragg, CA
Mr. Vince Doyle, Fort Bragg, CA
Mr. Robert Smith, commercial fishermen, Newport, OR
Mr. Mike Storey, F/V Pegasus, Warrenton, OR
Mr. David Jincks, Midwater Trawlers Co-Operative, Newport, OR
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Mr. Dennis Cutting, F/V Bernadette, Coos Bay, OR
Mr. Gerald Gunnari, F/V Coastal Pride, Coos Bay, OR
Mr. Donnie Goddard [no card]
Mr. Jim Cunningham [no card]
Mr. Craig Urness, Pacific Seafoods, Clackamas, OR

Mr. Tim Carroll, Saltwater, Inc., Anchorage, AK
Mr. Brent Paine, United Catcher Boats, Seattle, WA
Mr. Bill James, commercial fisherman, Salem, OR
Mr. Richard Carroll, Ocean Gold Seafoods, Seattle, WA

B.6.d Council Action: Consider Regulatory Deeming and Implementing Issues for the FMP Amendments

Dr. McIsaac noted that the first determination needed was whether the regulations were ready for deeming and, if not, a delay until September would be required, and the January 1 implementation date would not be met. The question of readiness can be handled as two questions. For the question of whether the regulations can be deemed now, the answer seems to be “no,” since the package is not complete. The other question is, following a process that includes additional review by the Regulatory Deeming Workgroup (RDW) and deeming by the Executive Director, can these regulations be deemed as consistent with Council action by July 19? There was discussion about deeming the regulations but delaying implementation. Ms. Cooney noted that the approval process is already underway, this would be advice to the Secretary, and expressed concern that such an action (delay) had not been noticed in the agenda. Mr. Lockhart noted the possibility of moving forward with deeming by July 19 and then deciding in September, during the public comment period on the proposed rule, whether or not to recommend a delay in implementation. Ms. Cooney expressed the opinion that if the Council thinks there should be a delay, it should not wait until September to make that recommendation. If people wanted more time, the Council could take that action and the Secretary would have to decide whether or not there was adequate notice. Council members expressed opinions both in agreement and disagreement with whether the public notice was adequate to allow the Council to recommend a delay in implementation.

In response to a question from Ms. Culver, Ms. Goen reviewed Issue 1 of Supplemental NMFS Powerpoint 1 (Goen), and confirmed that Option B would require an appeals process. If the Council wants to allow a hardship provision, the times need to be bumped up to provide time for appeals.

Ms. Culver moved and Mr. Myer seconded a motion to adopt Option B and Suboption B for Issue 1. It was noted that Suboption B was really a separate option rather than a suboption of Option B. The motion was withdrawn.

In response to a question, Ms. Goen noted that the QS renewal issue did not affect limited entry permit renewal. Mr. Moore noted this would create two renewal periods, one for the limited entry permits and one for QS, and that the QS period would be during the summer when many people are fishing. Mr. Williams commented on the need for an earlier renewal period if there is to be an opportunity to allow for a hardship provision. Ms. Vojkovich spoke in favor of Option A because it would keep the program simple and therefore less costly. Ms. Culver agreed with Ms. Vojkovich’s assessment of the impacts for Option A, but also felt that there were benefits from Option B, which would not strand quota pounds (QP) and would allow for appeals.

Ms. Culver moved and Mr. Moore seconded Motion 29 to adopt Option B as reflected on the screen (Supplemental NMFS Powerpoint 1 (Goen)) without Suboption B. In response to a question from Ms. Cooney, Ms. Culver clarified that failure to renew would result in redistribution of QP to the rest of the fleet in the following year, but once renewed, the QS owner would get the QP for years subsequent to that. Motion 29 carried unanimously.

Ms. Culver moved and Ms. Vojkovich seconded Motion 30 relative to Issue 2 that the Council adopt Option A, the NMFS-preferred option that QS transfers be divisible to one thousandth of a percent, provided that when QS is converted to QP that it is issued in whole pounds. Mr. Lockhart asked about

the rounding rules that would be used for issuing QP. Ms. Culver suggested rounding to the nearest whole pound. Motion 30 passed unanimously.

Ms. Culver moved (Motion 31) with regard to Issue 3, IBQ transferability, that the Council adopt Option A which is the NMFS-preferred option. The IBQ would not be transferable in the first two years but IBQ QP would be transferable, which is the same as the IFQ QS and QP. Ms. Vojkovich seconded the motion. Ms. Vojkovich supported the motion because while IBQ is different technically, the way we deal with it should be the same as the way we deal with the IFQ. Mr. Myer agreed. Motion 31 carried unanimously.

Ms. Culver moved and Ms. Vojkovich seconded Motion 32 with regard to Issue 4, the mothership sector ownership rules, that the Council adopt Option B, mothership catcher-vessel endorsed permits and mothership permits are subject to the individual and collective rule in determining ownership for the purpose of accumulation and usage limits. Ms. Vojkovich noted that this is consistent with how the rule had been applied to all of the other sectors. The Council heard at the April meeting that there are some concerns with regard to how this rule is applied and whether it pertains to private contracts, loans, or long-term agreements. That is an issue the Council should address in the future across all sectors. Mr. Moore noted that while he was not in favor of the regulations on the ownership and collective rule, he agreed that if the rule is going to be applied that it needs to be applied equally to all. Therefore, he supported the motion. Motion 32 carried. Mr. Myer recused himself due to his interest in the mothership sector.

Mr. Moore expressed concern that individuals could be penalized by denial of their initial issuance applications and applications for renewal if individuals who are linked to their operation, other than themselves, failed to submit the required economic data collection (EDC) forms. He felt the MSA already provided adequate penalties to address failure to submit required data. Mr. Lockhart noted the importance of the baseline information and subsequent information for NMFS' ability to meet its MSA requirements for reviewing program performance. At the same time, some good points had been made by the RDW and public regarding the need for clarity and appropriateness of linkages in certain situations. They will be taking these comments into account in the next draft. Ms. Cooney made several comments regarding the precedence for making permit renewal contingent on data submission and the actions of others.

Mr. Lockhart noted that NOAA was not anticipating cost recovery would be in place by January 1, 2012, so the absence of the cost recovery program should not be a reason for delay. With respect to concerns about cost recovery being "too much of an unknown," he noted the 3 percent cap minimized uncertainty. With respect to what needs to be completed on the components rule, the main pieces are the interim first receiver site licenses and catch monitoring provider provisions; the second is the provisions on direct reallocation. The reallocation language will likely be identical to that in Appendix D, Section A-2.1.6 of Amendment 20. Those things will be in front of the RDW meeting later this month. Also, in response to public comment, they are working on an outreach plan to work with the industry. In response to Mr. Moore, Mr. Lockhart indicated that in the absence of cost recovery rules he anticipated that there would be a good chance of Federal funding until the cost recovery rules are in place and that if that did not occur they would have to come back to the Council to consider what to do.

Mr. Steve Williams moved and Ms. Culver seconded Motion 33 that the Council find the draft trawl rationalization program component rules contained in Agenda Item B.6.b, Supplemental NMFS Report 2, and modified by the Council action and guidance on this item at this meeting, consistent with the final Council action and intent on trawl rationalization. Mr. Williams noted the RDW workgroup has made this process work better. He had listened intently yesterday as we went through the rules themselves and listened to the materials provided by the team and others, the responses, and the approach that NMFS has taken. NMFS has been responsive to a number of the comments and suggestions that have been made.

There will always be more work to be done, but the rules before us, while some may still say they are not perfect, certainly meet the Council intent regarding the trawl rationalization program. Ms. Vojkovich noted that there are some artifacts of our previous management style that would be on our list of things to do. Motion 33 carried. Mr. Moore voted no.

Ms. Culver suggested it would be appropriate to have some Council member review of the new language and the modified language and to consider any other issues that might be raised during the upcoming RDW meeting. Rather than a meeting, perhaps have a Groundfish Allocation Committee (GAC) conference call with appropriate listening stations, in mid-July. Recommendations of the GAC would go to the Executive Director to advise him when he considers deeming the regulations. Mr. Moore noted that the normal process would be for the GAC to advise the Council. The RDW has an open public meeting June 30 and July 1. If we are not going to have full Council review of the regulations prior to the July 19, it might be just as well to rely on the RDW to advise the executive director.

Ms. Culver moved and Mr. Myer seconded Motion 34 that the Council schedule a Groundfish Allocation Committee (GAC) conference call for July 14; the purpose of that would be to review the draft regulatory language associated with the outstanding issues of the program components rule and to formulate recommendations that would be forwarded to the Executive Director in his consideration of whether the regulations are consistent with Council action. Motion 34 passed. Mr. Moore voted no.

B.7 Final Adoption of Harvest Specifications, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries (9:50 a.m.)

B.7.a Agenda Item Overview

Ms. Ames and Mr. DeVore provided the agenda item overview.

B.7.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Jones provided Agenda Item B.7.b, Supplemental GMT Report. Mr. Ancona provided Agenda Item B.7.b, Supplemental GAP Report. Deputy Chief Cenci provided Agenda Item B.7.b, Supplemental EC Report.

Ms. Kirchner reviewed Agenda Item B.7.b, Supplemental ODFW Report 1 and Supplemental ODFW Report 2. Ms. Vojkovich summarized Agenda Item B.7.b, Supplemental CDFG Report.

Ms. Ames walked the Council through Agenda Item B.7.a, Supplemental Attachments 1 through 4.

B.7.c Public Comment

Mr. Jeff Russell, NRDC, San Francisco, CA
Ms. Laura Pagano, NRDC, San Francisco, CA
Mr. Daniel Platt, STMA, Fort Bragg, CA
Mr. Gerry Richter, Pt. Conception Fishermen's Association, Santa Barbara, CA
Mr. Ralph Brown, trawler, Brookings, OR
Mr. Melvin de la Motte, San Luis Obispo, CA
Mr. Steve Moore, Patriot Sportfishing, Avila Beach, CA
Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, CA
Mr. Bill James, Port San Luis Fishermen's Association, Salem, OR

B.7.d Council Action: Adopt Final Overfishing Limits, Acceptable Biological Catches, Annual Catch Limits, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries

Ms. Culver asked if the Council does not recommend a specific change to management measures for 2011-12 if the status quo regulation would be carried forward. Mr. Lockhart and Ms. Ames agreed that is what would occur. Ms. Ames noted one exception: except south of 36° N. latitude for the open access sablefish fishery, the Council will need to provide guidance on crafting those trip limits, which will then be published in the proposed rule.

Mr. Lockhart said the GMT also has recommended that the GMT, NMFS and Council staff be able to provide corrections and modifications to ensure Council intent. The NWR supports that guidance.

Ms. Culver moved and Mr. Myer seconded Motion 35, to adopt the OFLs, ABCs, ACLs, and ACTs for all groundfish stocks as presented in Agenda Item B.7.a, Supplemental Attachment 1; except cowcod where the 2011-12 ACL would be set at 4 mt.

Ms. Culver spoke to her motion, specifically to the overfished stocks and the values represented in Agenda Item B.7.a, Supplemental Attachment 1. Relative to petrale sole, the T_{TARGET} of 2016 adds two years of rebuilding relative to the zero harvest option and rebuilds five years earlier than T_{max} , which would be specified at 2021. The ABC would represent the SPR harvest rate for 2011 and thereafter the 25:5 harvest control rule would be in place. Petrale meets the MSA requirement to rebuild within 10 years, which is why T_{max} is specified at 2021.

For canary rockfish, the ACL would result in T_{TARGET} of 2027 with an SPR harvest rate of 88.7 percent; this is the SPR harvest rate in the preliminary preferred alternative and is the level currently specified in the FMP. This harvest level adds 3 years to rebuilding relative to the zero fishing option. Due to the nature of the canary stock, even higher harvest levels have small impacts on the time to rebuild. For example, the 155 mt alternative only adds another year to the time to rebuild.

For POP, the harvest level would result in a T_{TARGET} of 2020 and a SPR harvest rate of 84.6 percent, which is the current harvest rate specified in the current FMP. It would add two years to rebuilding relative to the zero fishing option. Given that recent catches of POP were estimated to be below the specified ACLs, we are proposing an ACT target of 150 mt.

Relative to bocaccio, the T_{TARGET} would be specified at 2022, which is 4 years shorter than current T_{TARGET} . The bocaccio SPR rate would be 77.7 percent.

For darkblotched rockfish, the T_{TARGET} would be 2025 and an SPR rate of 64.9 percent. This is considerably more conservative than the current SPR rate and adds 9 years to rebuilding relative to the zero fishing options. It also rebuilds 3 years faster than the current T_{TARGET} .

For widow, the T_{TARGET} is 2010 and the rebuilding plan is to specify a constant catch scenario which would result in rebuilding 5 years earlier than the current T_{TARGET} specified in the FMP.

For yelloweye rockfish, the T_{TARGET} would be 2084 with an SPR harvest rate of 72.8 percent, which represents the values currently specified in the FMP. This rebuilds 3 years earlier than the median time to rebuild under the SPR harvest rate in the FMP and adds 37 years to rebuilding relative to zero fishing option.

For cowcod, the new T_{TARGET} is 2071 with a SPR of 79 percent which adds 11 years to rebuilding relative to the zero fishing option and it is one year less than the current T_{TARGET} . As noted in the GMT report, most of the cowcod habitat is currently protected within the Cowcod Conservation Area. We have had considerable Council discussion regarding the non-overfished species previously.

Mr. DeVore asked if other than petrale, POP, and canary where we have to set new T_{TARGETS} ; when you referenced the T_{TARGETS} for the other overfished species, did you mean the median time to rebuild under that harvest alternative? Or were you recommending that the T_{TARGET} equal the median time to rebuild? Ms. Culver said, consistent with the action taken on Tuesday, we would be updating the rebuilding plans by setting the T_{TARGET} equal to the median time to rebuild.

Mr. Moore moved to amend motion 35 (Amendment #1 to Motion 35) by setting the chilipepper OFLs to 2,073 mt in 2011 and 1,872 mt in 2012. The ACL would be set equal to the ABC at 1,990 mt in 2011 and 1,797 mt in 2012. The intent is to manage chilipepper south of 40°10' N. latitude with these specifications. North of 40°10' N. latitude, chilipepper would be managed as part of the minor shelf rockfish-north complex; and the OFLs and ABCs would be recalculated accordingly by Mr. John DeVore's numbers. Ms. Kirchner seconded the amendment.

Mr. Moore said, when the Council made the preliminary preferred decision earlier in the week, coastwide harvest specifications for chilipepper were set. Historically, we have managed chilipepper in the north as part of the minor shelf rockfish complex and with stock-specific harvest specifications in the south. He said his amendment continues the historical management structure for chilipepper. Mr. Lockhart asked about the difference between the numbers in the motion and amendment. Was it a proportional reduction? Mr. Moore said, based on the GMT analysis, it was approximately a 7 percent reduction from the coastwide OFL contributing to the minor shelf rockfish north complex. Ms. Cooney asked if the ABC moved by Mr. Moore was still consistent with the SSC recommendation. Mr. Moore said yes and Mr. DeVore confirmed that the numbers were calculated correctly.

Mr. DeVore went through the calculations for minor shelf rockfish north in greater detail.

Amendment #1 to Motion 35 carried unanimously.

Mr. Moore moved and Ms. Gway Kirchner seconded Amendment #2 to Motion 35 to set the ACT for POP at 157 mt.

Mr. Moore said earlier in the week the preliminary ACT was set at 150 mt. The GMT did some analysis and demonstrated that incidental catch of POP has been as high as 157 mt in recent years. It has been difficult to avoid POP and he would hate to see a fishery closure based on a 7 mt difference. The ACT would still be set well below the ACL of 180 mt.

Mr. Lockhart said since POP is an overfished species he would like further elaboration on why the level Mr. Moore moved takes into account the relevant MSA requirements. Mr. Moore said if the whiting fishery encounters endangered species like salmon or higher interactions with overfished species shoreward of the RCA, then the Council and NMFS would implement management measures to move the fleet into deeper waters. Moving the fleet into deeper water may reduce catches of salmon and canary, however, it puts them into POP territory. The alternative would be to shut the whiting fishery down, which would have significant impacts to coastal communities in Washington and Oregon. The rebuilding plan is based on the ACL and the change to the ACT would not affect the time to rebuild. The change to the ACT would, however, provide greater insurance against economic harm to coastal communities.

Amendment #2 to Motion 35 carried unanimously. Main motion 35 as amended carried. Mr. Lockhart abstained.

Mr. Lockhart said there is a lot of analysis and information before us this week and today. We are still working through the ACL amendment (Amendment 23) for the reauthorized MSA as well as the recent court decision. The Secretary of Commerce will look at all of the analysis and review the recommendations forwarded from the Council prior to making a decision. NOAA does have concerns about a couple of the decisions, specifically for cowcod and yelloweye. We will be looking at the Council's submission and the entire record before we make our determination.

Ms. Culver moved and Ms. Vojkovich seconded a motion (Motion 36) for yelloweye rockfish that a total of 5.9 mt shall be taken off the top with 0.1 mt set-aside for EFPs, referencing Agenda Item B.7.a, Supplemental Attachment 3. The fishery allocations shall be 0.6 mt for limited entry non-whiting trawl, 1.3 mt for the non-nearshore fisheries which includes limited entry and open access fixed gear fisheries, 1.1 mt for the nearshore fixed gear fisheries, 2.6 mt for Washington recreational, 2.4 mt for Oregon recreational, and 3.1 mt for California recreational.

Ms. Culver stated that, consistent with Agenda Item B.7.b, Supplemental GMT report, Table 10 on page 13, the trawl harvest guideline has been 0.6 mt even though impacts have been below that in recent years. With the new trawl rationalization fishery, the trawl sector needs an adequate amount to be successful. The non-nearshore model estimates impacts at 0.9 mt, and the 1.3 mt share is appropriate given that under a rationalized fishery there is a hard allocation. Any inseason action that is needed relative to yelloweye in the commercial fixed gear or recreational fisheries would need to come out of the non-trawl fisheries; as such it is important to ensure that the non-trawl sectors have sufficient yelloweye rockfish for their operations. Relative to nearshore fisheries, earlier in the week, the Council had considerable discussion regarding the impacts outlined on Table 13 in the GMT report, on page 21. The Washington and Oregon recreational fisheries are projected to come in just under their harvest guideline. In order for the California recreational fishery to have status quo regulations (i.e., adding two weeks back into August relative to Figure 3 in the GMT report) this would require 3.1 mt of yelloweye impacts. The total fishery impacts of yelloweye rockfish is 11.1 mt. In the past, the Council has considered research, tribal, and the needs of the individual fisheries prior to setting aside the EFP values. That's what she's tried to follow here, which results in 0.1 mt yelloweye rockfish remaining for EFPs in 2011-12.

Ms. Kirchner asked whether the motion intends for the Washington and Oregon yelloweye rockfish amounts to be specified separately as harvest guidelines. Ms. Culver said state-specific harvest guidelines.

Motion 36 carried. Mr. Lockhart abstained.

Ms. Culver moved and Mr. Myer seconded Motion 37, using Agenda Item B.7.a, Supplemental Attachment 6, to adopt the canary amounts to be the same in both 2011 and 2012; that the total off-the-top deduction should be 20 mt with the values specified in the attachment. For the limited entry non-whiting trawl fishery 20 mt; for the non-nearshore fixed gear fishery 2.3 mt; for the nearshore fixed gear fishery 4 mt; Washington recreational 2 mt; Oregon recreational 7 mt; California recreational 14.5 mt; limited entry whiting trawl amounts for catcher-processors 4.6 mt; motherships 3.2 mt; and shoreside whiting 5.7 mt.

Ms. Culver said that the trawl harvest guideline has been 19.3 mt and the current estimated impacts are 10.6 mt. Canary rockfish are susceptible to trawl gears and under a rationalized fishery structure, the fleet needs a sufficient allocation to be successful. The non-nearshore impact of 2.3 mt is consistent with the estimated impacts. The nearshore fixed gear fisheries are estimated to take 4 mt. For Washington recreational, the harvest guideline would be reduced from 4.4 mt to 2 mt. For Oregon, the harvest

guideline would be reduced from 14.5 mt to 7 mt for Oregon. The harvest guidelines of 2 mt and 7 mt for Washington and Oregon recreational fisheries, respectively, are consistent with estimated impacts in the past 6 years. The 14.5 mt harvest guideline for California recreational accommodates the projected impacts with a buffer. The limited entry whiting trawl values are consistent with the intersector allocation approach. By adopting the previously mentioned amounts, there is a residual which could be used to accommodate any overages in fisheries or set-asides.

Ms. Ames asked for clarification regarding the EFP set-asides. Ms. Culver said the canary rockfish EFP set-asides are 1.3 mt; consistent with Supplemental Attachment 3.

Ms. Ames asked, for the limited entry whiting trawl sector, is the intent of the motion to maintain the preliminary preferred allocations which were 14 mt in 2011 and 14.8 mt in 2012? If yes, the pro-rata distribution in the motion is incorrect. It should be 4.8 mt; 3.4 mt and 5.9 mt for 2011 for the catcher-processor, mothership, and shoreside sectors (respectively). For 2012, the allocations would be 5 mt, 3.6 mt, and 6.3 mt for the catcher-processor, mothership, and shoreside sectors (respectively).

Ms. Culver said the intent was for the pro-rata distribution and modified her motion accordingly to be consistent with previous Council action.

Mr. Meyers commented that he supports leaving a balance in the scorecard for canary.

Motion 37 carried. Mr. Frank Lockhart abstained.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 38 to adopt the bocaccio allocations and values contained on screen which are also displayed in Agenda Item B.7.a, Supplemental Attachment 6, in the column entitled "GMT Report Share" for 2011-2012. Further, the off the top amounts would be 13.4 mt.

Ms. Vojkovich said she hopes these amounts will provide for the rationalized trawl fishery and the fisheries that are currently taking place as the bocaccio stock rebuilds.

Mr. Moore said he supported the motion, but there is no reserve or residual; are you sure this is what you want? This is what the GMT recommended said Ms. Vojkovich.

Motion 38 carried. Mr. Lockhart abstained.

Ms. Ames asked to clarify the amount of bocaccio to be specified in the set-aside for EFPs.

Mr. Moore moved and Ms. Culver seconded Motion 39 to adopt the bocaccio rockfish set-aside by category numbers in Agenda Item B.7.a, Supplemental Attachment 3. Mr. Moore felt it was important to clarify the amounts for the set-asides. Motion 39 carried unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 40 for cowcod south of 40°10 N. latitude that the off-the-top deduction for EFPs be specified at 0.2 mt; limited entry non-whiting trawl be set at 1.8 mt; the remainder of non- trawl fisheries, including the recreational fisheries, is represented at 0.9 mt.

Ms. Vojkovich said the limited entry trawl allocation is in line with historical catches of cowcod and will accommodate the fleet as they move toward a rationalized fishery structure and a new method of fishing. The non-trawl sectors have been below 0.9 mt in the past and this is a pretty conservative amount for cowcod in the south; it leaves quite a residual.

Motion 40 carried. Mr. Lockhart abstained.

Ms. Culver moved and Mr. Myer seconded Motion 41, using Agenda Item B.7.a, Supplemental Attachment 3, Table 1, to adopt the set-asides in Table 1 for darkblotched, POP, widow, and petrale sole. In addition, for 2011 set a non-trawl allocation for petrale sole of 35 mt and a trawl allocation of 876 mt. In addition, for 2012 set a non-trawl allocation for petrale sole of 35 mt and a trawl allocation of 1,060 mt.

Ms. Culver spoke to her motion. The GMT estimated that the non-trawl harvest has been around 15 mt in recent years. There needs to be a hard allocation between trawl and non-trawl fisheries. The non-trawl allocation is sufficiently large enough to keep the non-trawl sector within their allocation.

Motion 41 carried. Mr. Lockhart abstained.

Ms. Vojkovich moved and Mr. Moore seconded Motion 42 to withdraw Motion 38 on bocaccio. Motion 42 passed unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded a substitute motion (Motion 43) that the 2011 and 2012 limited entry, non-trawl whiting allocation be set at 60 mt; non-nearshore fishery at 57.9 mt; nearshore fixed gear fisheries at 0.7 mt, and California recreational fishery at 131 mt. Ms. Vojkovich specified an EFP set-aside for bocaccio of 11 mt for 2011 and 2012.

Ms. Vojkovich said the intent of her substitute motion is to accommodate the needs of the upcoming trawl individual quota (TIQ) program, make sure we have the proper set-asides, and proper amounts for the rest of the fisheries.

Motion 43 carried. Mr. Lockhart abstained.

Working from Agenda Item B.7.b, Supplemental GMT Report, the list of recommendations on page 49, Ms. Culver moved and Mr. Myer seconded Motion 44 to adopt #1—the Amendment 21 allocations in Tables 1 and 2, as modified by Council action today; #2—two-year allocations necessary for trawl rationalization initial allocations as shown in Table 3; #3—sablefish allocations in Table 4; #7—specify a blue rockfish harvest guideline for California of 241 mt in 2011 and 239 mt in 2012; #9—specify bimonthly sablefish limits for the limited entry daily trip limit fishery beginning January 1, 2011 of 6,500 pounds for period 1, 7,500 pounds for periods 2-5, and 6,000 pounds for period 6; for #10—use the sablefish trip limit structure between open access and limited entry south of 36° N. latitude included in the GAP report on page 4 which is: 1) for limited entry: no daily limit, 2,000 pounds per week, with no bi-monthly limit and 2) for open access: 400 pounds per day or 1 weekly landing of up to 1,500 pounds not to exceed 6,000 pounds in 2 months; #12—adopt trip limits and RCA for non-whiting trawl if rationalization is delayed beyond January 1, 2011 as specified in GMT report; #14—adopt IFQ incidental trip limits as described in letters a-e; #16 set the non-trawl RCA at the status quo boundary; and #17—adopt all trawl RCA modifications proposed by ODFW.

Ms. Culver spoke to her motion by saying that the GMT report laid out the rationale for her recommendations. The Council also heard good rationale from the GAP and public regarding the south of 36° N. latitude sablefish trip limit structure, which can be tracked and modified inseason. The incidental trip limits are necessary under the rationalized fishery and the team gave considerable thought to what might occur under the gear switching provisions. Relative to the non-trawl RCA, the default would be the status quo; however, she thought it prudent to be clear about her intent.

Ms. Kirchner asked if the status quo non-trawl RCA was specified at 100 fm coastwide. Ms. Ames noted the non-trawl RCA is currently specified at 125 fm from 45°03.83' to 43° N. latitude off Oregon, except on days where the directed Pacific halibut fishery is open. On those days, the line is specified at 100 fm.

Ms. Kirchner moved to amend Motion 44 to adopt the recommendations contained in Agenda Item B.7.b, Supplemental ODFW Report 2, summarized on page 11. These recommendations address the management measures needed for the Oregon recreational groundfish fishery for 2011 and 2012, modifications to the seaward non-trawl RCA boundary from 45°03.83' to 43° N. latitude which would be specified at 100 fm, and the ODFW proposed modifications to the 100 and 125 fm RCA waypoints. Ms. Lowman seconded the amendment. Ms. Kirchner spoke to her motion by referencing the ODFW report and noting that Ms. Culver's motion already covered several items in the ODFW report.

Amendment #1 to Motion 44 carried unanimously.

Mr. Lockhart said any time modifications to RCA waypoints are recommended, NMFS completes a thorough review. We ask that NMFS be given latitude to work with the states and the Office of Law Enforcement to make any necessary corrections. The Council concurred.

Mr. Rod Moore made Amendment #2 to Motion 44, seconded by Ms. Kirchner, to set the trawl RCAs as they exist on June 17, 2010 for a rationalized trawl fishery for 2011.

Amendment #2 to motion 44 carried. Ms. Vojkovich voted no, Mr. Lockhart abstained.

Mr. Moore made Amendment #3 to Motion 44, seconded by Ms. Kirchner, to adopt the recommendations of the Enforcement Committee in Agenda Item B.7.b, Supplemental EC report, with the verbal changes made earlier and updated in the revised report.

Amendment #3 carried unanimously. Motion 44 carried as amended unanimously.

Ms. Vojkovich moved and Mr. Crabbe seconded Motion 45 to adopt the final preferred alternatives projected on the screen for California (see Agenda Item B.7.d, Supplemental CDFG Motion in Writing). Items in strikeout were already included in Ms. Culver's main motion, so are stricken from the CDFG motion.

Ms. Vojkovich spoke to her motion noting that she outlined the rationale supporting her motion under the tentative adoption. She wanted to speak to the more controversial items #8 and #12, regarding the Cowcod Conservation Areas. Currently, the management system operates under depth contours and not RCAs, which is a more rigorous and enforceable system. We have outlined the waypoints for both 30 and 40 fm so we can have them in regulation for use at a later date. As far as increasing access from 20 to 30 fm, we have references in the analysis that show it is rare to find cowcod shallower than 50 fm. All of the modeling we use includes data from when the area was open, so no additional impacts are anticipated or projected in the model as a result of this change. We heard in public testimony and we can see it in the charts, there is a gradual decline in depth and the purpose of the waypoints will serve the intent of staying within 30 fm. Further, allowing individuals to retain shelf rockfish turns discard into retained species.

Mr. Crabbe made Amendment #1 to Motion 45, seconded by Dave Hanson, to amend the scorpionfish seasons from "year round" to "when open."

Amendment #1 to motion 45 carried.

Mr. Lockhart asked for clarifications on items #12 and #8. Mr. Lockhart said these items cause concern for the agency. He understands statements by the public and GMT indicate that cowcod are rarely found between 20 to 30 fm. He notes that there has not been much fishing effort in this area and suggested that an EFP might be a better path to collect data on cowcod occurrence. Based on those data, perhaps a consideration could be made to allow widespread access to those areas.

Ms. Vojkovich noted that this is the second time CDFG has tried to open this area based on numerous data that indicate few, if any, cowcod are available at those depths. All of the projected impacts and all of the data that are in the stock assessment use data from when the Cowcod Conservation Area was open. There is no evidence in the literature or existing data sources where there has been appreciable catch of cowcod, other than a rare occurrence. There are also marine protected areas that are being implemented in southern California which will further limit the area where recreational anglers can fish. The EIS further details the analysis and CDFG believes there is no risk in this proposal.

Mr. Lockhart asked Ms. Ames what the EIS says about the catches of cowcod in the 20 to 30 fm range. Ms. Ames referenced Agenda Item B.3.a, Attachment 1, Tables 4-58 through 4-60.

Mr. Lockhart asked about California's authority to close access to this area if for some reason there is excessive cowcod catch. Ms. Vojkovich said the state's authority is no different than anything else; it's attached to the harvest guideline. Additionally, the catch information is consistent with the research distribution of cowcod, all indicates that catches are prevalent deeper than 50 fm. CDFG feels confident that the impacts have already been accounted for in all the projections.

Motion 45 carried as amended. Mr. Lockhart voted no.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 46) to adopt the WDFW preferred alternatives as described in Agenda Item B.3.b, WDFW Report. Ms. Culver spoke to her motion by referencing the analysis in the WDFW Report.

Motion 46 carried unanimously.

Mr. David Sones moved and Ms. Culver seconded a motion (Motion 47) to adopt the tribal management measures as shown in Agenda Item B.3.b, Supplemental Tribal Report. As noted earlier, for lingcod it should state 2011-2012, instead of 2009-2010.

Mr. Sones spoke to his motion, noting that the amounts reflect recent operations. Additionally, he noted the existing observer program and that all rockfish would be retained.

Mr. Lockhart noted that both the Quileute and Quinault have notified NMFS that they intend to fish for whiting in 2011.

Motion 47 carried unanimously.

C. Salmon Management

C.1 Fishery Management Plan Amendment 16, Annual Catch Limits and Accountability Measures

C.1.a Agenda Item Overview (06/12/10; 1 p.m.)

Mr. Chuck Tracy presented the agenda item overview.

C.1.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Tracy presented Agenda Item C.1.b, Supplemental SAC Report 2.

Dr. McIsaac asked if the flexibility provisions of the National Standard One Guidelines (NS1Gs) would allow application of an Annual Catch Limit (ACL) based solely on exploitation rate (F). Ms. Sheila Lynch replied the legislative history of ACLs focused on catch-based requirements, and the language of the Magnuson-Stevens Act (MSA) and NS1Gs describes ACLs in terms of catch. The language regarding flexibility in the NS1Gs refers to application of ACLs due to life history characteristics, but still requires numbers of fish to be the metric.

Mr. Tracy summarized Agenda Item C.1.b, SAC Report and presented Agenda Item C.1.b, Supplemental SAC PowerPoint.

Ms. Vojkovich asked for the basis of using 0.5 S_{MSY} (maximum sustainable yield spawning escapement) for an overfished threshold. Mr. Tracy replied the NS1Gs recommend 0.5 MSY as an appropriate benchmark.

Ms. Vojkovich asked why the Salmon Amendment Committee (SAC) recommended using a geometric mean rather than an arithmetic mean for determining overfished and rebuilt status. Mr. Tracy replied that the geometric mean reduces the weight of a single high value, which is appropriate given that the distribution of abundances is bounded by zero on the low end but unbounded on the upper end.

Mr. Wolford asked if other factors other than 0.5 S_{MSY} could be or were considered. Mr. Tracy replied they could be considered, but that the SAC had not developed other alternatives yet. Mr. Mohr added that the NS1Gs recommend 0.5 MSY as a default guideline unless that would not allow an overfished stock to rebuild within an acceptable time frame, in which case some value closer to MSY may be more appropriate. Due to the high productivity of salmon, however, a stock at 0.5 MSY would be able to rebuild within the 10 years recommended in the NS1Gs.

Dr. McIsaac asked if the 3-year geometric mean SDC basis was to account for age classes. Mr. Tracy replied it was just intended to account for potentially high temporal variation in stock abundance. Mr. Mohr added that a single year did not provide an adequate profile of the stock's reproductive potential.

Dr. McIsaac asked if the single-year SDC was based on the dominant age class for Chinook or on a blend. Mr. Tracy replied that it would be based on the spawner reduction rate, covering all potential spawners in a given year.

Ms. Culver asked if any of the Endangered Species Act (ESA) listed stocks would be classified as Ecosystem Components. Mr. Tracy replied no, that ESA stocks would be classified as in the fishery to facilitate ESA consultation.

Ms. Vojkovich asked if the spawning escapement-based ACL would meet the requirements of the NS1Gs. Ms. Lynch replied that it would require invoking the flexibility provision in the NS1Gs but would still be based on numbers of fish.

Ms. Culver asked if there were any advantage to the escapement-based ACL. Dr. Kope replied that spawning escapement could be monitored on a stock specific basis, whereas ocean catch could not.

Mr. Mallet asked if the catch-based ACL used a preseason abundance estimate. Mr. Tracy replied yes, in terms of developing annual management measures, but postseason evaluation would use updated abundance estimates, which are known with greater certainty. Mr. Mohr added that by removing the uncertainty associated with the preseason forecasts from the ACL evaluation, uncertainty only need be accounted for in the estimate of F_{MSY} (MSY exploitation rate), as was done in developing the tiered approach to setting ACLs.

Ms. Vojkovich asked what the relationship was between the spawning escapement values in the Sacramento fall Chinook conservation objective and the ACL reference points. Mr. Tracy replied that the conservation objective would establish the control rule by which the Council would manage fisheries on an annual basis; the ACL would just be used to evaluate whether fisheries were successfully managed to prevent overfishing. The SAC does recommend that as new information becomes available, conservation objectives should be reevaluated, which could change the control rule.

Ms. Culver asked how the postseason evaluation of the ACL would be incorporated into future management. Dr. Kope replied that if the ACL was exceeded more than once in four years the NS1Gs require reevaluation of the ACL framework, and in the case of salmon that would mean considering a larger buffer between F_{MSY} and F_{ABC} . Mr. Tracy added that that process would be addressed in the accountability measures, which the SAC had not fully developed.

Mr. Myer asked if the current control rules would functionally be annual catch targets, set well below the ABC. Mr. Mohr replied yes, although they have not been so identified.

Dr. McIsaac asked if a lead Council for salmon ACLs needed to be designated. Mr. Tracy replied the SAC had discussed the issue, and recommends the Pacific Council remain the lead Council for all FMP salmon stocks. Dr. Dygert added that NMFS had also consulted with the North Pacific Council and concurred with the SAC recommendation.

Dr. Petrosky presented Agenda Item C.1.b, Supplemental SSC Report.

Ms. Vojkovich asked why southern Oregon Chinook were in a stock complex if there was SDC available. Mr. Tracy replied that the stock complex was only relevant to setting ACL, not SDC, and since there was no estimate of F_{MSY} and no preseason forecast for that stock, it needed to be included in a complex with an appropriate indicator stock.

Mr. Tracy read into the record Agenda Item C.1.b, Supplemental SAS Report.

Mr. Williams asked what the basis was for the SAS recommendation on sector ACLs. Mr. Tracy replied the SAS was interested in alternatives that linked AM to Council area versus other fisheries to assure Council fisheries weren't accountable for management errors in other fisheries; the SAS was not interested in sectors within the Council area.

Ms. Culver asked if the SAS was interested in using sector ACLs as an accountability measure. Mr. Tracy replied that the SAS did not consider that possibility.

Mr. David Hillemeier (Yurok Tribe) noted the following:

- Despite being identified as a non-target stock in the ACL report, Klamath spring Chinook could have conservation objectives developed in the future and become a managed stock.
- The range of SDC overfished alternatives in the SAC report were too narrow, especially given that status quo criterion was listed as undefined, although NMFS policy on the current FMP criteria for an

overfishing concern constitutes overfished status. The Klamath basin has several independent Chinook populations that, given the alternatives for overfished SDC, could be well below 0.5 S_{MSY} and below thresholds identified in Amendment 15 that would increase the risk of detrimental long-term genetic effects. Therefore, an aggregate 0.5 S_{MSY} SDC would not provide adequate protection for those independent populations.

- The SAC should include overfished SDC alternatives that 1) reflect current NMFS policy; 2) have a 3-year geometric mean of 35,000 natural area adult spawners; 3) have 80 percent of S_{MSY} .
- Overfishing SDC should be linked to annual harvest rate objectives rather than a long-term average (F_{MSY}).
- The SDC alternative for rebuilt status of a 3-year geometric mean greater than S_{MSY} was appropriate, but the SAC may want to consider another alternative such as three-of-four years above the conservation objective, as used in the rebuilding plan for Klamath River fall Chinook.
- Alternatives to the Amendment 15 *de minimis* fishing provision for Klamath fall Chinook should be developed that provide a more prescriptive exploitation rate structure as stock status declines.

C.1.c Public Comment

None.

C.1.d Council Action: Adopt Preliminary Alternative for Public Review (06/12/10; 4:33 p.m.)

Mr. Williams asked what issues were ready for Council guidance. Mr. Tracy replied that stock classification was the most important at this time because development of alternatives for the other issues was contingent upon knowing the range of alternatives for stock classification. The SDC and ACL framework issues were also taking shape, and any guidance on specific alternatives would be helpful.

Ms. Vojkovich moved (Motion 2) to allow the SAC to develop stock classification, status determination criteria, and ACL alternatives. For stock classification and application of the international exception, adopt the alternatives in Tables 5, 6, and 7 (Agenda Item C.1.b, SAC Report), and identify Alternative 2 as a preliminary preferred alternative for the purpose of developing alternatives for the other issues in Amendment 16. For status determination criteria, adopt the alternatives in Table 8 (Agenda Item C.1.b, SAC Report) with the following changes: Alternative 1 (status quo) assumes the NMFS interpretation of an overfishing concern equates to overfished status, and an additional alternative with MSST equal to 75 percent of S_{MSY} . For the ACL framework, continue to develop the alternatives in Table 9 (Agenda Item C.1.b, SAC Report). For accountability measures, continue to develop the alternatives identified in Agenda Item C.1.b, SAC Report. For *de minimis* fishing provisions, maintain the status quo alternative for Klamath River fall Chinook, add alternatives for Sacramento River fall Chinook, and develop alternatives for both stocks that require no fishing at an appropriate abundance level greater than zero. The tables referenced above should reflect the corrections identified by the SAC in Agenda Item C.1.b, Supplemental SAC Report 2. The SAC should also work with the SSC to provide adequate rationale and scientific basis for the tiered uncertainty levels used in the ACL framework alternatives.

Mr. Brizendine seconded the motion.

Mr. Wolford asked if the SDC alternative using minimum stock size threshold (MSST) equal to 75 percent of S_{MSY} would include both single and multi-year versions. Ms. Vojkovich replied yes.

Mr. Lockhart asked if the changes to classification Alternative 1 would require changes to the Salmon FMP. Ms. Vojkovich replied yes.

Ms. Vojkovich offered the following rationale for Motion 2: specifying use of current National Marine Fisheries Service (NMFS) policy in classification alternative 1 would provide a less ambiguous analysis, the 75 percent of S_{MSY} SDC alternatives would provide additional resolutions to the analysis, the F-based ACL alternative appeared not viable, the *de minimis* fishing provisions needed additional development and consideration of fishing effects at low stock abundance.

Mr. Wolford asked if the guidance for developing additional *de minimis* fishing provisions for Sacramento and Klamath fall Chinook was intended to use the same conceptual approach but not the same actual break points. Ms. Vojkovich replied yes, that the concept of a point where fishing mortality would cease would apply to both stocks, but that different stock levels may be appropriate.

Mr. Williams recommended the process allow flexibility to add *de minimis* fishing provisions for stocks like Oregon coast Chinook when sufficient information becomes available.

Motion 2 carried unanimously.

Ms. Culver directed the SAC to provide examples of forecasts for the catch- and spawning-based ACL frameworks that would be directly comparable.

Dr. McIsaac recommended the Council provide direction to the SAC to assume the Pacific Council would be the lead Council in development and implementation of ACLs for all Salmon FMP stocks. The Council concurred.

D. Habitat

D.1 Current Habitat Issues (06/13/10; 8:07 a.m.)

D.1.a Agenda Item Overview

Mr. Kerry Griffin provided the agenda item overview.

D.1.b Report of the Habitat Committee

Mr. Griffin read Agenda Item D.1.b, Supplemental HC Report.

D.1.c Reports and Comments of Advisory Bodies and Management Entities

None.

D.1.d Public Comment

None.

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

Mr. Anderson spoke in regard to the coho issue and the Strait of Juan de Fuca overfishing report. He explained WDFW's regulatory and land acquisition efforts to maintain and enhance freshwater habitat, including improving their hydraulic project approval program. He said he would be happy to report on the changes they are making to improve their effectiveness in compliance monitoring and other habitat programs. This could take place in June 2011.

Mr. Helvey said NMFS would like to delay adoption of the Reedsport wave energy letter for a couple of days so that the Northwest Region (NWR) staff can work with the Habitat Committee (HC) and Council staff to include consideration of some NWR changes to the letter.

Mr. Moore said he wanted to adopt and forward the Reedsport letter. He felt the project could have significant impacts on communities. He asked Mr. Helvey how the delay and input from the NWR might occur.

Dr. McIsaac said the NWR had a minor change to the letter. The Council could approve the letter with that potential change.

Mr. Moore moved (Motion 3) that the Council direct the Executive Director to send the comments of the HC to the Federal Energy Regulatory Commission (FERC) with any necessary editorial or technical changes. Ms. Lowman seconded the motion.

Mr. Moore said he appreciated NMFS' position and the motion includes editorial changes as necessary, which should provide enough leeway for the Executive Director to work with NMFS.

Ms. Lowman supported the motion. She noted that this will set the tone for future application processes.

Vice-Chairman Wolford said there are other items associated with wave energy projects, for example items in the Coastal Pelagic Species (CPS) SAFE document (F.1.a Attachment 1). He hopes the final letter would specifically reference these issues.

Motion 3 passed. Mr. Steve Williams abstained.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 4) to adopt Agenda Item D.1.a, Attachment 2, Habitat Committee Report on Western Strait of Juan de Fuca (WSJF) Coho Overfishing Concern; and to adopt the three recommendations in Agenda Item D.1.b, Supplemental HC Report as modified below:

1. ~~Support efforts of the~~ Request WDFW to provide an update on their efforts to improve hydraulic project approval (HPA), program specifically the need for increased effectiveness and compliance monitoring of issued permits in June of 2011.
2. Support achievement of Washington Department of Ecology (WDOE) Clean Water Act (CWA) Review milestones related to State of Washington Forest Practice program.
3. Support future habitat restoration efforts in the WSJF that address limiting factors of coho salmon productivity.

Motion 4 carried unanimously.

Vice Chairman Wolford noted the Council did not wish to discuss the Klamath letter at this time.

E. Highly Migratory Species Management

E.1 Recommendations to International Fishery Management Organizations

E.1.a Agenda Item Overview (06/13/10; 8:48 a.m.)

Dr. Kit Dahl provided the agenda item overview.

E.1.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Steve Stohs provided Agenda Item E.1.b, Supplemental HMSMT Report. Mr. Doug Fricke provided Agenda Item E.1.b, Supplemental HMSAS Report.

E.1.c Public Comment

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

E.1.d Council Action: Approve Process and Recommendations for Input to the Northern Committee of the Western and Central Pacific Fisheries Commission and Inter-American Tropical Tuna Commission

Several Council members questioned Mr. Helvey about recent Federal regulations needed to carry out U.S. obligation under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (75 FR 3335, January 21, 2010). Comments from the HMSAS noted that these regulations included a requirement on those fishing in the Convention Area (west of 150° W longitude in the North Pacific) to operate VMS at all times, even when not operating in the Convention Area. This imposes a cost burden on west coast vessels that may occasionally fish in the Convention Area but usually fish in the Eastern Pacific. Mr. Helvey explained the regulatory and enforcement issues, including the fact that the NMFS Pacific Islands Regional Office promulgated these regulations.

Ms. Culver asked Mr. Helvey if data were available to allow the HMSMT to examine fishing effort levels of nations fishing on North Pacific albacore. In response, Dr. Sakagawa said that a new stock assessment will be available in 2011 and could contain information related to that issue. He recommended that the management process at the RFMO level would be the best forum for addressing the issue of defining fishing effort. The Council should engage at that level. Ms. Culver followed up by asking whether this issue should be advanced at the 2010 WCPFC Northern Committee meeting or in the context of the 2011 stock assessment. Dr. Sakagawa recommended the latter, clarifying that the stock assessment estimates fishing effort based on catch and doesn't get data directly on fishing effort. He said the U.S. should request other countries to provide information on fishing effort levels. In response to a question from Ms. Vojkovich, Dr. Dahl provided background information on the issue.

Ms. Culver moved (Motion 5), seconded by Mr. Myer, to adopt the recommendations on page 2 of the Supplemental HMSMT Report. Mr. Moore moved, seconded by Mr. Crabbe, to amend the main motion (Amendment 1 to Motion 5) to drop the fifth HMSMT recommendation relative to creating an ad-hoc committee to review the results of the Albacore Working Group and other HMS issues that arise as a result of the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC) meeting and 2) add the recommendation from the Supplemental HMSAS Report requesting a reevaluation of the VMS regulations previously discussed.

Ms. Vojkovich moved, seconded by Mr. Brizendine, to amend the main motion (Amendment 2 to Motion 5) to 1) to revise the recommendation on bluefin tuna so that it specifically references juvenile bluefin tuna mortality, and 2) revise the recommendation relative to compliance with IATTC management measures to add "and WCPFC management measures" and "like the IUU listing process and IUU fishing

activities.” Both amendments and the main motion passed unanimously on a voice vote. The amended motion reads:

1. Postpone bigeye and yellowfin tuna recommendations until after the updated stock assessments are released.
2. The U.S. delegation to the IATTC should develop a proposal for a TAC in the purse seine fishery.
3. The U.S. delegation to the Northern Committee should propose a more effective and comprehensive bluefin tuna conservation measure in the WCPFC, and specifically to address juvenile bluefin mortality.
4. The U.S. should pursue participation in the IATTC consultation on bluefin tuna (held August 30, 2010 in La Jolla) and move forward with a proposal for a bluefin tuna conservation measure in the IATTC.
5. The Council supports proposals that would increase compliance with IATTC and WCPFC management measures, like the IUU listing process and IUU fishing activities.
6. The U.S. delegations to the IATTC and WCPFC should advocate for more comprehensive data reporting and collection by members of the IATTC and WCPFC.
7. NMFS should reevaluate the VMS requirements for vessels endorsed to fish in the WCPFC Convention Area to reduce compliance costs related to continuous, frequent transmission of position reports.

Ms. Vojkovich requested that the letter with the recommendations from the above motion also emphasize the Council’s role in U.S. delegations to RFMOs. This sparked a discussion of how this message can be broadcast both through correspondence and Council participation in the delegations. Council members concurred with Ms. Vojkovich’s recommendation.

Dr. McIsaac said that formation of the previously proposed ad hoc committee should be discussed under Agenda Item G.3, and the Council concurred.

E.2 Fishery Management Plan Amendment 2, Annual Catch Limits and Accountability Measures

E.2.a Agenda Item Overview (06/13/10; 10:45 a.m.)

Dr. Dahl provided the agenda item overview.

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

Dr. Steve Stohs first gave a presentation (Agenda Item E.2.b, Supplemental HMSMT PowerPoint) and then provided Agenda Item E.2.b, Supplemental HMSMT Report.

Mr. Fricke provided Agenda Item E.2.b, Supplemental HMSAS Report. Dr. Martin Dorn provided Agenda Item E.2.b, Supplemental SSC Report.

E.2.c Public Comment (06/13/10; 1:05 p.m.)

Mr. Geoff Shester, Oceana, Monterey, CA

E.2.d Council Action: Adopt Final Amendment (06/13/10; 1:06 p.m.)

Ms. Culver expressed concern that Pacific bonito would be left to state management (not included in the HMS FMP) while opah is proposed to be added to the FMP as a management unit species, yet neither of these species is designated an HMS under Annex I of UN Law of the Sea Convention or the MSA, which

is the primary criterion for inclusion of species in the FMP. For this reason she recommended treating opah similarly to Pacific bonito.

Mr. Moore sought confirmation that not including these species in the FMP does not raise legal issues. Mr. Feder concurred. Ms. Culver followed up by asking whether lack of inclusion would preclude monitoring of catch in federally-managed fisheries. Mr. Feder said it would not and in fact such monitoring should occur in order to determine whether Federal management is indeed needed at some point.

Ms. Yaremko moved (motion 6), seconded by Mr. Brizendine, to select a preferred alternative based on Alternative 5 described in the Supplemental HMSMT Report. The motion had the following elements:

- Classification of stocks:
 - 11 management unit species (resulting from reclassifying bigeye and pelagic thresher as ecosystem component species)
 - Designate the eight EC species identified by the HMSMT based on the selection criteria described in the report; specifically, Pacific bonito is not included in the FMP as a management unit or EC species.
- The international exception is applied to all managed species in the FMP.
- Designation of the primary FMP for the purpose of determining SDC would be done at the stock level in consultation with WPFMC with flexibility to change based on new information.
- Specification of MSY and SDC:
 - MSY or MSY proxies estimated using methods consistent with data availability category
 - § Assessed stocks: derive MSY (or proxy) based estimates from assessment
 - § Non-assessed stocks:
 - § If productivity or abundance info. available – use index of abundance or productivity indicators with catch to develop MSY or proxy
 - § If productivity or abundance info. NOT available – use catch-only methods such as DCAC, DB-SRA or alternative catch series to develop proxy
 - MSY and SDCs will be reported in the SAFE
- Specification of OY: Flexible framework to determine OY on a stock basis based on criteria in NS1 Guidelines, to be considered and adopted on a case by case basis via the biennial management measures process, as new information becomes available. OYs are reported in the SAFE.
- ABCs are not specified, consistent with the international exception
- ACLs are not specified, consistent with the international exception, but the Council is free to specify them at any time; the current harvest guidelines in the FMP are retained (see amendment to the motion discussed below)
- Accountability measures are the measures and processes as described in Chapters 5 and 6 in the FMP.

Ms. Yaremko discussed the rationale for the above elements of the FMP amendment. In relation to stock classification, the HMSMT had considered the issue carefully and she agreed with their recommendations based on standardized approach to the issue. Application of the international exception is consistent with the WPFMC approach, it could promote cooperation on management of common thresher shark, and does not preclude setting ACLs if the Council so determines. She then discussed state management of Pacific bonito in support of the rationale for not including this species in the HMS FMP.

Based on a question about the motion, Ms. Culver moved, seconded by Rod Moore, an amendment (Amendment 1 to Motion 6) to retain the harvest guidelines for common thresher shark and shortfin mako shark currently specified in the FMP and Federal regulations. The amendment carried unanimously.

Dr. McIsaac asked whether the provision related to designation of the primary FMP for the determination of MSY and SDC identifies which FMP is primary for the HMS FMP management unit species. Dr. Dahl said the FMP would not specify the primary FMP for each stock, instead it would lay out the process by which the WPFMC and PFMC would agree on designations.

Ms. Culver reconfirmed that under the motion opah would be a state-managed species (not included in the HMS FMP).

Mr. Feder said the MSA requires that OY and MSY be specified in the FMP. Currently, the HMS FMP includes numerical estimates of these values and he does not believe that such numerical estimates can only be specified in the annual SAFE report. Such a general framework without inclusion of estimates in the FMP could make it difficult for NMFS to approve the amendment. At a minimum, the FMP should include methodologies for specifying these values and describe in detail a process for re-specifying such estimates that includes a public process and review and approval by NMFS.

Mr. Moore asked Dr. Dahl about the current process for establishing ABC and OY described in the FMP. Dr. Dahl replied that the FMP doesn't specify such a process. Mr. Moore said that the HMS FMP is the only PFMC FMP that includes estimates of MSY and OY and asked why the HMS FMP can't simply describe the methodology for making these estimates. Mr. Feder said it may not be absolutely necessary for the FMP to contain the numerical estimates as a matter of law, but the framework must include a public process and review and approval by NMFS of Council-recommended changes to the estimates.

Mr. Williams asked Mr. Feder if the description of the process for modifying the estimates on page 2 of the HMSMT Report is sufficient. Mr. Feder said he was not completely familiar with the process as described in the report. Mr. Williams asked Dr. Dahl whether the process as described addresses Mr. Feder's concerns. He replied that he thinks it does. Mr. Moore referenced the proposed amendment language that includes a description of the methodology for specifying MSY and OY numerical values.

Ms. Culver clarified that the Council is proposing that the methodologies would be specified in the FMP, but the numerical estimates resulting from those methodologies would be periodically reviewed by the Council and reported in the SAFE.

Mr. Feder sought further clarification of the motion with respect to the proposed amendment language. Dr. Dahl laid out two options. The Council could give discretion to staff to make additional modifications to the language to capture the Council discussion and motion and conclude action on the amendment at this meeting or ask that revised language be brought back to the Council at the September meeting for final action.

Ms. Culver reiterated her previous characterization of how MSY and OY estimates would be handled under the preferred alternative as summarized in Motion 6. The Council could vote on that and then entertain a second motion specific to the FMP amendment language as presented in Agenda Item E.2.a Attachment 2 and any modifications to it to address Motion 6 and Council floor discussion.

Ms. Lowman asked whether the states actively manage opah, another species with commercial landings proposed to not be included in the HMS FMP. Ms. Yrmeko described monitoring of the species by California. Mr. Moore noted that opah is incidentally caught in the California drift gillnet fishery.

Motion 6 as amended carried unanimously.

Mr. Feder asked for clarification of how Motion 6 handled specification of MSY and OY, reiterating his previous concern.

Ms. Culver moved (Motion 7), seconded by Mr. Moore, to have the Council adopt Amendment 2 to the FMP as specified in Agenda Item E.2.a, Attachment 2 as modified by the previous motion. Specifically, the methodology for calculating MSY and OY would remain in the FMP as described and the numerical values that result from those calculations would come to the Council for approval on an annual basis through a public process including the advisory committees. In response to a question, Ms. Culver affirmed that the Council would consider new estimates annually to be reported in the SAFE.

Mr. Feder reiterated his concern (described above).

Ms. Culver responded to Mr. Feder's concern by reiterating the process described in her motion, noting that any change in the methodology for calculating the numerical values would require an FMP amendment.

In response to a question from Dr. McIsaac, Dr. Dahl said the FMP and Federal regulations describe a public, Council process for adoption of the annual SAFE document.

Motion 7 carried unanimously.

Note: The Council reopened this agenda item on Monday, June 14, 2010 at 9:42 a.m.

Dr. McIsaac explained why the agenda item had to be reopened. It is related to the concern raised by Mr. Feder that NMFS (on behalf of the Secretary) have an approval role in the Council process for changing the numerical estimates of MSY and OY.

Ms. Culver moved and Mr. Moore seconded a motion (Motion 9) to reconsider Motion 7. Motion 9 carried unanimously.

Ms. Culver moved (Motion 10), seconded by Ms. Yaremko, to adopt the following:

1. Approve the Highly Migratory Species Management Team's recommendations in Agenda Item E.2.b, Supplemental HMSMT Report, which includes specifying maximum sustainable yield (MSY) or proxies, optimum yield (OY), status determination criteria (SDCs), and if required, overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs) for each management unit species during the HMS biennial process for management measures;
2. Retain the current methods for specifying MSY, OY, SDCs, OFLs, ABCs, and ACLs and the current values for MSY, OY, and harvest guidelines, as amended by Amendment 2, as displayed in Table 4-3 in the proposed Amendment 2 text (Agenda Item E.2.a, Attachment 2) on p. 21. These methods and values will remain in place in the fishery management plan (FMP) until superseded;
3. Specify that the methods for calculating MSY, OY, SDCs, OFLs, ABCs, and ACLs would remain in the FMP, which would require a plan amendment to change, consistent with the requirements in the Magnuson-Stevens Act in Section 303(a)(3) Contents of FMPs and Required Provisions; and
4. Provide a framework mechanism in Amendment 2 to allow for changes to the numerical values for MSY, OY, SDCs, OFLs, ABCs, and ACLs specified in the FMP through the biennial process, which would require rulemaking. The intent would be to consider and recommend these changes through the biennial process and display the resulting values, once approved by the Secretary of

Commerce, in the annual SAFE document, similar to the approach taken with the groundfish FMP.

Mr. Feder said the motion addresses the concerns he had previously raised.

Ms. Culver clarified that the current MSY and OY estimates are retained in the FMP until modified by the Council through the process described in Motion 10 (once the FMP amendment is approved by NMFS).

Dr. McIsaac asked whether Motion 10 was a substitute or supplement to Motion 7. Ms. Culver said it supplemented Motion 7 by providing additional clarification and addressing the concerns about the proposed process previously raised.

Motion 10 carried unanimously.

The Council moved back to Agenda Item B.3.

E.3 Changes to Routine Management Measures for 2011-2012 (06/13/10; 1:55 p.m.)

E.3.a Agenda Item Overview

Dr. Dahl provided the agenda item overview.

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

Dr. Stohs provided Agenda Item E.3.b, Supplemental HMSMT Report. Ms. Culver reviewed Agenda Item E.3.b, Supplemental WDFW Report.

E.3.c Public Comment

None.

E.3.d Council Action: Initial Identification of Preliminary Management Changes for Further Consideration

In response to a question from Mr. Helvey, Ms. Culver said that charter boats account for most of the recreational catch and the alternatives that would be brought forward at the September meeting would be based on data on catches from these vessels.

Dr. Dahl confirmed that the Council adopted by consensus the WDFW proposal contained in Agenda Item E.3.b, Supplemental WDFW Report.

F. Coastal Pelagic Species Management

F.1 Pacific Mackerel Management for 2010-2011 (06/15/10; 1:35 p.m.)

F.1.a Agenda Overview

Mr. Kerry Griffin provided the agenda item overview.

F.1.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Martin Dorn provided Agenda Item F.1.b, Supplemental SSC Report. He noted that no update was conducted in 2010, but a full assessment is scheduled for 2011. He also noted that the 2009 stock assessment indicated that the mackerel population had begun to level off, following an increase from very low abundance. The 2009-2010 landings were relatively low, despite El Nino conditions, which typically increase the availability of Pacific mackerel. Chief source of uncertainty is the catch per unit of effort (CPUE) log book index of relative abundance. SSC recommended that the 2009-10 harvest levels would be appropriate for 2010-11 as well.

Ms. Culver asked whether the SSC is “recommending” the ABC or just noting its appropriateness. Dr. Dorn replied that the “old” ABC is equivalent to the new OFL. Ms. Culver asked if the SSC would oppose a 3,000 mt incidental harvest, which is what the CPSMT recommended. Dr. Dorn replied that the SSC would not object, and does not make harvest guideline recommendations.

Mr. Greg Krutzikowsky provided Agenda Item F.1.b, Supplemental CPSMT Report. Mr. Moore clarified that the CPSMT did not object to a harvest guideline of 16,000 mt, but wanted to make sure that an incidental allowance came out of that 16,000 mt. Mr. Krutzikowsky confirmed that was the CPSMT’s intent.

Ms. Yaremko asked whether recent incidental catch has exceeded 3,000 mt. Mr. Krutzikowsky said no, and that any incidental catch had been less than 1,000 mt.

Mr. Wolford asked whether there would be enough biological data to support the 2011 stock assessment. Mr. Krutzikowsky replied that yes, there would likely be enough.

Mr. Mike Okoniewski provided Agenda Item F.1.b, Supplemental CPSAS Report. Mr. Moore asked whether any unused incidental allowance would be rolled into the directed harvest. Mr. Okoniewski said that no, it would not roll into the directed fishery. He noted that it would be important to leave a buffer, to ensure that other fisheries (e.g., squid) are not prematurely shut down because the mackerel landings cap was reached.

Ms. Yaremko asked for clarification about his statement about a premature closing of the fishery. Mr. Okoniewski clarified that the primary intent of the CPSAS’ recommendation of an 8,000 mt incidental set-aside was to avoid closure of non-mackerel fisheries, such as market squid.

Mr. Griffin read Agenda Item F.1.b, Supplemental HC Report.

F.1.c Public Comment

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA
Mr. Geoff Shester, Oceana, Monterey, CA

F.1.d Council Action: Approve Stock Assessment and Essential Fish Habitat review; Harvest Guideline; and Management Measures

Ms. Yaremko moved (Motion 24) to reaffirm items #1 and #2 as specified in Agenda Item F.1.b, Supplemental CPSMT Report; page 1 for 2010-2011 fishing. Mr. Brizendine seconded the motion.

That report included the following:

1) Establish an acceptable biological catch (ABC) of 55,408 mt and a harvest guideline (HG) for the directed fishery of 10,000 mt, which includes an incidental set-aside of 2,000 mt for incidental catch in non-directed fisheries.

2) Should the directed fishery attain landings of 8,000 mt, the Council recommends that National Marine Fisheries Service (NMFS) close the directed fishery and revert to an incidental-catch-only fishery with a 45 percent incidental landing allowance when Pacific mackerel are landed with other coastal pelagic species (CPS), with the exception that up to 1 mt of Pacific mackerel could be landed without landing any other CPS.

Mr. David Crabbe move to amend the motion (amendment #1 to Motion 24): In item one, change the 2,000 mt incidental catch to 3,000 mt incidental catch. Mr. Dale Myer seconded the amendment.

Mr. Moore said you are raising the incidental take, but are you maintaining the HG at 10,000 mt for a directed fishery of 7,000 mt with a set-aside of 3,000 mt? Mr. Crabbe said the intent is to raise the HG to 11,000 mt.

Mr. Moore moved a substitute amendment (amendment #2 to Motion 24) to change the HG to 11,000 mt so there is a directed fishery of 8,000 mt with a set-aside of 3,000 mt. Mr. Wolford seconded the amendment.

Mr. Helvey reminded the Council that we treated the incidental catch as only applying to CPS fisheries; not sure what other fisheries besides the CPS fisheries would incidentally catch mackerel.

Mr. Crabbe said he raised the incidental catch to 3,000 mt because the CPSAS recommended no less than 3,000 mt. The quota could be taken very easily and this would provide a larger buffer for the other incidental fisheries. We are still at a very conservative harvest guideline, based on the 55,000 mt ABC.

Mr. Helvey said he had concerns that there are other fisheries besides the CPS fisheries that could pick up mackerel. The motion would be that all mackerel would be counted.

Ms. Culver stated the harvest guideline pertains to vessels using CPS gear. Therefore, if incidental catches occur with vessels fishing with non-CPS gear, that would be tracked, but NOT subtracted from the 3,000 mt set-aside.

Mr. Feder asked whether meeting the set-aside would close down only CPS fisheries, or apply to all fisheries.

Amendment #2 to Motion 24 carried unanimously.

Dr. McIsaac read the motion from last year which stated “CPS fisheries” and not “non-directed fisheries.”

Mr. Moore moved to amend the motion (Amendment #3 to Motion 24) to strike “non-directed” and insert “non-directed CPS fisheries.” Ms. Culver seconded the motion.

Amendment #3 to Motion 24 was carried unanimously. Motion 24 as amended carried unanimously.

Dr. McIsaac noted that the motion did not address CPS essential fish habitat (EFH) issues, and suggested that Agenda Item G.4 (future agenda planning) would be an appropriate time to schedule CPS EFH actions.

F.2 Fishery Management Plan Amendment 13, Annual Catch Limits and Accountability Measures

F.2.a Agenda Item Overview (06/16/10; 3:13 p.m.)

Mr. Mike Burner provided the agenda item overview.

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

Dr. Dorn provided Agenda Item F.2.b, Supplemental SSC Report. Mr. Greg Krutzikowsky provided Agenda Item F.2.b, Supplemental CPSMT Report. Mr. Mike Okoniewski provided Agenda Item F.2.b, Supplemental CPSAS Report. Mr. Tim Roth provided Agenda Item F.2.b, Supplemental HC Report. Mr. David Sones provided Agenda Item F.2.b, Supplemental Tribal Report.

F.2.c Public Comment (06/15/10; 4:23 p.m.)

Ms. Dianne Pleschner-Steele, California Wetfish Producers Association, Buellton, CA
Mr. Ken Hinman, National Coalition for Marine Conservation, Leesburg, VA
Mr. Whit Sheard, Oceana, Monterey, CA
Mr. Ben Enticknap, Oceana, Portland, OR

F.2.d Council Action: Adopt Final Amendment

Ms. Yaremko moved and Mr. Brizendine seconded a motion (Motion 25) to adopt the following: Working from Agenda Item F.2.b, Supplemental CPSMT Report, June 2010

- Stock Classifications, Alternative 1, All species currently in the CPS FMP, including krill are included “in the fishery” in their existing category and no EC species are established.
- Status Determination Criteria, Alternative 2, Maintain existing SDCs for CPS FMP stocks and develop an MSY proxy for the northern subpopulation of Northern anchovy.
- Harvest Control Rules for Actively Managed Species, Alternative 3 Scientific Uncertainty Buffer, Modify the existing harvest control rules to include a buffer or reduction in ABC relative to OFL to account for scientific uncertainty.

OFL	BIOMASS * F_{MSY} * DISTRIBUTION
ABC	BIOMASS * BUFFER * F_{MSY} * DISTRIBUTION
ACL	LESS THAN OR EQUAL TO ABC
HG	(BIOMASS - CUTOFF) * FRACTION * DISTRIBUTION.
ACT	EQUAL TO HG OR ACL, WHICHEVER VALUE IS LESS

- Harvest Control Rules for Monitored Finfish and Squid Species, 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.

OFL	STOCK SPECIFIC MSY PROXY
ABC	OFL * 0.25
ACL	Equal to ABC or reduced by OY considerations.

- Sector-Specific ACLs, Alternative 4, Add sector-specific ACLs to the FMP framework as a management tool and assess their applicability on an annual basis.

- AM and ACTs, Alternative 3 (modified), Develop AMs as required and ACTs as needed for actively managed and monitored stocks.

Ms. Yaremko spoke to her motion. Regarding stock classifications, Ms. Yaremko agreed with the rationale provided by the CPSMT and felt that the primary incidental or bycatch species in the CPS fisheries are other CPS FMP species and that there is an active and ongoing monitoring and reporting mechanism for non-target CPS catch. Krill are included “in the fishery” and not classified as an EC species as a means of maintaining the current harvest prohibitions. She and the CPSMT have noted that the “Response to Comments” (Section V) of the final rule for the NS1 guidelines (74FR3178) states that, if the intent is to prohibit directed fishing and retention throughout the exclusive economic zone (EEZ) for which a Council has jurisdiction, then the stock would, most likely, be identified in an FMP as “in the fishery” rather than as an “ecosystem component of one particular FMP.” Regarding scientific uncertainty buffers in CPS harvest control rules, Ms. Yaremko cited the CPSMT recommendations and noted that although the analyses demonstrated the conservative nature of the existing harvest policies, the CPSMT and the SSC have made a compelling argument that the control rules should be modified to allow the consideration of an additional buffer to account for scientific uncertainty.

Ms. Culver moved and Mr. Cedergreen seconded an amendment to the motion (Amendment #1 to Motion 25) to adopt the following written motion:

Relative to stock classification considerations, I move the Council adopt Alternative 3 to add additional forage species to the coastal pelagic species (CPS) fishery management plan (FMP) as ecosystem component species. Specifically, add Pacific herring (*Clupea pallasii*) and Jacksmelt (*Atherinopsis californiensis*).

The intent would be to monitor the catches of these species and report catch estimates in the annual SAFE report, but to not develop status determination criteria or management measures for these stocks at this time.

Ms. Culver spoke to the CPSMT analysis of the important forage species and their catches. Specifically, for Pacific herring and jacksmelt there have been considerable incidental landings (~>5mt) over the last ten years. She also noted that in early action this week, the Council used a threshold of 1 mt to identify EC species in the HMS FMP and she felt that, based on the CPSMT analysis, this amendment to the motion is in keeping with the Council intent under HMS Amendment 2. Ms. Culver also believes that Pacific herring and jacksmelt are important forage for predators in the EEZ including Council-managed salmon and key groundfish stocks and, therefore, they should be managed in a manner that balances their contributions to the ecosystem as well as fisheries. This amendment to the main motion is consistent with the NS1 guidelines that recommend the consideration of ecosystem component (EC) species and forage species to further protect the ecosystem. It is also consistent with SSC and HC recommendations to include additional EC species.

Ms. Culver clarified that she is not recommending additional management measures or reporting requirements, but she would like to highlight and closely monitor these two species because of their catch levels in CPS fisheries.

Mr. Wolford spoke in favor of adding additional forage species as EC species and asked why the amendment to the motion does not include all of the species listed in Table 4.1-1 on page 17 of the draft EA (Agenda Item F.2.a, Attachment 1). Ms. Culver said that she is not opposed to adding additional EC species, but in crafting her amendment she reviewed the CPSMT analysis in the draft EA and applied the criteria (catch greater than 1 mt) the Council employed with HMS FMP Amendment 2 when including Pacific herring and jacksmelt.

Ms. Yaremko reiterated her support for the SSC and CPSMT findings that substantial incidental landings in CPS fisheries are limited to non-target CPS that are already in the FMP and that given the volume of targeted CPS landings she did not feel that catches of 6 mt of jacksmelt represented substantial catch. Ms. Yaremko noted that the Pacific herring are a state-managed species in California under a limited permit program. Additionally, CDFG monitors that stock annually and implements time and area closures to limit the fishery, and California is in the process of reviewing Pacific herring management through the development of a state FMP. Regarding jacksmelt and other smelt species, she noted that some are state-managed and the target of near-shore recreational fisheries and consequently it is unclear what additional Federal CPS fishery management needs exist given the relatively low catch numbers that are currently monitored.

Mr. Helvey said he hears arguments for and against adding EC species and noted that the Council has not developed a clear process for identifying EC species nor has there been a thorough examination of management of these species outside the Federal arena. He noted that the Council is in the process of developing an Ecosystem FMP (EFMP) and suggested that that process may be an appropriate venue for considering forage species and the corresponding ecological considerations. He said he would be voting against the amendment.

Ms. Culver stressed that Washington also manages Pacific herring in state waters and that Pacific herring are caught in Federal waters off Washington. She stated that nothing in her amendment to the motion is intended to supersede state-management of these species. Ms. Culver also clarified that the criteria the Council used for EC species under the HMS FMP was catch greater than 1 mt and less than 5 mt and the CPS catch of these two species exceeds 5 mt. Additionally, given the relatively small size of these forage species, 1 mt represents far more individual fish than many of the species considered under HMS.

Mr. Wolford felt that the EFMP is probably the ultimate home for a complete list of forage species, but he is uncomfortable assuming such given the early stages that the EFMP is in and he has concerns that these important species may end up outside all of our FMPs. He said that although some of the forage species are subject to state management, he was torn on this issue and is glad to see that the CPSAS and CPSMT recognize the importance of these fish and have recommended their inclusion in the EFMP.

Mr. Burner said that the Ecosystem Plan Development Team (EPDT) and the Ecosystem Advisory Subpanel (EAS) have been tasked with discussing the issue of forage and management unit species within the EFMP and will be reporting to the Council at the upcoming September meeting. He noted that there are workload considerations to adding EC species to the CPS FMP and that the EPDT has strong representation with adequate expertise to review forage species and their ecological role. There may be difficulties and inefficiencies in having two separate teams addressing the same issue.

Ms. Culver clarified for Mr. Moore that her amendment would simply include Alternative 3 to the main motion, thus adding EC species to the CPS FMP while preserving the stock classifications of Alternative 1. The intent of the amendment to the motion is not to prescribe a method for adding more species in the future or to develop SDCs or management measures for these species at this time. In the future, such management actions would only be warranted if the Council elevates species to active management.

Mr. Williams noted that the development of the EFMP will be complex with many issues to consider when assigning species to it and he confirmed with Mr. Burner that FMP amendments would likely be necessary to move species from the CPS FMP to the EFMP.

Mr. Wolford reiterated the importance of these forage species and the need for greater consideration of their ecological role, but he also is interested in moving the EFMP forward and he can foresee some

inefficiencies in addressing forage issues twice. He voiced support for the amendment to the main motion.

Mr. Roth noted that the HC is very interested in moving the EFMP forward. He and Ms. Lowman both felt that including these two species is a good start to expanding forage considerations and both were in support of the amendment to the main motion.

A roll call vote was taken for Amendment #1 to Motion 25. Voting no: Crabbe, Yaremko, Helvey (10 yes, 3 no). Amendment #1 to Motion 25 carried.

Ms. Culver moved and Mr. Cedergreen seconded an amendment (Amendment #2 to Motion 25) to adopt the following:

Relative to status determination criteria, I move the Council add the following language to the appropriate section within the coastal pelagic species (CPS) fishery management plan (FMP): The Council will consider ecological factors in developing status determination criteria, ACLs, and ACTs for CPS.

Ms. Culver stated that this language is very similar to the language the Council adopted earlier in the week relative to Amendment 23 to the Groundfish FMP, and is in keeping with testimony in support of considering ecological factors. She noted that a list of ecological factors was presented to the Council under public comment, but this amendment to the main motion does not add any specific factors to the CPS FMP, it simply states that the Council will take ecological factors into consideration.

Mr. Tim Roth spoke in strong support for Amendment #2 noting that the HC has been stressing importance of these factors in the process.

Amendment #2 to Motion 25 carried unanimously. Motion 25 as amended twice carried unanimously.

G. Administrative Matters

G.1 Approval of Council Meeting Minutes

G.1.a Council Member Review and Comments

Chairman Ortmann referred Council members to Agenda Item G.1.a, Supplemental Attachment 1 which contained the April 2009 Council meeting minutes.

G.1.b Council Action: Approve September 2009 Council Meeting Minutes

Mr. Moore moved and Mr. Wolford seconded a motion to approve the September 2009 Council Meeting Minutes as shown in Agenda Item G.1.b, Supplemental Meeting minutes, with the following correction:

On page 26, under SSC Report in the third paragraph, where it says “Mr. Wolford asked about CV-Extra,” Mr. Wolford was asking about CVs as in “coefficient of variation.”

Because Council members had not had time to fully review the supplemental minutes, the motion was withdrawn. The September 2009 minutes will be approved at the September 2010 meeting.

G.2 Fiscal Matters

G.2.a Agenda Item Overview (06/17/2010; 5:39 p.m.)

Dr. John Coon provided the agenda item overview.

G.2.b Budget Committee Report

Mr. Jerry Mallet provided Agenda Item G.2.b, Supplemental Budget Committee Report. He also reported that the Budget Committee had discussed the status of expenditures in the Council compensation category and had asked staff to monitor it closely. There had also been some discussion of the cost of a second vice chair which was about \$10,000 annually. He noted the 2010 budget was sufficient to cover that cost.

G.2.c Reports and Comments of Advisory Bodies and Management Entities

None.

G.2.d Public Comment

None.

G.2.e Council Action: Consider Budget Committee Recommendations

Mr. Moore moved and Mr. Mallet seconded a motion (Motion 48) to adopt a CY 2010 budget of \$4,971,490 (as provided in the Budget Committee recommendations in Agenda Item G.2.b, Supplemental Budget Committee Report) and to have Council staff monitor expenses and report on any needed adjustments in September.

Motion 48 carried unanimously.

G.3 Membership Appointments and Council Operating Procedures

G.3.a Agenda Item Overview (06/17/2010; 5:49 p.m.)

Dr. Coon summarized the information and required actions as presented in the situation summary, including Agenda Item G.3.a, Supplemental Attachment 1.

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

None.

G.3.c Public Comment

None.

G.3.d Council Action: Elect New Council Chair and Vice Chairs, Consider Changes to Council Operating Procedures and Advisory Body Appointments

Mr. Mallet moved and Mr. Moore seconded a motion (Motion 49) to appoint Dr. Richard Scully to the Idaho Fish and Game (IDFG) position on the Ecosystem Plan Development Team. Motion 49 carried unanimously.

Mr. Sones moved and Ms. Culver seconded a motion (Motion 50) to appoint Mr. Charles (Sonny) Peterson to the Tribal Fisher position on the GAP, replacing Mr. Roger Bain. Motion 50 carried unanimously. Mr. Sones moved and Ms. Culver seconded a motion (Motion 51) to eliminate the Tribal At-Large position on the Ecosystem Advisory Supanel (EAS) and maintain the current vacant tribal position on the Ecosystem Plan Development Team (EPDT), which may be filled at an appropriate time in the future. Motion 51 carried unanimously.

Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 52) to appoint Ms. Angelika Hagen-Breaux to the WDFW position on the Model Evaluation Workgroup (MEW). Motion 52 carried unanimously.

Mr. Lockhart moved and Mr. Moore seconded a motion (Motion 53) to appoint Mr. Sean Matson to a NMFS NWR position on the GMT, replacing Ms. Sarah Williams. Motion 53 carried unanimously. Mr. Lockhart moved and Mr. Sones seconded a motion (Motion 54) to appoint Ms. Heidi Hermsmeyer to the NMFS SWR position on the HMSMT, replacing Mr. Lyle Enriquez. Motion 54 carried unanimously.

Mr. Cedergreen moved and Mr. Wolford seconded a motion (Motion 55) to establish the ad hoc Tule Chinook Workgroup to explore abundance-based approaches to setting allowable fishing rates in the long-term to protect Lower Columbia River (LCR) tule Chinook as described in Agenda Item G.3.a, Supplemental Attachment 1. Motion 55 carried unanimously.

Chairman Ortmann appointed Dr. Geoff Shester, Oceana, to replace Mr. Santi Roberts on the Ad Hoc Groundfish Essential Fish Habitat Review Committee.

Ms. Vojtkovich moved and Mr. Brizendine seconded a motion (Motion 56) to appoint Mr. Dan Wolford to the first Council Vice Chair position for the August 11, 2010 – August 10, 2011 term. Motion 56 carried unanimously.

Mr. Steve Williams moved and Mr. Mallet seconded a motion (Motion 57) to appoint Ms. Dorothy Lowman to the second Council Vice Chair position for the August 11, 2010 – August 10, 2011 term. Motion 57 carried unanimously.

Ms. Culver moved and Mr. Moore seconded a motion (Motion 58) to appoint Mr. Mark Cedergreen to Council Chair for the August 11, 2010- August 10, 2011 term. Motion 58 carried unanimously.

G.4 Future Council Meeting Agenda and Workload Planning (06/17/10; 6:04 p.m.)

G.4.a. Agenda Item Overview

Dr. Don McIsaac provided the agenda item overview—referring to Agenda Items G.4.a, Supplemental Attachments 3 and 4. He summarized the changes that had been made from Attachments 1 and 2 which were primarily the postponing of the white paper for swordfish and the addition of a STAR Panel and Methodology Terms of Reference for CPS and the five year EFH review for CPS.

G.4.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Coon read Agenda Item G.4.b, Supplemental CPSMT Report and Agenda Item G.4.b, Supplemental CPSAS Report. Mr. Tim Roth read Agenda Item G.4.b, Supplemental HC Report. Dr. Coon noted that the CPSMT, CPSAS, and HC were all supportive of an agenda item for the CPS essential fish habitat (EFH) review in November; although it did not make it into their statements.

G.4.c Public Comment

Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA
Mr. Ralph Brown, trawler, Brookings, OR
Mr. Merrick Burden, Environmental Defense Fund, Seattle, WA
Mr. Joe Sullivan, The Nature Conservancy, Seattle, WA
Mr. Michael Bell, The Nature Conservancy, San Luis Obispo, CA
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR

G.4.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning

Responding to requests to start the scoping process for trailing amendments, especially coastal community fishing associations (CFAs) in September, Dr. McIsaac noted the Council staff was completely oversubscribed and cannot start work on that between now and September. The schedule in the Year at a Glance has scoping in November, public review documents in April 2011, and final Council action in June 2011 in time, hopefully, for implementation January 1, 2012. He did not see a need to implement trailing amendments earlier than that. To change the program in the middle of the game during the first year (2011) does not seem reasonable and we have had great difficulty in figuring out how to get something done before January 1, 2012. Dr. Hanson said you don't want to be changing things during the middle of the year; it would be too confusing and cumbersome.

Mr. Steve Williams appreciated the overview and supported the approach Dr. McIsaac laid out and displayed in the Year at a Glance. With regard to the trailing amendments, he supported halibut IBQ as a priority. With regard to the September agenda, he believes that marine spatial planning is an important emerging topic and hoped it would remain on the agenda.

Mr. Moore supported the approach presented by Dr. McIsaac. He noted that if the halibut allocation issue does rise to the top in September and if it is a minor change in numbers, it could be just a regulatory amendment for a two-meeting process instead of three meetings. On safe harbor and community associations, he said if you are going to have workshops, keep in mind everybody's definition of CFAs are different.

Ms. Lowman said she understood the workload issue and need to focus the trailing amendments. However, the topic of CFAs has been on our agenda and been shoved off for over a year. She feels there is an expectation of us picking this up and making this program successful. She would like to start scoping in September and finish in the spring, but understands the workload. She also remarked that control rule concerns and safe harbors were high priorities for trailing amendments and wondered if we could use a two-part scoping process to expedite the Council action.

Mr. Lockhart agreed with Mr. Moore's comments. Fully recognizing the workload, he would still like to start the scoping earlier; we have several things in process – the public comment process comes up with a lot of things to address. However, he thought the schedule seems reasonable, but he did not want to totally preclude having scoping in September.

Mr. Myer and Ms. Culver thought that halibut IBQ and other bycatch issues could be lower priorities than risk pools and establishing safe harbors.

Ms. Vojkovich expressed her hope that Council meetings will eventually come back down to five days. In regard to her question about marine spatial planning, Dr. McIsaac stated that he thought there would be something out for September.

Mr. Lockhart, regarding the Ecosystem FMP, said he would like to see the science centers give short presentations on ecosystem science to inform the Council (twenty minute presentations; 10 minute discussions). If the Mitchell Act agenda item is postponed, he would like to explore adding one of those presentations into the agenda. Mr. Roth supported Mr. Lockhart's idea about having the short informational presentations on ecosystem management on a regular basis.

ADJOURN

Council adjourned on Thursday, June 17, 2010 at 7:15 p.m.

DRAFT VOTING LOG
Pacific Fishery Management Council
204th Meeting
June 2010

Motion 1: Approve the meeting agenda as shown in Agenda Item A.4, June Council Meeting Agenda.

Moved by: Rod Moore

Seconded by: Mark Cedergreen

Motion 1 carried unanimously.

Motion 2: Allow the SAC to develop stock classification, status determination criteria, and ACL alternatives. For stock classification and application of the international exception, adopt the alternatives in Tables 5, 6, and 7 (Agenda Item C.1.b, SAC Report), and identify Alternative 2 as a preliminary preferred alternative for the purpose of developing alternatives for the other issues in Amendment 16. For status determination criteria, adopt the alternatives in Table 8 (Agenda Item C.1.b, SAC Report) with the following changes: Alternative 1 (status quo) assumes the NMFS interpretation of an overfishing concern equates to overfished status, and an additional alternative with MSST equal to 75 percent of S_{MSY} . For the ACL framework, continue to develop the alternatives in Table 9 (Agenda Item C.1.b, SAC Report). For accountability measures, continue to develop the alternatives identified in Agenda Item C.1.b, SAC Report. For *de minimis* fishing provisions, maintain the status quo alternative for Klamath River fall Chinook, add alternatives for Sacramento River fall Chinook, and develop alternatives for both stocks that require no fishing at an appropriate abundance level greater than zero. The tables referenced above should reflect the corrections identified by the SAC in Agenda Item C.1.b, Supplemental SAC Report 2. The SAC should also work with the SSC to provide adequate rationale and scientific basis for the tiered uncertainty levels used in the ACL framework alternatives.

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Motion 2 carried unanimously.

Motion 3: Direct the Executive Director to send the comments of the HC to the Federal Energy Regulatory Commission (FERC) with any necessary editorial or technical changes.

Moved by: Rod Moore

Seconded by: Dorothy Lowman

Motion 3 carried. Mr. Steve Williams abstained.

Motion 4: Adopt Agenda Item D.1.a, Attachment 2: Habitat Committee Report on Western Strait of Juan de Fuca (WSJF) Coho Overfishing Concern; and adopt the three recommendations (Agenda Item D.1.b, Supplemental HC Report) as follows:

1. ~~Support efforts of the Request~~ WDFW **to provide an update on their efforts** to improve hydraulic project approval (HPA), program specifically the need for increased effectiveness and compliance monitoring of issued permits **in June of 2011**.
2. Support achievement of Washington Department of Ecology (WDOE) Clean Water Act (CWA) Review milestones related to State of Washington Forest Practice program.
3. Support future **habitat** restoration efforts in the WSJF that address limiting factors of coho salmon **productivity**.

Moved by: Phil Anderson
Motion 4 carried unanimously.

Seconded by: Mark Cedergreen

Motion 5: Adopt the recommendations as contained in Supplemental HMSMT Report (the 7 bullet items on page 2 of that report).

Moved by: Michele Culver

Seconded by: Dale Myer

Amndmt#1: Drop the fifth HMSMT recommendation relative to creating an ad-hoc committee to review the results of the Albacore Working Group and other HMS issues that arise as a result of the ISC meeting and add the recommendation from the Supplemental HMSAS Report requesting a reevaluation of the VMS regulations to develop an appropriate mechanism for west coast vessels.

Moved by: Rod Moore

Seconded by: David Crabbe

Amendment #1 to Motion 5 carried unanimously.

Amndmnt#2: Revise the recommendation on bluefin tuna so that it specifically references juvenile bluefin tuna mortality and revise the recommendation relative to compliance with IATTC management measures to add “and WCPFC management measures” and “like the IUU listing process and IUU fishing activities.”

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Amendment #2 to Motion 5 carried unanimously.

Motion 5 as amended carried unanimously.

Motion 6: Select a preferred alternative based on Alternative 5 described in the Supplemental HMSMT Report to include the following elements:

- Classification of stocks:
 - 11 management unit species (resulting from reclassifying bigeye and pelagic thresher as ecosystem component species)
 - Designate the eight EC species identified by the HMSMT based on the selection criteria described in the report; specifically, Pacific bonito is not included in the FMP as a management unit or EC species.
- The international exception is applied to all managed species in the FMP.
- Designation of the primary FMP for the purpose of determining SDC would be done at the stock level in consultation with WPFMC with flexibility to change based on new information.
- Specification of MSY and SDC:
 - MSY or MSY proxies estimated using methods consistent with data availability category
 - § Assessed stocks: derive MSY (or proxy) based estimates from assessment
 - § Non-assessed stocks:
 - § If productivity or abundance info. available – use index of abundance or productivity indicators with catch to develop MSY or proxy
 - § If productivity or abundance info. NOT available – use catch-only methods such as DCAC, DB-SRA or alternative catch series to develop proxy
 - MSY and SDCs will be reported in the SAFE.

- Specification of OY: Flexible framework to determine OY on a stock basis based on criteria in NS1 Guidelines, to be considered and adopted on a case-by-case basis via the biennial management measures process, as new information becomes available. OYs are reported in the SAFE.
- ABCs are not specified, consistent with the international exception.
- ACLs are not specified, consistent with the international exception, but the Council is free to specify them at any time; the current harvest guidelines in the FMP are retained (see amendment to the motion discussed below).
- Accountability measures are the measures and processes as described in Chapters 5 and 6 in the FMP.

Moved by: Marci Yaremko

Seconded by: Buzz Brizendine

Amdnt: Retain the harvest guidelines for common thresher shark and shortfin mako shark currently specified in the FMP and Federal regulations.

Moved by: Michele Culver

Seconded by: Rod Moore

Amendment to Motion 6 carried unanimously.

Main Motion 6 as amended carried unanimously.

Motion 7: Adopt Amendment 2 to the HMS FMP as specified in Agenda Item E.2.a, Attachment 2 as modified by the previous motion. Specific to Table 4-3, page 21, the methodology for calculating MSY and OY would remain in the FMP as described and the numerical values that result from those calculations would come to the Council for approval on an annual basis and would include the public process along with advisory entities for approval.

Moved by: Michele Culver

Seconded by: Rod Moore

Motion 7 carried unanimously.

Motion 8: Adopt Amendment 23 to the Pacific Coast Groundfish Management Plan, as presented in Agenda Item B.2.a, Attachment 2, June 2010 with the following modifications:

1. Adopt the SSC recommendations contained in the Supplemental SSC Report, Agenda Item B.2.b, June 2010.
2. Adopt GMT recommendations 1, 2, and 5 contained in the Supplemental GMT Report, Agenda Item B.2.b, June 2010.
3. Under the description of factors to be considered in the determination of ACL's, the Council will add the consideration of ecological factors.

The Council staff is directed to revise the Preliminary Draft Environmental Assessment, Agenda Item B.2.a. Attachment 1, June 2010, consistent with the provisions of this motion and other clarifications as necessary.

Moved by: Phil Anderson

Seconded by: Dale Myer

Amdnt #1: For clarity, we recommend that this language be included in the FMP.

1) In Section 4.4.1 (Attachment 2) add:

"Approaches to quantifying the variability on 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 (σ) can be calculated using this latter approach for all or some category 1 species. These approaches are not exclusive and the SSC may recommend additional approaches to quantifying scientific uncertainty for category 1 species, including approaches that are specific to individual stocks. Once scientific uncertainty is quantified, it is mapped to an estimated probability of overfishing (P^*). The Council chooses the ABC from the SSC-recommended range based on its choice of P^* , which is a risk-assessment policy decision."

2) Insert as options for use by the Council into both Section 4.4.2 and 4.4.3

a) Continue to apply a buffer of 0.25 for category 2 stocks and of 0.5 for category 3 stocks for consistency with current practice until the SSC has developed and applied an appropriate analytical framework.

b) Set the value of σ for category 2 and 3 stocks to two and four times the CV for category 1 stocks. These specific values are not based on a formal analysis of assessment outcomes and could change substantially when the SSC reviews additional analyses.

3) In Section 4.4 replace the statement:

"The ABC is decided by the Council based on its preferred level of risk aversion."

With

"The ABC is adopted by the Council based on its preferred level of risk aversion in combination with the recommendations of the SSC regarding scientific uncertainty."

4) Direct the staff to work with the SSC to develop language for insertion into the FMP that states that other sources of uncertainty may be included in the determination of the ABC where the SSC can recommend an approach to analyze those sources of uncertainty.

5) For Section 6.2.1 of the Pacific Coast Groundfish FMP (page 69):

After the sentence—

"The current list of routine management measures is published in Federal regulations at 50 CFR 660.370."

Add--

"Routine management measures have been developed to deal with management uncertainty in the groundfish fishery. The process allows timely adjustment of measures inseason to respond to the most current scientific and management information. These routine management measures are accountability measures under the Magnuson-Stevens Act as amended."

consistent with the requirements in the Magnuson-Stevens Act in Section 303(a)(3) Contents of FMPs and Required Provisions; and

4. Provide a framework mechanism in Amendment 2 to allow for changes to the numerical values for MSY, OY, SDCs, OFLs, ABCs, and ACLs specified in the FMP through the biennial process, which would require rulemaking. The intent would be to consider and recommend these changes through the biennial process and display the resulting values, once approved by the Secretary of Commerce, in the annual SAFE document, similar to the approach taken with the groundfish FMP.

Moved by: Michele Culver
Motion 10 carried unanimously.

Seconded by: Marci Yaremko

Motion 11: Adopt the overfishing limits (OFLs) and acceptable biological catches (ABCs) for 2011 and 2012 for all groundfish species (overfished and non-overfished), except shortbelly rockfish, as described in Table 2-1, on pages 1 and 2 of Chapter 2 (Agenda Item B.3.a, Attachment 2). For shortbelly rockfish, adopt an OFL of 6,950 mt and an ABC of 5,789 mt for 2011 and 2012, consistent with the Council's specification of a scientific uncertainty buffer for category 2 stocks (i.e., a P^* of 0.40 and a sigma value of 0.72) as described in Table 2-5, on page 15 of Chapter 2.

Moved by: Phil Anderson
Motion 11 carried unanimously.

Seconded by: Dale Myer

Motion 12: Reconsider Motion 11.

Moved by: Rod Moore
Motion 12 carried unanimously.

Seconded by: Phil Anderson

Motion 13: Withdraw Motion 11.

Moved by: Phil Anderson
Motion 13 carried unanimously.

Seconded by: Dale Myer

Motion 14: Adopt the OFLs and ABCs considered under Motion 11 with the exception that this is characterized as "tentative adoption."

Moved by: Phil Anderson

Seconded by: Dale Myer

Amdnt: Remove any tentative adoption of OFLs and ABCs for stock complexes contained in the tables referenced in Motion 14 (detailed in Motion 11).

Moved by: Marie Vojkovich
Amendment to Motion 14 carried unanimously.
Main Motion 14 as amended carried unanimously.

Seconded by: Gway Kirchner

Motion 15: Tentatively adopt the preliminary preferred 2011 and 2012 ACLs for non-overfished species as shown on Tables 2-8 and 2-9 on pages 21 and 22 in Agenda Item B.3.a,

Attachment 2; except for sablefish, shortbelly rockfish, Dover sole, chilipepper rockfish, splitnose rockfish and minor rockfish north and south. For splitnose rockfish, use the preliminary preferred ACLs shown in Table 2-1 on page 2 of Attachment 2. For sablefish, adopt northern and southern 2011 ACLs of 5,515 mt and 1,298 mt, respectively, and northern and southern 2012 ACLs of 5,347 mt and 1,258 mt, respectively. For shortbelly rockfish, adopt an ACL of 50 mt for 2011 and 2012. For Dover sole, adopt an ACL of 25,000 mt for 2011 and 2012.

Moved by: Phil Anderson
Motion 15 carried unanimously.

Seconded by: Dale Myer

Motion 16: Adopt the following OFLs, ABCs, and ACLs for the complexes and sub-complexes as identified below:

Complex	2011 & 2012 OFLs ¹	2011 & 2012 ABCs ²	2011 & 2012 ACLs ³	% of Minor Rockfish North
Minor Rockfish North	3,678	2,553	2,283	
Nearshore species	250	173	155	6.8%
Shelf Species	1,559	1,082	968	42.4%
Slope Species	1,869	1,297	1,160	50.8%

Complex	2011 & 2012 OFLs	2011 & 2012 ABCs ¹	2011 & 2012 ACLs	% of Minor Rockfish South
Minor Rockfish South	3,382	2,347	1,990	
Nearshore species	1,105	767	650	32.7%
Shelf Species	1,213	842	714	35.9%
Slope Species	1,064	738	626	31.5%

¹ Shading represents new OFLs which = 2010ABC (OFL) * subcomplex%.

² Based on determining the 2010 OY (ABC) sub-complex percentages components and applying those percentages to the 2010 ABC (OFL), then applying the Council chosen $P^* = 0.4$ and $\text{Sigma} = 1.44$ for category 3 stocks (buffer of 30.6%).

³ This is the same as 2010 OYs (ACLs).

Moved by: Marija Vojkovich
Motion 16 failed. Ms. Vojkovich voted yes.

Seconded by: Gway Kirchner

Motion 17: Tentatively adopt the OFLs and ABCs for minor rockfish north and south, as well as the nearshore, shelf, and slope subcomplexes shown in Table 1 on page 5 of Agenda Item B.3.b, GMT Report 1. The ABCs would be determined using a P^* of 0.45: Treat each stock with its “original” SSC-approved stock category and resultant sigma.

Moved by: Marija Vojkovich
Motion 17 carried. Mr. Anderson, Mr. Meyer, and Ms. Lowman voted no.

Seconded by: Gway Kirchner

Motion 18: Adopt the 2011 and 2012 ACLs for chilipepper rockfish as shown in Table 2-1 on page 2 of Agenda Item B.3.a, Attachment 2.

Moved by: Rod Moore
Motion 18 carried unanimously.

Seconded by: David Crabbe

Motion 19: Adopt 2011 and 2012 ACLs for the minor rockfish subcomplexes as shown on Table 2-16 on page 57 of Agenda Item B.3.a, Attachment 2 as follows: ACLs for northern and southern minor rockfish nearshore of 99 mt and 1,001 mt, respectively; northern and southern minor shelf rockfish of 968 mt and 714 mt, respectively; and northern and southern minor slope rockfish of 1,160 mt and 626 mt. respectively.

Moved by: Marija Vojkovich
Motion 19 carried unanimously.

Seconded by: Buzz Brizendine

Motion 20: Tentatively confirm the preliminary preferred alternative for ACLs for 2011 and 2012 for the following overfished species: petrale sole; canary rockfish; Pacific ocean perch; widow rockfish; and yelloweye rockfish, as shown in Table 2-1 on page 1 of Chapter 2 (Agenda Item B.3.a, Attachment 2), and tentatively adopt ACLs for bocaccio, cowcod, and darkblotched rockfish that are different than those in the preliminary preferred alternative. Specifically, to tentatively adopt the following:

Species	T _{TARGET}	Median Time to Rebuild	2011 ACL (mt)	2012 ACL (mt)	SPR
Bocaccio	2026	2022	263	274	77.7%
Canary	2027	2027	102	107	88.7%
Cowcod	2072	2068	3	3	82.7%
Darkblotched	2028	2025	298	296	64.9%
Pacific ocean perch ¹	2020	2020	180	183	86.4%
Widow	2015	2010	600	600	constant catch
Yelloweye ²	2084	2084	20	20	72.8%
Petrale sole	T _{MAX} = 2021	2016	976	1,160	ABC in 2011; 25:5 rule thereafter

¹ For POP, the ACL would be set at 180 mt in 2011 and 183 mt in 2012 with an annual catch target (ACT) of 150 mt. The ACT would apply to total mortality from all harvest sources and the intent would be to limit harvest to stay within the ACT by adopting the appropriate management measures. The purpose of the 30-33 mt difference between the ACT and the ACL would be to provide a buffer for management uncertainty associated with all harvest sources, including commercial, recreational, tribal, and research catches.

² For yelloweye, the ACL would be set at 20 mt with an ACT of 17 mt. The ACT would apply to total mortality from all harvest sources and the intent would be to limit harvest to stay within the ACT by adopting the appropriate management measures. The purpose of the 3 mt difference between the ACT and the ACL would be to provide a buffer for management uncertainty associated with all harvest sources, including commercial, recreational, tribal, and research catches.

Moved by: Phil Anderson
Motion 20 carried unanimously.

Seconded by: Dale Myer

Motion 21: Tentatively adopt the set-asides shown in Table 1 on page 3 of Supplemental GMT Report 3, with the following changes and corrections: for petrale, set aside 1 mt for incidental open access; adopt a petrale EFP set-aside of 2 mt; for a total petrale set-aside of 65.4 mt.

Moved by: Rod Moore

Seconded by: Phil Anderson

Motion 21 carried unanimously.

Motion 22: Tentatively adopt the three recommendations in the Supplemental EC Report that deal with the definition of dressed sablefish, stowage of gear, and the issue of federally-managed groundfish landed in the EEZ.

Moved by: Marija Vojkovich

Seconded by: Phil Anderson

Motion 22 passed unanimously.

Motion 23: Adopt the terms of reference for Groundfish Stock Assessment and Review and Groundfish Rebuilding Analysis shown in Agenda item B.4.a, Attachment 1 and Attachment 2, and a list of groundfish stock assessments and reviews as follows:

Using Table 2 on Agenda Item B.4.b, NMFS Report, modify the table as follows:

	Dates	Species 1	Species 2	Location
Whiting	Feb	Whiting		Seattle
Panel 1	Early May	Methods for determining harvest specifications for data-poor species		Santa Cruz
Panel 2	Late June	Pacific ocean perch	Petrable sole	Seattle
Panel 3	Mid July	Widow rockfish	Spiny dogfish	Newport OR
Panel 4	Late July	Sablefish	Dover sole	Seattle
Panel 5	Early August	Greenspotted	Blackgill	Santa Cruz
Updates	Mid-June	Bocaccio, canary, cowcod (data report) darkblotched, yelloweye		TBD
Mop-up	Late Sept/ Early Oct	TBD		Seattle

Regarding Panel 1, the Southwest Fisheries Science Center is requested to prepare for a STAR panel type review of the report “Estimating Yield for Unassessed Species” (Agenda item B.3.a attachment 7), associated vulnerability analyses, and alternate methods for identifying overfishing levels (OFLs) for tier 2 and tier 3 stocks.

Moved by: Rod Moore

Seconded by: Gway Kirchner

Amdnt: Add the two recommendations from Agenda Item B.4.c, Supplemental SSC Report – 1) that a separate Pacific whiting assessment TOR be developed jointly with Canada; and also to add that recommendation to the TOR Introduction; and 2) that three weeks prior to a STAR panel is a reasonable deadline for a stock assessment draft; the text in the TOR should be modified to remove “no less than” prior to “three full weeks.”

Moved by: Phil Anderson

Seconded by: Marie Vojkovich

Amendment to Motion 23 carried unanimously.
Motion 23 as amended carried unanimously.

Motion 24: Reaffirm items #1 and #2 as specified in Agenda Item F.1.b, Supplemental CPSMT Report; page 1 for 2010-2011 fishing.

Moved by: Marci Yaremko

Seconded by: Buzz Brizendine

Amdnt #1 In item one, change the 2,000 mt incidental catch to 3,000 mt incidental catch.

Moved by: David Crabbe

Seconded by: Dale Myer

Amendment #1 not voted on (Amendment #2 substituted).

Amdnt #2 Change the HG to 11,000 mt so there is a directed fishery of 8,000 mt with a set-aside of 3,000 mt.

Moved by: Rod Moore

Seconded by: Dan Wolford

Amendment #2 to Motion 24 carried unanimously.

Amndnt #3 Strike “non-directed” and insert “non-directed CPS fisheries.”

Moved by: Rod Moore

Seconded by: Michele Culver

Amendment #3 to Motion 24 carried unanimously.

Motion 24 as amended carried unanimously.

Motion 25: Working from Agenda Item F.2.b, Supplemental CPSMT Report, June 2010, adopt the following:

- Stock Classifications, Alternative 1, All species currently in the CPS FMP, including krill are included “in the fishery” in their existing category and no EC species are established.
- Status Determination Criteria, Alternative 2, Maintain existing SDCs for CPS FMP stocks and develop an MSY proxy for the northern subpopulation of Northern anchovy.
- Harvest Control Rules for Actively Managed Species, Alternative 3 Scientific Uncertainty Buffer, Modify the existing harvest control rules to include a buffer or reduction in ABC relative to OFL to account for scientific uncertainty.

OFL	BIOMASS * F_{MSY} * DISTRIBUTION
ABC	BIOMASS * BUFFER * F_{MSY} * DISTRIBUTION
ACL	LESS THAN OR EQUAL TO ABC
HG	(BIOMASS - CUTOFF) * FRACTION * DISTRIBUTION.
ACT	EQUAL TO HG OR ACL, WHICHEVER VALUE IS LESS

- Harvest Control Rules for Monitored Finfish and Squid Species, 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.

OFL	STOCK SPECIFIC MSY PROXY
ABC	OFL * 0.25
ACL	Equal to ABC or reduced by OY considerations.

- Sector-Specific ACLs, Alternative 4, Add sector-specific ACLs to the FMP framework as a management tool and assess their applicability on an annual basis.
- AM and ACTs, Alternative 3 (modified), Develop AMs as required and ACTs as needed for actively managed and monitored stocks.

Moved by: Marci Yaremko

Seconded by: Buzz Brizendine

Amdnt #1: Adopt the following (written motion): Relative to stock classification considerations, adopt Alternative 3 to add additional forage species to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) as ecosystem component species. Specifically, add Pacific herring (*Clupea pallasii*) and Jacksmelt (*Atherinopsis californiensis*). The intent would be to monitor the catches of these species and report catch estimates in the annual SAFE report, but to not develop status determination criteria or management measures for these stocks at this time.

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Amendment #1 to Motion 25 passed on a roll call vote (10 yes, 3 no). Voting no: Mr. Crabbe, Ms. Yaremko, Mr. Helvey.

Motion 26: Adopt the following recommendations in Agenda Item B.5.b, Supplemental GMT Report 2, page 7, with some slight modifications: adopt limited entry trawl trip limits outlined in Table 3 (with the exception of slope rockfish limit in Period 1 North) for implementation by July 1, 2010 to keep projected impacts to sablefish within the trawl allocation and to keep projected impacts to petrale sole below the 2010 petrale sole optimal yield; to increase the chilipepper bimonthly trip limit in the limited entry trawl fishery south of 40°10' N. latitude from 12,000 to 17,000 pounds per two months, to be implemented by July 1, 2010 or as soon as possible; increase the limited entry daily trip limit fishery bimonthly sablefish limit north of 36° N. latitude from 7,000 pounds per two months to 8,500 pounds per two months beginning July 1, 2010 for periods 4 and 5, and 8,000 pounds per two months for period 6.

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 26 carried unanimously.

Motion 27: Follow the reductions outlined in Agenda Item B.5.b, Supplemental GAP Report. The reductions are as follows: reduce the Oregon Exempted Fishing Permit (EFP) yelloweye rockfish allowance by 0.1 mt; reduce the nearshore yelloweye impacts from 1.3 mt to 1.1 mt; reduce California recreational fisheries impact to yelloweye by 0.1 mt – from 2.8 mt to 2.7 mt; and 0.2 mt off the Washington and Oregon recreational fisheries – from 5.1 mt to 4.9 mt.

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 27 carried unanimously.

Motion 28: Request that NMFS modify their regulations as needed to correct the allowances for incidental retention of lingcod in the salmon troll fishery, and to allow vessels that do not enter an RCA during a single trip be allowed to retain lingcod under current open access fixed gear fishery regulations.

Moved by: Phil Anderson
Motion 28 carried unanimously.

Seconded by: Marija Vojkovich

Motion 29: Adopt Option B as reflected on the screen (Supplemental NMFS Powerpoint 1 (Goen)) without Suboption B.

Moved by: Michele Culver
Motion 29 passed unanimously.

Seconded by: Rod Moore

Motion 30: Relative to Issue 2 that the Council adopt Option A, the NMFS-preferred option that QS transfers be divisible to one thousandth of a percent, provided that when QS is converted to QP that it is issued in whole pounds (nearest whole pound).

Moved by: Michele Culver
Motion 30 carried unanimously.

Seconded by: Marija Vojkovich

Motion 31: With regard to Issue 3, IBQ transferability, that the Council adopt Option A which is the NMFS-preferred option. The IBQ would not be transferable in the first two years but IBQ QP would be transferable, which is the same as the IFQ QS and QP.

Moved by: Michele Culver
Motion 31 passed unanimously.

Seconded by: Marija Vojkovich

Motion 32: With regard to Issue 4, the mothership sector ownership rules, that the Council adopt Option B, mothership catcher-vessel endorsed permits and mothership permits are subject to the individual and collective rule in determining ownership for the purpose of accumulation and usage limits.

Moved by: Michele Culver
Motion 32 passed unanimously. Mr. Myer recused himself due to his interest in the mothership sector.

Seconded by: Marija Vojkovich

Motion 33: That the Council find the draft trawl rationalization program component rules contained in Agenda Item B.6.b, Supplemental NMFS Report 2, and modified by the Council action and guidance on this item at this meeting, consistent with the final Council action and intent on trawl rationalization.

Moved by: Steve Williams
Motion 33 passed; Mr. Moore voted no.

Seconded by: Michele Culver

Motion 34: Schedule a Groundfish Allocation Committee (GAC) conference call for July 14 for the purpose of reviewing the draft regulatory language associated with the outstanding issues of the program components rule and to formulate recommendations that would be forwarded to the Executive Director in his consideration of whether the regulations are consistent with Council action.

Moved by: Michele Culver
Motion 34 passed; Mr. Moore voted no.

Seconded by: Dale Myer

Motion 35: Adopt the OFLs, ABCs, ACLs, and ACTs for all groundfish stocks as presented in Agenda Item B.7.a, Supplemental Attachment 1; except cowcod where the 2011-12 ACL would be set at 4 mt.

Moved by: Michele Culver

Seconded by: Dale Myer

Amdnt #1: Set the chilipepper OFLs to 2,073 mt in 2011 and 1,872 mt in 2012. The ACL would be set equal to the ABC at 1,990 mt in 2011 and 1,797 mt in 2012. The intent is to manage chilipepper south of 40°10' N. latitude with these specifications. North of 40°10' N. latitude, chilipepper would be managed as part of the minor shelf rockfish-north complex; and the OFLs and ABCs would be recalculated accordingly by Mr. John DeVore's numbers.

Moved by: Rod Moore

Seconded by: Gway Kirchner

Amendment #1 to Motion 35 carried unanimously.

Amdnt #2: Set the ACT for POP at 157 mt.

Moved by: Rod Moore

Seconded by: Gway Kirchner

Amendment #2 to Motion 35 carried unanimously. Main motion 35 as amended carried. Mr. Lockhart abstained.

Motion 36: For yelloweye rockfish that a total of 5.9 mt shall be taken off the top with 0.1 mt set aside for EFPs, referencing Agenda Item B.7.a, Supplemental Attachment 3. The fishery allocations shall be 0.6 mt for limited entry non-whiting trawl, 1.3 mt for the non-nearshore fisheries which includes limited entry and open access fixed gear fisheries, 1.1 mt for the nearshore fixed gear fisheries, 2.6 mt for Washington recreational, 2.4 mt for Oregon recreational, and 3.1 mt for California recreational.

Moved by: Michele Culver

Seconded by: Marija Vojkovich

Motion 36 carried. Mr. Lockhart abstained.

Motion 37: Using Agenda Item B.7.a, Supplemental Attachment 6, to adopt the canary amounts to be the same in both 2011 and 2012, that the total off-the-top deduction should be 20 mt with the values specified in the attachment. For the limited entry non-whiting trawl fishery 20 mt; for the non-nearshore fixed gear fishery 2.3 mt; for the nearshore fixed gear fishery 4 mt; Washington recreational 2 mt; Oregon recreational 7 mt; California recreational 14.5 mt; limited entry whiting trawl amounts for catcher-processors 4.6 mt; motherships 3.2 mt; and shoreside whiting 5.7 mt.

Moved by: Michele Culver

Seconded by: Dale Myer

Motion 37 carried. Mr. Lockhart abstained.

Motion 38: Adopt the bocaccio allocations and values contained on screen which are also displayed in Agenda Item B.7.a, Supplemental Attachment 6, in the column entitled "GMT Report Share" for 2011-2012. Further, the off-the-top amounts would be 13.4 mt.

Moved by: Marija Vojkovich
Motion 38 carried. Mr. Lockhart abstained.

Seconded by: Buzz Brizendine

Motion 39: Adopt the bocaccio rockfish set-aside by category numbers in Agenda Item B.7.a, Supplemental Attachment 3.

Moved by: Rod Moore
Motion 39 carried unanimously.

Seconded by: Michele Culver

Motion 40: For cowcod south of 40°10 N. attitude that the off-the-top deduction for EFPs be specified at 0.2 mt; limited entry non-whiting trawl be set at 1.8 mt; the remainder of non- trawl fisheries, including the recreational fisheries is represented at 0.9 mt.

Moved by: Marija Vojkovich
Motion 40 carried. Mr. Lockhart abstained.

Seconded by: Buzz Brizendine

Motion 41: Using Agenda Item B.7.a, Supplemental Attachment 3, Table 1, to adopt the set-asides in Table 1 for darkblotched, POP, widow, and petrale sole. In addition, for 2011 set a non-trawl allocation for petrale sole of 35 mt and a trawl allocation of 876 mt. In addition, for 2012 set a non-trawl allocation for petrale sole of 35 mt and a trawl allocation of 1,060 mt.

Moved by: Michele Culver
Motion 41 carried. Mr. Lockhart abstained.

Seconded by: Dale Myer

Motion 42: Withdraw Motion 38 on bocaccio.

Moved by: Marija Vojkovich
Motion 42 passed unanimously.

Seconded by: Rod Moore

Motion 43: (Substitute for Motion 38) Set the 2011 and 2012 limited entry, non-trawl whiting allocation at 60 mt; non-nearshore fishery at 57.9 mt; nearshore fixed gear fisheries at 0.7 mt, and California recreational fishery at 131 mt. The EFP set-aside for bocaccio is set at 11 mt for 2011 and 2012.

Moved by: Marija Vojkovich
Motion 43 carried. Mr. Lockhart abstained.

Seconded by: Buzz Brizendine

Motion 44: Working from Agenda Item B.7.b, Supplemental GMT Report, the list of recommendations on page 49, adopt the following: #1—the Amendment 21 allocations in Tables 1 and 2, as modified by Council action today; #2—two-year allocations necessary for trawl rationalization initial allocations as shown in Table 3; #3—sablefish allocations in Table 4; #7—specify a blue rockfish harvest guideline for California of 241 mt in 2011 and 239 mt in 2012; #9—specify bimonthly sablefish limits for the limited entry daily trip limit fishery beginning January 1, 2011 of 6,500 pounds for period 1, 7,500 pounds for periods 2-5, and 6,000 pounds for period 6; for #10—use the sablefish trip limit structure between open access

and limited entry south of 36° N. latitude included in the GAP report on page 4 which is: 1) for limited entry: no daily limit, 2,000 pounds per week, with no bi-monthly limit and 2) for open access: 400 pounds per day or 1 weekly landing of up to 1,500 pounds not to exceed 6,000 pounds in 2 months; #12—adopt trip limits and RCA for non-whiting trawl if rationalization is delayed beyond January 1, 2011 as specified in GMT report; #14—adopt IFQ incidental trip limits as described in letters a-e; #16— set the non-trawl RCA at the status quo boundary; and #17—adopt all trawl RCA modifications proposed by ODFW.

Moved by: Michele Culver

Seconded by: Dale Myer

Amdnt #1: Adopt the recommendations contained in Agenda Item B.7.b, Supplemental ODFW Report 2, summarized on page 11. These recommendations address the management measures needed for the Oregon recreational groundfish fishery for 2011 and 2012, modifications to the seaward non-trawl RCA boundary from 45°03.83' to 43° N. latitude which would be specified at 100 fm, and the ODFW proposed modifications to the 100 and 125 fm RCA waypoints.

Moved by: Gway Kirchner

Seconded by: Dorothy Lowman

Amendment #1 to Motion 44 carried unanimously.

Amdnt #2 Set the trawl RCAs as they exist on June 17, 2010 for a rationalized trawl fishery for 2011.

Moved by: Rod Moore

Seconded by: Gway Kirchner

Amendment #2 to motion 44 carried. Ms. Vojkovich voted no, Mr. Lockhart abstained.

Amdnt #3 Adopt the recommendations of the Enforcement Committee in Agenda Item B.7.b, Supplemental EC report, with the verbal changes made earlier and updated in the revised report.

Moved by: Rod Moore

Seconded by: Gway Kirchner

Amendment #3 carried unanimously.

Motion 44 carried as amended unanimously.

Motion 45: Adopt the final preferred alternatives projected on the screen for California (see Agenda Item B.7.d, Supplemental CDFG Motion in Writing). Items in strikeout were already included in Ms. Culver's main motion, so are stricken from the CDFG motion.

Moved by: Marija Vojkovich

Seconded by: David Crabbe

Amdnt #1 Amend the scorpionfish seasons from "year round" to "when open."

Moved by: David Crabbe

Seconded by: Dave Hanson

Amendment #1 to motion 45 carried.

Motion 45 carried as amended. Mr. Lockhart voted no.

Motion 46: Adopt the WDFW preferred alternatives as described in Agenda Item B.3.b, WDFW Report.

Moved by: Michele Culver

Seconded by: Dale Myer

Motion 46 carried unanimously.

Motion 47: Adopt the tribal management measures as shown in Agenda Item B.3., Supplemental Tribal Report. As noted earlier, for lingcod it should state 2011-2012, instead of 2009-2010.

Moved by: David Sones

Seconded by: Michele Culver

Motion 47 carried unanimously.

Motion 48: Adopt a CY 2010 budget of \$4,971,490 (as provided in the Budget Committee recommendations in Agenda Item G.2.b, Supplemental Budget Committee Report) and to have Council staff monitor expenses and report on any needed adjustments in September.

Moved by: Rod Moore

Seconded by: Jerry Mallet

Motion 48 passed unanimously.

Motion 49: Appoint Dr. Richard Scully to the IDFG position on the Ecosystem Plan Development Team.

Moved by: Jerry Mallet

Seconded by: Rod Moore

Motion 49 carried unanimously.

Motion 50: Appoint Mr. Charles (Sonny) Peterson to the Tribal Fisher position on the GAP, replacing Mr. Roger Bain.

Moved by: David Sones

Seconded by: Ms. Culver

Motion 50 carried unanimously.

Motion 51: Eliminate the Tribal At-Large position on the Ecosystem Advisory Supanel (EAS) and maintain the current vacant tribal position on the Ecosystem Plan Development Team (EPDT), which may be filled at an appropriate time in the future.

Moved by: David Sones

Seconded by: Michele Culver

Motion 51 carried unanimously.

Motion 52: Appoint Ms. Angelika Hagen-Breaux to the WDFW position on the Model Evaluation Workgroup (MEW).

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Motion 52 carried unanimously.

Motion 53: Appoint Mr. Sean Matson to a NMFS NWR position on the GMT, replacing Ms. Sarah Williams.

Moved by: Frank Lockhart

Seconded by: Rod Moore

Motion 53 carried unanimously.

Motion 54: Appoint Ms. Heidi Hermsmeyer to the NMFS SWR position on the HMSMT, replacing Mr. Lyle Enriquez.

Moved by: Frank Lockhart
Motion 54 carried unanimously.

Seconded by: David Sones

Motion 55: Establish the ad hoc Tule Chinook Workgroup to explore abundance-based approaches to setting allowable fishing rates in the long-term to protect Lower Columbia River (LCR) tule Chinook as described in Agenda Item G.3.a, Supplemental Attachment 1.

Moved by: Mark Cedergreen
Motion 55 carried unanimously.

Seconded by: Dan Wolford

Motion 56: Appoint Mr. Dan Wolford to the first Council Vice Chair position for the August 11, 2010 – August 10, 2011 term.

Moved by: Marija Vojkovich
Motion 56 carried unanimously.

Seconded by: Buzz Brizendine

Motion 57: Appoint Ms. Dorothy Lowman to the second Council Vice Chair position for the August 11, 2010 – August 10, 2011 term.

Moved by: Steve Williams
Motion 57 carried unanimously.

Seconded by: Jerry Mallet

Motion 58: Appoint Mr. Mark Cedergreen to Council Chair for the August 11, 2010- August 10, 2011 term.

Moved by: Michele Culver
Motion 58 carried unanimously.

Seconded by: Rod Moore



DRAFT MINUTES
207th Session of the Pacific Fishery Management Council
March 5-10, 2011
Hilton Vancouver Hotel
 301 West Sixth Street
 Vancouver, Washington 98660

Table of Contents

A.1	Opening Remarks.....	5
A.3	Executive Director's Report	5
A.4	Agenda	5
A.4.a	Council Action: Approve Agenda.....	6
B.	Open Comment Period.....	6
B.1	Comments on Non-Agenda Items	6
B.1.a	Advisory Body and Management Entity Comments	6
B.1.b	Public Comment.....	6
B.1.c	Council Discussion of Comments as Appropriate	6
C.	Coastal Pelagic Species Management.....	6
C.1	Exempted Fishing Permits (EFP) for 2011 (03/05/11/ 9:36 a.m.)	6
C.1.a	Agenda Item Overview	6
C.1.b	Reports and Comments of Advisory Bodies and Management Entities	6
C.1.c	Public Comment.....	7
C.1.d	Council Action: Adopt EFP Proposals for Public Review.....	8
D.	Marine Protected Areas.....	8
D.1	Olympic Coast National Marine Sanctuary (OCNMS) Management Plan Review (03/05/11; 1 p.m.)	8
D.1.a	Agenda Item Overview	8
D.1.b	Report of the OCNMS	8
D.1.c	Reports and Comments of Advisory Bodies and Management Entities	9
D.1.d	Public Comment.....	9
D.1.e	Council Action: Provide Comments and Recommendations on the Proposed Management Plan	9
E.	Habitat.....	9
E.1	Current Habitat Issues (03/05/11; 1:56 p.m.).....	9
E.1.a	Agenda Item Overview	9
E.1.b	Report of the Habitat Committee	9
E.1.c	Reports and Comments of Advisory Bodies and Management Entities	10
E.1.d	Public Comment.....	10
E.1.e	Council Action: Consider Habitat Committee Recommendations	10
F.	Pacific Halibut Management.....	10
F.1	Report on the International Pacific Halibut Commission Meeting (03/05/2011; 2:30 p.m.)	10
F.1.a	Agenda Item Overview	10
F.1.b	Meeting Summary	10
F.1.c	Reports and Comments of Advisory Bodies and Management Entities	10
F.1.d	Public Comment.....	10
F.1.e	Council Discussion	10

F.2	Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries (03/05/11; 3:13 p.m.)	11
F.2.a	Agenda Item Overview	11
F.2.b	Reports and Comments of Management Entities and Advisory Bodies	11
F.2.c	Public Comment.....	11
F.2.d	Council Action: Adopt Public Review Options for 2011	11
F.3	Preliminary Alternatives for Incidental Catch Retention of Pacific Halibut in the Limited Entry and Open Access Fixed Gear Sablefish Fisheries.....	11
F.3.a	Agenda Item Overview (03/10/11; 8:03 a.m.)	11
F.3.b	Oregon Department of Fish and Wildlife Proposal.....	11
F.3.c	Reports and Comments of Advisory Bodies and Management Entities	12
F.3.d	Public Comment.....	12
F.3.e	Council Action: Review and Guide Any Further Development of Alternatives for Analysis.....	13
G.	Salmon Management	14
G.1	Review of 2010 Fisheries and Summary of 2011 Stock Abundance Forecasts (03/05/11; 8:07 a.m.)	14
G.1.a	Agenda Item Overview	14
G.1.b	Reports and Comments of Advisory Bodies and Management Entities	14
G.1.c	Public Comment.....	15
G.1.d	Council Action: Review and Discuss Relevant Fishery Information and Act on 2011 Abundance Forecasts as Necessary.....	15
G.2	Identification of Stocks Not Meeting Conservation Objectives (03/05/2011; 9:02 a.m.).....	15
G.2.a	Agenda Item Overview	15
G.2.b	Reports and Comments of Advisory Bodies and Management Entities	16
G.2.c	Public Comment.....	16
G.2.d	Council Action: Direct Necessary Actions Required by the Salmon Fishery Management Plan	16
G.3	Sacramento River Fall Chinook Overfishing Assessment (03/06/2011; 9:35 a.m.)	16
G.3.a	Agenda Item Overview	16
G.3.b	Reports and Comments of Advisory Bodies and Management Entities	17
G.3.c	Public Comment.....	17
G.3.d	Council Discussion and Guidance	18
G.4	Identification of Management Objectives and Preliminary Definition of 2011 Salmon Management Alternatives (03/06/11; 1:30 p.m.)	19
G.4.a	Agenda Item Overview	19
G.4.b	Report of the Pacific Salmon Commission	19
G.4.c	Reports and Comments of Advisory Bodies and Management Entities	19
G.4.d	Public Comment.....	20
G.4.e	Council Recommendations for Initial Alternatives for Salmon Technical Team Collation and Description (03/06/11; 4:04 p.m.)	20
G.5	Council Recommendations for 2011 Management Alternative Analysis (03/07/2011; 3:24 p.m.)	21
G.5.a	Agenda Item Overview	21
G.5.b	Reports and Comments of Advisory Bodies and Management Entities	21
G.5.c	Public Comment.....	21
G.5.d	Council Direction to the Salmon Technical Team and Salmon Advisory Subpanel on Alternative Development and Analysis (03/08/2011; 9:25 a.m.).....	21
G.6	National Marine Fisheries Service Report (03/08/2011; 2:29 p.m.)	22

G.6.a	Agenda Item Overview	22
G.6.b	Regulatory Activities	22
G.6.c	Fisheries Science Center Activities.....	23
G.6.d	Reports and Comments of Advisory Bodies and Management Entities	23
G.6.e	Public Comment.....	23
G.6.f	Council Discussion	23
G.7	Further Council Direction for 2011 Management Alternatives	23
G.7.a	Agenda Item Overview (03/08/2011; 3:35 p.m.)	23
G.7.b	Reports and Comments of Advisory Bodies and Management Entities	23
G.7.c	Public Comment.....	23
G.7.d	Council Guidance and Direction.....	23
G.8	Adoption of 2011 Management Alternatives for Public Review.....	24
G.8.a	Agenda Item Overview (03/09/2011; 3:50 p.m.)	24
G.8.b	Reports and Comments of Management Entities and Advisory Bodies	24
G.8.c	Public Comment.....	24
G.8.d	Council Action: Adopt Management Alternatives for Public Review.....	25
G.9	Salmon Hearings Officers (03/09/2011; 4:21 p.m.).....	25
G.9.a	Agenda Item Overview	25
G.9.b	Council Action: Appoint Hearings Officers	25
H.	Groundfish Management	26
H.1	National Marine Fisheries Service Report.....	26
H.1.a	Agenda Item Overview (03/07/11; 8:06 a.m.)	26
H.1.b	Regulatory Activities, including an Update on Implementation of Amendment 20 (03/07/11; 8:39 a.m.).....	26
H.1.c	Fisheries Science Center Activities (03/07/11; 8:11 a.m.).....	26
H.1.d	Reports and Comments of Advisory Bodies and Management Entities (03/07/11; 9:57 a.m.).....	26
H.1.e	Public Comment.....	26
H.1.f	Council Discussion	27
H.2	Process for Implementing 2011-2012 Specifications and Management Measures.....	27
H.2.a	Agenda Item Overview (10:06 a.m.).....	27
H.2.b	NMFS Briefing (03/07/11; 10:13 a.m.).....	27
H.2.c	Reports and Comments of Advisory Bodies and Management Entities	29
H.2.d	Public Comment (1:48 p.m.).....	29
H.2.e	Council Action: Action as Necessary to Implement the 2011-2012 Groundfish Fishery Specifications and Management Measures (03/07/11/ 2:50 p.m.)	30
H.3	Pacific Whiting Harvest Specifications for 2011 (03/07/11; 4:10 p.m.).....	32
H.3.a	Agenda Item Overview	32
H.3.b	Reports and Comments of Advisory Bodies and Management Entities	32
H.3.c	Public Comment (4:40 p.m.).....	32
H.3.d	Council Action: Adopt Final 2011 Stock Assessment, Allowable Biological Catch, and Optimum Yield (Management Measures will be adopted under Inseason Adjustments, Agenda Item H.4, if needed).....	32
H.4	Consideration of Inseason Adjustments – Part I.....	34
H.4.a	Agenda Item Overview (03/08/11; 4:13 p.m.)	34
H.4.b	Reports and Comments of Advisory Bodies and Management Entities	34
H.4.c	Public Comment.....	34
H.4.d	Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2011 Groundfish Fisheries (Part II on Thursday, if needed).....	34

H.5	Trawl Rationalization Trailing Actions and Allocation Amendments.....	35
H.5.a	Agenda Item Overview (03/09/2011; 8:20 a.m.)	35
H.5.b	Reports and Comments of Advisory Bodies and Management Entities	35
H.5.c	Public Comment (03/09/2011; 10:49 a.m.).....	35
H.5.d	Council Action: Adopt Appropriate Actions as needed and Preliminary Preferred Alternatives for Prioritized Trailing Issues (i.e., Amendment 21 versus Amendment 6; Pacific Halibut Bycatch Allocation; and Whiting Endorsement Severability Issues)	36
H.6	Consideration of Inseason Adjustments - Part II, if needed.....	39
I.	Enforcement Issues	39
I.1	Current Enforcement Issues (03/08/2011; 8:08 a.m.)	39
I.1.a	Agenda Item Overview	39
I.1.b	U.S. Coast Guard Annual West Coast Fishery Enforcement Report	39
I.1.c	Reports and Comments of Advisory Bodies and Management Entities	39
I.1.d	Public Comment.....	39
I.1.e	Council Discussion	39
J.	Ecosystem Based Management.....	39
J.1	Ecosystem Fishery Management Plan (FMP).....	39
J.1.a	Agenda Item Overview (03/08/11; 10 a.m.)	39
J.1.b	Integrated Ecosystem Assessment	39
J.1.c	Report and Recommendations of the Ecosystem Plan Development Team (EPDT) (03/08/11; 10:53 a.m.).....	40
J.1.d	Reports and Comments of Advisory Bodies and Management Entities	40
J.1.e	Public Comment (03/08/2011; 1 p.m.).....	40
J.1.f	Council Discussion	40
K.	Administrative Matters	42
K.1	Legislative Matters.....	42
K.1.a	Agenda Item Overview (03/10; 11:06 a.m.)	42
K.1.b	Legislative Committee Report	42
K.1.c	Reports and Comments of Advisory Bodies and Management Entities	42
K.1.d	Public Comment.....	43
K.1.e	Council Action: Consider Legislative Committee Recommendations	43
K.2	Approval of Council Meeting Minutes	43
K.2.a	Council Member Review and Comments	43
K.2.b	Council Action: Approve March 2010 Council Meeting Minutes.....	43
K.3	Membership Appointments and Council Operating Procedures.....	43
K.3.a	Agenda Item Overview (03/10/11; 11:28 a.m.)	43
K.3.b	Reports and Comments of Advisory Bodies and Management Entities	43
K.3.c	Public Comment.....	43
K.3.d.	Council Action: Consider Changes to Council Operations and Procedures and Appointments to Advisory Bodies	43
K.4	Future Council Meeting Agenda and Workload Planning	44
K.4.a	Agenda Item Overview (11:40 a.m.).....	44
K.4.b	Reports and Comments of Advisory Bodies and Management Entities	44
K.4.c	Public Comment.....	44
K.4.d	Council Action: Approve April 2011 Agenda and Provide Guidance on Future Council Meeting Agendas and Priorities for Advisory Body Consideration	44
	ADJOURN.....	45

A.1 Opening Remarks

Mr. Mark Cedergreen, Chairman, called the 207th meeting of the Pacific Fishery Management Council (Council) to order at 9 a.m., Saturday, March 5, 2011. There was a closed session held from 8 a.m. to 9 a.m. to discuss litigation and personnel matters.

A.2 Roll Call

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

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

The following Council member was absent for the entire meeting:

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

During the week, the following people were present in their designated seats for portions of the meeting: Mr. Phil Anderson (Washington State Official); Mr. Pat Pattillo (Washington State Official designee); Mr. Mark Helvey (National Marine Fisheries Service, Southwest Region designee) Ms. Marci Yaremko (State of California Official designee) and Mr. Dave Ortmann (State of Idaho Official designee).

A.3 Executive Director's Report

Dr. McIsaac briefed the Council on meeting facility details, the recent Council Coordinating Committee meeting, ongoing marine spatial planning issues, plans for live streaming the Council meeting in April, and other logistical and administrative matters.

A.4 Agenda

Chairman Mark Cedergreen asked for approval of the Council meeting agenda.

A.4.a Council Action: Approve Agenda

Mr. Moore moved and Mr. Dave Ortmann seconded a motion (Motion 1) to approve the agenda as shown in Agenda Item A.4, Proposed Council Meeting Agenda, March 2011. Motion 1 passed unanimously.

B. Open Comment Period

B.1 Comments on Non-Agenda Items

B.1.a Advisory Body and Management Entity Comments

None.

B.1.b Public Comment

Mr. Bob Alverson, FVOA, Seattle, WA. Noted concerns regarding a Grays Harbor Canyon deep water mooring site proposed as part of the Ocean Observation Initiative (Agenda Item B.1, Open Comment 1).

B.1.c Council Discussion of Comments as Appropriate

Dr. McIsaac called the Council's attention to Agenda Item B.1, Supplemental Open Comments 2 and 3 concerning initiation of the Ecosystem-Based Management Initiative of the Monterey Bay National Marine Sanctuary (MBNMS). Planning Council consideration of this issue will be covered under Agenda Item K.4, Future Council Meeting Agenda and Workload Planning.

C. Coastal Pelagic Species Management

C.1 Exempted Fishing Permits (EFP) for 2011 (03/05/11/ 9:36 a.m.)

C.1.a Agenda Item Overview

Mr. Kerry Griffin provided the agenda item overview. He noted that although there is no presentation planned, representatives from the Northwest Sardine Survey, Inc. (NWSS) are here to answer questions the Council may have during Council discussion.

C.1.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Owen Hamel provided Agenda Item C.1.b, Supplemental SSC Report.

Ms. Vojkovich asked for more specifics regarding the length composition and point set distribution referred to in the Scientific and Statistical Committee (SSC) Supplemental Report. Dr. Hamel replied that the SSC is mostly concerned with the length composition distribution, not necessarily with getting point sets across the whole area. He said it's sometimes hard to get point sets everywhere, but the SSC's bigger concern was collecting biological data across the range of the aerial survey.

Ms. Vojkovich asked why information from the Canadian portion of the survey would be unlikely to be used. Mr. Hamel said that it is mostly an issue of timing, because there would not be enough time to

review the data prior to the sardine stock assessment. However, it could possibly be included in following years, after it has been reviewed.

Ms. Culver said that the Coastal Pelagic Species Management Team (CPSMT) was concerned about the additional 600 metric tons being spatially representative, and asked whether the SSC had the same concerns. Mr. Hamel said that yes, the SSC would like to see a good distribution of point sets, but that the SSC is more concerned with the length distribution.

Ms. Lowman asked about the scheduling of the sardine Stock Assessment Review (STAR) Panel meeting. Dr. Hamel replied that the meeting dates had been moved back to October 4-7, as reflected in Agenda Item K.4.

Dr. Bob Emmett provided Agenda Item C.1.b, Supplemental CPSMT Report.

Mr. Steve Williams asked why some of the point sets were not valid. Dr. Emmett replied that the industry has to capture the whole school to be “clean.” Data from partial school captures therefore has to be thrown out.

Mr. Moore noted that there are several recommendations in the CPSMT Report, and asked whether the CPSMT had discussed the recommendations with the applicants. Dr. Emmett said that the CPSMT had been working on the final revision of its statement up to the last minute, so applicants had not yet seen the report.

Ms. Vojkovich asked whether the four items requested by the CPSMT for inclusion in a final report are the same as those from the 2009 STAR Panel report. Dr. Emmett said yes, he believes so.

Mr. Mike Okoniewski provided Agenda Item C.1.b, Supplemental CPSAS Report.

Mr. Helvey asked about the possibility of starting the aerial survey work while the second period fishery was still open. Mr. Okoniewski replied there may be an opportunity to collect some data by jigging, and they could start flying transects. The applicants would like to start flying transects as soon as July 1.

Ms. Culver asked about the fact that the California portion of the survey was not proposed this year. Mr. Okoniewski replied that he had been in contact with Ms. Diane Pleshner-Steele. When the northwest aerial survey principals found out that the south was not going to propose an EFP, the NWSS realized that if more fish were available, they could get another plane. He said that Ms. Pleshner-Steele bounced it off the California Wetfish Producers Association (CWPA), and they were supportive and offered to loan them their camera.

Ms. Culver asked what would happen with the remaining 1,500 metric tons that was set aside in November, but would not be allocated to an EFP. Mr. Okoniewski, Council Staff, and National Marine Fisheries Service (NMFS) clarified that any un-allocated EFP set-aside would be allocated to the third period directed fishery.

C.1.c Public Comment

Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, WA
Mr. Tom Jagielo, Northwest Sardine Survey, Seattle, WA

Ms. Culver asked Mr. Tom Jagielo which, if any of the CPSMT recommendations, he thinks should be changed. Mr. Jagielo said that although many items can be addressed in the report, some pose more challenges than others. He expressed concern about being tied to a strict schedule, knowing that the weather or other factors play a role. He said that an extra plane would make it better and that he would like to have the ability to continue even into the third period, even if that means that the data can't be used in an assessment for this year. It could still be used for the next year. Regarding spatial distribution, he said that's a concern every year, and they will confer with Jerry Thon about landing fish at other plants, maybe further to the north. Maybe even in lieu of that, they could still get length distribution data from a wide spatial range. With regard to the CPSMT's request, #2 (photo analysts), he said this was a new thing, and he wants to have two analysts again. He did not think he could have two analysts analyze every single photo, but could do a subsample, and that would be informative.

Mr. Helvey suggested that if the applicants wish to continue aerial survey work into the third period directed fishery, please put that into the proposal. Mr. Okoniewski stated that it is their intent to fish only during the second period, and not slide into the third period.

C.1.d Council Action: Adopt EFP Proposals for Public Review

Mr. Moore moved and Ms. Culver seconded a motion (Motion 2) to adopt the EFP proposals for public review (Agenda Item C.1.a); with the following changes: include the recommendations from the Coastal Pelagic Species Advisory Subpanel (CPSAS); include the recommendations from CPSMT (all but not #6, and #2); and make the recommendation for 2,700 mt.

Mr. Moore said the motion takes into account the tonnage issue, the public comment, clarification of the number of vessels available versus what is available at any one time, and the CPSMT and CPSAS recommendations.

Ms. Culver moved to amend the motion. Referring to the CPSMT Report, Item #2 (the first #2), that it be worded to read "it would be a priority for the EFP to take place between the 2nd and the opening of the 3rd allocation periods, but could continue into the 3rd period if needed." Mr. Cedergreen seconded the amendment.

The amendment to Motion 2 carried unanimously. Main motion 2 as amended carried unanimously.

D. Marine Protected Areas

D.1 Olympic Coast National Marine Sanctuary (OCNMS) Management Plan Review (03/05/11; 1 p.m.)

D.1.a Agenda Item Overview

Mr. Kerry Griffin provided the agenda item overview.

D.1.b Report of the OCNMS

Mr. George Galasso provided Agenda Item D.1.b, Supplemental OCNMS PowerPoint.

Mr. Moore asked whether fishing is considered a cultural resource. Mr. Galasso responded that the Olympic Coast National Marine Sanctuary (OCNMS) would interpret the issue in the same way that other National Marine Sanctuaries and the NMFS regulations do.

Mr. Moore asked about the request from the fishing Vessel Owners' Association (Agenda Item B.1, Open Public Comment) to the National Science Foundation, requesting a change in location for the proposed ocean observing sentinel sites, in order to minimize displacement of fishing activities. Mr. Galasso said that they are actively exploring it, but they don't have a final definition.

D.1.c Reports and Comments of Advisory Bodies and Management Entities

Dr. Vidar Westepad provided Agenda Item D.1.c, Supplemental SSC Report. Mr. Joel Kawahara provided Agenda Item D.1.c, Supplemental HC Report.

D.1.d Public Comment

Letter from the Alliance of Communities for Sustainable Fisheries, Agenda Item, D.1.d, Public Comment.

D.1.e Council Action: Provide Comments and Recommendations on the Proposed Management Plan

Ms. Culver noted that the OCNMS worked very hard with its partners to ensure that there wasn't anything that could be construed as "fishery management" in their management plan. She felt they were sensitive to that unlike other sanctuaries. Their heart and intent is in the right place; they seem to be more habitat-related rather than fishery management-related; trying not to give the impression or assert themselves in fishery management. Ms. Culver moved (Motion 3) that the Council approve and send the letter to the OCNMS as reflected in the draft letter in Agenda Item D.1.c. Mr. Myer seconded the motion.

Ms. Culver felt that they did a great job in reflecting and addressing discharge by cruise ships, excluding discharge for fishing vessels.

Mr. Moore moved and Mr. Steve Williams seconded to amend Motion 3 by changing the first sentence under the bullet at the top of page 3 of the draft letter to read as follows (changes in bold): "The Council supports the prohibition on discharge of treated and untreated water in the Sanctuary by cruise ships [Section II Part 4], and **agrees** that this regulation **should** not address discharges from other oceangoing vessels, including fishing vessels.

The amendment passed. Mr. Frank Lockhart abstained. Motion 3 passed as amended. Mr. Frank Lockhart abstained.

E. Habitat

E.1 Current Habitat Issues (03/05/11; 1:56 p.m.)

E.1.a Agenda Item Overview

Ms. Jennifer Gilden provided the agenda item overview.

E.1.b Report of the Habitat Committee

Mr. Joel Kawahara provided Agenda Item E.1.b, Supplemental HC Report.

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

None.

E.1.d Public Comment

None.

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

Mr. Steve Williams agreed with the Habitat Committee's (HC) recommendation to investigate the Army Corps of Engineers' (ACE) levee vegetation policies, and felt that it would be a good idea to prepare a letter to the ACE at an appropriate future date. He suggested the HC look further into the issue and timeline before preparing a letter.

Mr. Roth agreed, and said the HC should return in April with more information on the levee policy.

F. Pacific Halibut Management

F.1 Report on the International Pacific Halibut Commission Meeting (03/05/2011; 2:30 p.m.)

F.1.a Agenda Item Overview

Mr. Chuck Tracy provided the agenda item overview.

F.1.b Meeting Summary

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

Ms. Vojkovich asked what area would be included in the expanded Pacific halibut survey. Ms. Culver replied that areas between 0 and 20 fathoms, and 275 to 400 fathoms, as well as areas in the Strait of Juan de Fuca and Puget Sound, but no areas further south.

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

Dr. Bruce Leaman presented Agenda Item F.1.c, Supplemental IPHC PowerPoint.

Mr. Tracy read into the record Agenda Item F.1.c, Supplemental GAP Report.

F.1.d Public Comment

None.

F.1.e Council Discussion

None.

F.2 Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries (03/05/11; 3:13 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. Jim Olson and Mr. Paul Heikkila provided Agenda Item F.2.b, Supplemental Revised REVISED SAS Report.

Ms. Culver asked how 2011 salmon seasons could affect halibut retention. Mr. Heikkila replied that salmon season alternatives had not yet been formulated and the halibut retention alternatives would cover salmon alternatives with either greater or less opportunity.

Mr. Bob Alverson read Agenda Item F.2.b, Supplemental GAP Report.

F.2.c Public Comment

Mr. Dick Good, Washington Trollers Association, Curtis, WA

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

F.2.d Council Action: Adopt Public Review Options for 2011

Ms. Culver asked if the 35 halibut trip limit was effective at limiting halibut catch. Mr. Tracy replied probably not, that the halibut trip limit was not usually reached.

Ms. Culver asked if the effort in the salmon troll fishery south of Cape Falcon would affect halibut catch. Mr. Steve Williams replied yes, that effort south of Cape Falcon in 2011 was expected to increase relative to 2009 and 2010.

Mr. Steve Williams moved (Motion 4) to adopt for public review the options for incidental Pacific halibut retention in the non-Indian commercial salmon troll fishery as shown in Agenda Item F.2.b, Supplemental Revised REVISED SAS Report. Mr. Moore seconded the motion.

Motion 4 carried unanimously.

F.3 Preliminary Alternatives for Incidental Catch Retention of Pacific Halibut in the Limited Entry and Open Access Fixed Gear Sablefish Fisheries

F.3.a Agenda Item Overview (03/10/11; 8:03 a.m.)

Mr. Tracy presented the agenda item overview.

F.3.b Oregon Department of Fish and Wildlife Proposal

Ms. Lynn Mattes presented Agenda Item F.3.b, Supplemental ODFW PowerPoint and summarized Agenda Item F.3.b, ODFW Report and Agenda Item F.3.b, Supplemental ODFW Report 2.

Ms. Culver asked if halibut bycatch retention could result in additional sablefish discard. Ms. Mattes replied the report did not cover that possibility, but it could be included in future analyses.

Mr. Moore asked if a cap on halibut bycatch allocation would be included when further developing alternatives. Ms. Mattes replied yes, that would be necessary to ensure directed halibut effort would be avoided.

Mr. Cedergreen asked if yelloweye rockfish impacts were currently included in the impacts scorecard. Ms. Mattes replied no, that analysis would have to come later.

Mr. Steve Williams asked if the yelloweye impacts might decrease under a halibut bycatch retention scenario. Ms. Mattes replied that was a possibility if reduction in directed halibut longline sets were not offset by more sablefish sets, or if the directed halibut sets were in areas with more yelloweye than sablefish areas. Mr. Cedergreen added that yelloweye impacts could increase if fishing behavior changed or effort increased with increased opportunity to harvest halibut in open access fisheries.

F.3.c Reports and Comments of Advisory Bodies and Management Entities

Mr. Gregg Williams, IPHC, presented Agenda Item F.3.c, Supplemental IPHC Letter.

Ms. Vojkovich asked if weight per unit effort from the sablefish fishery could be used in place of, or in addition to, data from the directed halibut fishery. Mr. Williams replied that the data would not be as representative because sablefish fisheries tend to fish deeper areas, which would bias catch to larger halibut.

Mr. Corey Niles presented Agenda Item F.3.c, Supplemental GMT Report.

Mr. Ancona presented Agenda Item F.3.c, Supplemental GAP Report.

Mr. Lockhart announced NMFS has determined an updated National Environmental Policy Act (NEPA) analysis on the Area 2A Pacific halibut Catch Sharing Plan is likely to occur beginning fall of 2011, with NMFS taking the lead and working with the states and tribes. NMFS would include consideration of halibut bycatch retention proposals in the NEPA analysis. The analysis would be brought to the Council in spring of 2012 with implementation of alternatives not before the 2013 fishing season.

Ms. Culver asked if alternatives to the existing allocations between treaty Indian and non-Indian sectors, sport and commercial, and among port areas would be included in the analysis. Mr. Lockhart replied NMFS had not determined the scope of the analysis yet.

Ms. Culver noted there could be implications to the 2012-2014 groundfish specifications from the NEPA analysis, which is scheduled for action in April 2012. Mr. Lockhart replied that would be a consideration in formalizing a schedule for the NEPA review.

Dr. McIsaac asked if the NEPA analysis would be an Environmental Assessment (EA), Environmental Impact Statement (EIS) or Programmatic Environmental Impact Statement (PEIS), and if the Oregon Department of Fish and Wildlife (ODFW) analysis at the EA level would be adequate. Mr. Lockhart replied those issues would be determined through the scoping process, but for efficiency of staff time, combining the two analyses may be the best course.

F.3.d Public Comment

Ms. Leesa Cobb, Port Orford Commercial Fishermen's Action Team, Newport, OR

F.3.e Council Action: Review and Guide Any Further Development of Alternatives for Analysis

10:21 a.m. (03/10/2011)

Mr. Steve Williams moved (Motion 30) to go forward with development of preliminary preferred alternatives for halibut bycatch retention in fixed gear sablefish fisheries, including the discussion points contained in the supplemental Groundfish Advisory Subpanel (GAP) and Groundfish Management Team (GMT) reports; including an alternative confining retention to the limited access sablefish fishery; conducting an analysis of these and the alternatives in the ODFW report; and incorporating the analyses in the NMFS NEPA process. Mr. Moore seconded the motion.

Mr. Steve Williams stated the intent of this proposal was to determine if there were ways to more efficiently utilize the halibut resource, potentially making the fishery more profitable and reducing bycatch discard, particularly given the recent declining trend in Area 2A halibut allocation.

Ms. Culver asked if including the bycatch retention proposal in the NMFS NEPA analysis would result in expanding the scope of the NEPA analysis. Mr. Lockhart replied not necessarily.

Mr. Lockhart requested the motion to be read for the record. Dr. McIsaac reread the motion.

Ms. Vojkovich offered a substitute motion (Motion 31) for the Council to discontinue any further exploration of Pacific halibut bycatch retention in the limited entry fixed gear sablefish and open access fisheries. Ms. Culver seconded the motion.

Ms. Vojkovich acknowledged that bycatch reduction is a priority for the Council, but getting to zero bycatch is costly; the cost in this case may outweigh the long-term benefits. Costs include workload, effort transfer to open-access fisheries, complex regulations, enforcement, and overfished/protected species interactions.

Ms. Culver offered an amendment to Motion 31 to state: for the Council to discontinue any further exploration of Pacific halibut bycatch retention in the sablefish open access fisheries, but continue to explore incidental catch retention of Pacific halibut in the limited entry fixed gear sablefish fishery south of Point Chehalis in a manner that does not result in increased yelloweye rockfish mortality. Mr. Cedergreen seconded the amendment.

Ms. Culver acknowledged the workload implication of continued exploration of this issue, but supports turning bycatch discard into landed catch. Using a portion of the bycatch mortality currently taken off the top of the Area 2A allocation would not result in any additional halibut mortality; however, allowing retention in the open access fishery could increase bycatch of yelloweye and potentially halibut and sablefish as well. Additional data from Washington fisheries should be included in the analysis.

Mr. Cedergreen noted that the amendment addresses the issues of effort increases and yelloweye impacts.

Ms. Vojkovich asked if the effect of the amendment was to eliminate all the alternatives except one that allowed retention only in the limited entry fixed gear sablefish fishery.

Ms. Culver clarified that her amendment would not eliminate consideration of all the alternatives in Mr. Williams' motion (Motion 30), only those components that related to retention in the open access sector.

Amendment to Motion 31 carried. Mr. Pollard, Mr. Ortmann, and Ms. Vojkovich voted no.

Main Motion 31 as amended carried. Mr. Pollard and Mr. Ortmann voted no.

Ms. Culver provided guidance for the Council to address schedule and process issues under Agenda Item K.4.

G. Salmon Management

G.1 Review of 2010 Fisheries and Summary of 2011 Stock Abundance Forecasts (03/05/11; 8:07 a.m.)

G.1.a Agenda Item Overview

Mr. Tracy provided the agenda item overview.

G.1.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Robert Kope summarized the Review of 2010 Ocean Salmon Fisheries and Preseason Report I. Dr. Kope added that the 2011 preseason exploitation rate estimate for Lower Columbia River (LCR) natural tle Chinook based on the 2010 fishery structure was 41 percent compared to the 2010 preseason estimate of about 37 percent.

Mr. Wolford asked if using the regression line for the Sacramento Index (SI) forecast would remove the bias noted by the Salmon Technical Team (STT) in Preseason Report I, STT Concerns. Dr. Kope replied that on average there would be no bias, but due to the age structure of the population and the assumptions in the model it will over-forecast abundance in years when there is an increasing trend in abundance and under-forecast abundance in years when there is a decreasing trend.

Mr. Wolford requested the STT label the data points on the graph to see if points below the average were mostly years with increasing abundance. Dr. Kope noted that the most recent two years were below the line.

Mr. Anderson asked why the Lower Columbia River natural tle exploitation rate was so much higher. Mr. LaVoy responded that there were two reasons: first, the stock composition had fewer Spring Creek tules and more Lower River Hatchery tules; second, an error in the Chinook Fishery Regulation Assessment Model was corrected that resulted in a 2 percentage point difference.

Mr. Anderson asked if the 2011 preseason expectation included an adjustment for 2011 northern fisheries. Mr. LaVoy replied that the expectation was for greater abundance, but the model uses a rate rather than a catch value, so differences should be minimized. However, the Pacific Salmon Commission was considering implementing a total mortality regime rather than the landed catch regime used in the past, which could increase effects from northern fisheries.

Mr. Anderson asked if fisheries south of Cape Falcon were modeled with 2010 impacts. Mr. LaVoy replied yes, resulting in a 2 percent impact on LCR natural tules.

Mr. Tracy read into the record Agenda Item G.1.b, Supplemental SSC Report.

Mr. Wolford asked if the SSC examined the bias in the SI forecast model. Dr. Lawson replied yes, that given the population age structure and model configuration, the bias makes sense analytically, but has not been quantified.

Mr. Steve Williams requested an analysis of the magnitude of the bias in the SI forecast model.

G.1.c Public Comment

None.

G.1.d Council Action: Review and Discuss Relevant Fishery Information and Act on 2011 Abundance Forecasts as Necessary

Ms. Vojkovich asked when and how the Council would address the SI bias issue. Dr. McIsaac replied that the Council could adopt the forecast under this agenda item if the Council were comfortable with it. The next time the issue would come up would be under Agenda Item G.4. At that time the STT could respond to a Council request for additional analysis, and the Council could take precautionary steps when considering alternatives for 2011 seasons if necessary and appropriate, although given the stock mix it may be moot as Sacramento River fall Chinook (SRFC) are unlikely to constrain fisheries in 2011. If the Council is not comfortable with the SI forecast, they can delay approval of the SI forecast.

Mr. Anderson moved (Motion 5) to adopt the stock abundance forecasts as shown in Tables I-1 and I-2 of Preseason Report I. Mr. Steve Williams seconded the motion. Motion 5 carried unanimously.

Mr. Tim Roth requested the STT provide a table of preseason versus postseason SI forecasts.

Mr. Wolford requested the STT point out which years represented an increasing abundance trend on the SI forecast regression graph in Preseason Report I.

Mr. Phil Anderson noted an error in the stock forecast for Willapa Bay Fall Chinook in Preseason Report I, Table I-1, which should be 32,500 for the hatchery stock and 4,300 for the natural stock.

Mr. Moore moved (Motion 6) to reconsider Motion 5. Ms. Lowman seconded the motion. Motion 6 carried unanimously.

Mr. Myer moved (Motion 7) to amend Motion 5 to include changes on Table I-1, page 7 to read Willapa bay Fall Chinook for 2011: 32.5 (thousand) hatchery, and 4.3 (thousand) natural. Mr. Moore seconded the motion. The amendment carried unanimously. Main Motion 5 as amended by Motion 7 carried unanimously.

Mr. Wolford directed the STT to report on the SI forecast bias so the Council could take appropriate action, if necessary.

G.2 Identification of Stocks Not Meeting Conservation Objectives (03/05/2011; 9:02 a.m.)

G.2.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

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

Dr. Kope reviewed Preseason Report I, page 16, and TABLE V-4, Achievement of conservation objectives for key stocks listed in Table 3-1 of the Pacific Coast Salmon Plan.

Dr. Kope reported that Klamath River fall Chinook (KRFC) spawning escapement in 2010 was greater than 35,000 natural area adult spawners, which met the Council's rebuilding criteria for ending the overfishing concern triggered in 2006. The Council's criteria were achieving three of four years with spawning escapement greater the 35,000 or two consecutive years greater than 40,700. During the overfishing concern, the rebuilding plan required an annual management target of 40,700 spawners. With the end of the overfishing concern the Council could manage KRFC for the 35,000 spawner floor in 2011.

Dr. Kope reported that the SRFC triggered an overfishing concern in 2009, but that no Chinook stocks had triggered a conservation alert in 2011. No coho stocks were currently under an overfishing concern or had triggered a conservation alert in 2011. The Western Strait of Juan de Fuca coho stock triggered an overfishing concern in 2008; in 2009 the Council adopted new management objectives for Puget Sound coho, which included a combined Western and Eastern Strait of Juan de Fuca coho stock. The combined stock would have triggered an overfishing concern in 2008 and 2009, but achieved the upper abundance threshold for the revised management objective in 2010. The Council has not adopted status determination criteria for Puget Sound coho, pending input from the state and tribal co-managers and final action on Salmon Fishery Management Plan (FMP) Amendment 16; therefore, the status of Strait of Juan de Fuca coho is currently undetermined.

Mr. Wolford asked what the criteria were for ending the SRFC overfishing concern. Dr. Kope replied the Council had not yet determined the criteria, but the Salmon FMP provides a default criterion of meeting the spawning escapement objective. Mr. Tracy added that the Council would have an opportunity to address the SRFC overfishing concern and criteria for ending the concern under Agenda Item G.3.

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

G.2.c Public Comment

None.

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

Mr. Wolford moved (Motion 8) to adopt the STT's recommendation for determining KRFC overfishing concern ended, as contained in Preseason Report I; and confirm implementation of the actions required by the Council's overfishing concern and conservation alert procedures in the salmon FMP. Mr. Steve Williams seconded the motion. Motion 8 carried unanimously.

G.3 Sacramento River Fall Chinook Overfishing Assessment (03/06/2011; 9:35 a.m.)

G.3.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

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

Dr. Kope presented Agenda Item G.3.b, Supplemental SRFC Stock Assessment.

Mr. Wolford asked if an historical comparison of inriver smolt survival and freshwater conditions had been made. Dr. Kope replied no, that the assessment focused on conditions affecting the 2004-2006 broods.

Mr. Wolford asked if the practice of net-pen acclimation was sustainable. Dr. Kope replied that he did not know, but that if inriver survival were better, the practice would be unnecessary.

Mr. Pollard asked if straying issues have resulted in failing to meet hatchery escapement objectives. Dr. Kope replied that while escapement objectives were not always met during the overfishing concern years, egg take was achieved, although there was undoubtedly substantial exchange of fish from various hatchery facilities due to straying.

Mr. Roth asked if there were opportunities to trap and truck wild smolts to increase their survival. Dr. Kope replied no.

Mr. Roth observed that with freshwater survival so low, any time ocean conditions deteriorate, the population can reach a tipping point. Therefore, even though ocean conditions are the proximate cause of the stock collapse, poor freshwater survival is the ultimate cause.

Ms. Vojkovich asked what the criteria for ending the overfishing concern under the current FMP are. Dr. Kope replied the criteria are not explicit, but the results of the assessment need to be considered when the Council makes its determination of what the criteria should be. The assessment determined that SRFC were not overfished based on criteria being considered in Amendment 16, and therefore a rebuilding plan was not necessary. Mr. Tracy added the FMP requires that the Council needs to specify criteria for determining the end of the overfishing concern after receiving the assessment from the STT.

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

Mr. Duncan MacLean presented Agenda Item G.3.b, Supplemental SAS Report.

Mr. Joel Kawahara presented Agenda Item G.3.b, Supplemental HC Report.

G.3.c Public Comment

Mr. Doug Demko, San Joaquin River Group Authority (SJRG), Chico, CA
(Presented Agenda Item G.3.c, Supplemental Public Comment PowerPoint).

Dr. McIsaac noted that the written comment submitted by the SJRG were included under Agenda Item G.4, and the recommendations presented under this agenda item both relate more to 2011 management measures than the status of SRFC. He asked if the SJRG had a recommendation for determining the status of SRFC. Mr. Demko replied that the SJRG felt that any harvest was too much, due to the low returns in the San Joaquin Basin.

Mr. Duncan MacLean, PCFFA, El Granada, CA
Mr. Dave Bitts, PCFFA, Eureka, CA

G.3.d Council Discussion and Guidance

Mr. Wolford moved (Motion 9) that the criterion for ending the SRFC overfishing concern be based on the default criterion in the FMP of meeting the minimum spawning escapement objective, which for SRFC is 122,000, and was exceeded in 2010 with an escapement of 125,000; therefore the overfishing concern is ended. Mr. Brizendine seconded the motion.

Ms. Vojkovich supported the motion on a process basis because final action on Amendment 16 has not been taken.

Motion 9 carried unanimously.

Mr. Steve Williams recommended support for the HC report regarding the EFH conservation recommendations. Mr. Cedergreen noted general consensus for Mr. William's recommendation.

Dr. Dygert noted SRFC is currently classified as overfished, which requires development of a rebuilding plan. He recommended the Council consider the STT recommendations regarding overfishing and overfished status and provide recommendations to NMFS for the Report to Congress.

Mr. Wolford stated that with the end of the overfishing concern was the implicit assumption that the stock had been rebuilt. Dr. Dygert replied that NMFS would prefer an explicit recommendation.

Mr. Wolford moved (Motion 10) that based on the STT assessment and recommendations that SRFC was not overfished and is now rebuilt. Mr. Moore seconded the motion.

Mr. Wolford noted that Motion 10 was intended to clarify the intent of the original Motion 9.

Ms. Vojkovich offered a substitute motion (Motion 11) to adopt Alternative 3 from Table 2 in the STT overfishing assessment as overfished criteria for SRFC and Table 3 as overfishing criteria for SRFC, indicating SRFC were not overfished and did not experience overfishing. Mr. Anderson seconded the motion.

Dr. Dygert supported Motion 11.

Mr. Steve Williams asked what effect this action would have on development of regulation alternatives for 2011. Dr. Dygert replied the practical effect of determining the stock is not overfished is that a rebuilding plan will not be required. The motion would support the rationale for managing 2011 fisheries under the current conservation objective.

Mr. Wolford asked if adopting the Amendment 16 criteria would pre-dispose the Council to select these criteria under final action for Amendment 16. Dr. Dygert replied no, that additional information or analysis could support a different decision under Amendment 16.

Motion 11 carried unanimously.

G.4 Identification of Management Objectives and Preliminary Definition of 2011 Salmon Management Alternatives (03/06/11; 1:30 p.m.)

G.4.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

G.4.b Report of the Pacific Salmon Commission

Mr. Gordy Williams reviewed highlights of the recent Pacific Salmon Commission (PSC) meetings, which focused primarily on reviewing 2010 fisheries. Chinook forecasts for 2011 should be available in time for the April Council meeting.

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

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

Dr. McIsaac asked if the coho population above Willamette Falls was taken into account in the 2011 NMFS guidance. Dr. Dygert replied no, that that population is not part of the evolutionarily significant unit (ESU).

Mr. Butch Smith, along with the SAS, provided Agenda Item G.4.c, Supplemental SAS Report.

Mr. Steve Williams asked why there were different opening dates for the June Chinook mark-selective fishery north and south of Leadbetter Point. Mr. Smith replied the longer June season north of Leadbetter allowed access to Chinook that were present in the area and the shorter Chinook fishery south of Leadbetter Point allowed an earlier start to the all-salmon fishery to access available coho.

Mr. Wolford asked if there was any interest expressed in extending the recreational fishery south of Pigeon Point through Labor Day. Mr. Pierce replied the SAS had received no input on the matter.

Mr. Sones presented Agenda Item G.4.c, Supplemental Tribal Report 2.

Mr. Chris Williams of the Umatilla Tribe, Mr. Wilbur Slockish Jr, of the Yakama Nation, Mr. Emerson Squiemphen of the Warm Springs Tribes, and Herb Jackson of the Nez Perce Tribe presented testimony on behalf of the four Columbia River treaty tribes (Agenda Item G.4.c, Supplemental Tribal Report).

Mr. Steve Williams asked if the non-Indian share of the up-river fall Chinook harvest was less than fifty percent. Mr. Ellis replied yes, that in 2010 the non-Indian share was about 25 percent and the treaty Indian share was somewhat greater.

Ms. Vojkovich reported the time required for the California Fish and Game Commission regulation process would preclude opening California recreational ocean salmon fisheries before late May. The Commission could initiate emergency action to open these fisheries on a March 14 teleconference to consider an option that allows for an April opening for the recreational fishery in California.

Ms. Vojkovich summarized public input from a March 1 public meeting on 2011 commercial and recreational salmon fisheries sponsored by California Department of Fish and Game (CDFG).

Mr. Steve Williams asked what the earliest date would be for opening fisheries in the California Klamath Management Zone (KMZ). Ms. Vojkovich replied that the emergency action contemplated did not include the KMZ, so the earliest would be in May.

Mr. Tracy asked if opening Federal waters would be a possibility if state waters could not be opened in a timely manner. Ms. Vojkovich replied yes, but that a primary objective of opening in April was to provide opportunity in the Monterey area where success is better early in the season; however, due to the geography of that area, most of the productive fishing area is within state waters, unlike areas to the north.

Mr. Steve Williams reported on the March 3 Oregon Salmon Industry Group public meeting sponsored by ODFW.

Mr. Anderson reported on the March 1 public meeting sponsored by Washington Department of Fish and Wildlife (WDFW).

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

G.4.d Public Comment

Mr. Duncan MacLean, PCFFA, El Granada, CA

Mr. Jim Yarnall, Humboldt Area Salt Water Anglers, Eureka, CA

Mr. Butch Smith, Ilwaco Charterboat Association, Ilwaco, WA

Mr. Jim Olson, Washington Trollers Association, Auburn, WA

Mr. Joel Kawahara, salmon troller, Quilcene, WA

G.4.e Council Recommendations for Initial Alternatives for Salmon Technical Team Collation and Description (03/06/11; 4:04 p.m.)

Mr. Anderson directed the STT to collate and tentatively analyze the alternatives for non-Indian commercial and recreational fisheries north of Cape Falcon presented in Agenda Item G.4.c, Supplemental SAS report, with changes reflected in Agenda Item G.5.b, Supplemental STT Report.

Mr. Steve Williams directed the STT to collate and tentatively analyze the alternatives for non-Indian commercial and recreational fisheries between Cape Falcon and the Oregon/California border presented in Agenda Item G.4.c, Supplemental SAS report, with changes reflected in Agenda Item G.5.b, Supplemental STT Report.

Ms. Vojkovich directed the STT to collate and tentatively analyze the alternatives for non-Indian commercial and recreational fisheries south of the Oregon/California border presented in Agenda Item G.4.c, Supplemental SAS report, with changes reflected in Agenda Item G.5.b, Supplemental STT Report. Shifting opportunity from San Francisco and Monterey commercial fisheries to the Fort Bragg and the California KMZ commercial fisheries is intended to explore alternatives for economic stimulus in northern ports.

Mr. Wolford recommended changing the Fort Bragg recreational fishery opening in 2012 to February 18 and changing the opening date for the California and Oregon KMZ recreational fishery to May 7 in Alternative 1. Ms. Vojkovich and Mr. Steve Williams agreed.

Mr. Sones directed the STT to collate and tentatively analyze the alternatives for treaty-Indian commercial fisheries north of Cape Falcon presented in Agenda Item G.4.c, Supplemental Tribal Report 2.

Mr. Tracy asked if there was guidance for assumptions in Central Valley freshwater fisheries. Ms. Vojkovich replied that the STT should assume historical seasons and associated impacts.

Mr. Turner requested the STT to provide a postseason model run of lower Columbia River natural tule exploitation rates for 2010 and 2009.

G.5 Council Recommendations for 2011 Management Alternative Analysis (03/07/2011; 3:24 p.m.)

G.5.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

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

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

Ms. Vojkovich asked if there was information on average fall fishery impacts on KRFC and SRFC. Dr. O'Farrell replied there are records available.

Ms. Vojkovich asked if a 28 inch size limit in the commercial Fort Bragg alternatives would change impacts in the models. Dr. O'Farrell replied it would change KRFC impacts, but only slightly for age-4 impacts, which is the primary constraint in 2011.

Mr. Sones asked if inside pink fishery impacts are reflected in the impacts table for Interior Fraser coho. Mr. Anderson replied only the Area 7/7A fisheries were included.

Dr. Mike O'Farrell summarized the information in Agenda Item G.5.b, Supplemental STT PowerPoint on potential bias in the SI predictor. He concluded the SI predictor showed signs of bias associated with relative strength of consecutive year jack returns, but recommended using the existing predictor in 2011 while providing a qualitative concern about bias. The constraints on KRFC provide a buffer for meeting the SRFC conservation objective and NMFS guidance in 2011. For example, an abundance forecast of half the SI forecast with a 50 percent exploitation rate would still achieve about 182,000 spawners in 2011.

Ms. Vojkovich recommended continuing Agenda G.5 the next morning to provide time for additional discussion with constituents. Mr. Steve Williams and Mr. Anderson concurred.

G.5.c Public Comment

None.

G.5.d Council Direction to the Salmon Technical Team and Salmon Advisory Subpanel on Alternative Development and Analysis (03/08/2011; 9:25 a.m.)

Mr. Steve Williams asked if the STT had completed the postseason model runs on lower Columbia River natural tule exploitation rates for 2010 and 2009. Dr. Kope replied yes, that the exploitation rates were 34.9 percent in 2010 and 36.6 percent in 2009.

Dr. McIsaac asked if the STT investigated the cause of these rates being below the preseason expectations. Dr. Kope replied that it was probably because quotas were not fully attained.

Mr. Anderson directed the STT to analyze the tentative alternatives for non-Indian commercial and recreational fisheries north of Cape Falcon presented in Agenda Item G.5.b, Supplemental STT Report, with changes reflected in Agenda Item G.7.b, Supplemental STT Report.

Mr. Steve Williams directed the STT to analyze the tentative alternatives for non-Indian commercial and recreational fisheries between Cape Falcon and the Oregon/California border presented in Agenda Item G.5.b, Supplemental STT report, with changes reflected in Agenda Item G.7.b, Supplemental STT Report. The changes included recommendations for inseason action delaying the commercial opening from March 15, 2011 to April 15, 2011.

Ms. Vojkovich directed the STT to analyze the tentative alternatives for non-Indian commercial and recreational fisheries south of the Oregon/California border presented in Agenda Item G.5.b, Supplemental STT report, with changes reflected in Agenda Item G.7.b, Supplemental STT Report. The changes included recommendations for inseason action opening the recreational fishery south of Horse Mt. on April 2, 2011.

Mr. Sones directed the STT to analyze the tentative alternatives for treaty-Indian commercial fisheries north of Cape Falcon presented in Agenda Item G.5.b, Supplemental STT report, with changes reflected in Agenda Item G.7.b, Supplemental STT Report.

G.6 National Marine Fisheries Service Report (03/08/2011; 2:29 p.m.)

G.6.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

G.6.b Regulatory Activities

Ms. Allison Purcell presented information on the Mitchell Act Draft Environmental Impact Statement (DEIS) process. NMFS will be updating the baseline data and including effects from current management agreements within the Columbia Basin. The next step will be to identify a preferred alternative and provide example implementation scenarios for all alternatives. The process should be completed by the end of 2011.

Dr. Peter Dygert presented Agenda Item G.6.a, Regulation Booklet Proposal.

Dr. Peter Dygert presented Agenda Item G.6.a, Supplemental Amendment 16 Update.

Mr. Bob Turner provided an update on ESA consultation for Southern Resident Killer Whales as related to salmon abundance in Puget Sound.

Dr. McIsaac asked if there would be more specificity to NMFS guidance for 2012 Council-area fisheries relative to killer whale effects. Mr. Turner replied all fisheries that affect killer whales would be subject to consideration in 2012.

Mr. Randy Fisher, Pacific States Marine Fisheries Commission (PSMFC) provided an update on the California hatchery scientific review group. The process is similar to the hatchery review process in the

Columbia Basin. The Klamath/Trinity review should be completed in April 2011, the Central Valley review should be completed in September. The final report is due at the end of 2011.

Dr. McIsaac asked if there would be a public review draft available. Mr. Fisher replied yes, for both the basin reports and the final report.

Dr. Peter Dygert presented Agenda Item G.6.a, Klamath Chinook Petition.

G.6.c Fisheries Science Center Activities

Dr. Peter Lawson and Dr. O'Farrell presented Agenda Item G.6.b, Supplemental GSI PowerPoint and also demonstrated a new Project Collaborative Research on Oregon Ocean Salmon (CROOS) portal based on Google maps.

G.6.d Reports and Comments of Advisory Bodies and Management Entities

None.

G.6.e Public Comment

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

G.6.f Council Discussion

None.

G.7 Further Council Direction for 2011 Management Alternatives

G.7.a Agenda Item Overview (03/08/2011; 3:35 p.m.)

Mr. Tracy presented the agenda item overview.

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

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

G.7.c Public Comment

Mr. Kent Martin, commercial gillnetter, Skamokawa, WA

G.7.d Council Guidance and Direction

Mr. Steve Williams was not prepared to offer additional guidance and requested more time to meet with their constituents.

Dr. McIsaac recommended suspending Agenda Item G.7 and take G.7.d as the first item on Wednesday, March 9, 2011. The Council concurred.

The Council reconvened Agenda Item G.7.d on May 9, 2011 at 8:06 a.m..

Mr. Patillo directed the STT to analyze the alternatives for non-Indian commercial and recreational fisheries north of Cape Falcon presented in Agenda Item G.7.b, Supplemental STT report, with minor editorial changes reflected in Agenda Item G.8.b, Supplemental STT Report.

Mr. Steve Williams directed the STT to analyze the alternatives for non-Indian commercial and recreational fisheries between Cape Falcon and the Oregon/California border presented in Agenda Item G.7.b, Supplemental STT report, with minor editorial changes reflected in Agenda Item G.8.b, Supplemental STT Report.

Ms. Vojkovich directed the STT to analyze the alternatives for non-Indian commercial and recreational fisheries south of the Oregon/California border presented in Agenda Item G.7.b, Supplemental STT report, with minor editorial changes reflected in Agenda Item G.8.b, Supplemental STT Report.

Mr. Sones directed the STT to analyze the alternatives for treaty-Indian commercial fisheries north of Cape Falcon presented in Agenda Item G.7.b, Supplemental STT report, with minor editorial changes reflected in Agenda Item G.8.b, Supplemental STT Report.

Dr. McIsaac asked if it would be acceptable for alternatives to be adopted for public review that did not meet all of the conservation objectives and NMFS guidance. Mr. Turner replied yes, that the alternatives have elements that the public should have an opportunity to comment on, as long as it is clear to the public that the Council does not expect to adopt final management measures that do not meet all of the conservation objectives and ESA consultation standards. Mr. Tracy added that if the Council did anticipate adopting final management measures that did not meet the conservation objectives, they would have to provide justification for an emergency rule to enact the regulations.

Ms. Vojkovich asked if inseason action would be taken to open fisheries prior to May 1, 2011. Mr. Turner replied that NMFS would meet with the appropriate state managers to take inseason action necessary to implement early season openings as directed by the Council, and report to the Council under Agenda Item G.8.

G.8 Adoption of 2011 Management Alternatives for Public Review

G.8.a Agenda Item Overview (03/09/2011; 3:50 p.m.)

Mr. Tracy presented the agenda item overview.

G.8.b Reports and Comments of Management Entities and Advisory Bodies

Dr. Kope presented Agenda Item G.8.b, Supplemental STT Report.

Mr. Emerson Squiemphen of the Warm Springs Tribes, Mr. Chris Williams of the Umatilla Tribe, and Mr. Wilbur Slockish Jr, of the Yakama Nation presented testimony on behalf of the four Columbia River treaty tribes (Agenda Item G.8.b, Supplemental Tribal Report).

G.8.c Public Comment

None.

G.8.d Council Action: Adopt Management Alternatives for Public Review

Mr. Patillo moved (Motion 26) to adopt for public review the alternatives for non-Indian commercial and recreational fisheries north of Cape Falcon presented in Agenda Item G.8.b, Supplemental STT Report. Mr. Myer seconded the motion.

Motion 26 carried unanimously.

Mr. Sones moved (Motion 27) to adopt for public review the alternatives for treaty-Indian commercial fisheries north of Cape Falcon presented in Agenda Item G.7.b, Supplemental STT Report. Mr. Moore seconded the motion.

Motion 27 carried unanimously.

Mr. Steve Williams moved (Motion 28) to adopt for public review the alternatives for non-Indian commercial and recreational fisheries between Cape Falcon and the Oregon/California border presented in Agenda Item G.8.b, Supplemental STT Report. Mr. Moore seconded the motion.

Motion 28 carried unanimously.

Ms. Vojkovich moved (Motion 29) to adopt for public review the alternatives for non-Indian commercial and recreational fisheries south of the Oregon/California border presented in Agenda Item G.8.b, Supplemental STT Report. Mr. Crabbe seconded the motion.

Motion 29 carried unanimously.

Mr. Steve Williams noted NMFS had taken inseason action with regard to early season openings. Mr. Tracy added that NMFS has taken action to open California recreational fisheries and delay the opening of the commercial fisheries in Oregon, as reflected in the alternatives in Agenda Item G.8.b, Supplemental STT Report.

G.9 Salmon Hearings Officers (03/09/2011; 4:21 p.m.)

G.9.a Agenda Item Overview

Mr. Chuck Tracy presented the agenda item overview.

G.9.b Council Action: Appoint Hearings Officers

The following people were appointed to staff the Council-sponsored public hearings on the alternatives for 2011 salmon management measure:

March 29, 2011, Eureka, California - Mr. David Crabbe as hearings officer, Ms. Melodie Palmer-Zwahlen for the STT, Mr. Chuck Tracy for Council staff.

March 28, 2011, Coos Bay, Oregon - Mr. Rod Moore as hearings officer, Mr. Craig Foster for the STT, Ms. Peggy Busby for NMFS, Mr. Chuck Tracy for Council staff.

March 28, 2011, Westport Washington - Mr., Phil Anderson as hearings officer, Mr. Doug Milward for the STT, Dr. Peter Dygert for NMFS.

U.S. Coast Guard and other representatives would be appointed prior to the hearings.

H. Groundfish Management

H.1 National Marine Fisheries Service Report

H.1.a Agenda Item Overview (03/07/11; 8:06 a.m.)

Ms. Kelly Ames provided the agenda item overview.

H.1.b Regulatory Activities, including an Update on Implementation of Amendment 20 (03/07/11; 8:39 a.m.)

Mr. Frank Lockhart introduced Ms. Sarah Towne and Mr. Kevin Ford from the permitting division at NMFS. Mr. Lockhart presented information on the rationalized trawl fishery included in Agenda Item H.1.b, Supplemental NMFS TIQ PowerPoint. Mr. Richard Kang spoke in greater detail regarding the specifics of the individual quota (IQ) database.

Mr. Lockhart said the Northwest Region (NWR) hired a new aquaculture coordinator, Ms. Laura Hoberecht. He noted the administration's new draft aquaculture policy which is out for comment. Ms. Hoberecht spoke to the advisory bodies about that matter. More information can be found at www.aquaculture.noaa.gov.

Mr. Lockhart spoke briefly about the Pacific Whiting Treaty, which was signed January 4, 2011. He noted that a Federal Register notice will be published soliciting nominations for the advisors. Individuals previously nominated should confirm their interest. Mr. Lockhart will provide more information at the April meeting.

Mr. Lockhart said NMFS is working on potential tribal allocation formulas for the proposed rule which is anticipated for publication in the next two weeks.

Mr. Lockhart spoke to the partial disapproval of Amendment 23 (Agenda Item H.1.b, Attachment 1). In sum, NMFS came to the conclusion it would be more appropriate to deal with removing species in the groundfish Fishery Management Plan in a more comprehensive analysis and discussion.

H.1.c Fisheries Science Center Activities (03/07/11; 8:11 a.m.)

Dr. John Ferguson and Dr. John Stein provided a presentation on the Northwest Fishery Science Center activities (Agenda Item H.1.c, Supplemental NWFSC PowerPoint).

H.1.d Reports and Comments of Advisory Bodies and Management Entities (03/07/11; 9:57 a.m.)

Mr. Corey Niles provided Agenda Item H.1.d, Supplemental GMT Report.

H.1.e Public Comment

None.

H.1.f Council Discussion

Mr. Moore and Mr. Lockhart discussed data discrepancies noted in the GMT report and the desire to ensure the correct data were used by both the GMT and NWR.

Ms. Culver stated that the Council recommendation to remove dusky rockfish and dwarf red rockfish under Amendment 23 was based on landings data as well as the productivity and susceptibility analysis (PSA) conducted by the GMT, yet the partial disapproval letter only spoke to the landings analysis. She asked Mr. Lockhart if NMFS had concerns regarding the later analysis. He said there were no concerns with the PSA analysis and felt it was an appropriate approach for evaluating this issue in the future.

Ms. Vojkovich noted that the GMT and NMFS should also review recreational data sources during future analyses.

H.2 Process for Implementing 2011-2012 Specifications and Management Measures

H.2.a Agenda Item Overview (10:06 a.m.)

Ms. Ames provided the agenda item overview.

H.2.b NMFS Briefing (03/07/11; 10:13 a.m.)

Mr. Frank Lockhart said that during the review of the draft Environmental Impact Statement (EIS), NMFS came to the conclusion it was necessary to add a new alternative (Agenda Item H.2.b, Supplemental NMFS Report). The new NMFS-preferred alternative for 2011 and 2012 has a 17 metric ton (mt) annual catch limit (ACL) for yelloweye rockfish and a 3 mt cowcod ACL. Mr. Lockhart said the agency believes no new management measures are necessary to keep impacts within the NMFS-preferred harvest specifications. The remaining harvest specifications contained in the NMFS-preferred alternative are the same as the Council's final preferred alternative. Management measures contained in the NMFS-preferred alternative are the same as the Council's final preferred alternative, except the NMFS-preferred alternative does not include modifications to the Cowcod Conservation Area (CCA) recommended by the Council, which would have changed the CCA boundary from 20 to 30 fathoms and provided for the retention of shelf rockfish. The NMFS-preferred alternative was analyzed and included in the final EIS, which should publish on March 11, 2011.

Mr. Lockhart said the agency believes the NMFS-preferred alternative is consistent with the Magnuson Stevens Act (MSA) provisions on rebuilding overfished species and the Ninth Circuit Court order from 2010. The agency also felt the NMFS alternative was necessary to cover an appropriate range of alternatives, per the National Environmental Policy Act (NEPA).

Mr. Lockhart said NMFS is expected to use its emergency authority to implement harvest specifications related to Amendment 16-5 for 2011, and asked the Council to reconsider Amendment 16-5 for implementation of the 2012 specifications and management measures. The final rule for 2011 and 2012 measures not related to Amendment 16-5 are expected to be implemented by April 29, 2011.

Mr. Lockhart said NMFS believes the simplest way forward is for the Council to use the final EIS and adopt harvest specifications for 2012 consistent with the April NMFS rulemaking. If the Council chooses something other than the specifications in the April NMFS rule or an alternative outside the range

analyzed in the final EIS, the timeline for implementation is less certain and potentially an additional NEPA document would be required.

Ms. Vojkovich asked about the relationship between the Amendment 16-5 disapproval and the potential disapproval of the CCA management measures. Mr. Lockhart said the agency has not made a final decision on the final rule, they must wait 30 days after the Notice of Availability before the final EIS is issued, which is no earlier than April 11, 2011. Any agency decision must be within the range analyzed in the final EIS. Mr. Lockhart said if something unrelated to Amendment 16-5 is disapproved in the final rule, for example the CCA measures you mentioned, he supposes the Council could make a recommendation on those matters.

Mr. Lockhart said this is a difficult process. The agency wants to provide the Council an opportunity to comment on the final EIS and the final rule package. Specifically, the agency would like comments on the yelloweye rockfish and cowcod ACLs as well as the CCA management measures. Those comments would be considered by the agency in the final decision-making process.

Dr. McIsaac asked if NMFS could still consider the full range of alternatives in the final EIS and then adopt the Council-preferred alternative for the final rule. Mr. Lockhart said yes, the final decision has not been made.

Ms. Culver asked Mr. Lockhart if the NMFS-preferred alternative is identified in the final EIS. Mr. Lockhart said yes.

Ms. Culver asked for further clarification regarding the rule-making and the reconsideration for 2012. Mr. Lockhart said the measures related to Amendment 16-5 (rebuilding plans and flatfish status determination criteria for assessed species) would be issued via emergency authority and be in effect through 2011; everything else would be in effect through 2012. The Council could choose to address almost anything in the reconsideration, yet the implications for a scope that large are unknown. Mr. Lockhart said that at a minimum the Council needs to address the matters related to Amendment 16-5.

Ms. Culver asked which specifications would be in place for 2012, if the Council did not take further action relative to Amendment 16-5. Ms. Mariam McCall said NMFS has the authority to implement Amendment 16-5 through an emergency rule for a specified amount of time (no longer than one year); however MSA states that the Council is the appropriate body to deal with long-term actions, such as rebuilding plans. The statute requires that the agency return to the Council with the reasons for the disapproval and request reconsideration. The Council then has the opportunity to re-submit a revised amendment. The statute states that if the Council fails to act within a reasonable amount of time or fails to act in an appropriate way, the Secretary has the authority to implement a Secretarial amendment.

Ms. Culver asked Mr. Lockhart about the schedule for reconsidering Amendment 16-5. Mr. Lockhart said the final EIS has the full range of alternatives and additional guidance on the three areas that have given the agency pause. In April, the Council could adopt a preliminary preferred alternative based on the information contained in the final EIS and schedule final action in June. However, the final rule may not be issued in time for the April Council meeting. An alternate schedule would be June and September. If the Council chooses the same specifications as issued in the April rulemaking, the process would be relatively straight forward.

Ms. Culver noted that few people have seen the final EIS and asked Mr. Lockhart to provide a summary of the rationale behind the NMFS-preferred alternative. Mr. Lockhart said the NMFS alternative was needed to 1) address the NEPA concerns relative to an appropriate range of alternatives, 2) address the MSA requirements to rebuild as quickly as possible while taking into account the needs of fishing

communities, and 3) respond to the 2010 court order which put in place harvest specifications for yelloweye, cowcod, and darkblotched. The court order specified a 14 mt OY for yelloweye and 4 mt for cowcod for 2010. Further, the court spoke to their concerns regarding yelloweye and cowcod. Mr. Lockhart said when the agency considered the MSA requirements and the court order, they felt the Council's final preferred alternative of a 17 mt annual catch target (ACT) and 20 mt annual catch limit (ACL) might be inconsistent. Mr. Lockhart said moving from 14 mt to 20 mt was quite a jump and required the agency to take a hard look at the analysis in the EIS needed to support that decision. NMFS came to the conclusion that a new alternative with an intermediate value of 17 mt was necessary. For cowcod, the NMFS alternative is a 3 mt ACL. It's important to note that the ACLs in the NMFS alternative result in shorter T_{targets} for both of these species. Additionally, the agency believes the NMFS-preferred alternative does not require additional management measures compared to the Council's final preferred alternative; projected harvest of these species are well below both the Council's and NMFS-preferred alternative ACLs. Relative to the CCA management measures mentioned previously, the agency highlighted those management measures since the court has given a lot of scrutiny to cowcod. NMFS felt it prudent to develop an alternative that excluded those measures.

Dr. McIsaac noted the Council-preferred alternative contained an ACT for yelloweye rockfish recommended to address management uncertainty, particularly in the recreational fisheries. He asked Mr. Lockhart to speak to the lack of an ACT in the NMFS-preferred alternative. Mr. Lockhart said the rationale for that difference is related to the management measures. NMFS attempted to limit the differences between the Council's preferred alternative and the NMFS-preferred alternative to minimize impacts. The agency considered an alternative with an ACT on a 17 mt ACL; however, the agency felt that additional management measures would be necessary. Mr. Lockhart said the Council could still recommend an ACT if they felt it was important, but it may require additional management measures and potentially more NEPA analysis.

Mr. Moore asked if NMFS considered the International Pacific Halibut Commission (IPHC) survey re-design and potential for significant increased impacts to yelloweye rockfish. Mr. Lockhart said he thought the IPHC could accomplish the re-design with a similar amount of impacts as they have now.

H.2.c Reports and Comments of Advisory Bodies and Management Entities

Ms. Culver reviewed the WDFW letter. Mr. Steve Williams reviewed the ODFW letters. Ms. Vojkovich reviewed the CDFG letter.

Mr. Tommy Ancona read Agenda Item H.2.c, Supplemental GAP Report. Mr. Corey Niles read Agenda Item H.2.c, Supplemental GMT Report.

H.2.d Public Comment (1:48 p.m.)

Ms. Karen Garrison, NRDC, San Francisco, CA

Mr. Jeff Russell, NRDC, San Francisco, CA

Mr. Ray Monroe, Pacific City Dorymen's Association, Pacific City, OR

Mr. Gerry Richter, Pt. Conception Groundfish Fishermens' Association, Santa Barbara, CA

Mr. Joe Villareal, SAC, Ventura, CA

Mr. Daniel Platt, STMA, Fort Bragg, CA

Mr. Michael Deach, longliner, Lopez, WA

Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA

Ms. Heather Mann, Community Seafood Initiative, Newport, OR

H.2.e Council Action: Action as Necessary to Implement the 2011-2012 Groundfish Fishery Specifications and Management Measures (03/07/11/ 2:50 p.m.)

Ms. Culver preferred that the Council complete this agenda item today and did not see a need for further information from the GMT. Other Council members agreed.

Ms. Culver moved (Motion 12) that the Council reaffirm the harvest specifications for yelloweye rockfish at a 20 mt ACL and 17 mt ACT. Mr. Moore seconded the motion.

Ms. Culver said the Council's management approach has been more precautionary for yelloweye rockfish than any other species; the fact that yelloweye catches have been 65 percent of planned catch since 2002 reflects that approach. She did not want to comment on the rationale provided by Mr. Lockhart relative to the NMFS-preferred alternative, the range of alternatives required by NEPA, and the adequacy of the EIS. Ms. Culver felt it was valuable to extend the public comment period to address NMFS' concerns regarding the yelloweye and cowcod ACLs. The agency's rationale for developing the NMFS-preferred alternative related to MSA mandates. Ms. Culver referred to the WDFW comment letter referencing National Standard 1 and the MSA. Ms. Culver said MSA describes the purpose of the minimum stock size threshold (MSST), used to delineate overfished status, to prevent the stock from dropping below levels that jeopardize the stock's capacity to produce maximum sustainable yield (MSY) on a continuing basis. National Standard 1 advises that MSST can be set as low as half of the abundance expected to produce MSY; therefore, the overfished threshold for yelloweye rockfish could be $B_{20\%}$, rather than $B_{25\%}$. Ms. Culver noted the current status of the yelloweye stock is above $B_{20\%}$.

With regard to MSA provisions to rebuilding in as short as time as possible, Ms. Culver noted that the T_{target} for 14 mt is 2067; 17 mt is 2074; and 20 mt is 2084. By achieving a 20 mt average over the rebuilding period, the T_{target} is 2067. An ACT of 17 mt keeps us at or below the 20 mt average.

Relative to taking into account the needs of fishing communities, Ms. Culver interprets that to mean that the Council should rebuild as quickly as possible but not without regard to the cost of doing so. National Standard 8 requires the Council to achieve conservation objectives of rebuilding while providing for sustained participation of fishing communities, and to aim to minimize negative economic impacts of rebuilding. Ms. Culver said the cost of conservation should not be disproportionate to the benefits expected. To put the costs into perspective, Ms. Culver said the 2009 rebuilding analysis states that yelloweye catch has been reduced by 95 percent from historical levels. Therefore, to reduce catches further means to further reduce the remaining 5 percent. She said given that the stock is stable and increasing in abundance, and already at 80 percent of estimated MSY, the 20 mt ACL and 17 mt ACT is very reasonable relative to the MSA requirements.

Ms. Culver spoke to the 20 mt ACL and 17 mt ACT as it related to the 2010 court order. The court order was based on the ramp down strategy, which was based on an earlier assessment and scheduled a 14 mt optimum yield for 2010. The ramp down strategy was scheduled to terminate at the end of 2010. She said the rebuilding plan stated that beginning in 2011, the OY (or ACL) would be based on the best available science. The ACL of 20 mt and the ACT of 17 mt is based on the most recent assessment and the best available science.

Ms. Vojkovich moved to amend the main motion (Motion 12) to include the Council's preferred cowcod ACL at 4 mt. Mr. Brizendine seconded the amendment.

Ms. Vojkovich said the 4 mt ACL adopted by the Council reflects revisions to the rebuilding plan, including a correction to an error in the updated 2009 assessment. She noted that NMFS has not spent a lot of time on the cowcod technical issues and there is reason to ask NMFS to reconsider. Failure to

revise the rebuilding plan to reflect the revisions in the model would be in conflict with National Standard 2 and the MSA because the harvest rate would not reflect the best available science. Effective management measures include prohibition on retention, depth restrictions, and large closed areas that are all in place to hasten the rebuilding of cowcod stocks. Cowcod bycatch impacts have been variable from 1.0 to 3.4 mt from 2004-2009, necessitating a higher ACL to accommodate fluctuations in trawl fishery impacts without disrupting the fishery. The Council-recommended trawl bycatch allowance of 1.8 mt of cowcod under the 4 mt ACL is essential to allow access to healthy stocks while maintaining a buffer for uncertainty from disaster tows which could cost 4 million dollars to coastal communities if the fishery is shut down south of Cape Mendocino. Out of the 4 mt ACL, 1 mt has not been allocated to any sector to act as a buffer for management uncertainty relative to the projected impacts, resulting in a defacto ACT of 3 mt. Maintaining this buffer is essential as the trawl fishery adjusts to the rationalized fishery structure. Cowcod constrain the depth restrictions in the southern California recreational fishery to 60 fm.

Amendment to Motion 12 carried. Mr. Lockhart abstained.

Mr. Wolford asked Ms. Culver if the motion includes direction to Council staff to send the supporting materials for the Council's preferred alternatives. Ms. Culver said yes.

Main Motion 12 as amended carried. Mr. Lockhart abstained.

Ms. Vojkovich moved (Motion 13) to reaffirm the Council's final preferred management measures for 2011-2012 relative to the CCA in southern CA; to allow retention of shelf rockfish in the current 20 fm depth restriction, which is a separate issue from moving the CCA boundary from 20 to 30 fm. Currently the fish are being discarded and wasted. This management measure would allow for those species to be retained. Further, she moved the Council re-affirm the management measure that would expand the available fishing area in the CCA from 20 to 30 fm. Mr. David Crabbe seconded the motion.

Ms. Vojkovich said the CDFG and GAP reports state that the impacts have already been assumed and projected within the current impacts. That is, no new impacts are expected for these changes to management measures. The way we have been modeling all along is over-estimating the impacts, and we heard NMFS should reconsider their recommendation because there is new information.

Motion 13 carried. Mr. Lockhart abstained.

Dr. McIsaac noted that the schedule for reconsidering Amendment 16-5 and 2012 harvest specifications will be discussed under Agenda Item K.4.

Mr. Sones said that the community of Neah Bay is not well-represented in the Council process; the Makah Tribe is located out of Neah Bay and they do not have advocates in this process. The actions taken to date relative to yelloweye rockfish have virtually eliminated the non-Indian landings in this port. We have felt the impacts of these decisions. To further reduce yelloweye may impact the opportunity to land dogfish into Neah Bay and provide jobs, as mentioned under public comment. We are in dire straits, the infrastructure is going down and the tribes are looking at any opportunities to support their communities. We also believe the implementation of trawl rationalization will further disadvantage Neah Bay. The tribes also support more research to learn more about yelloweye rockfish; we are making big decisions with very little information. We need to also look across the border to Canada and in some way, incorporate their information into our process.

H.3 Pacific Whiting Harvest Specifications for 2011 (03/07/11; 4:10 p.m.)

H.3.a Agenda Item Overview

Mr. John DeVore provided the agenda item overview.

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

Dr. Martin Dorn provided Agenda Item H.3.b, Supplemental SSC Report. Mr. Niles and Dr. Jason Cope provided Agenda Item H.3.b, Supplemental GMT Report. Mr. Ancona provided Agenda Item H.3.b, Supplemental GAP Report.

Mr. Moore asked about the GMT recommendation for yield set-asides and the high value of 2,808 mt of whiting bycatch in the pink shrimp fishery. Mr. DeVore explained that estimate came from the 2007 total mortality report produced by the Northwest Fisheries Science Center.

Mr. Moore asked if the GMT considered the change in Oregon regulations to mandate smaller hard grates in pink shrimp trawls, which is anticipated to significantly reduce whiting bycatch and Mr. Niles said no.

Mr. Moore asked if a probability of overfishing (P^*) of 0.125 is precautionary for a tier 1 stock and Dr. Cope said it is much lower (i.e., more risk-averse) than a P^* of 0.45.

H.3.c Public Comment (4:40 p.m.)

Mr. Joe Bersch, Phoenix Processor LPs, Seattle, WA
Mr. David Jincks, commercial trawler, Newport, OR
Mr. Brent Paine, United Catcher Boats, Seattle, WA
Mr. John Bundy, Glacier Fish Company, Seattle, WA
Mr. Mike Hyde (with John Bundy), American Seafoods/Glacier Fish, Seattle, WA
Ms. Donna Parker, Arctic Storm, Seattle, WA
Mr. Steve Hughes, Gold Alaska Fisheries, Seattle, WA

H.3.d Council Action: Adopt Final 2011 Stock Assessment, Allowable Biological Catch, and Optimum Yield (Management Measures will be adopted under Inseason Adjustments, Agenda Item H.4, if needed)

Mr. Moore asked Mr. Lockhart if an ACL was set equal to the overfishing limit (OFL), would that violate National Standard 1 (NS1) guidelines given the treaty exemption for whiting. Mr. Lockhart said scientific uncertainty still needs to be considered.

Mr. Moore asked if the new Amendment 23 terminology or the old terminology should be used for harvest specifications and Ms. Sheila Lynch said either terminology can be used, just be clear about the intent and what harvest specification is recommended.

The actions taken from the situation summary were posted on the board.

Mr. Anderson asked Mr. DeVore if the first action should be to adopt the stock assessment and Mr. DeVore replied it would be appropriate to adopt the stock assessment with the two models that were recommended by the SSC.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 14) to adopt the whiting stock assessment that incorporates the two models as recommended by the SSC (Agenda Item H.3.a, Supplemental Attachment 1) as the best available science to be used for managing the 2011 whiting fishery.

Motion 14 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 15) to adopt a 2011 coastwide (U.S. plus Canada) Pacific whiting ABC (i.e., OFL under the new Amendment 23 FMP terminology) of 973,700 mt.

Mr. Anderson said this specification is a blended-model result derived by integrating the SS3 and corrected TINSS models as recommended by SSC.

Motion 15 carried unanimously.

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 16) to adopt a coastwide (U.S. plus Canada) 2011 Pacific whiting OY of 393,751 mt.

Mr. Anderson explained the assessment presented evidence of a strong 2008 year class, the strength of which is still relatively uncertain. However, further analysis indicated an OY of less than 400,000 mt is still precautionary given the more certain estimates of the relatively strong 2005 and 2006 year classes. This is evident in the decision tables provided in Agenda Item H.3.a, Supplemental Attachment 3.

Mr. Lockhart asked for clarification on the ABC and OY terminology of this motion and Motion 15. He asked if this is the old terminology prior to adoption of Amendment 23 and Mr. Anderson said yes. Under the new Amendment 23 terminology, the MSY harvest level is referred to as the overfishing limit (OFL), not the ABC, and the OY is referred to as the annual catch limit (ACL).

Motion 16 carried unanimously.

Mr. Moore asked Mr. Lockhart if NMFS had guidance on a tribal whiting set-aside value and Mr. Lockhart said a Council recommendation on a tribal whiting set-aside could be made. Mr. Anderson asked when the proposed rule for the whiting allocation is due and Mr. Lockhart said that will come out shortly. The final rule is expected to be published no earlier than April 11 coincident with publication of the 2011 specifications final rule. Mr. Lockhart said the Council could recommend a set-aside for research and incidental bycatch in the shrimp fishery and recognize that NMFS will later decide the tribal fishery set-aside after negotiations with the tribes are concluded.

Mr. Sones recused himself from any vote on a tribal set-aside since he participates in the tribal whiting fishery.

Mr. Moore moved and Mr. Myer seconded a motion (Motion 17) to adopt a research and incidental catch set-aside of 3,000 mt of Pacific whiting.

Mr. Moore explained that the use of smaller hard grate excluders in shrimp trawls will significantly reduce bycatch in that fishery.

Motion 17 carried unanimously.

The Council elected to not go forward with adopting a Pacific whiting set-side to accommodate 2011 tribal whiting fisheries because they did not have any information regarding the NMFS and tribal

negotiations. Mr. Anderson said his reluctance to vote on a tribal set-aside in no way means he is opposed to a tribal set-aside. Without any consultation with the tribes and NMFS, he is not qualified to make such a decision at this time.

H.4 Consideration of Inseason Adjustments – Part I

H.4.a Agenda Item Overview (03/08/11; 4:13 p.m.)

Ms. Ames provided the agenda item overview.

H.4.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Niles and Ms. Lynn Mattes summarized Agenda Item H.4.b, Supplemental GMT Report 1, Supplemental GMT Report 2, and Agenda Item H.4.b, Supplemental GMT PowerPoint. Mr. Tommy Ancona provided Agenda Item H.4.b, Supplemental GAP Report.

H.4.c Public Comment

None.

H.4.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2011 Groundfish Fisheries (Part II on Thursday, if needed)

Ms. Culver moved (Motion 19) to adopt Option 2 from the GMT report for the limited entry fixed gear daily trip limit fishery for sablefish north of 36° N. latitude, which includes a 7,000 lb/2 months limit for periods 1-3 and 6,500 lb/2 months for periods 4-6, maintaining the 2,000 lb weekly limit (see Table 3). Mr. Myer seconded the motion.

Ms. Culver said the GMT outlined the issue in the report and she hopes the data error in Pacific Fishery Information Network (PacFIN) will be resolved shortly; in the interim this was an appropriate step. She noted the Council can take additional action in June, if necessary.

Mr. Lockhart requests NMFS have the flexibility to implement this inseason change through the most appropriate rulemaking process. Ms. Culver concurred.

Motion 19 carried unanimously.

Mr. Moore moved (Motion 20) beginning in period 2 to adopt a modified 200 fm seaward boundary and a 100 fm shoreward boundary of the trawl RCA from 40°10' to 48°10' N. latitude. NMFS can decide the best regulatory process for implementation. Mr. Crabbe seconded the motion.

Ms. Ames asked Mr. Moore for further clarification based on Table 1, page 4 in the GMT report. Mr. Moore said he was trying to follow the GAP recommendation and withdrew and re-offered his motion; seconder agreed.

Mr. Moore moved (Motion 21), as listed in the GAP statement for period 2, implement a seaward boundary for the trawl RCA as a modified 200 fm line in the area between 40°10' N. latitude and 48°10' N. latitude; in the same area and period the shoreward boundary of the trawl RCA would be 100 fm. Mr. Crabbe seconded the motion.

Mr. Moore said the intent of the trawl IQ program was to make fishermen responsible for their actions. We have allocated target and overfished species. In exchange for carrying the burden of the rationalized fishery, we should provide the flexibility to allow successful harvest.

Mr. Lockhart said the Council made a lot of changes for the rationalized trawl fishery, yet there were some components that the Council purposely did not change – like Rockfish Conservation Areas (RCAs). He was uncomfortable opening up the area right now; there is not enough information available. Mr. Lockhart was open to consider RCA adjustments in the future, but at this time we are only 7 weeks into the program.

Mr. Moore understands Mr. Lockhart's concerns. He noted that his motion would modify the RCA for less than one two-month period by the time the inseason adjustment would take place. The deepwater portion that would be opened by this motion has been regularly fished; it is not unfamiliar territory. It has been a few years since we had a shoreward boundary of 100 fm. He referred to Table 1 of Supplemental GMT Report 1, page 3, which shows low landings of overfished species.

Motion 21 failed (7 no, 5 yes, 1 abstention).

Ms. Ames informed the Council the inseason agenda item was finished and Agenda Item H.6 Consideration of Inseason Adjustments, Part 2 is unnecessary.

H.5 Trawl Rationalization Trailing Actions and Allocation Amendments

H.5.a Agenda Item Overview (03/09/2011; 8:20 a.m.)

Mr. Jim Seger provided the agenda item overview. Mr. DeVore went over Amendment 21 implementation versus Amendment 6 allocations and set-asides. Mr. Seger then went through some slides that summarized the alternatives.

H.5.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Lockhart spoke about the rulemakings that had implemented the trawl rationalization program and the topics that NMFS proposes to cover in the first trawl rationalization program improvement and enhancement (PIE) rulemaking. In April, NMFS will provide specific proposal for the issues to be covered in the PIE rule. These issues will include the requirements and limitations on moving between limited entry and open access fisheries (particularly with respect to nongroundfish trawl), catch accounting, clarifying requirements on the timing for submission of e-tickets, and the possibility of suspending accounts or fishing at the end of the year to allow for determination of carryover quota pound (QP) amounts. Other issues might be added, such as modifying provisions related to observers remaining on board until offloading has been completed or providing more flexibility for gear modifications. NMFS believes this rule is important and would like this to be a priority for Council action.

(10 a.m.)

Mr. Corey Niles presented Agenda Item H.5.b, Supplemental GMT Report. Mr. Ancona presented Agenda Item H.5.b, Supplemental GAP Report. Mr. Dayna Matthews presented Agenda Item H.5.b, Supplemental EC Report.

H.5.c Public Comment (03/09/2011; 10:49 a.m.)

Mr. Brett Hearne, trawler, Newport, OR

Mr. Bryan Belay, MRAG Americas, Anchorage, AK
Mr. Gary Ripka, F/V Western Breeze, Newport, OR
Mr. Brent Paine, United Catcher Boats, Seattle, WA
Mr. Paul Kujala, trawler, Warrenton, OR

Break from 11:45 a.m. to 1 p.m.

Mr. Kevin Dunn, commercial trawl fisherman, Astoria, OR
Mr. Mike West, MRAG Americas, Anchorage, AK
Ms. Heidi Happonen, Ocean Gold Seafoods, Westport, WA
Mr. Steve Hughes, United Catcher Boats, Seattle, WA
Mr. Mike Hyde, American Seafoods, Seattle, WA
Mr. Joe Sullivan, Environmental Defense, Seattle, WA
Mr. Merrick Burden, Environmental Defense, Seattle, WA

H.5.d Council Action: Adopt Appropriate Actions as needed and Preliminary Preferred Alternatives for Prioritized Trailing Issues (i.e., Amendment 21 versus Amendment 6; Pacific Halibut Bycatch Allocation; and Whiting Endorsement Severability Issues)

The Council discussion focused first on the question of whether there was sufficient specificity in the portion of Alternative 2 which focused on flexibility in the inseason management of set-asides and sufficient analysis on this issue in Amendment 21. Mr. DeVore identified that there had been some extensive discussion of set-aside flexibility in the EIS which supported Amendment 21. If it was covered in Amendment 21 it might be appropriately included in the PIE Rule. During the Council discussion a need was identified to be clear about the differences between allocations and set-asides and what can and cannot be done with each during the preseason and inseason processes. There was particular focus on the difference between tribal set-asides and non-tribal whiting set-asides. As the Council moves forward and gives further definition to the issue of flexibility with respect to set-asides, it will be important to involve the tribes in these discussions.

Ms. Vjokovich moved (Motion 22) that the Council select as its preliminary preferred alternative, Alternative 1 contained in Agenda Item H.5.a, Attachment 2, page 3. Mr. Crabbe seconded the motion. She indicated her understanding that the issue of whether or not the Amendment 21 allocations superseded the Amendment 6 allocations is one of process and that the set-aside issues covered in Alternative 2 can be separated and discussed in another amendment or regulatory process.

Ms. Culver amended the motion (Amendment #1 to Motion 22) to allow for flexibility for changes made to the tribal whiting set-aside, with the understanding that if doing so would further complicate the action on this so that we could not achieve a 2012 implementation, that we could separate it out and still move forward with the Amendment 21 allocations superseding Amendment 6. Mr. Myer seconded the motion.

Ms. Culver noted that the considerable discussion of rollover in Amendment 20 and 21 had centered on rollover of whiting amongst the non-tribal sectors. There was little to no discussion of the rollover of unharvested whiting between the tribal and nontribal sectors. That is a mechanism that had been available prior to the implementation of Amendment 20 and it was a surprise to learn that beginning in 2011 that mechanism would not be available. She is looking for the means to get that flexibility back. It would not be a mechanism that is prescriptive or hardwired, but would operate in much the same manner that it did in the past, whereby NMFS would contact the sectors to see whether or not they planned to harvest their remaining whiting and if not they could independently provide for a rollover outside of the Council process. It would not be automatically triggered but would be the result of consultation between NMFS and the four coastal treaty tribes.

Mr. Moore moved to amend Amendment #1 to Motion 22 (Amendment #2) to add in allowing flexibility for research estimates, incidental open access, and EFP set-asides. Mr. Mallet seconded the motion. Mr. Moore stated that this would follow the same process: if they become too complicated and additional work is required they can be dropped off and we can keep the intent of the original motion which prioritized Amendment 21 superseding Amendment 6. The motion did not include the flexibility for managing set-asides for the at-sea whiting fisheries. Amendment #2 carried unanimously. Amendment #1 carried unanimously. Motion 22 as amended carried unanimously.

Mr. Lockhart indicated that it was his intent to work with Council staff as quickly as possible after this meeting to address some of the issues such as NEPA coverage and regulatory details so we could come back as soon as possible.

Break.

Ms. Culver moved (Motion 23) that for the trawl halibut bycatch allocation, adopt Alternative 1 as the preliminary preferred alternative. Mr. Moore seconded the motion. She supported her motion noting the objectives for this action were cited in the GMT statement and that Alternative 1 accomplished all of the objectives. She indicated that Alternative 1 explicitly set out how halibut bycatch will be calculated each year, provides an overall cap, and allows for flexibility to adjust the percentage allocated, should the Council want to revise that through the biennial specifications process. With respect to the alternative introduced by the GAP, an alternative without a cap on the trawl allocation, she noted that this would conflict with the Council goal of reducing the trawl halibut bycatch mortality by 50 percent. For the other sectors that harvest halibut, including tribal, hook-and-line, and recreational, all quotas have been decreased by 40-50 percent except for the sablefish fishery north of Point Chehalis (which has been reduced by 100 percent for two years). If the total catch exploitation yield (TCEY) was as high as it was in 2004 through 2007 and there is no cap, the amount of trawl set-aside would be two to three times the amount allocated now and reduce the amount allocated to other sectors, sectors which have already been reduced by 40-50 percent. As the program moves ahead, the Council will learn more about the trawl sector's need for halibut bycatch mortality and will be able to make better, more informed decisions. Motion 23 carried unanimously.

Mr. Myer moved (Motion 24) that the Council select as their preliminary preferred alternative, Alternative 1 of H.5.a, Attachment 4, page 5, including bullets a, b, c, and d. Ms. Culver seconded the motion. Mr. Myer spoke to the motion indicating that under the rationalization program consolidation is expected and that trading is needed to boost efficiencies. Severability allows for efficiency, flexibility and stability. Stability is created because allowing endorsement transferability allows people to trade their catch history on a permanent basis rather than having to become a member of the co-op each year and lease to other co-op members. Mr. Lockhart indicated that some of his earlier concerns had been addressed and would support the motion but that he remained concerned about workload. Ms. Culver moved to amend the motion (amendment to Motion 24) such that in item d) the last sentence would read "Such endorsements together with the catch history could later be transferred away from the permit." Mr. Cedargreen seconded the motion. The amendment to Motion 24 carried unanimously. Motion 24 as amended carried unanimously.

Mr. Lockhart urged that the Council give NMFS and Council staff leeway to consider all that the Council has done and pick the appropriate pathways for consideration of these actions. This would not alter Council priorities.

The Council discussed convening an ad hoc committee along the lines recommended by the GAP in order to look at issues that can be addressed relatively quickly and easily but need input from NMFS, enforcement staff, etc. There are potentially a number of small changes that would allow fishermen to take advantage of the IFQ program as the Council intended. Concern was also expressed that some changes, such as specifying the details of the completion of e-fish tickets by first receiver, including the reporting of exvessel values, may not be as simple as they appear.

There was some question as to whether or not NMFS will be able to have all of the material needed for cost recovery ready for the April Council meeting. If it is not ready then, it will be ready by June.

The PIE rule will be brought forward to the Council in the NMFS report at the April meeting. The PIE rule may or may not be ready for adoption as a preliminary preferred alternative at that time. The target implementation for the PIE rule would be January 1, 2012. At this time NMFS expects to move the PIE rule forward as a whole but there is some chance that some parts may be separated out. NMFS believes that Amendment 21 superseding Amendment 6, halibut trawl allocation, cost recovery and the PIE rule are the highest priority items. Given workload constraints it appears something may have to be set as a lower priority in order to address these highest priority items.

Ms. Culver moved (Motion 25), working off Agenda Item H.5.a, Attachment 1, the items that the Council will consider in April (and all items will be couched as informational unless cost recovery happens to be ready for preliminary preferred alternative) would be cost recovery, PIE, QS/QP control rule safe harbor for community fishing associations (CFAs), risk pools, lenders, and adaptive management plan (AMP) pass through. Ms. Lowman seconded the motion. Ms. Culver clarified with respect to the term "informational" that this could include the provision of Council guidance on further development of the analysis and motions but not formal action. Motion 25 carried. Ms. Vojkovich voted no.

Mr. Williams indicated his intent to bring forward in April the possibility of the inclusion of the at-sea processing of fish caught under the IFQ program as part of the PIE rule. Council members also expressed hope that the PIE rule would take up the issues of observers having to remain on the vessel until the offload is completed. Mr. Lockhart indicated that the intent of the PIE rule is to address things within the intent of the Council. These will include things that do not need to come back to the Council, things that clearly need some Council input, and things that NMFS will discuss with Council staff as to whether or not there is need for further Council input. NMFS is open to discussion of things that need to be addressed urgently and whether they should be included in the PIE rule or whether there should be a second follow-on rule.

Dr. McIsaac indicated that if the Council is interested in putting together a committee to look at minor but urgent regulatory changes this could be put on the April agenda to consider membership and when they would meet. Ms. Lowman indicated that she would like to see the composition of a work group be placed on the April Council agenda. The group would work on the next set of priorities that would be taken up in the biennial specifications or some follow-on process. This would be a continuing process for a few meetings as we identify, prioritize, and schedule some of these actions. Mr. Wolford proposed that this was the sense of the Council. There were no objections. Ms. Culver concurred and stated that her intent for this group is that they would not be discussing policy or allocation issues but rather technical issues associated with implementation of the existing programs and the regulations we have in place. She asked that the Council have a draft to look at in April on the intent and composition of the group.

The Council agreed to take up the issue of having a special session on risk pools under future meeting agenda planning.

H.6 Consideration of Inseason Adjustments - Part II, if needed

This is agenda item was not needed and therefore canceled (See Agenda Item H.4).

I. Enforcement Issues

I.1 Current Enforcement Issues (03/08/2011; 8:08 a.m.)

I.1.a Agenda Item Overview

Mr. Jim Seger provided the agenda item overview.

I.1.b U.S. Coast Guard Annual West Coast Fishery Enforcement Report

RADM Blore shared some comments regarding the United States Coast Guard (USCG) initiatives, partnerships, and challenges to the success of the fisheries management programs. He spoke about experiences which showed commercial fishing is one of the most dangerous occupations. He noted that the USCG just started partnerships with Oregon and Washington and are participating in more interagency patrols.

LCDR Brian Chambers along with Mr. Dan Hardin, Fishing Vessel Safety Coordinator, presented Agenda Item I.1.b, Supplemental USCG PowerPoint. Mr. Hardin's presentation emphasized the safety requirements that vessels will be required to meet under the Coast Guard Reauthorization Act.

I.1.c Reports and Comments of Advisory Bodies and Management Entities

None.

I.1.d Public Comment

None.

I.1.e Council Discussion

Council members asked questions of the USCG and expressed their appreciation for the job the USCG does and the assistance they provide in our fishery management.

J. Ecosystem Based Management

J.1 Ecosystem Fishery Management Plan (FMP)

J.1.a Agenda Item Overview (03/08/11; 10 a.m.)

Mr. Mike Burner provided the agenda item overview.

J.1.b Integrated Ecosystem Assessment

Dr. John Stein introduced Dr. Francisco Werner the new Southwest Fisheries Science Center Director. Dr. Stein and Dr. Werner provided Agenda Item J.1.b, Supplemental IEA PowerPoint on the integrated

ecosystem assessments (IEA) and responded to Council questions on scoping, public outreach, and anticipated applications of the IEA. Dr. Stein noted that the IEA appreciates the feedback provided at this meeting and that the late-March deadline for input is flexible and that NOAA will be interested in continuing an iterative process with the Council.

**J.1.c Report and Recommendations of the Ecosystem Plan Development Team (EPDT)
(03/08/11; 10:53 a.m.)**

Ms. Yvonne deReynier presented Agenda Item J.1.c, Supplemental EPDT PowerPoint. She also walked the Council through Agenda Item J.1.c, Supplemental EPDT Report.

J.1.d Reports and Comments of Advisory Bodies and Management Entities

Mr. Dan Waldeck presented Agenda Item J.1.d, Supplemental EAS Report. Dr. Martin Dorn provided Agenda Item J.1.d, Supplemental SSC Report. Mr. Larry Hanson read Agenda Item J.1.d, Supplemental HC Report.

J.1.e Public Comment (03/08/2011; 1 p.m.)

Mr. Ben Enticknap, Oceana, Portland, OR

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

J.1.f Council Discussion

Mr. Burner reviewed the Council tasks and requested guidance in the Agenda Item Situation Summary and confirmed that no Council action is required at this meeting.

Mr. Moore asked Mr. Judson Feder, National Oceanic and Atmospheric Administration General Counsel (NOAA GC), whether MSA biological and management benchmarks (OFL, ABC, ACL, etc.) would be required for an Ecosystem Fishery Management Plan (EFMP) with management unit species which are included to protect their ecological role, such as forage species. Mr. Feder said yes, if the species are part of the management unit for fisheries then the answer is yes.

Mr. Feder clarified for Vice Chairman Wolford that species listed in an EFMP as Ecosystem Component species would not be subject to the same requirements because they are not part of the management unit, but they would also not be considered part of the regulatory regime or subject to significant management under the plan.

Ms. Culver stated that it was her understanding from Ecosystem Plan Development Team (EPDT) documents and discussions that if the Council went forward with an EFMP, the EFMP would need some management unit species that were actively managed before being able to identify ecosystem component species. Mr. Feder agreed that this would be the case for a formal FMP, but not for other, largely strategic or informational plans such as an FEP.

Ms. Culver moved (Motion 18) and Mr. Tim Roth seconded a motion to adopt the following on ecosystem:

1. As recommended by the Ecosystem Advisory Subpanel (EAS), schedule an EAS meeting for April 2011 to prepare information for the June Council meeting about alternative approaches to incorporating ecosystem management into the Council process, the pros and cons of those alternatives, and guidance on a recommended approach.

2. Schedule Council action at the June 2011 meeting to:
 - Provide guidance on whether the Ecosystem Plan should have regulatory authority and management unit species or not
 - Adopt the purpose and need of the Plan
3. In preparation for the June 2011 meeting, request Council Advisory Bodies review the Ecosystem Plan Development Team's (EPDT's) draft purpose and need statement (Sept 2010), and discussion document (March 2011) and provide comments and recommendations.
4. Schedule an EPDT meeting to review the comments from the Council's Advisory Bodies on these items and develop recommendations on the proposed action described in item # 2 above at the June Council meeting.
5. Schedule a meeting of the SSC Ecosystem-Based Subcommittee in mid-April and provide a report in June.
6. Request the EPDT identify, review and discuss how Integrated Ecosystem Assessments (IEAs) and other analytical tools or processes, could be used by the Council to assess and better understand the effects of fisheries and proposed Council actions on the California Current Ecosystem across the Council's FMPs, and provide a preliminary progress report in September 2011.

Ms. Culver spoke to the motion saying it is intended to include the recommendations by our advisory bodies and the public. She felt the Council should move forward with the development of this plan and should address the key policy questions regarding its regulatory authority and managed species. These recommendations should be coupled with Council guidance on the plan's purpose and need to help guide the EPDT and the Council into the next phase. The motion is also supportive of advisory body recommendations to coordinate a meeting schedule for review and discussion of these important topics and supporting documents.

Mr. Steve Williams and Mr. Moore raised questions about the coordination of the EPDT, the SSC, and the EAS under this motion. Ms. Culver and Mr. Burner clarified that the recommendations came largely from the EAS and other advisory bodies and that the EPDT would have a difficult time meeting before June and that several EPDT members were planning to attend the April EAS and SSC sessions that are partly planned as joint sessions between groups. It is anticipated that advisory body comments on the issues raised in their respective March 2011 reports would be addressed through these meetings, reported in the June 2011 Briefing Book, and considered by the EPDT at the June Council meeting.

Mr. Roth expressed support for the motion and noted that it lines up well with the HC's recommended tasks.

Mr. Lockhart asked about the motion's treatment of the EPDT recommendations on the IEA (#6 in the motion). Ms. Culver noted that the IEA team is planning to present a preliminary progress report at the September Council meeting. The proposed June Council guidance on the type of plan desired would help guide the preliminary IEA report accordingly.

Mr. Wolford asked what documents are included in item #3 in the motion. Specifically, does the motion exclude the comments submitted by Oceana on the plan's purpose and need? Ms. Culver stated that the focus would be on the EPDT reports from the September 2010 Council meeting (Agenda Item H.1.b, Attachment 1) and this meeting (Agenda Item J.1.b, Attachment 1) and that the motion did not intend to exclude any materials.

Mr. Wolford moved and Chairman Cedergreen seconded an amendment (Amendment #1 to Motion 18) to include the draft purpose and need statement received from Mr. Ben Enticknap of Oceana under public testimony (Agenda Item J.1.e, Supplemental Public Comment 2) in the review materials. Mr. Wolford

felt the Oceana perspective should be considered in the proposed advisory review to help us focus on the purpose and needs of this plan.

The Council confirmed for Mr. Burner that the intent of the motion as amended is to focus, but not limit, the review to particular reference materials.

Amendment #1 to Motion 18 carried unanimously.

Ms. Culver clarified for Ms. Yaremko that the proposed June Council decisions in the motion would not necessarily be permanent and noted that the motion was intentionally worded as Council “guidance” on the matter. However, Ms. Culver expressed the desire to be as open and candid as possible in June on what the Council wants the plan to be; that is, not to completely close the door to alternatives, but to send a strong position on the purpose and intent of the plan to the EPDT and the EAS.

Mr. Steve Williams recommended that the advisory bodies focus their June reports to the Council on the pros and cons of the variety of plan approaches available.

Ms. Yaremko expressed concerns that the motion prematurely schedules significant Council guidance and moved (Amendment #2 to Motion 18) to sever the first bullet “*Provide guidance on whether the Ecosystem Plan should have regulatory authority and management unit species or not*” from Item #2 of the main motion. Mr. Rod Moore seconded the amendment for discussion purposes. Ms. Culver recognized the significance and complexity of the proposed June Council action and stated that Item #2 is a focal point of the motion. She felt that the EPDT and other advisory bodies are asking for this Council guidance to move forward on matters of substance after years of working on the initial phase of the plan. Mr. Lockhart and Mr. Williams agreed with Ms. Yaremko that this will be a difficult decision, but they also agreed that the item is an important part of the motion and an important part of the future development of the plan. Amendment #2 to Motion 18 did not pass.

Motion 18 as amended carried unanimously.

K. Administrative Matters

K.1 Legislative Matters

K.1.a Agenda Item Overview (03/10; 11:06 a.m.)

Mr. Burner provided agenda item overview.

K.1.b Legislative Committee Report

Mr. Burner read Agenda Item K.1.b, Supplemental LC Report.

K.1.c Reports and Comments of Advisory Bodies and Management Entities

Mr. Tim Roth presented Agenda Item K.1.b, Supplemental HC Report. Ms. Culver asked Dr. Hanson if he had any concerns with including the recommendations of the HC with those of the LC in a single letter from the Council. Dr. Hanson responded that he did not have concerns so long as the Council was in agreement.

K.1.d Public Comment

None.

K.1.e Council Action: Consider Legislative Committee Recommendations

Dr. Hanson moved and Mr. Moore seconded a motion (Motion 32) to adopt Agenda Item K.1.b, Supplemental Legislative Committee Report and the recommendations of the Habitat Committee in K.1.c, Supplemental Habitat Committee Report. Motion 32 carried. Mr. Lockhart abstained.

K.2 Approval of Council Meeting Minutes

K.2.a Council Member Review and Comments

Mr. Moore and Ms. Culver provided corrections under Council action.

K.2.b Council Action: Approve March 2010 Council Meeting Minutes

Mr. Moore moved and Mr. Mallet seconded a motion (Motion 33) to approve the March 2010 Council meeting minutes as shown in Agenda Item K.2.a, Attachment 1, with the following correction: on page 32, the fourth sentence in the second paragraph from the bottom of the page should read “Mr. Moore stated that the motion accurately reflects the current allocation among the three sectors.” Ms. Culver moved to amend Motion 33 (seconded by Mr. Moore) to include the following additional change: on page 34 under F.1.e, the point of contact should be changed from “Alaska Fisheries Science Center” to “Northwest Fisheries Science Center.” Motion 33 as amended carried unanimously.

K.3 Membership Appointments and Council Operating Procedures

K.3.a Agenda Item Overview (03/10/11; 11:28 a.m.)

Dr. John Coon provided the agenda item overview which listed the need for Council consideration of two advisory body positions. In addition, he noted the need to solicit nominations for a processor and northern open access position on the Groundfish Advisory Subpanel (GAP).

K.3.b Reports and Comments of Advisory Bodies and Management Entities

None.

K.3.c Public Comment

Mr. Tommy Ancona, Tommy’s Marine Service, Ft. Bragg, CA

K.3.d. Council Action: Consider Changes to Council Operations and Procedures and Appointments to Advisory Bodies

Ms. Vojkovich moved and Mr. Brizendine seconded a motion (Motion 34) for the Council to appoint Ms. Deb Wilson-Vandenberg to the California Department of Fish and Game position on the Ecosystem Plan Development Team. Motion 34 passed unanimously.

Mr. Steve Williams moved and Mr. Moore seconded a motion (Motion 35) for the Council to confirm the appointment of LT David Anderson to the Oregon State Police position on the Enforcement Consultants. Motion 35 passed unanimously.

The Council further directed staff to solicit nominations for the vacant GAP positions with a deadline to allow consideration of the positions at the June Council meeting. Chairman Cedergreen appointed Ms. Susan Chambers to act as an interim appointment to the processor position on the GAP. No interim appointment was made for the northern open access position. In the interim, the southern open access position (Mr. Dan Platt) and Mr. Gerry Richter (fixed-gear at-large position) will serve to represent the needs of the northern open access fishery.

K.4 Future Council Meeting Agenda and Workload Planning

K.4.a Agenda Item Overview (11:40 a.m.)

Dr. Don McIsaac reviewed the standard supplemental attachments 3 and 4 (year-at-a-glance and April Council meeting agenda) and the supplemental public comment (regarding the economic analysis of the North American albacore industry). He noted that the new items that had been added to the April agenda were: approval of a new CPS methodology, a risk pool briefing, and a briefing on the MBNMS Ecosystem-Based Management Initiative.

Mr. Lockhart stated that there will be no new information to provide the Council at the April meeting regarding action to implement the 2011 and 2012 groundfish specifications and management measures. Ms. Culver suggested scheduling the ecosystem agenda item in September rather than November and also delaying the MBNMS Ecosystem-Based Management Initiative to September.

K.4.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Mike Burner read Agenda Item K.4.b, Supplemental SSC Report (regarding workload for the groundfish process improvements, CPS methodologies, and sardine assessment).

K.4.c Public Comment

None.

K.4.d Council Action: Approve April 2011 Agenda and Provide Guidance on Future Council Meeting Agendas and Priorities for Advisory Body Consideration

Council members expressed concern with the length of Council meetings and the complexity of the issues. Ms. Culver proposed that the April Council meeting could be handled in five days rather than six. She proposed the following changes to make that possible: delay the HMS NMFS report to September and the albacore management item to June, remove the marine spatial planning (MSP) item or have it as an information report, delay the Marine Protected Areas agenda item (MBNMS Ecosystem-Based Management Initiative) to September, move the first groundfish inseason adjustment to Monday to allow a day between it and the second part, shorten the time for the risk pool briefing and have it in conjunction with the trawl rationalization item, and put the program improvement and enhancement issues in a separate agenda item.

Ms. Lowman expressed concern with removing the MSP item since there is an MSP meeting coming up and the Council's place in the process is not assured. We need to be actively involved at this time. Mr. Helvey noted a need to keep the albacore item on the April agenda.

Dr. McIsaac agreed that the MBNMS item doesn't seem that urgent and could wait until September. He noted that Mr. Lockhart had indicated providing a report on planning for the Pacific halibut programmatic environmental impact statement at the April meeting. Ms. Culver stated that issue should not come up again until March 2012. Mr. Steve Williams agreed with Ms. Culver and suggested Mr. Lockhart could give a short prescoping summary in the NNMFS report.

Regarding the 2012 groundfish measures, Mr. Lockhart indicated there would likely be no new information by April and that agenda item could be dropped.

In response to questions by Dr. McIsaac, Ms. Culver stated that she preferred the meeting start at 8:00 a.m. on the first day and be five full days rather than extending to six days with some half day sessions. Other Council members expressed some concern with trying to compress the meeting to five days. However, by dropping or delaying some of the items identified above, it appeared possible to do.

Regarding workload, Ms. Vojkovich proposed that the primary issue for the GMT should be inseason management, followed by the 2013-14 groundfish management process, and the trawl rationalization trailing actions. She wasn't sure the GMT would need to be involved much in the groundfish essential fish habitat issue and that the whole team would not have to stay for all of the trailing actions. The Council was in general agreement.

Dr. McIsaac stated he would use the Council's advice on agenda planning to aim for a five-day meeting.

ADJOURN

The Council adjourned at 12:45 p.m. on Thursday, March 10, 2011.

DRAFT VOTING LOG
Pacific Fishery Management Council
207th Meeting
March 2011

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

Moved by: Rod Moore

Seconded by: Dave Ortmann

Motion 1 carried unanimously.

Motion 2: Adopt the EFP proposals for public review (Agenda Item C.1.a); with the following changes: include the recommendations from the CPSAS; include the recommendations from CPSMT (all but not #6, and #2); and make the recommendation for 2,700 mt.

Moved by: Rod Moore

Seconded by: Michele Culver

Amndmnt: Referring to the CPSMT Report, Item #2, that it be worded to read “it would be a priority for the EFP to take place between the 2nd and 3rd allocation period but could continue into the 3rd period if needed.”

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Amendment to Motion 2 carried unanimously.

Motion 2 as amended carried unanimously.

Motion 3: Approve and send the letter to the OCNMS as reflected in the draft letter under Agenda Item D.1.c.

Moved by: Michele Culver

Seconded by: Dale Myer

Amndmnt: Change the first sentence under the bullet at the top of page 3 of the draft letter to read as follows (changes in bold): “The Council supports the prohibition on discharge of treated and untreated water in the Sanctuary by cruise ships [Section II Part 4], and **agrees** that this regulation **should** not address discharges from other oceangoing vessels, including fishing vessels.”

Moved by: Rod Moore

Seconded by: Steve Williams

Amendment passed. Mr. Frank Lockhart abstained.

Motion 3 passed as amended. Mr. Frank Lockhart abstained.

Motion 4: Adopt for public review the options for incidental Pacific halibut retention in the non-Indian commercial salmon troll fishery as shown in Agenda Item F.2.b, Supplemental Revised REVISED SAS Report.

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 4 carried unanimously.

Motion 5: Adopt the stock abundance forecasts as shown in Tables I-1 and I-2 of Preseason Report I.

Moved by: Phil Anderson
Motion 5 carried unanimously.

Seconded by: Steve Williams

Motion 6: Reconsider Motion 5.

Moved by: Rod Moore
Motion 6 carried unanimously.

Seconded by: Dorothy Lowman

Motion 7: Amend Motion 5 to include changes on Table I-1, page 7 to read Willapa bay Fall Chinook for 2011: 32.5 (thousand) hatchery, and 4.3 (thousand) natural.

Moved by: Dale Myer
Amendment carried unanimously.
Main Motion 5 as amended by Motion 7 carried unanimously.

Seconded by: Rod Moore

Motion 8: Adopt the STT's recommendation for determining KRFC overfishing concern ended, as contained in Preseason Report I; and confirm implementation of the actions required by the Council's overfishing concern and conservation alert procedures in the salmon FMP.

Moved by: Dan Wolford
Motion 8 carried unanimously.

Seconded by: Steve Williams

Motion 9: The criterion for ending the SRFC overfishing concern shall be based on the default criterion in the FMP of meeting the minimum spawning escapement objective, which for SRFC is 122,000, and was exceeded in 2010 with an escapement of 125,000; therefore the overfishing concern is ended.

Moved by: Dan Wolford
Motion 9 carried unanimously.

Seconded by: Buzz Brizendine

Motion 10: Based on the STT assessment and recommendations the SRFC stock was not overfished and is now rebuilt.

Moved by: Dan Wolford
Motion 10 was not voted on.

Seconded by: Rod Moore

Motion 11: As a substitute motion, adopt Alternative 3 from Table 2 in the STT overfishing assessment (Agenda Item G.3.b, Supplemental SRFC Stock Assessment) as overfished criteria for Sacramento River fall Chinook (SRFC) and Table 3 as overfishing criteria for SRFC, indicating SRFC were not overfished and did not experience overfishing.

Moved by: Marija Vojkovich

Seconded by: Phil Anderson

Motion 11 carried unanimously.

Motion 12: Reaffirm the Council's harvest specifications with regard to yelloweye at a 20 mt ACL and 17 mt ACT.

Moved by: Michele Culver

Seconded by: Rod Moore

Amendmnt: Include the Council's preferred alternative for a cowcod ACL of 4 mt.

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Amendment #1 to Motion 12 carried. Mr. Lockhart abstained.

Main Motion 12 as amended carried. Mr. Lockhart abstained.

Motion 13: Reaffirm to NMFS, relative to 2011-2012 management measures, the CCA in southern CA; and to allow retention of shelf rockfish in the current 20 fm depth restriction; and expand the available fishing area in the CCA to the 30 fm depth range.

Moved by: Marija Vojkovich

Seconded by: David Crabbe

Motion 13 carried. Mr. Lockhart abstained.

Motion 14: Adopt the whiting stock assessment that incorporates the two models; representing the best available science, and use for the 2011 whiting fishery.

Moved by: Phil Anderson

Seconded by: Rod Moore

Motion 14 carried unanimously.

Motion 15: Adopt for 2011 Pacific whiting an ABC of 973,700 mt.

Moved by: Phil Anderson

Seconded by: Dale Myer

Motion 15 carried unanimously.

Motion 16: Adopt a coastwide OY for 2011 Pacific whiting of 393,751 mt, with clarification the ABC and OY terminology in this case is the "old terminology."

Moved by: Phil Anderson

Seconded by: Marija Vojkovich

Motion 16 carried unanimously.

Motion 17: Adopt a set aside of 3,000 mt for research and incidental catch.

Moved by: Rod Moore

Seconded by: Dale Myer

Motion 17 carried unanimously.

Motion 18: Adopt the following regarding the ecosystem fishery management plan:

1. As recommended by the Ecosystem Advisory Subpanel (EAS), schedule an EAS meeting for April 2011 to prepare information for the June Council meeting about alternative approaches to incorporating ecosystem management into the Council process, the pros and cons of those alternatives, and guidance on a recommended approach.
2. Schedule Council action at the June 2011 meeting to:
 - o Provide guidance on whether the Ecosystem Plan should have regulatory authority and management unit species or not
 - o Adopt the purpose and need of the Plan
3. In preparation for the June 2011 meeting, request Council Advisory Bodies review the Ecosystem Plan Development Team's (EPDT's) draft purpose and need statement (Sept 2010), and discussion document (March 2011) and provide comments and recommendations.
4. Schedule an EPDT meeting to review the comments from the Council's Advisory Bodies on these items and develop recommendations on the proposed action described in item # 2 above at the June Council meeting.
5. Schedule a meeting of the SSC Ecosystem-Based Subcommittee in mid-April and provide a report in June.
6. Request the EPDT identify, review and discuss how Integrated Ecosystem Assessments (IEAs) and other analytical tools or processes, could be used by the Council to assess and better understand the effects of fisheries and proposed Council actions on the California Current Ecosystem across the Council's FMPs, and provide a preliminary progress report in September 2011

Moved by: Michele Culver

Seconded by: Tim Roth

Amdmnt#1: Include the draft purpose and need statement received from Mr. Ben Enticknap of Oceana under public testimony (Agenda Item J.1.e, Supplemental Public Comment 2) in the review materials

Moved by: Dan Wolford

Seconded by: Mark Cedergreen

Amendment #1 to Motion 18 carried unanimously.

Amdmnt#2: Sever the first bullet "*Provide guidance on whether the Ecosystem Plan should have regulatory authority and management unit species or not*" from Item #2 of the main motion..

Moved by: Marci Yeremko

Seconded by: Rod Moore

Amendment #2 failed.

Main Motion 18 as amended carried unanimously.

Motion 19: Adopt Option 2 from the GMT report for the limited entry fixed gear daily trip limit fishery for sablefish north of 36° N. latitude, which includes a 7,000 lb/2 months limit for periods 1-3 and 6,500 lb/2 months for periods 4-6, maintaining the 2,000 lb weekly limit (see Table 3).

Moved by: Michele Culver

Seconded by: Dale Myer

Motion 19 carried unanimously.

Motion 20: Beginning in period 2, adopt a modified 200 fm seaward boundary and a 100 fm shoreward boundary of the trawl RCA from 40°10' to 48°10' N. latitude. NMFS can decide the best regulatory process for implementation.

Moved by: Rod Moore

Seconded by: David Crabbe

Motion 20 withdrawn, not voted on.

Motion 21: as listed in the GAP statement for period 2, implement a seaward boundary for the trawl RCA as a modified 200 fm line in the area between 40°10' N. latitude and 48°10' N. latitude; in the same area and period the shoreward boundary of the trawl RCA would be 100 fm.

Moved by: Rod Moore

Seconded by: David Crabbe

Motion 21 failed on a roll call vote (7 no, 5 yes, 1 abstained).

Ms. Culver, Mr. Myer, Ms. Vojkovich, Mr. Lockhart, Mr. Brizendine, Mr. Wolford, and Mr. Cedergreen voted no. Mr. Sones abstained.

Motion 22: Select as its preliminary preferred alternative, Alternative 1 contained in Agenda Item H.5.a, Attachment 2, page 3.

Moved by: Marija Vojkovich

Seconded by: David Crabbe

Amdmnt #1: To allow for flexibility for changes made to the tribal whiting set-aside, with the understanding that if doing so would further complicate the action on this so that we could not achieve a 2012 implementation, that we could separate it out and still move forward with the Amendment 21 allocations superseding Amendment 6.

Moved by: Michele Culver

Seconded by: Dale Myer

Amdmnt 2: Add in allowing flexibility for research estimates, incidental open access, and EFP set-asides.

Moved by: Rod Moore

Seconded by: Jerry Mallet

Amendment #2 carried unanimously. Amendment #1 carried unanimously.

Main Motion 22 as amended twice carried unanimously.

Motion 23: For the trawl halibut bycatch allocation, adopt Alternative 1 as the preliminary preferred alternative.

Moved by: Michele Culver

Seconded by: Rod Moore

Motion 23 carried unanimously.

Motion 24: Select as the preliminary preferred alternative, Alternative 1 of H.5.a, Attachment 4, page 5, including bullets a, b, c, and d:

Alternative 1 –MS/CV Endorsement Severability. *Modify the regulations to achieve the following.*

- a. The MS/CV whiting endorsement (together with the associated catch history) *may be* severed from the groundfish LE trawl permit (the endorsement and catch history stay together).
- b. Catch history associated with the whiting endorsement may not be subdivided.
- c. The severed endorsement and catch history may be transferred together to any limited entry trawl permit (if the permit to which the MS/CV endorsement is transferred already has an MS/CV endorsement, multiple MS/CV endorsements would be stacked on the single permit).
- d. The endorsement and catch history would be maintained separately on the limited entry permit (i.e., stacked, but not merged or combined with any other endorsement or catch history on the permit). Such endorsements could later be transferred away from the permit.

Moved by: Dale Myer

Seconded by: Michele Culver

Amdmnt: Change item “d” such that the last sentence would read “Such endorsements together with the catch history could later be transferred away from the permit.”

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Amendment carried unanimously.

Main Motion 24 as amended carried unanimously.

Motion 25: Working off Agenda Item H.5.a, Attachment 1, the items the Council will consider in April, and all items will be couched as “informational” unless cost recovery happens to be ready for preliminary preferred, would be cost recovery, PIE, QS/QP control rule safe harbor for CFAs, risk pools, lenders, and AMP pass through.

Moved by; Michele Culver

Seconded by: Dorothy Lowman

Motion 25 carried. Ms. Vojkovich voted no.

Motion 26: Adopt for public review the alternatives for non-Indian commercial and recreational fisheries north of Cape Falcon presented in Agenda Item G.8.b, Supplemental STT Report.

Moved by: Pat Patillo

Seconded by: Dale Myer

Motion 26 carried unanimously.

Motion 27: Adopt for public review the alternatives for treaty-Indian commercial fisheries north of Cape Falcon presented in Agenda Item G.7.b, Supplemental STT Report.

Moved by: David Sones

Seconded by: Rod Moore

Motion 27 carried unanimously.

Motion 28: Adopt for public review the alternatives for non-Indian commercial and recreational fisheries between Cape Falcon and the Oregon/California border presented in Agenda Item G.8.b, Supplemental STT Report.

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 28 carried unanimously.

Motion 29: Adopt for public review the alternatives for non-Indian commercial and recreational fisheries south of the Oregon/California border presented in Agenda Item G.8.b, Supplemental STT Report.

Moved by: Marija Vojkovich
Motion 29 carried unanimously.

Seconded by: David Crabbe

Motion 30: Go forward with development of preliminary preferred alternatives for halibut bycatch retention in fixed gear sablefish fisheries, including the discussion points contained in the Supplemental GAP and GMT reports; including an alternative confining retention to the limited access sablefish fishery; conducting an analysis of these and the alternatives in the ODFW report; and incorporating the analyses in the NMFS NEPA process.

Moved by: Steve Williams
Motion 30 was not voted on.

Seconded by: Rod Moore

Motion 31: A substitute to Motion 30 for the Council to discontinue any further exploration of Pacific halibut bycatch retention in the limited entry fixed gear sablefish and open access fisheries.

Moved by: Marija Vojkovich

Seconded by: Michele Culver

Amndmnt 1: The Council will discontinue any further exploration of Pacific halibut bycatch retention in the sablefish open access fisheries, but continue to explore incidental catch retention of Pacific halibut in the limited entry fixed gear sablefish fishery south of Point Chehalis in a manner that does not result in increased yelloweye rockfish mortality.

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Amendment 1 to Motion 31 carried. Mr. Pollard, Mr. Ortmann, and Ms. Vojkovich voted no.

Main Motion 31 as amended carried. Mr. Pollard and Mr. Ortmann voted no.

Motion 32: Adopt Agenda Item K.1.b, Supplemental Legislative Committee Report and the recommendations of the Habitat Committee in K.1.c, Supplemental Habitat Committee Report.

Moved by: David Hanson

Seconded by: Rod Moore

Motion 32 carried, Mr. Lockhart abstained.

Motion 33: Approve the March 2010 Council meeting minutes as shown in Agenda Item K.2.a, Attachment 1, with the following correction: on page 32, the fourth sentence in the second paragraph from the bottom of the page should read “Mr. Moore stated that the motion accurately reflects the current allocation among the three sectors.”

Moved by: Rod Moore

Seconded by: Jerry Mallet

Amndmnt 1: Include the following additional change: on page 34 under F.1.e, the point of contact should be changed from “Alaska Fisheries Science Center” to “Northwest Fisheries Science Center.”

Moved by: Michele Culver

Seconded by: Rod Moore

Amendment 1 to Motion 33 passed unanimously. Main Motion 33 as amended passed unanimously.

Motion 34: Appoint Ms. Deb Wilson-Vandenberg to the CDFG position on the Ecosystem Plan Development Team.

Moved by; Marija Vojkovich
Motion 34 carried unanimously.

Seconded by: Buzz Brizendine

Motion 35: Confirm the appointment of LT David Anderson to the Oregon State Police position on the Enforcement Consultants.

Moved by: Steve Williams
Motion 35 carried unanimously.

Seconded by: Rod Moore

FISCAL MATTERS

The Council's Budget Committee will meet on Tuesday, June 7, 2011, at 3:30 P.M. to consider budget issues as outlined in the Budget Committee Agenda.

The Budget Committee's Report is scheduled for Council review and approval on Monday, June 13.

Council Action:

Consider the report and recommendations of the Budget Committee.

Reference Materials:

1. Agenda Item F.3.b, Supplemental Budget Committee Report.

Agenda Order:

- | | |
|---|--------------|
| a. Agenda Item Overview | John Coon |
| b. Budget Committee Report | Jerry Mallet |
| c. Reports and Comments of Advisory Bodies and Management Entities | |
| d. Public Comment | |
| e. Council Action: Consider the Report and Recommendations of the Budget Committee | |

PFMC
05/17/11

REPORT OF THE BUDGET COMMITTEE

The Budget Committee (BC) met on Tuesday, June 7, 2011 and received the Executive Director's Budget Report. The report covered: (1) status of funding and expenditures for calendar year (CY) 2011 under the second year of the 2010-2014 Award; (2) a proposed operational budget for CY 2011; (3) expectations for future funding; (4) an update on advisory body stipends; and (5) other budget related issues. The BC attendance was as follows:

Present: Mr. Jerry Mallet, Chairman; Mr. Mark Helvey, Mr. Mark Cedergreen, Mr. Rod Moore, Ms. Michele Culver, and Mr. Dan Wolford

Absent: Dr. Dave Hanson and Mr. Frank Lockhart

Nonmembers Present: Dr. John Coon, Ms. Patricia Crouse, Mr. Donald Hansen, Ms. Dorothy Lowman, Dr. Donald McIsaac, Mr. David Ortmann, Ms. Carolyn Porter, Mr. Gerry Richter, Ms. Marija Vojkovich, Mr. Steve Williams

Summary of CY 2011 Funding

Dr. McIsaac reported on new funding received or expected by the Council under the second year of the 2010-2014 Award. He reported that National Marine Fisheries Service Headquarters indicated that primary CY 2011 funding will be at the same level as CY 2010. Given that guidance, the Council could expect to receive slightly less than \$4.2 M in CY 2011 funds from primary sources. Dr. McIsaac reported there have been favorable signals that the Council might receive additional supplemental funding from regional sources this year to support trailing actions for trawl rationalization for CYs 2011-2013. There is also a request for supplemental funding for highly migratory species (HMS) management activities.

Proposed CY 2011 Budget and Status of Expenditures

Based on Council guidance from November 2010 and cost updates since then, Dr. McIsaac presented the BC with a proposed CY 2011 operational budget of \$4,748,877 (about \$20,000 less than the provisional status quo budget level approved at the November 2010 Council meeting). This budget should maintain status quo operations for the Council and Council staff while allowing a reserve to protect operations in 2012. The status quo operations include the increased 2010 funding level for the liaison contracts with the states and Pacific States Marine Fisheries Commission (PSMFC) and other ongoing programs (e.g., ecosystem plan development, advisory body stipends, and the initial phase of the groundfish biennial management process and environmental impact statement).

Expenditure of the proposed CY 2011 budget is proceeding within normal expectations for the first four months of the year. When additional supplemental funds become available for trawl rationalization trailing actions and highly migratory species management, staff will propose appropriate amendments to the CY 2011 budget for Council approval. This will likely occur at the September meeting.

Preliminary Expectations for Future Funding

Dr. McIsaac reported that with the current state of budget negotiations within Congress and the Administration, there is obviously significant uncertainty about the regional council funding levels for 2012 and 2013. It seems very likely Federal funding in general will decrease, but it is too early for any meaningful speculation about the amount of decrease for regional councils.

Stipend Payment Update

Dr. McIsaac reported that the proposed CY 2011 budget includes about \$73,000 for advisory body stipends. In 2010, the Council paid a total of nearly \$85,000 to eligible advisory body members, which allowed payment at a rate of \$109 per meeting day.

Committee Discussion of Other Budget Related Issues

The BC discussed impending vacancies for three committee seats and the need for a new chairman with the resignation of Mr. Mallet and the end of Council service for Mr. Cedergreen and Mr. Moore. Members noted the committee composition has traditionally included the Council chair and generally one non-agency member from each state (which may be inclusive of the Council chair and has varied somewhat with regard to the Idaho member). The general composition also includes one position for the Northwest and Southwest NMFS regions and the PSFMC Council member. With the departure of Mr. Mallet resulting in the loss of an Idaho representative of the BC, members noted the experience of Mr. David Ortmann (former Council Chair and second designee for the State of Idaho) as a possible replacement. The committee positions are appointed by the Council Chair and are expected to be determined prior to the September meeting.

The committee expressed deep appreciation for Mr. Mallet's dedicated service as BC Chairman over the past five years (since September 2006) and especially noted his emphasis on providing budget documents to the BC well ahead of the actual meeting.

Because funding for CY 2012 does not look good, the BC also explored potential ways of generating savings in Council expenditures, including the budget impacts of reducing the compensation for Council Member travel days, and travel and compensation costs relating to a second Council Vice Chair.

Budget Committee Recommendations

Recognizing the base operational funding received by the Council in 2011, the Council guidance from November 2010, and the uncertainties of the budget process for 2012 with a likely decrease in funding, the BC recommends the Council adopt:

1. The proposed initial CY 2011 operational budget of \$4,748,877.

Additionally, due to budget concerns, the BC recommends:

2. The elimination of the second Council Vice Chair position for the August 11, 2011-August 10, 2012 term.
3. For Council meeting agenda planning, the final day of each Council meeting be targeted for a half day of agenda items to facilitate homeward travel on the same day and to reduce travel day compensation for Council members.

PPMC
06/11/11

MEMBERSHIP APPOINTMENTS AND COUNCIL OPERATING PROCEDURES

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

Election of Council Chair and Vice Chairs

The Council is slated to elect officers at this meeting. As amended in November of 2007, Council Operating Procedure (COP) 1 provides for election of Council officers as follows:

The Chair and two Vice Chairs of the Council shall be elected by majority vote of Council members present and voting. Generally, elections are held during the June Council meeting. Officers shall serve one-year terms, which commence August 11 and end August 10 of the following year. Appointments may be renewed for additional one-year terms by majority Council vote at the next June meeting. The Chair may not serve more than two consecutive one-year terms.

Council Members and Designees

The newly appointed Director of the Idaho Department of Fish and Game, Mr. Virgil Moore, has replaced Mr. Cal Groen as Idaho's principal State Official Council member. Director Moore has also noted that Mr. Jerry Mallet intends to end his services to the Council following the June meeting. Therefore, effective September 1, Director Moore has designated Mr. Groen as his first designee while retaining Mr. David Ortmann as his second designee (Attachment 1).

As previously noted in April, effective in July of this year, RADM Gary Blore will be retiring from the U.S. Coast Guard. His replacement, RADM Keith Taylor, will be the new Council member. No changes in the Coast Guard's two designees (LCDR Brian Chambers and Mr. Brian Corrigan) are planned (Attachment 2).

Standing Council Member Committee Appointments

The completion of Council Chair Mark Cedergreen's third Council member term in August and the resignation of Mr. Mallet after the June Council meeting will result in two vacancies on the Budget Committee. The Budget Committee will also need a new Chair since Mr. Mallet has served ably in that position since August of 2006. These and any other standing committee changes resulting from Council member appointments should be handled by the new Council Chair prior to the September Council meeting.

Council Advisory Body Appointments

Scientific and Statistical Committee (SSC)

Oregon Department of Fish and Wildlife (ODFW) have designated Dr. David Sampson to replace Mr. Tom Jagielo as the ODFW representative on the SSC (Closed Session A.1.a, Attachment 3).

Management and Technical Teams

Highly Migratory Species Management Team (HMSMT)

Washington Department of Fish and Wildlife (WDFW) have designated Mr. Kirt Hughes to replace Ms. Carol Henry as the WDFW representative on the HMSMT (Closed Session Attachment 4).

The Inter-American Tropical Tuna Commission (IATTC) have designated Mr. Ricardo Belmontes as the new IATTAC representative on the HMSMT (Closed Session A.1.a, Attachment 5). He replaces Mr. Brian Hallman.

Salmon Technical Team (STT)

The California Department of Fish and Game (CDFG) have designated Ms. Jennifer Simon to replace Ms. Melodie Palmer-Zwahlen as the CDFG representative on the STT (Closed Session A.1a, Attachment 6).

Advisory Subpanels

Groundfish Advisory Subpanel (GAP)

As of the May 18 deadline, the Council has received the nominations provided in the table below for the three vacancies on the GAP. The nominations are contained in Closed Session A.1.a, Attachments 7-9.

Position	Nominee	Nominated by:
Processor at-large	Mr. Richard Carroll [At. 7 (1)] Ocean Gold Seafoods Ms. Susan Chambers [At. 7 (2-5)] West Coast Seafood Processors Mr. Donald Alber [At. 7 (6)] Alber Seafoods, Inc.	Greg Shaughnessy, Ocean Gold Seafoods Tom Libby; Angela Cincotta, Alioto Fish Co.; Jim Caito, Caito Fisheries, Inc.; and Point Conception Groundfishermen's Assoc. Self
Northern Open Access	Mr. Jeff Miles [At. 8]	Port Orford Ocean Resource Team
Washington Charter Boat Operator	Mr. Mark Cedergreen [At. 9]	Westport Charterboat Assoc.

Enforcement Consultants (EC)

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

Groundfish Allocation Committee (GAC)

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

Habitat Committee (HC)

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

Groundfish Essential Fish Habitat Review Committee (EFHRC)

At the April Council meeting, the Council officially designated a Tribal Government position on the EFHRC and confirmed Mr. Joe Schumacher to serve in that position with an alternate of Ms. Jennifer Hagen.

Ad Hoc Council Committees

At the April meeting, the Council established a new ad hoc committee to advise the Council on technical corrections and other fixes needed in the trawl rationalization regulations. Agenda Item F.4.a, Attachment 1 provides the charge and membership for this ad hoc committee and the members currently appointed by the Council Chair.

Unfilled Vacancies

The Tribal Government Position on the Habitat Committee remains unfilled at this time.

Appointments to Other Forums

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

Changes to Council Operations and Procedures

No new changes have been made to the Council Operating Procedures (COP) or Statement of Organization, Practices, and Procedures.

Council Action:

Consider issues with regard to election of officers, appointments, and potential COP changes. Specifically:

- 1. Elect the Council Chair and Vice Chairs.**
- 2. Confirm the appointment of Dr. David Sampson to the ODFW position on the SSC.**
- 3. Confirm the appointment of Mr. Kirt Hughes to the WDFW position on the HMSMT.**
- 4. Confirm the appointment of Mr. Ricardo Belmontes to the IATTC position on the HMSMT.**
- 5. Confirm the appointment of Ms. Jennifer Simon to the CDFG position on the STT.**

6. Fill the vacancies on the GAP (Processor at-large, Northern Open Access, and Washington Charter Boat Operator) from the list of nominees.

Reference Materials:

1. Closed Session A.1.a, Attachment 1: Letter from Mr. Virgil Moore, Director IDFG, updating official Council member and designees.
2. Closed Session A.1.a, Attachment 2: Letter from RADM Blore, updating official Council member and designees.
3. Closed Session A.1.a, Attachment 3: Designation of Dr. David Sampson as the ODFW SSC representative.
4. Closed Session A.1.a, Attachment 4: Designation of Mr. Kirt Hughes as the WDFW representative to the HMSMT.
5. Closed Session A.1.a, Attachment 5: Designation of Mr. Ricardo Belmontes as the IATTC representative on the HMSMT.
6. Closed Session A.1.a, Attachment 6: Designation of Ms. Jennifer Simon as the CDFG representative to the STT.
7. Closed Session A.1.a, Attachment 7: Nominations to the vacant Processor At-Large position on the GAP.
8. Closed Session A.1.a, Attachment 8: Nomination of Mr. Jeff Miles to the Northern Open Access position on the GAP.
9. Closed Session A.1.a, Attachment 9: Nomination of Mr. Mark Cedergreen to the Washington Charter Boat Operator position on the GAP.
10. Agenda Item F.4.a., Attachment 1: Ad Hoc Committee Charge and Seats for the Trawl Rationalization Evaluation Committee.

Agenda Order:

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

John Coon

PFCM
05/18/11

**AD HOC COMMITTEE CHARGE AND SEATS FOR THE TRAWL
RATIONALIZATION EVALUATION COMMITTEE**

- Committee Name: Trawl Rationalization Regulatory Evaluation Committee (TRREC)
- Objective: Use expertise of selected individuals with knowledge of the operational aspects and regulations for the groundfish fishery to assist the Council by developing recommendations for regulatory changes to address specific regulatory issues identified by the Council and assigned to the TRREC
- Duties: Specifically, the TRREC:
- Will identify and discuss specific regulatory changes in an effort to resolve issues identified by the Council.
 - Shall not address policy or allocation issues that have not been specifically assigned by the Council.
 - New regulatory issues arising through TRREC discussions (as identified by TRREC members or the public) should be noted and summarized by Council staff at the end of TRREC reports. Such regulatory issues could be reviewed and vetted through the Council advisory bodies at a future Council meeting.
 - It is anticipated that the majority of the issues addressed by the TRREC will be relative to the shoreside sector. Individuals (e.g., observer provider, LE fixed gear) or groups (e.g., at-sea whiting) may be added to the TRREC to address specific issues, as needed.

Proposed Candidate Seats for Primary Group (Shoreside):

3 Shoreside Non-whiting Catcher Vessels (1 from each state: WA, OR, CA)
1 Shoreside Whiting Catcher Vessel
1 Shoreside Non-whiting Processor
1 Shoreside Whiting Processor

Agency Representatives:

Agencies should have the appropriate representatives available at the meetings to participate in the discussions and comment on proposed regulatory changes, including staff from NMFS OLE, NMFS NW Region, NOAA General Counsel, and PSMFC. Additionally, the Council would cover travel expenses for one representative from each state to attend the TRREC meetings.

See Page 2 for currently appointed membership.

TRREC Membership

Shoreside Non-whiting Catcher Vessel - WA	Marion Larkin
Shoreside Non-whiting Catcher Vessel – OR	Paul Kujala
Shoreside Non-whiting Catcher Vessel – CA	Travis Hunter
1 Shoreside Whiting Catcher Vessel	David Jincks
1 Shoreside Non-whiting Processor	Andrew Bornstein
1 Shoreside Whiting Processor	Tom Libby
For Agencies: “Appropriate representatives” (not limited to just one)	
NMFS NWR	Jamie Goen
NMFS OLE	Dayna Matthews
NOAA GC	James Mize
PSMFC	Dave Hanson
WDFW	Mike Cenci
ODFW	Dan Erickson
CDFG	Bob Farrell

PFMC
05/18/11

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 September 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 September 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, the proposed September Council meeting agenda, and workload priorities for Council staff and advisory bodies.

Council Task:

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

Reference Materials:

1. Agenda Item F.5.a, Attachment 1: Pacific Council Workload Planning: "Preliminary Year at a Glance Summary."
2. Agenda Item F.5.a, Supplemental Attachment 2: Preliminary Proposed Council Meeting Agenda, September 13-19, 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 Discussion and Guidance on Future Council Meeting Agendas and Workload Planning

Don McIsaac

PFCMC
05/20/11

Pacific Council Workload Planning: Preliminary 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>September 2011</u> (San Mateo)	<u>November 2011</u> (Costa Mesa)	<u>March 2012</u> (Sacramento)	<u>April 2012</u> (Seattle)	<u>June 2012</u> (TBD)
CPS	SWFSC & Industry Methods Workshop Rpt	NMFS Rpt Sardine Asmnt & Mgmt Meas.	EFPs: for Pub Rev	NMFS Report EFPs: Final Recom.	NMFS Rpt Mackerel HG & Mgmt Meas.
Groundfish	NMFS Report Inseason Mgmt (2) 2013-14 Bien Spx 2013-14 Mgmt Measures Approve Stk Assmnts Part 2 A16-5; & 2012 Spx & Mgmt Measures Update Trlng Actions: PPA--Lenders; FPAs--CFA, Risk P, Cost R. A20 Emerging & Prioritized Iss. Plan Sci. Imprvmnts-Next Cycle Preliminary EFPs for 2012	NMFS Report Inseason Mgmt (2) 2013-14 Bien Spx 2013-14 Mgmt Measures Approve Stk Assmnts-Mop-up Only if nec. & RB Analyses Trlng Actions: FPA--Lenders A20 Emerging Iss.-Init. Analysis Final EFPs for 2012 & Prelim EFPs for 2013-14	NMFS Report Inseason Mgmt BienSpx & Mgmt 2013-14 Briefing on Selected Items Adopt 2015-16 Stock Assmnt Plan PPA for Pub Rev Pac Whiting Mgmt Meas. A20 further refinement	NMFS Report Inseason Mgmt BienSpx & Mgmt 2013-14 for Pub Rev (3) Adopt Stk Assmnt Plan-Final Trlng Actions: PPA Review Initial EFH Report	NMFS Report Inseason Mgmt (2) BienSpx & Mgmt 2013-14 (2) Adopt Final Trlng Actions: PPA/FPA Final EFPs for 2013-14
HMS	NMFS Report Swordfish Workshop Rpt Consider Pac Bluefin Tuna OF	NMFS Report Consider Pac Bluefin Tuna OF Input to WCPFC	WCPFW Update on Albacore	NMFS Report	NMFS Report Changes to Routine Mgmt Measures for Pub Rev Internat'l RFMO Matters
Salmon	NMFS Rpt Method Rev: Adopt Priorities Including CRT Update & Winter Run Assessment Consider A-17 (EFH) Alts.	NMFS Rpt 2011 Method Rev.--Final Final CRT Recom'dations 2012 Preseas'n Mgmt Schd	NMFS Rpt 2012 Season Setting (6) Cons. Obj. Report Consider A-17 (EFH) PPA	NMFS Rpt 2011 Method Rev.--Identify & Include CRT Update 2011 Season Setting (3)	
Other	Pacific Halibut (2) MBNMS EBMI CA State Enforcement Rpt Habitat Issues Ecosystem FMP & Role of IEAs Deepwater Coral Update & Research Recommendations CMSP Routine Admin (8)	Pac Halibut: Adopt Final CSP Habitat Issues Ecosystem FMP Dev Plan Annual Ecosystem Rpt Ocean Obsrv. Init. Rpt Routine Admin (8)	Pacific Halibut (2) Incidental Halibut Ret. in LE Sablefish Fishery--PPA Habitat Issues Routine Admin (7)	Halibut-Incidntl Regs Annual CG Enforcement Rpt Habitat Issues Routine Admin (7)	Incidental Halibut Ret. in LE Sablefish Fishery--FPA Habitat Issues Ecosystem FMP Routine Admin (8)
Apx. Floor Time	6+ days	6+ days	5+ days	5 days	5 days

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PROPOSED COUNCIL MEETING AGENDA, SEPTEMBER 12-19, 2011 SAN MATEO, CALIFORNIA
(shaded items are scheduled on a tentative basis)

	Wed, Sep 14	Thu, Sep 15	Fri, Sep 16	Sat, Sep 17	Sun, Sep 18	Mon, Sep 19
	OPEN SESSION 9:30 AM 1-4. Opening & Approve Agenda (30 min) ECOSYSTEM BASED MGMT 1. Integrated Ecosystem Assessment Example (1 hr) MARINE PROTECTED AREAS 1. Monterey Bay NMS Ecosystem Based Mgmt Initiative (1 hr) HABITAT 1. Current Issues (30 min) HIGHLY MIGRATORY SPECIES 1. NMFS Rpt (1 hr) 2. Swordfish Mgmt Wrkshp Rpt & FMP Amendment Implications (2 hr)	ADMINISTRATIVE 1. Legislative Matters (30 min) GROUNDFISH 1. NMFS Report (1 hr) 2. Update & Hearing on Secretarial Amendment for 16-5 & 2012 Specifications & Mgmt Measures (2 hr) 3. Approve Stock Assessments (Part 2) from July & Aug STAR Panels (3 hr) 4. Set Preliminary Scope of Biennial Management Changes & Adopt Final OFLs and Preliminary P*s/ABCs for 2013-2014 Groundfish Spx (2 hr) [Continue Friday if Nec]	GROUNDFISH 4. Continue: Set Preliminary Scope of Biennial Management Changes & Adopt Final OFLs and Preliminary P*s/ABCs for 2013-2014 Groundfish Spx (1 hr) 5. Adopt Preliminary 2012 EFP Recom'dations for Public Review (1 hr) 6. Trawl Rationalization Issues: Adopt PPA or FPA for Lenders, Risk Pools, CFA, & Cost Recovery (6 hr)	SALMON 1. Progress Reports on Columbia River Tule Abundance Based Methodology & Sacramento Winter Run BO Revisions (2 hr) 2. Adopt Priorities for Methodology Review (1 hr) PACIFIC HALIBUT 1. Proposed Changes to 2012 Regs for Public Review (30 min) 2. Review Halibut Bycatch Estimate for IPHC (1 hr) GROUNDFISH 7. Consider Inseason Adjustments – Part I (2 hr) 8. A-20 Emerging Issues (2 hr) [Continues on Monday]	GROUNDFISH 8. Continue with: A 20 Emerging Issues (5 hr) 9. Adopt Final & Preliminary 2013-2014 Groundfish Spx & Prioritized Range of Mgmt Measures as Provided in the Biennial Mgmt Process (3 hr) [Continues Monday if Necessary]	GROUNDFISH 9. Continue: Adopt Final & Preliminary 2013-2014 Groundfish Spx & Prioritized Range of Mgmt Measures as Provided in the Biennial Mgmt Process (1 hr) 10. Plan Science Improvements for next Cycle (2 hr) 11. Consider Inseason Adjustments– Part 2, if needed (1 hr) ADMINISTRATIVE 2. Approve Council Minutes (15 min) 3. Fiscal Matters (15 min) 4. Membership Appointments & COPs (15 min) 5. Future Meeting Agenda & Workload Planning (30 min)
Mon, Sep 12						
8 am SSC Economics SubCmte	CLOSED SESSION (1 hr)					
Tue, Sep 13	7 hr	8 hr 30 min	8 hr	8 hr 30 min	8 hr	5 hr 15 min
8 am Secretariat 8 am GAP & GMT 8 am HMSMT & AS 8 am SSC 8:30 am HC 2:00 pm Leg Cmte 3:30 pm BC	8:00 am Chr Brfg 8:00 am GAP & GMT 8:00 am HMSMT & AS 8:00 am STT 8:00 am SSC 4:30 pm EC 7:30 pm Stock Assessment Briefing	As Nec. EC 8:00 am GAP & GMT 8:00 am STT & SAS 8:00 am SSC 6:00 pm Chair's Reception	As Nec. EC 8:00 am GAP & GMT 8:00 am SAS & STT	As Nec. EC 8:00 am GAP & GMT	As Nec. EC 8:00 am GAP & GMT	As Nec. EC

Agenda Item F.5.a
 Sup. Attachment 2
 June 2011

PROPOSED COUNCIL MEETING AGENDA, SEPTEMBER 12-19, 2011 SAN MATEO, CALIFORNIA
(shaded items are scheduled on a tentative basis)

Other Candidate Agenda Items for Consideration

- **Open Comment Period** (45 min)
 - Salmon EFH Scoping for A-17 (2 hr)
 - FEP Process & Schedule (2 hr)
 - CMSP Briefing (1 hr)
 - Deepwater Coral Update & Research Recommendations (1 hr)
 - CA State Enforcement Rpt (1 hr)
 - NMFS Salmon Report (1 hr)
 - Overfishing Status of Bluefin Tuna (1 hr)
-

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>September 2011</u> (San Mateo)	<u>November 2011</u> (Costa Mesa)	<u>March 2012</u> (Sacramento)	<u>April 2012</u> (Seattle)	<u>June 2012</u> (San Mateo)
CPS	SWFSC & Industry Methods Workshop Rpt	NMFS Rpt Sardine Asmnt & Mgmt Meas.	EFPs: for Pub Rev	NMFS Report EFPs: Final Recom. Pac Mackerel Inseason Rev if Nec.	NMFS Rpt Mackerel HG & Mgmt Meas.
Groundfish	NMFS Report Inseason Mgmt (2) 2013-14 Bien Spx & Mgmt Measures Approve Stk Assmnts Part 2 A16-5; & 2012 Spx & Mgmt Measures Update & Hearing Trlmg Actions: PPA--Lenders; FPAs--CFA, Risk P, Cost R. A20 Emerging & Prioritized Iss. Plan Sci. Imprvmnts-Next Cycle Preliminary EFPs for 2012 Evening Stock Assmnt Briefing	NMFS Report Inseason Mgmt (2) 2013-14 Bien Spx 2013-14 Mgmt Measures Approve Stk Assmnts-Mop-up A-24: New Spx & MM Process Initial Discussion Trlmg Actions: FPA--Lenders A20 Emerging Iss.-Init. Analysis Final EFPs for 2012 & Prelim EFPs for 2013-14	NMFS Report Inseason Mgmt BienSpx & Mgmt 2013-14 Briefing on Selected Items Adopt 2015-16 Stock Assmnt Plan PPA for Pub Rev A-24: Scope New Process Pac Whiting Mgmt Meas. A20 further refinement	NMFS Report Inseason Mgmt BienSpx & Mgmt 2013-14 for Pub Rev (3) Trlmg Actions: PPA Review Initial EFH Report	NMFS Report Inseason Mgmt (2) BienSpx & Mgmt 2013-14 (2) Adopt Final Adopt Stk Assmnt Plan-Final A-24: Preliminary Alts. New Spx & MM Process Trlmg Actions: PPA/FPA Final EFPs for 2013-14
HMS	NMFS Report Swordfish Workshop Rpt Consider Pac Bluefin Tuna OF	NMFS Report Consider Pac Bluefin Tuna OF Input to WCPFC	WCPFW Update on Albacore	NMFS Report	NMFS Report Changes to Routine Mgmt Measures for Pub Rev Internat'l RFMO Matters
Salmon	NMFS Rpt Method Rev: Adopt Priorities Progr Rpts: CRT Abundance- Based Method & Winter Run BO Revisions Scoping for A-17 (EFH) Alts.	NMFS Rpt 2011 Method Rev.--Final Final CRT Recom'dations 2012 Preseas'n Mgmt Schd	NMFS Rpt 2012 Season Setting (6) Cons. Obj. Report Scoping of A-17 (EFH)	NMFS Rpt 2011 Method Rev.--Identify & Include CRT Update 2011 Season Setting (3)	
Other	Pacific Halibut (2) MBNMS EBMI CA State Enforcement Rpt Habitat Issues Integrated Ecosystem Asmnt Deepwater Coral Update & Research Recommendations CMSP Routine Admin (8)	Pac Halibut: Adopt Final CSP Habitat Issues Ecosystem FMP Dev Plan Annual Ecosystem Rpt Ocean Obsrv. Init. Rpt Routine Admin (8)	Pacific Halibut (2) Incidental Halibut Ret. in LE Sablefish Fishery--PPA Habitat Issues CMSP Routine Admin (7)	Halibut-Incidntl Regs Annual CG Enforcement Rpt Habitat Issues Routine Admin (7)	Incidental Halibut Ret. in LE Sablefish Fishery--FPA Habitat Issues Ecosystem FMP Routine Admin (8)
Apx. Floor Time	6.4 days	6.5 days	5.8 days	5.0 days	5.2 days

GROUND FISH MANAGEMENT TEAM REPORT ON THE FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

The Groundfish Management Team (GMT) reviewed Agenda Item F.5.a. Attachment 1, Preliminary Year-at-a Glance Summary and offer the following regarding the September 2011 Council meeting for Council consideration. The table on the next page is our best estimate of the Council's priorities for that meeting. The items with a "yes" in the table are those that we expect the team can best inform Council decision. We request specific guidance if the Council has different expectations. Per usual, Council staff requests flexibility to adjust team priorities and schedules if new issues develop.

The Council action under Agenda Item E.4 has created some uncertainty on what tasks will be taken on for 2013-14, with the Council deciding to make as few changes as possible from the Secretarial Amendment. Expectations will naturally differ on what will be necessary to consider, some of which might affect GMT workload (e.g., factors to consider when setting P* range of alternatives). We recognize that the tasks will depend on results from stock assessments and rebuilding analyses and so are not known at this time. Nonetheless, some additional guidance at this time on criteria and expectations from the Council might be helpful for our September preparations. As recommended by the Groundfish Process Improvement Committee, it is important for expectations to be clear on items for decision and analytical requirements for decision prior to critical feedback points in the process.

Finally, we would like to express our continued preference that more complex issues be scheduled as late as possible in the agenda to allow for more complete analysis and time for statement development.

September 2011 Council Meeting GMT potential workload

Groundfish Agenda Items	GMT Statement?	GMT Priority	GMT Considerations
1. NMFS Report	no		Statement decision dependent upon contents included in the NMFS report. May include an update on the publishing of the 2012 harvest specifications and management measures.
2. Prelim EFP recommendations	yes	*	Required in the COP for the GMT to review.
			Discussions about changing COP 19 will happen under the 2013-14 SPEX agenda item.
3. Inseason Adjustments	yes	*	
4. 2013-2014 Biennial Spex and Mgmt. Measures:	yes	*	
a) Evaluation of Stock Complexes			Provide update for SSC review in time for BB deadline.
b) Range of P* alternatives and PPA P* values			GMT requests a publicly noticed conference call with SSC over the summer to talk about considerations for P*, if this topic is to be addressed by the Council and SSC in September.
c) Range of ABC alternatives			
d) Prioritized range of new management measures			Council decision for reduced scope and complexity of new management measures.
5. Approve Stock Assessments, part II	yes	*	
6. Am 16-5 and 2012 spex update	maybe		NMFS will update in September, could possibly require inseason adjustments for the start of 2012 in Nov.
7. TIQ trailing amendments	maybe		May not need a discussion/statement unless specific issues are highlighted for the Team by the Council or NMFS.
8. A-20 emerging and prioritized issues	maybe		May not need a discussion/statement unless specific issues are highlighted for the Team by the Council or NMFS.
9. Plan Sci Improvements for next cycle	yes	*	GMT would like to provide input.
10. Inseason II	yes	*	Dependent on the outcome of Inseason I.
Non-Groundfish Agenda Items			
11. Ecosystem FMP & role of IEAs	maybe		GMT might like the opportunity to comment.
12. Pacific Halibut CSP	no		Requires attention of some members of the GMT.
13. Future Workload Planning	maybe		This is the opportunity for the GMT to provide feedback on our upcoming workload.
Total Potential Statements by the GMT		11	