

LEGISLATIVE MATTERS

The Pacific Fishery Management Council's (Council's) Legislative Committee (Committee) is scheduled to meet Tuesday, September 13th at 2:00 p.m. to review a variety of legislative matters of interest to the Council. Council staff has provided a summary of legislation introduced in the 112th U.S. Congress (Agenda Item F.1.a, Attachment 1) for potential review at the September Council meeting. It is anticipated that the Committee will focus the majority of its time discussing a formal request from U.S. Congresswoman Grace Napolitano (Agenda Item F.1.a, Attachment 2) regarding H.R. 1837, the San Joaquin Valley Water Reliability Act.

On May 11th, U.S. Congressman Devin Nunes (CA) and two cosponsors introduced H.R. 1837, the San Joaquin Valley Water Reliability Act (Agenda Item F.1.a, Attachment 3). H.R. 1837 addresses water use in California's Central Valley Project (CVP) through, among other things, amendments to the Central Valley Project Improvement Act (CVPIA), changes to the implementation of the Endangered Species Act (ESA), and repeal of the San Joaquin River Restoration Settlement Act. Specific to fishery matters, the bill changes the CVPIA definition of "anadromous fish" to include only native salmon and sturgeon stocks present in the Sacramento and San Joaquin Rivers as of October 30, 1992, prohibits the Secretary of Commerce from distinguishing between natural-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making ESA determinations, and considers all requirements for the protection and conservation of the species listed under the ESA to be fully met if water projects are operated in a manner consistent with the Bay-Delta Accord of December 15, 1994. Additionally, H.R. 1837 would change the way funds dedicated to river and wildlife restoration would be collected and administered.

H.R. 1837 has raised considerable concerns within the Oregon and California salmon industry, including several former members of the Council and the Council family (Agenda Item F.1.d, Public Comment). Salmon industry representatives and Mr. Will Stelle, the National Marine Fisheries Service's (NMFS) West Coast Salmon Coordinator and Administrator for NMFS Northwest Regional Office testified in opposition to the bill at a June hearing held by the U.S. House Subcommittee on Water and Power. Mr. Stelle concluded his testimony by stating that, "If enacted, this law would hasten the decline of salmon in the Central Valley and Delta and negatively impact the Delta ecosystem and the economy of the state of California and the nation." In her July 5, 2011 letter to Council Executive Director, Dr. Donald McIsaac (Agenda Item F.1.a, Attachment 2), Congresswoman Napolitano acknowledges the economic impacts of the 2008 and 2009 fishery closures enacted by the Council in response to the collapse of Sacramento River fall Chinook stocks and states that the June hearings highlighted the need for more information on the impacts of H.R. 1837 on fisheries, the fishing industry, tourism and coastal economies. Congresswoman Napolitano specifically requests Council comments on H.R. 1837's impacts to salmon populations, habitat, fisheries management, and fishermen.

Council Action:

- 1. Consider the recommendations of the Legislative Committee.**
- 2. Approve a response to Congresswoman Napolitano regarding H.R. 1837.**

Reference Materials:

1. Agenda Item F.1.a, Attachment 1: September 2011 Staff Summary of Federal Legislation in the 112th U.S. Congress.
2. Agenda Item F.1.a, Attachment 2: July 5, 2011 formal request for Council comments on H.R. 1837 from U.S. Congresswoman Grace Napolitano.
3. Agenda Item F.1.a, Attachment 3: H.R. 1837, the San Joaquin Valley Water Reliability Act.
4. Agenda Item F.1.b, Supplemental Legislative Committee Report.
5. Agenda Item F.1.d, Public Comment

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

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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.

Key Legislation for the September 2011 Legislative Committee (Committee) Meeting

H.R. 1837 San Joaquin Valley Water Reliability Act - Amends the Central Valley Project Improvement Act (CVPIA) to redefine "anadromous fish" for purposes of such Act as those native stocks of salmon and sturgeon that, as of October 30, 1992, were present in the Sacramento and San Joaquin Rivers and their tributaries and ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean. Excludes striped bass and American shad from such definition.

Considers all requirements of the Endangered Species Act of 1973 (ESA) to be fully met for the protection and conservation of the species listed pursuant to that Act for the operations of the CVP and the California State Water Project (SWP) if such Projects are operated in a manner consistent with the "Principles for Agreement of the Bay-Delta Standards Between the State of California and the Federal Government" dated December 15, 1994 (Bay-Delta Accord). Preempts California requirements for the conservation of any species listed under ESA for the CVP and SWP that are more restrictive than the 1994 Bay-Delta Accord.

Prohibits the Secretary from distinguishing between natural-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making ESA determinations. Introduced March 8, 2011 by Congressman Hastings, Washington Status: Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs on March 10th.

Directs the Secretary of the Interior, upon request of the contractor, to renew any existing long-term repayment or water service contract that provides for the delivery of water from the CVP for a period of 40 years and renew such contracts for successive 40-year periods. Requires a contract entered into or renewed pursuant to this provision to include a provision that requires the Secretary to charge only for water actually delivered.

Directs the Secretary to take actions to facilitate and expedite CVP water transfers. Prohibits the Secretary from imposing mitigation or other requirements on a proposed transfer. Authorizes the Secretary to modify CVP operations to provide reasonable water flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish.

Prohibits the Secretary from requiring a payment to the CVP Restoration Fund, or environmental restoration or mitigation fees not otherwise provided by law, as a condition to providing for storage or conveyance of non-CVP water. Requires the Secretary to submit a plan for the

expenditure of funds in the Fund, including a cost effectiveness analysis of each expenditure. Establishes a Restoration Fund Advisory Board. Preempts any state law that imposes more restrictive requirements or regulations on activities authorized with respect to San Joaquin River restoration.

Repeals the San Joaquin River Restoration Settlement Act. Directs the Secretary: (1) to cease any action to implement the San Joaquin River Restoration Settlement Act and the Stipulation of Settlement; (2) in each water year (October 1-September 30), commencing with the year starting on October 1, 2012, to modify Friant Dam operations so as to release the Restoration Flows (the minimum flow of 50 cubic feet per second at Sack Dam) for that water year; and (3) in cooperation with representatives of affected landowners, to develop and implement a least-cost plan to fully mitigate the impact on groundwater resources within the service area of the Friant Division, Hidden Unit, and Buchanan Unit of the CVP caused by the release of restoration flows. Establishes within the Treasury a San Joaquin River Fishery Restoration Fund.

Introduced May 11, 2011 by Representative Nunes (CA). Referred to the Subcommittee on Water and Power. Hearings held in June 2011.

For more information:

See the complete list of references for Agenda Item F.1 in the September 2011 Council Briefing Book.

Written testimonies and archived webcasts from the June 2011 hearings on H.R. 1837 can be found at: <http://naturalresources.house.gov/Calendar/List.aspx?CategoryID=5937>.

Legislation Discussed at the June 2011 Committee Meeting

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.

Hearings were held on June 14, 2011 and Council comments approved at the June 2011 were submitted via letter from Executive Director, Dr. Donald McIsaac. No Congressional action since.

Legislation Recently Introduced in the 112th Congress

H.R. 2753 Fishery Management Transparency and Accountability Act– Amends Section 302(i)(2) of the Magnuson-Stevens Fishery Conservation and Management Act to require regional fishery management councils to provide on their web sites a live broadcast of each

meeting of the Council, the Science and Statistical Committee, and the Council Coordination Committee and to provide three years worth of audio and/or video recordings as well as transcripts.

Introduced August 1, 2011 by Representative Jones, North Carolina, and referred to the House Committee on Natural Resources.

H.R. 2304 Fishery Science Improvement Act of 2011 Amends the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 to postpone from fishing year 2011 to 2014 the effective date upon which a mechanism for specifying annual catch limits and accountability measures for fisheries other than those determined by the Secretary of Commerce to be subject to overfishing must be established in fishery management plans prepared by any Regional Fishery Management Council or the Secretary, implementing regulations, or annual specifications.

Makes the catch limit mechanism, for all fisheries, inapplicable to a fishery for any stock of fish: (1) for which a peer reviewed stock survey and stock assessment have not been performed during the five-year period before enactment of this Act and for which the Secretary determines overfishing is not occurring, and (2) that is an ecosystem stock. Defines "ecosystem stock" as a stock of fish determined by the Secretary to be a nontarget stock that is not overfished or likely to become overfished.

Requires the Secretary, within 270 days after determining that a fishery is overfished, to perform a stock survey and stock assessment of each of the overfished stocks in the fishery and transmit the assessment to the appropriate Council.

Introduced June 22, 2011 by Representative Whittman, Virginia, and referred to the House Committee on Natural Resources.

Continuing Legislation 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.

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.

Update: The Committee on Commerce, Science, and Transportation reported the bill to the full Senate favorably and without amendment.

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.

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.

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..

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.

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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September 2011

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U.S. House of Representatives

Committee on Natural Resources

Washington, DC 20515

July 5, 2011

Dr. Donald McIsaac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place #101
Portland, OR 97220

Dear Dr. McIsaac:

On June 2nd and 13th, 2011, the Subcommittee on Water and Power in the Committee on Natural Resources in the U.S. House of Representatives held hearings on H.R. 1837, the San Joaquin Valley Water Reliability Act.

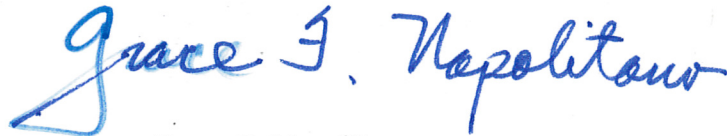
Over the course of these two hearings, we heard very specific concerns about the impacts of this bill: during the first hearing, we heard from the Bureau of Reclamation and the State of California regarding the effect of this legislation on State water law and water supply reliability; and during the second hearing, we heard from the National Oceanic and Atmospheric Administration and fishermen on the impacts of this bill on the commercial and recreational salmon fishing industries on the West Coast. After the second hearing, it remained clear that not enough information had been requested from the fishing industry, nor had there been much discussion revealing the real impact of this bill, not only on fisheries, but also on the fishing industry, tourism, and coastal economies.

The Pacific Fishery Management Council has jurisdiction over managing fisheries in the Exclusive Economic Zone off of Washington, Oregon, and California, and in 2008 and 2009 made difficult recommendations to close the Sacramento River fall run Chinook fishery, causing the loss of hundreds of millions of dollars and thousands of jobs.

Clearly, the Pacific Fishery Management Council is in a unique position to review and provide in detail how H.R. 1837, if enacted, will impact salmon populations, habitat, fisheries management, and fishermen, who are dependent on this iconic resource.

Given the Council's expertise on these issues, your analysis and comments on H.R. 1837 would be greatly appreciated. If you have any additional questions, please contact Karen Hyun or Camille Calimlim with the Natural Resources Committee at (202) 225-6065.

Sincerely,

A handwritten signature in blue ink that reads "Grace F. Napolitano". The signature is written in a cursive style with a large, stylized initial "G".

Grace F. Napolitano
Ranking Member
Subcommittee on Water and Power
Committee on Natural Resources

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 nated 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).

○

LEGISLATIVE COMMITTEE REPORT ON LEGISLATIVE MATTERS

The Legislative Committee (Committee) convened at 2:00 p.m. on Tuesday, September 13, 2011. In attendance were Committee members Dr. Dave Hanson (Chair), Mr. Dan Wolford, Ms. Dorothy Lowman, and Mr. Dale Myer. Also present were other Council members and staff members: Mr. Frank Lockhart, Ms. Michele Culver, Mr. Dave Ortmann, Dr. Don McIsaac, Dr. John Coon, Mr. Mike Burner (via telephone), and Mr. Chuck Tracy. Public present were: Mr. Dick Pool representing the organization Water4Fish, Mr. Victor Gonella representing the Golden Gate Salmon Association, and Mr. Paul Pierce, Salmon Advisory Subpanel member.

The Committee briefly reviewed a variety of fishery related bills in the 112th Congress and focused the majority of the meeting on H.R. 1837 the San Joaquin Valley Reliability Act (Agenda Item F.1.a, Attachment 6) and the formal request from Council comments on H.R.1937 from U.S. Congresswoman Grace Napolitano (H.R. 1837, Agenda Item F.1.a, Attachment 2).

H.R. 2753 Fishery Management Transparency and Accountability Act

The Council has not been formally asked to comment on this bill, but the Committee briefly discussed and brings the following comments to the Council's attention for informational purposes, and in the event a formal request is made prior to the next Committee meeting. H.R. 2753 would require the Council to post on our web page "a live broadcast of each meeting of the Council, of the Science and Statistical Committee [SSC] of the Council, and of the Council coordination committee" ... and within 30 days and for three years provide "complete audio, complete video if the meeting was in person or by video conference, and a complete transcript of each such meeting."

The Committee notes that the Council process has always been transparent and open to the public and that the Council is currently webcasting the audio portion of Council meetings as well as any visual materials projected during the meeting. The Committee did not identify any additional benefits that a video broadcast would offer. The Council's SSC meetings are not currently broadcast. The Committee does not oppose the broadcast of SSC meetings, but notes that, if passed, H.R. 2753 would be an unfunded mandate due to the additional significant cost of meeting transcripts, the need to procure additional audio/visual equipment, and to provide additional staff time using existing funds.

H.R. 1837, San Joaquin Valley Water Reliability Act

The San Joaquin Valley Water Reliability Act (H.R. 1837, Agenda Item F.1.a, Attachment 6) amends the Central Valley Project Improvement Act (CVPIA) and includes provisions that would alter water use policy and salmon management in the Sacramento and San Joaquin River basins. Specific to fishery matters, the bill changes the CVPIA definition of "anadromous fish" to include only native salmon and sturgeon stocks present in the Sacramento and San Joaquin Rivers as of October 30, 1992, prohibits the Secretary of Commerce from distinguishing between naturally-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making Endangered Species Act (ESA) determinations, and considers all requirements for the

protection and conservation of the species listed under the ESA to be fully met if water projects are operated in a manner consistent with the Bay-Delta Accord of December 15, 1994 (Bay-Delta Accord). Additionally, H.R. 1837 would change the way funds dedicated to river and wildlife restoration would be collected and administered.

Salmon industry representatives have testified before the House Subcommittee on Water and Power and have provided written comments in opposition to the bill at both the June and September 2011 Council meetings. Mr. Pool and Mr. Gonella expressed many of these concerns in written and oral comments at Tuesday's Committee meeting. Additionally, Mr. Will Stelle, the National Marine Fisheries Service's (NMFS) West Coast Salmon Coordinator and Administrator of the NMFS Northwest Regional Office, conveyed NMFS opposition to H.R. 1837 and concluded his testimony by stating that, "If enacted, this law would hasten the decline of salmon in the Central Valley and Delta and negatively impact the Delta ecosystem and the economy of the state of California and the nation."

The Committee expressed serious concerns with H.R. 1837 and in a preliminary review identified the following concerns and comments:

- H.R. 1837 effectively rolls back water agreements and salmon protection measures to the Bay-Delta Accord of 1994—negating years of scientific understanding and difficult water negotiations. H.R. 1837 would require NMFS to ignore widely accepted contemporary scientific understanding of the Bay-Delta system and its salmon runs.
- H.R. 1837 would result in the reallocation of water within the Bay-Delta system—resulting in legislated rather than negotiated water sharing among stakeholders and would eliminate 800,000 acre feet of water set aside by the CVPIA to improve river flows and salmon survival. Flow and temperature are critical components of successful salmon spawning, rearing, and migration and reductions in flow will almost certainly reduce the system's ability to support sustainable salmon runs.
- The recent collapse of the Sacramento River fall Chinook and the fishery closures of 2008 and 2009 resulted in economic impacts estimated at over \$200 million dollars a year with millions of more dollars needed to respond to the collapse through recovery and relief efforts.
- Scientific evidence has demonstrated that naturally produced salmon have superior survival rates and increased resiliency to environmental fluctuations over their hatchery produced counterparts and are an essential component of healthy runs and sustainable hatchery practices. H.R. 1837 would ignore this sound science by requiring resource manager restoration policies to consider natural and hatchery produced salmon equally.
- The 2009 report on the collapse of the Sacramento River fall Chinook cited freshwater and estuarine habitat degradation and a heavy reliance on hatchery production as contributing factors. H.R. 1837 would reduce protections for naturally spawning stocks and adversely affect habitat thereby increasing the likelihood of another economically devastating collapse.
- Policy makers and stakeholders have created several successful recovery and restoration programs to protect and enhance salmon runs in the Central Valley. These programs often play a critical role in habitat restoration and run recovery efforts. H.R. 1837 appears to undermine existing efforts and reallocate resources away from salmon recovery efforts in the San Joaquin River basin.

The Committee recommends the Council direct the Executive Director to send a response letter to Congresswoman Napolitano in the near future that expresses general opposition to H.R. 1837 based, in part, on the initial comments listed above. The Committee does not anticipate that H.R. 1837 will move through the legislative process quickly, providing time for the development of a more detailed report in response to the biological and socioeconomic issues raised by Congresswoman Napolitano, as well as any other pertinent comments on the bill. The Committee recommends that the Council staff take the lead in drafting such a report for review by the Committee and the Council's advisory bodies at a future Council meeting.

Future Meeting Plans

The Committee anticipates a need to meet at the November Council meeting as indicated on the draft November Council agenda (Agenda Item F.5.a, Attachment 2) to review potential analyses of H.R. 1837 and to discuss the status of existing or newly introduced Federal legislation.

The Committee adjourned at 3:05 p.m.

Legislative Committee Recommendations

It is recommended the Council:

- 1. Direct the Council Executive Director to send an initial response to Congresswoman Napolitano expressing general Council comments regarding H.R. 1837 and indicating further Council process on a more detailed report.**
- 2. Direct Council staff to prepare a detailed draft report on H.R. 1837 for review by the Legislative Committee and Council advisory bodies at a future Council meeting.**
- 3. Tentatively schedule a November Committee meeting.**

PPMC
09/14/11



August 12, 2011

Honorable Doc Hastings
Chairman,
House Committee on Natural Resources
1203 Longworth Bldg.
Washington, DC 20515

Honorable Tom McClintock
Chairman
Subcommittee on Water and Power
428 Cannon Bldg
Washington DC 20515

Honorable Edward Markey
Ranking Minority Member
House Committee on Natural Resources
2108 Rayburn Bldg.
Washington. DC 20515

Honorable Grace Napolitano
Ranking Minority Member
Subcommittee on Water and Power
1610 Longworth Bldg.
Washington DC, 20515

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

Dear Chairman Hastings, Chairman McClintock, Ranking Minority Member Markey and Ranking Minority Member Napolitano:

This letter will provide the concerns of the California and Oregon salmon fishing industry with the provisions of H.R. 1837 The San Joaquin Valley Water Reliability Act which would destroy our industry. We represent approximately 2,000 businesses and 23,000 people who are dependent on the California Central Valley salmon for all or part of our livelihoods.

On May 11, 2011, Congressman Devin Nunes introduced H.R. 1837. Since that time hundreds of organizations, political leaders and agencies have expressed grave concerns about various provisions of the bill. On May 30th many of us wrote Chairman McClintock outlining the devastating impact H.R. 1837 would have on the Central Valley salmon runs and the businesses of the salmon industry. This letter will focus on the provisions of H.R. 1837 that would gut the requirements of the Central Valley Project Improvement Act, which we did not address at length in our prior letter.

The Central Valley Project Improvement Act (CVPIA) was passed in 1992. It responded to a historic collapse of the California salmon populations and included key provisions designed to bring the salmon back. It recognized that minimum river and Delta flows were necessary if the salmon were to be recovered. It set aside 800,000 acre feet of water reserved in large part to provide the freshwater river and Delta flow needs for successful salmon spawning and migration survival. The CVPIA also recognized that substantial funds would be required for salmon habitat and other improvements. It set up a restoration fund to be administered by the Bureau of Reclamation and funded by CVPIA water contracts. This fund has annually provided \$50 to \$75 million for restoration and has been a key part of river and Delta projects to recover and improve salmon habitat. The restoration fund also funds water acquisitions for the wildlife refuges which are important to duck hunters. Finally, the CVPIA required that the wild Central Valley salmon populations be doubled.

The provisions of the CVPIA have contributed substantially to salmon habitat improvements, and after enactment, populations of salmon and other native fish rebounded throughout the 1990s. However, in the 2000s water exports from the Delta increased to much higher levels and the populations of salmon and other native species plummeted. The result has been a continued collapse of the salmon runs. Two of the runs are now in serious danger of extinction and there are now record low levels of fall run Chinook Salmon, the backbone of the fishery. To avoid complete loss of the salmon, the fishing seasons were completely shut down in 2008 and 2009 with just a token season in 2010. The impact of these events on the tens of thousands of people involved in the salmon industry has been devastating.

Mr. Nunes bill, H.R. 1837, would gut the provisions of the CVPIA and also would gut the Central Valley provisions of the Endangered Species Act which have been put into place by the National Marine Fisheries Service to avoid the salmon and steelhead extinctions and begin recovery. H.R. 1837 would eliminate the 800,000 acre feet of water critical for the survival of salmon, other fish, and wildlife and send it to junior water rights holders on the West side of the San Joaquin Valley. It would also eliminate the restoration fund and instead use the money to purchase more water for the agricultural interests. H.R. 1837 would take the administration of the restoration fund away from The Bureau of Reclamation and turn it over to a committee of water contractors.

In short, H.R. 1837 would remove all the rights of salmon for the water they need and the projects that can bring about their recovery. Salmon would be relegated to an almost sure extinction in order to satisfy the greedy demands of a few marginal agricultural districts. We urge the U.S. Congress not to be misled by this corporate greed. We urge that all changes to the Central Valley Project Improvement Act be eliminated from the bill. We support the program underway by the State of California to establish the best water plan for all of California which includes ecosystem recovery and protections for wildlife.

We strongly oppose H.R. 1837. This bill is a radical attempt to place the water demands of a few of California's most junior water rights holders ahead of all other California interests in a blatant water grab. No industry has suffered more than the salmon industry over the political maneuvering of these people. We urge congress to reject this bill particularly the changes to the CVPIA.

We appreciate your hearing our views.

Sincerely,

Zeke Grader

Pacific Coast Federation.
of Fishermen's Associations
San Francisco CA

Dick Pool

Water4Fish
Concord CA

Victor Gonella

Golden Gate Salmon Assn.
Petaluma, CA

Bill Jennings

California Sportfishing
Protection Alliance
Stockton CA

Jim Caito

Caito Fisheries
Fort Bragg, CA

Danrell Ticehurst

Coastside Fishing Club
Hillsborough, CA

Ken Elie

Outdoor Pro Shop
Cotati, CA

Randy Repass

West Marine
Watsonville, CA

Mike Hudson

Small Boat Commercial
Salmon Fishermen's Assn.
Berkeley CA

Peter Grenell

San Mateo Harbor Dist.
San Mateo, CA

Roger Thomas

Golden Gate Fishermen's Assn.
San Francisco CA

Mark Rockwell

Nor Cal Fed of Fly Fishers
Penn Valley, CA

Tom Creedon

Scoma's Resturant
Fishermen's Wharf, CA

Liz Hamilton

Northwest Sportfishing Industry
Alliance Oregon & Washington
Portland OR

Capt Jacky Douglas

Wacky Jacky Charters
San Francisco, CA

Larry Collins

SF Crab Boat Owners Assn.
San Francisco CA

Paul Johnson

Monterey Fish Market
San Francisco CA

Bart Hall

Fred Hall Shows
Long Beach CA

Woody Wood

Jeff Robles Associates
Whitmore CA

Elanor Starmer

Food & Water Watch
San Francisco, CA

Michael Schweit

SW Council Fed Fly Fishers
Northridge, CA

Joe Donatini

Johnson Hicks Marine
Santa Cruz, Ca

Todd Steiner

SPAWN
Forest Knolls, CA

Jim Martin

Berkley Conservation Inst.
Mulino, OR

Gary Coe

Kokanee Power
Citrus Heights CA

Capt Tom Joseph

Fish On Sportfishing
Santa Cruz, CA

Trevor Kennedy

Fisheries Foundation of Calif.
Elk Grove, CA

Mark Mleoch

Nor Cal Guides Assn.
Anderson CA

Dan Bacher

The Fish Sniffer
Elk Grove CA

Michael Scaglione

Pacific Catch Fish Grill
San Francisco, CA

Bill Divens

Salmon King Lodge West
Red Bluff, CA

Barbara Emley

FV Autumn Gale
San Francisco, CA

Allen Harthorn

Friends of Butte Creek
Chico, CA

Roger Mammon

L Sherman Island Duck Hunters
Oakley, CA

Tom Mattusch

Hull Cat Sportfishing
Half Moon Bay

Dan Hasshaw

Hawkeye Marketing
Westlake Village CA

Bill Wells

Calif. Delta Chamber
Rio Vista, CA

Jim Cox

West Delta CA Striped Bass Assn.
Oakley, CA

Tim Klassen

Reel Steel Sportfishing
Eureka, CA

Brian Layng

International Sportsmen's Expo
Vancouver, WA

Bruce Tokars

Salmon Water Now
San Francisco CA

Craig Hanson

Alure Productions
San Francisco, CA

Marie Logan

SalmonAid
San Francisco, CA

Todd Fraser

Bayside Marine
Santa Cruz CA

Vance Staplin

Vance's Tackle
Citrus Heights CA

Ron La Force

United Outdoorsmen
Sacramento, CA

Frank Galusha

My Outdoor Buddy
North Calif. & So. Oregon

David Zeff

Zeff Attorneys
Dan Francisco, CA

Mike Augney

USAFishing.com
Petaluma CA

Roy Gray

Manufactures Rep. - Tackle
Auburn, CA

Colin Wing

F/V New Mary S II
Half moon Bay, CA

Sal Vallone

Bob Sands Fishing
Van Nuys, CA

Danny Layne

Fish'n Dan's Guide Service
Elk Grove, CA

Capt. Bill Smith

Riptide Charters
Montara, CA

Capt Chris Acacelo

Chris's Fishing Charters
Monterey, CA

Michael Fowlkes

Fox Sports Inside Fishing
Laguna Beach, CA

Capt Peter Bruno

Randy's Fishing Trips
Monterey, CA

Duncan MacLean

F/V Barbara Faye
Half Moon Bay, CA

Rich Basch

Ollie Damon's
Portland, OR

Capt Don Franklin

Soleman Sportfishing Charters
San Francisco, CA

Steve Fosmark

F/V Seadlerus ID 514-371
Moss Landing, CA

Capt Ed Gallia

New Easy Rider Charters
Berkeley, CA

Capt Sean Hodges

Hog Heaven Charters
Sausalito, CA

Ben Secrest

Accurate fishing products
Corona, CA

Peggy Beckett

Huck Finn Sportfishing
Half Moon Bay, CA

Jonah Li

Hi's Tackle Box
So San Francisco, CA

Capt John Atkinson

New Ray Ann Charters
Sausalito, CA

Craig Pobst

The Kitchen Agency
Del Mar, CA

Capt George Catagnola

Sandy Ann Charters
Bodega Bay, CA

Capt Brian Cutty

Chubasco Charters
Monterey, CA

Phil Pirone

Pro-Cure Bait Scents Inc
Salem, OR

Tom Hester

Poulsen Cascade Tackle LLC
Clackamas, OR

Harry Garabedian

New Seeker Charters
Emeryville, CA

Dana Stolzman

Salmon Restoration Federation
Redway, CA

Capt Bob Ingles

Queen of Hearts Charters
Half Moon bay, CA

Harold Davis

Davis Boats
Morro Bay, CA

Scot Hill

Western Boat & Tackle
San Rafael, CA

Galen Onizuka

Johnson Hicks Marine
Sausalito, CA

Capt Dennis Baxter

New Captain Pete Charters
Half Moon Bay, CA

Steven Grutha

Kai-USA
Tualatin, OR

Capt Chris Chan

Ankeny St. Sportfishing Charters
Half Moon Bay, CA

Capt Chris Duba

Silver Fox Charters
Berkeley, CA

Kathy Fosmark

Alliance for Sustainable Fisheries
Monterey, CA

Capt Robert Gallia

El Dorado Charters
Berkeley, CA

Randy Woolsey

Tom Posey Co
Portland, OR

Capt Brian Guiles

Flying Fish Charters
Berkeley, CA

Capt Tim Klassen

Reel Steel Sportfishing
Eureka, CA

Capt John Kluzmier

Sir Randy Charters
Monterey, CA

Capt Todd Magaline

Blue Runner Charters
Sausalito, CA

Capt Rick Powers

Bodega Bay Sportfishing
Bodega Bay, CA

Capt James Robertson

Outer Limit Charters
Sausalito, CA

Capt Steve Talmadge

Flash Sportfishing Charters
San Francisco, CA

Capt Richard Thornton

Trek II
Fort Bragg, CA

Glen Fukumoto

Outdoor Pro Shop
Oakland, CA

Duncan MacLean

Half Moon Bay Marketing Assn
Half Moon Bay, CA

Dan Parnel

Leisure Sales
Auburn, WA

Capt Joe Gallia

El Dorado III Charters
Berkeley, CA

Capt Nick Menigoz

Super Fish Charters
Emeryville, CA

Capt Frank Rescino

Lovely Martha Charters
San Francisco, CA

Capt Craig Shimokosu

New Salmon Queen Charters
Emeryville, CA

Capt Randy Thornton

Telstar Charters
Fort Bragg, CA

Capt Jay Yokomozo

Huck Finn Charters
Emeryville, CA

Bob Rees

NW Guides & Anglers Assn.
Tillamook, OR

Larry G. Allen

Southern Calif. Marine Institute
Terminal Island, CA

Rick Kennedy

Tight Lines Guide Service
Grass Valley, CA

Capt Nick Lemons

Star of Monterey Charters
Monterey, CA

Capt Harry Necees

Checkmate Charters
Monterey, CA

Capt David Ryan

Caroline Charters
Monterey, CA

Capt Ken Stagnaro

Stagnaro's Charters
Santa Cruz, CA

Capt Dale Walters

Que Sera Sera Charters
Half Moon Bay, CA

Capt Jack Chapman

Lovely Linda Sportfishing
Fair Oaks, CA

Phil Morlock

Shimano American
Irvine, CA

Rory Leonard

Springbox Gallery
Portland, OR

Roger Neufeldt

Rapala USA
Minnetonka, MN

- cc. Congressional Sportsmen's Caucus.
Congressional Wild Salmon Caucus
California Congressional Delegation
Mr. David Hayes, Deputy Secretary, Department of Interior
Dr. Jane Lebeschenco, Administrator, National Oceanic and Atmospheric Administration
Mr. John Laird, Calif. Secretary of Natural Resources
Dr. Donald McIsaac, Executive Director, Pacific Fisheries Management Council ✓

Golden Gate Salmon Association, 11370 Auto Center Drive, Petaluma, CA 95952



<Administrative Record>
Agenda Item F.I.d
Supplemental Public Comment 2
September 2011
"The New Voice of Salmon"
1370 Auto Center Drive
Petaluma, CA 94952
(855) 251-4478

September 15, 2011

Dr. Donald McIsaac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place #101
Portland, OR 97220

Dear Dr. McIsaac:

This letter will provide the summary comments of the Golden Gate Salmon Association on the request by the Honorable Grace Napolitano for the Council's salmon and salmon industry analysis of H.R. 1837, The San Joaquin Valley Water Reliability Act.

The Golden Gate Salmon Association represents salmon stakeholders and has been heavily involved in the analysis of this bill and the impact it would have on Central Valley salmon. Three of our affiliate members testified on the impact before the House Resources Sub Committee on Water and Power. On Tuesday of this week we were pleased to offer comments and supporting documents to the Council's Legislative Committee. Following are some highlights of our analysis.

- In our opinion, HR 1837, if enacted, would completely destroy the remaining depressed stocks of the Chinook Salmon in the Central Valley.
- Some of the more onerous provisions of the bill are:
 - It would wipe out the current NMFS biological opinions designed to prevent extinctions,
 - It would take away the current 800,000 acre feet of Sacramento River water now reserved for salmon under the Central Valley Project Improvement Act (CVPIA),

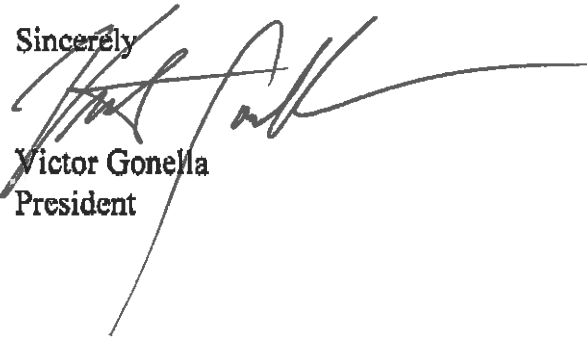
- It would take away the \$50 million of water fees designated under the CVPIA for salmon recovery
 - It would take away the requirement that the wild Chinook stocks be doubled in population as specified in the CVPIA.
 - It would reverse the current actions to protect salmon under the ESA
- The net effect of the above provisions and others is that salmon would be destroyed and massive quantities of Sacramento River water would be diverted and pumped through the Delta to the junior water rights holders of the San Joaquin Valley. The entire water and fisheries impact of the bill would occur in the Sacramento River and its tributaries.

It appears that support in congress for moving the entire intact Nunes Bill is highly unlikely. It has some very strong opposition. Instead, there is evidence the bill will be broken up into different pieces and attached to other bills particularly appropriation bills which are currently underway and can be equally onerous. We suggest the Council focus on more of the sub provisions than the entire bill.

The Golden Gate Salmon Association's Central Valley salmon recovery research shows an economic impact of \$6 billion and 100,000 new jobs; Oregon is affected at approximately 50% of the aforementioned numbers. We applaud the Council's Legislative Committee for the serious attention it is giving this matter. We urge full support by the entire Council. We were particularly impressed with the Legislative Committee's idea that the comments be a two step process. An early letter expressing concerns and some analysis could be immediately helpful to Ms. Napolitano and others. This could be followed by a more comprehensive analysis later.

We appreciate the opportunity to present our views and offer our assistance in any other way that we can be helpful.

Sincerely



Victor Gonella
President

APPROVAL OF COUNCIL MEETING MINUTES

The draft minutes for the June 2011 and September 2010 Council meetings are provided in Attachments 1 and 2, respectively, 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 2011 and draft September 2010 Council meeting minutes.**

Reference Materials:

1. Agenda Item F.2.a, Attachment 1: Draft Minutes: 209th Session of the Pacific Fishery Management Council (June 2011).
2. Agenda Item F.2.a, Attachment 2: Draft Minutes: 205th Session of the Pacific Fishery Management Council (September 2010).

Agenda Order:

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

PFMC
08/19/11

DRAFT MINUTES
209th Session of the
Pacific Fishery Management Council
June 8-13, 2011

Doubletree Hotel Spokane City Center
322 North Spokane Falls Court, Spokane, WA 99201

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A. Call to Order

A.1 Opening Remarks

Chairman Mark Cedergreen called the 209th plenary session of the Pacific Fishery Management Council to order at 10 a.m., Wednesday, June 8, 2011, and provided the opening remarks and instructions. There was a closed session previously held from 8 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)
LCDR Brian Chambers (US Coast Guard, non-voting designee)
Mr. David Crabbe (California Obligatory)
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region, designee)
Ms. Dorothy Lowman, Vice Chair (Oregon Obligatory)
Mr. Dave Ortmann (State of Idaho Official, designee)
Mr. Rod Moore (At-Large)
Mr. Dale Myer (At- Large)
Mr. Pat Pattillo (State of Washington Official, designee)
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 designee)
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 members were absent for the entire meeting: Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting designee)
Mr. David Hogan (US State Department, non-voting)

The following Council members were present in their designated seats for portions of the meeting: Ms. Michele Culver (Washington State Official, designee); Mr. Mark Helvey (National Marine Fisheries Service, Southwest Region, designee), Dr. Peter Dygert (National Marine Fisheries Service, Southwest Region, designee); Ms. Marci Yaremko (State of California Official, designee); and Mr. Jerry Mallet (State of Idaho Official, designee)

A.3 Executive Director's Report

Dr. Donald McIsaac briefed the Council on the 2011 annual Council Coordination Committee meeting in May in Charleston, South Carolina. He reported that our Council will be facilitating the Managing Our Nation's Fishery III conference to be held in 2012 and that Coastal Marine Spatial Planning (CMSP) would likely be one of the topics of the conference. He will also be attending the upcoming national workshop of the governance coordinating committee involved with CMSP to make sure regional council input and membership is adequately considered in their planning process. Ms. Dorothy Lowman and Mr.

Dale Myer reported on the Fisheries Leadership and Sustainability Forum which they recently attended. Dr. McIsaac then briefly reviewed each of the six informational reports in the Council briefing book.

A.4 Agenda

A.4.a Council Action: Approve Agenda

Chairman Mark Cedergreen asked for approval of the Council Meeting agenda.

A.4.a Council Action: Approve Agenda

Mr. Rod 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, June 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

Chris Kubiak, Central Coast Sustainable Groundfish Association, Los Osos, CA. Referred to information on the electronic monitoring of the trawl individual quota (TIQ) fisheries in Informational Report 1.

B.1.c Council Discussion of Comments as Appropriate

None.

C. Salmon Management

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

C.1.a Agenda Item Overview (06/08/11; 10:52 a.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 PowerPoint.

Ms. Vojkovich asked if management uncertainty was addressed in Amendment 16. Mr. Tracy replied that addressing management uncertainty was not a requirement of the reauthorized Magnuson Stevens Act, and the alternatives considered did not include a buffer for management uncertainty in the harvest control rules; however, an annual catch target (ACT), while currently undefined, was identified as an accountability measure (AM) that could be used if circumstances dictated. Dr. Dygert added that the

methodology review and other AMs, like quota monitoring, are intended to address management uncertainty.

Ms. Vojkovich asked if the default rebuilt criteria was a requirement and if it could be superseded by future action in a rebuilding plan. Mr. Tracy replied it was not a requirement of the Magnuson-Stevens Act (MSA) or the National Standard 1 guidelines, but the advantage of including it in the Fishery Management Plan (FMP) was that it would be approved in advance and could be implemented without further review. The Council would be able to adopt other criteria in a rebuilding plan if circumstances dictated; however, the minimum criterion for achieving rebuilding is a stock size reaching maximum sustainable yield (MSY) spawning escapement (S_{MSY}).

Ms. Vojkovich asked if Sacramento River fall Chinook (SRFC) would be classified as a natural stock with regard to changing its conservation objective. Mr. Tracy replied that it would be a natural stock because at least part of its conservation objective included natural spawners.

Dr. Dygert noted that the current FMP requirement that Klamath River fall Chinook (KRFC) spawning escapement floor of 35,000 could only be changed by FMP amendment could be removed during the Amendment 16 process.

Dr. Robert Kope presented Agenda Item C.1.b, STT Report and Agenda Item C.1.b, Supplemental STT Report 2.

Mr. Paul Pierce presented Agenda Item C.1.b, Supplemental SAS Report.

Mr. Bob Conrad presented Agenda Item C.1.b, Supplemental SSC Report.

Mr. Dave Sones noted the Hoopa Valley Tribe had submitted, for the record, Agenda Item C.1.b Supplemental Comments of Hoopa Valley Tribe.

Mr. Thomas O'Rourke, Yurok Tribal Chairman, and Mr. Dave Hillemeier presented Agenda Item C.1.b, Supplemental Yurok Tribal Report.

Mr. Wolford asked if a near zero *de minimis* harvest on KRFC would allow for tribal ceremonial and subsistence harvest. Mr. Hillemeier replied that the interpretation of near zero would not allow for the desired subsistence harvest, but may allow for some ceremonial harvest.

Ms. Vojkovich asked if the current control rule for KRFC is appropriate. Mr. Hillemeier replied no, the control rule needs to be based on S_{MSY} (40,700 spawners) rather than the 35,000 floor, and the *de minimis* provisions need additional structure to protect substocks.

Ms. Vojkovich asked if the control rule were not changed would the Yurok tribe change their recommendation for a 3-year geometric mean criterion for overfished status. Mr. Hillemeier replied no, that given the inherent variability of salmon abundance that a multi-year criterion was appropriate.

Dr. Dygert presented Agenda Items C.1.b, Supplemental NMFS Report 1 and Supplemental NMFS Report 2.

Mr. Pattillo summarized recommendations in Agenda Items C.1.b, Supplemental WDFW-Tribal Report 1 and Supplemental WDFW-Tribal Report 2. He stated that the State of Washington and the Northwest tribes were seeking consistency between the provision in Amendment 16 existing management objectives

for Puget Sound and Washington coastal coho under the comprehensive coho plan and the Pacific Salmon Treaty (PST).

Ms. Vojkovich stated the California Department of Fish and Game (CDFG) was seeking to maintain a risk-averse approach to managing SRFC and KRFC and was considering recommending an SRFC conservation objective of 180,000 to represent S_{MSY} ; establishing a minimum stock size threshold (MSST) that recognizes the substocks of both the Klamath and Sacramento basins, and minimizing *de minimis* fisheries effects on both stocks.

Dr. Dygert asked Ms. Vojkovich to clarify minimizing *de minimis* fishery effects. Ms. Vojkovich replied that she was not supportive of alternatives that allowed fishing impacts at abundance levels less than the MSST.

Mr. Steve Williams presented [Agenda Item C.1.b, U.S. v. Oregon Letter](#).

C.1.c Public Comment (3:22 p.m., 06/08/11)

Mr. Ben Doan, Klamath Management Zone Fishing Coalition, Klamath, CA
Mr. Tim Machato, Humboldt Area Salt Water Anglers, Eureka, CA

C.1.d Council Action: Adopt Final Preferred Alternatives (3:55 p.m.; 06/08/11)

Mr. Tracy described Agenda Item C.1.a, Supplemental Attachment 1.

Dr. Dygert proposed to approach Council action through five motions based on the issues presented in Agenda Item C.1.d, Supplemental NMFS motion.

Dr. Dygert moved (Motion 2) to adopt the stock classification, stock complexes and indicator stocks, and international exceptions from page 1 of Agenda Item C.1.d, Supplemental NMFS motion, except that Puyallup fall, Mid-Hood Canal fall, Lower Columbia River (LCR) natural tule, and LCR natural spring Chinook would not be added to the FMP. Ms. Vojkovich seconded the motion.

Dr. Dygert noted there was discussion within National Marine Fisheries Service (NMFS) regarding the appropriateness of managing Endangered Species Act (ESA) stocks under MSA, and since the issue was not yet resolved, adding additional ESA stocks to the FMP could delay implementation.

Mr. Williams asked if the ESA issue would affect Council salmon management, particularly with regard to LCR natural tule Chinook. Dr. Dygert replied NMFS would still provide consultation standards for ESA-listed stocks, and if appropriate they could be added to the FMP through a plan amendment.

Dr. McIsaac asked if Motion 2 was the same as the Council's preliminary preferred alternative in Agenda Item C.1.a, Supplemental Attachment 1. Dr. Dygert replied not entirely, as indicated by the highlighted entries combining elements of the various Alternatives in Tables 2-2, 2-3, 2-4, 2-5, and 2-6.

Mr. Wolford asked if it would be necessary to go through a plan amendment in the future to split stocks out of existing stock complexes. Mr. Tracy replied that the proposed FMP language in Agenda Item C.1.b, SAC Report 3 allowed changes within the stocks included in the FMP, which could be accommodated without a plan amendment; however, adding new stocks or deleting stocks from the FMP would require an amendment.

Mr. Wolford asked if Canadian stocks would remain in the FMP. Dr. Dygert replied no.

Mr. Wolford moved to amend to Motion 2 (Amendment 1 to Motion 2) to add ESA-listed Puyallup fall, mid-Hood Canal fall, LCR natural tule, and LCR natural spring Chinook to the list of FMP stocks. Mr. Buzz Brizendine seconded the motion.

Mr. Wolford stated that for consistency with other ESA stocks, these stocks should be included in the FMP. Dr. Dygert replied that whether they are in the FMP or not does not affect NMFS' ability to consult on these stocks; consistency was desirable, but did not supersede the potential risk for complicating the Amendment 16 approval process.

Amendment 1 to Motion 2 failed. Motion 2 carried unanimously.

Dr. Dygert moved (Motion 3) to adopt the status determination criteria (SDC) from pages 4 through 8 of Agenda Item C.1.d, Supplemental NMFS Motions, with a maximum fishing mortality threshold (MFMT) equal to F_{MSY} and an overfishing SDC of a single year $F > F_{MSY}$; an MSST equal to $0.5 * S_{MSY}$. And an overfished SDC of a 3-year geometric mean spawning escapement less than MSST; ESA-listed stocks would continue to be managed to the ESA consultation standards. SDC for approaching overfished and rebuilt would also be based on a three-year geometric mean. Mr. David Crabbe seconded the motion.

Ms. Vojkovich moved to amend Motion 3 (Amendment 1 to Motion 3) to adopt S_{MSY} for SRFC equal to 180,000 spawners rather than 122,000 as represented on page 8 of Agenda Item C.1.d, Supplemental NMFS Motions. Mr. Crabbe seconded the motion.

Ms. Vojkovich noted that 180,000 was at the upper end of the conservation objective range for SRFC and was used as a management target in 2010. Adopting both 180,000 as S_{MSY} and a *de minimis* fishing provision would maintain the risk-averse management approach used in the last 28 years. The SRFC are also an indicator stock and 180,000 would provide additional protection for sub-stocks within the basin.

Mr. Wolford thought that 180,000 was inappropriate because it was not used in any of the analyses or presented to the public in any of the alternatives. The 122,000 had been used as the best estimate of S_{MSY} and should not be changed without scientific analysis.

Mr. Pattillo asked if the estimate of S_{MSY} for all stocks in the first column is listed on pages 6-8 of Agenda Item C.1.d, Supplemental NMFS Motions, represents the management objective or SDC. Dr. Dygert replied that the SRFC conservation objective included a range of escapement values, and it would be possible to select an estimate of S_{MSY} from within that range for the purpose of SDC, although the conservation objective should be a high priority for review and reevaluation.

Dr. McIsaac asked if Motion 3 would adopt 5,800 for S_{MSY} for Queets coho, which is different from Table 2-8 of Agenda Item C.1.b, SAC Report 1. Dr. Dygert replied yes, based on the recommendations of the state-tribal co-managers in Agenda item C.1.b, Supplemental WDFW-Tribal Report 1.

Mr. Crabbe asked, if 122,000 was adopted for S_{MSY} , could the Council adopt an annual catch target (ACT) of 180,000 if additional precaution were warranted. Dr. Dygert replied yes, that the Council has the discretion to manage more conservatively.

Dr. Dygert noted the conservation objective range of 122,000 to 180,000 was intended to allow for higher escapements when some of the habitat issues in the upper Sacramento River were addressed such as passage at Red Bluff Diversion Dam, which has been initiated. The 180,000 value could also provide additional escapement for natural stocks in some areas.

Mr. Wolford noted that the recent collapse was not due to excessive fishing mortality, and managing for 122,000 has worked well and is not a risk-prone approach. If necessary, the Council can take a risk-averse approach on an annual basis.

Amendment 1 to Motion 3 failed, Mr. Myer, Dr. Dygert, Mr. Sones, and Ms. Vojkovich voted in favor.

Ms. Vojkovich moved to amend Motion 3 (Amendment 2 to Motion 3) to set MSST for SRFC and KRFC at $0.75 \times S_{MSY}$. Mr. Crabbe seconded the motion.

Ms. Vojkovich stated the intent was to maintain a risk-averse approach by addressing sub-stock issues within both basins and reducing the risks due to *de minimis* fisheries.

Dr. Dygert stated that $0.75 \times S_{MSY}$ is higher than necessary and is inconsistent with the idea that MSST is a stock level that risks losing long-term stock productivity. Routine management and scientific error frequently result in escapement plus or minus 30 percent. Ms. Vojkovich replied that she would agree if SRFC and KRFC were single stocks, but they are aggregate with sensitive sub-stocks that need consideration.

Mr. Myer moved to amend Amendment 2 to Motion 3 (Amendment 1 to Amendment 2 to Motion 3) to set MSST for KRFC and SRFC at 0.6 percent $\times S_{MSY}$. Mr. Steve Williams seconded the motion.

Amendment 1 to Amendment 2 to Motion 3 failed. Mr. Sones, Mr. Wolford, Mr. Moore, Mr. Pattillo, Mr. Crabbe Ms. Lowman, and Ms. Vojkovich voted no.

Amendment 2 to Motion 3 passed. Mr. Moore, Mr. Williams, Mr. Wolford, and Dr. Dygert voted no.

Dr. Dygert stated that Motion 3 included estimates of MFMT for Quillayute fall coho and S_{MSY} for Hoh coho on page 6 of Agenda Item C.1.d, Supplemental NMFS Motions varied from the co-managers recommendations in Agenda item C.1.b, Supplemental WDFW-Tribal Report 1 because the Salmon Amendment Committee estimates in Appendix E of Agenda Item C.1.b, SAC Report 1 were more conservative and based on more recent information.

Mr. Pattillo moved to amend Motion 3 (Amendment 3 to Motion 3) to change the MFMT for Quillayute fall coho on page 6 of Agenda Item C.1.d, Supplemental NMFS Motions to $F=0.65$. Mr. Myer seconded the motion.

Mr. Pattillo stated the amendment was to maintain consistency with the PST maximum allowed exploitation rate for that and other Washington coastal coho stocks.

Amendment 3 to Motion 3 carried. Dr. Dygert voted no.

Motion 3 as twice amended (Amendment 2 and Amendment 3) carried unanimously.

Reconvene 6/9/2011 8:08 a.m.

Dr. Dygert moved (Motion 4) to adopt the overfishing limit (OFL), acceptable biological catch (ABC), and annual catch limit (ACL) Alternative 3, identified as the preliminary preferred alternative, from page 9 of Agenda Item C.1.d, Supplemental NMFS Motions, including the statements on scientific uncertainty and specification of ABC, and the process of ABC specification and Scientific and Statistical Committee (SSC) approval. Mr. Steve Williams seconded the motion.

Mr. Wolford asked if an FMP amendment would be necessary to change SFRC from a tier 2 stock to a tier 1 stock if sufficient information were available. Dr. Dygert replied that in his view it could be done without an FMP amendment.

Motion 4 carried unanimously.

Dr. Dygert moved (Motion 5) to adopt the AMs Alternative 3 from page 10 of Agenda Item C.1.d, Supplemental NMFS Motions. Mr. Herb Pollard seconded the motion.

Dr. Dygert noted a number of actions and authorities currently exist in the FMP, and these would be identified as AMs; the motion would eliminate the conservation alert and overfishing concern, which would be replaced with specific SDC and associated actions, and is consistent with the SSC recommendations.

Ms. Vojkovich asked if the AMs proposed would be the actions taken if a stock was overfished or approaching an overfished condition. Dr. Dygert replied these AMs would be available in such circumstances, but AMs are intended to prevent or mitigate overfishing, and when stock levels were that low, overfishing should not be a significant concern; other actions not identified as AMs, required under overfished and approaching overfished conditions, are specified under SDC.

Motion 5 carried unanimously.

Dr. Dygert moved (Motion 6) to adopt the *de minimis* fishing provision from page 11 of Agenda Item C.1.d, Supplemental NMFS Motions. Ms. Vojkovich seconded the motion.

Dr. Dygert noted that when scoping Amendment 16, the Council directed that *de minimis* provisions be considered for SRFC and KRFC. The proposed control rule structure could be applied to other stocks in the future and at the Council's discretion, but currently only applies to SRFC and KRFC. The intent of the *de minimis* provision is to allow for some fisheries when stock abundance is less than S_{MSY} to consider status of other stocks and to recognize the minimum needs of the tribal fisheries and trust responsibility.

Ms. Vojkovich asked if the motion would replace the existing *de minimis* provision for KRFC. Dr. Dygert replied yes.

Mr. Steve Williams asked what the basis of the 25 percent *de minimis* exploitation rate was. Dr. Dygert replied it was equivalent to the age-4 ocean exploitation rate currently used for the KRFC *de minimis* control rule, but accounts for freshwater impacts as well.

Mr. Williams offered a substitute motion for Motion 6 (Motion 7) that as the stock size declines, the allowable exploitation rate declines from F_{ABC} in order to achieve S_{MSY} until $F=0.25$; a constant exploitation rate of 0.25 is then allowed until the midpoint between S_{MSY} and $MSST$, below which F must be reduced to $F=0.15$; at abundance levels less than or equal to half of $MSST$, the allowable exploitation rate will be reduced to levels approaching zero (see Agenda Item C.1.d, Supplemental Motions for *De Minimis* Fishing, and Agenda Item C.1.d, Supplemental Motion 7 Graphic). Mr. Moore seconded the motion.

Mr. Williams stated Motion 7 is a prescriptive approach but does not require zero fishing at any abundance level, allowing access to other abundant stocks and similar to the way ESA stocks are managed.

Mr. Wolford asked if the decrease from 25 percent to 15 percent is a step down or ramp down. Mr.

William replied it is a step down.

Mr. Cedergreen asked if the decrease below half of MSST was a ramp down. Mr. Williams stated the exploitation rate would approach zero.

Mr. Pattillo stated he preferred to set a maximum level and manage for lower rates as necessary rather than target some level like zero (in Motion 6) and allow some considerations for exceeding it, which could potentially add up to a level exceeding the constraint at higher abundance levels.

Mr. Dygert stated that the term “approaching zero” allows for consideration of fisheries that have already occurred, but in any event would be in the single digit range.

Dr. McIsaac asked if a solid line on page 12 of Agenda Item C.1.d, Supplemental NMFS Motions was a hard cap at zero. Dr. Dygert replied yes.

Mr. Crabbe asked if the intent of Motion 7 was to have no allowable fishing at levels less than half of MSST. Mr. Williams replied that the way the motion was worded was consistent with the Motion 6 wording, but that the term “approaching zero” implied some flexibility to prosecute fisheries when abundance levels were less than half MSST, and that the slope of the line between abundance of half MSST and zero would be a sloped line to zero, not a vertical line to the x axis at half of MSST (see Agenda Item C.1.d, Supplemental Motion 7 Graphic).

Mr. Wolford stated it may be appropriate to consider a ramp down from $F=0.25$ and $F=0.15$.

15 Minute Break 6/9/2011 9:12 a.m.

Reconvene 6/9/2011 9:37 a.m.

Mr. Wolford moved to amend Motion 7 (Amendment 1 to Motion 7) to “Follow the normal control rule until the fishing mortality reaches the $F=0.25$; maintain $F=0.25$ from that point to an abundance level equal to MSST; for abundance below MSST linearly reduce the fishing mortality such that it intersects the origin (see Agenda Item C.1.d, Supplemental Motion 7 Graphic 2); when recommending an allowable *de minimis* exploitation rate in a given year, the Council shall consider the following circumstances in determining a reduction in the allowable maximums stated above:

- The potential for critically low natural spawner abundance, including considerations for sub-stocks that may fall below crucial genetic thresholds;
- Spawner abundance levels in recent years;
- The status of co-mingled stocks;
- Indicators of marine and freshwater environmental conditions;
- Minimal needs for tribal fisheries;
- Other considerations as appropriate.

Mr. Moore seconded the motion.

Ms. Vojkovich asked if the solid lines mean those exploitation rates shall be achieved. Mr. Wolford replied no, that they are allowable maximums.

Mr. Dygert stated Amendment 1 to Motion 7 was too aggressive at levels below MSST and where stocks could be at overfished levels.

Ms. Vojkovich moved to amend Amendment 1 to Motion 7 (Amendment 1 to Amendment 1 to Motion 7)

to include additional bullets:

- Consideration of whether the stock is in an approaching an overfished condition;
- Consideration of whether the stock is in an overfished condition;
- Consideration of the California State recommendation on *de minimis* fisheries.

Mr. Brizendine seconded the motion.

Mr. Moore stated that while California may be stewards of the SRFC and KRFC resource in freshwater, other state recommendations should also be considered given their ocean distribution and effects on other states and tribal fisheries. Ms. Vojkovich replied that when a stock is below MSST, conservation perspective should be represented from the state perspective.

Mr. Moore stated that singling out consideration of one state implied that perspective deserved special attention. Mr. Williams replied that other states employ conservation measures.

Amendment 1 to Amendment 1 to Motion 7 failed 7 to 6; Mr. Pattillo, Dr. Dygert, Mr. Moore, Mr. Myer, Mr. Williams, Ms. Lowman, and Mr. Cedergreen voted no.

Mr. Moore moved to amend Amendment 1 to Motion 7 (Amendment 2 to Amendment 1 to Motion 7) to include additional bullets:

- Consideration of whether the stock is in an approaching an overfished condition;
- Consideration of whether the stock is in an overfished condition.

Ms. Lowman seconded the motion.

Amendment 2 to Amendment 1 to Motion 7 carried unanimously.

Mr. Pollard felt Amendment 1 to Motion 7 was too aggressive and would prefer the descent to zero to begin at the S_{MSY} or intersect the x axis at the 25 percent of S_{MSY} point.

Mr. Ortmann recommended the fisheries at low abundance levels would be restricted to incidental fisheries for bycatch, not target fisheries, or for minimal tribal needs.

Ms. Vojkovich recommended not fishing below MSST because preseason forecasts are more uncertain at that level. Emergency action is still an available tool for lower stock levels.

Mr. Wolford noted the Yurok tribe supported an exploitation rate of 25 percent down to MSST if MSST was at 75 percent of S_{MSY} , and that was why the motion was designed that way.

Mr. Roth noted the Yurok recommendation included a zero intercept at half of S_{MSY} . Mr. Sones replied the Yurok tribe was concerned with substock issues.

Amendment 1 to Motion 7 failed; Mr. Myer, Mr. Sones, Mr. Pattillo, Mr. Crabbe, Mr. Ortmann, Ms. Vojkovich, Dr. Dygert, Mr. Pollard, and Mr. Brizendine voted no.

Mr. Moore moved to amend Motion 7 (Amendment 2 to Motion 7) to add “gradually be” to the reduction from $F=0.25$ to $F=0.13$ (see Agenda Item C.1.d, Supplemental Motions for *De Minimis* Fishing). Ms. Lowman seconded the motion.

Mr. Williams asked at what abundance would $F=0.15$. Mr. Moore replied at MSST.

Mr. Williams noted that Agenda Item C.1.d, Supplemental Motion 7 Graphic was not completely representative of Motion 7 because it shows $F=0.1$, not $F=0.15$ at abundance less than MSST. The graphic should reflect $F=0.15$ at abundance levels less than MSST.

Ms. Vojkovich offered a friendly amendment to Amendment 2 to Motion 7 to include the bullets from Amendment 2 to Amendment 1 to Motion 7. Mr. Moore and Ms Lowman approved the friendly amendment.

Mr. Pattillo felt the language to gradually reduce F was not specific enough.

Mr. Pattillo moved to amend Amendment 2 to Motion 7 (Amendment 1 to Amendment 2 to Motion 7) to change from “below which F must gradually be reduced to 15 percent” to “the F will be reduced proportional to prefishery abundance to no more than 15 percent” (see Agenda Item C.1.d, Supplemental Motions for *De Minimis* Fishing). Mr. Myer seconded the motion.

Dr. Dygert was still uncomfortable with $F=0.15$ at abundance levels less than MSST. Mr. Pattillo agreed.

Mr. Williams noted that the allowable levels and additional considerations represent caps, and not requirements to prescribe those F levels.

Amendment 1 to Amendment 2 to Motion 7 carried unanimously. Amendment 2 to Motion 7, as amended, carried unanimously.

Mr. Myer moved to amend Motion 7 (Amendment 3 to Motion 7) to change $F=0.15$ to $F=0.1$, which would also comport with Agenda Item C.1.d, Supplemental Motion 7 Graphic (see Agenda Item C.1.d, Supplemental Motions for *De Minimis* Fishing). Mr. Pattillo seconded the motion.

Amendment 3 to Motion 7 carried; Mr. Moore, Mr. Sones, Ms. Vojkovich, and Mr. Williams voted no.

Mr. Pollard asked if the intent was to have F linearly approach zero as abundance approached zero below half of MSST or to have F approach zero at half of MSST. Mr. Williams replied the intent was to reflect Agenda Item C.1.d, Supplemental Motion 7 Graphic.

Motion 7 carried; Ms Vojkovich and Dr. Dygert voted no.

Dr. McIsaac noted the FMP language in Agenda Item C.1.b, SAC Report 3 would need to be changed to reflect Council Action and asked if there was any additional language or guidance for Council staff to modify the FMP language.

Ms. Vojkovich recommended including in the FMP language the intent of *de minimis* fisheries was to provide incidental bycatch and minimal tribal needs.

Break 6/9/2011 10:52 a.m.

Reconvene 6/9/2011 11:08 a.m.

Dr. Dygert asked if the Council concurred that ACT would be listed as an available AM in the FMP, but not specified in the FMP. The Council concurred.

Ms. Vojkovich requested that if there were inconsistencies in the Council action, they would be brought back to the Council’s attention.

D. Highly Migratory Species Management

D.1 North Pacific Albacore Tuna Fisheries Economic Analysis

D.1.a Agenda Item Overview (06/09/11; 11:13 a.m.)

Dr. Kit Dahl provided the agenda item overview.

D.1.b Report by Lisa Wise Consulting, Inc.

Mr. Henry Pontarelli provided Agenda Item D.1.b, Supplemental LWC PowerPoint Presentation. Mr. Peter Flournoy and Mr. Chip Bissell joined him at the podium after the presentation to answer questions.

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

Dr. Cindy Thompson provided Agenda Item D.1.c, Supplemental SSC Report. Dr. Steve Stohs provided Agenda Item D.1.c, Supplemental HMSMT Report. Mr. Wayne Heikkila provided Agenda Item D.1.c, Supplemental HMSAS Report.

D.1.d Public Comment

Mr. Chip Bissell, American Albacore Fishing Association, Oak View, CA
Mr. Peter Flournoy, International Law Offices, San Diego, CA

D.1.e Council Discussion

None.

D.2 Recommendations to International Fisheries Organizations

D.2.a Agenda Item Overview (06/09/11; 1:21 p.m.)

Dr. Dahl provided the agenda item overview.

D.2.b Reports and Comments of Advisory Bodies and Management Entities (1:40 p.m.)

Dr. Steve Stohs provided Agenda Item D.2.b, Supplemental HMSMT Report. Mr. Wayne Heikkila provided Agenda Item D.2.b, Supplemental HMSAS Report.

D.2.c Public Comment

Mr. Pete Dupuy, Fisherman, Tarzana, CA (1:31 p.m.—testified early to catch flight)
Mr. Chip Bissell, United Albacore Association, Oak View, CA (2:37 p.m.)

D.2.d Council Action: Adopt Recommendations for U.S. Delegations to the 82nd Meeting of the Inter-American Tropical Tuna Commission and the 7th Regular Session of the Northern Committee

Ms. Vojkovich discussed the Council's relationship to Regional Fishery Management Organization (RFMO) management of Highly Migratory Species (HMS), emphasizing a strategic approach, especially

with regard to North Pacific albacore. She noted the broad agreement in recommendations in HMS Management Team (HMSMT) and HMS Advisory Subpanel (HMSAS) reports.

Ms. Culver asked Dr. McIsaac about the feasibility of organizing a joint meeting of the HMSAS and HMSMT outside of a Council meeting, given the fact that the North Pacific albacore stock assessment is not yet available. Dr. McIsaac noted that the advisory body recommendation was, in addition to an advisory body meeting, to provide their recommendations to the Council for consideration between Council sessions. He reviewed the logistical and budgetary difficulties in doing that. For that reason he emphasized the need for the Council to develop their recommendations now.

Ms. Culver asked Ms. Vojkovich about the function of U.S. delegations and how Council positions can be advanced in that setting. Ms. Vojkovich outlined the progress that has been made in advancing Council positions along with some of the impediments. She emphasized the importance of the HMSAS's concern and interest in these issues. Mr. Helvey followed up by discussing the roles of NMFS Southwest Region (SWR) and Pacific Island Regional Office in RFMO delegations. He recommended the Council advocate for a larger SWR role with respect to certain North Pacific HMS stocks, such as Pacific bluefin and North Pacific albacore tuna.

Ms. Vojkovich discussed how to address the lack of a North Pacific albacore stock assessment upon which to base recommendations. She argued that the Inter-American Tropical Tuna Commission (IATTC) (meeting July 4-9) is unlikely to consider changes to their albacore conservation measure (Resolution C-05-02). The Western and Central Pacific Fisheries Commission (WCPFC) Northern Committee also may not propose a conservation measure as opposed to forwarding some more general recommendations to the WCPFC plenary. Thus, the Council need not be too concerned about measures being adopted at the international level before the Council would have a chance to further consider recommendations at a future meeting. Mr. Helvey concurred, suggesting the Council direct their advisory bodies to begin developing some ideas about management of North Pacific albacore in the international context. This could then be forwarded to the U.S. delegation to work with other countries on these concepts.

There was further discussion between Ms. Vojkovich and Mr. Helvey about the logistics of a HMSAS-HMSMT meeting and developing Council recommendations.

Ms. Vojkovich moved (Motion 8) to adopt recommendations from the Supplemental HMSMT Report (Agenda Item D.2.b) as well as some additional recommendations.

Recommendations for North Pacific albacore to the U.S. Delegations to the IATTC and WCPFC Northern Committee:

1. Support management measures that address the relative impacts of all international fisheries participants without disadvantaging the U.S. fleet;
2. Support the Northern Committee's proposed three-year stock assessment cycle;
3. Promote research to update the life history parameters such as maturity, and age and growth in the stock assessment, efforts which will require additional sampling and data collection;
4. Define reference points for international management and utilize simulation analyses of potential biological reference points, as appropriate;
5. Give weight to management measures for which monitoring, compliance, and enforcement are effective; and
6. If the stock assessment results are similar to the 2006 stock assessment results, the HMSMT recommends that current management measures be maintained and clarified, and compliance with data reporting requirements should be promoted.

Additional recommendations to the U.S. Delegation to the IATTC:

1. Support the adoption of biological reference points and effective conservation measures for Pacific bluefin tuna, as identified above;
2. Support the adoption of management measures in the commercial fisheries for Pacific bluefin tuna;
3. Do not support the adoption of management measures in the recreational fisheries for Pacific bluefin tuna;
4. Support reopening the non-binding recommendations for tropical tunas agreed to at last year's IATTC meeting for adoption as binding resolutions at this year's meeting, Recommendation C-10-01 on tropical tuna measures, Recommendation C-10-02 on seabird mitigation measures, and Recommendation C-10-03 on prohibiting fishing around data buoys;
5. Support proposals that would increase compliance with IATTC management measures; and
6. Advocate for more comprehensive data reporting and collection by members of the IATTC and the WCPFC.

Mr. Brizendine seconded the motion.

In explaining her motion, Ms. Vojkovich noted the similarity between the first six items in the HMSMT Report and the HMSAS recommendations. In the second six items she added WCPFC to bullet 6 in order to make it more comprehensive. In their recommendations, the HMSAS brought up some concerns with the data buoy recommendation adopted by the IATTC in 2010, which the HMSMT recommended be converted to a resolution at the 2011 meeting. She was not sure of whether it was the same as the measure adopted by the WCPFC in 2010, but thought the HMSAS concerns should be taken into consideration. Dr. Dahl provided some background information on the data buoy measures and their contents. He noted that similar measures have been proposed by the U.S. at several RFMO meetings.

Ms. Culver sought clarification on which RFMOs are considering a data buoy measure and which have adopted one. Ms. Vojkovich responded with an explanation.

Mr. Helvey asked for a friendly amendment to include a recommendation to the IATTC delegation that any conservation measure for Pacific bluefin not include a measure for recreational fisheries, or if that could not be agreed to, that the base period for determining recreational effort be the same as the period proposed for commercial fisheries (1994-2007). The maker and seconder accepted the friendly amendment.

Motion 8 carried unanimously.

Ms. Vojkovich moved and Mr. David Crabbe seconded a motion (Motion 9) based on the recommendations in the HMSAS Report:

1. Regardless of the results of the July 2011 International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean albacore stock assessment, encourage the WCPFC NC, particularly Japan, to define artisanal fisheries and a method to quantify their harvest capacity;
2. Encourage securing data from the Canadian government on landings by Canadian vessels in Canadian ports of albacore caught in the U.S. west coast Exclusive Economic Zone (EEZ).
3. Encourage the IATTC to require establishment of national observer programs to put observers on longline vessels; and
4. Encourage discussions between the U.S. and Mexico through MEXUS Pacifico concerning albacore fishing opportunities in the Mexican EEZ.

Ms. Vojkovich provided the rationale for her motion, noting the need for a better definition for artisanal fisheries because they have received exemptions in conservation measures, promoting establishment of longline observer programs because this has been implemented in other RFMOs, and noting that MEXUS Pacifico is a relationship that NMFS is already engaged in with respect to Coastal Pelagic Species (CPS) management.

Motion 9 carried unanimously.

Ms. Vojkovich led a discussion of how the Council might respond if the North Pacific albacore stock assessment indicated a need to reduce fishing mortality on the stock. Consistent with existing measures, this would likely be accomplished through reductions in fishing effort. For that reason, the U.S. delegation should have information on current and historical U.S. fishing effort levels. Council members generally agreed that the NC delegation should be furnished with this information.

Mr. Williams noted that the HMSAS made several recommendations for future Council actions no matter the outcome of the current albacore stock assessment. Ms. Culver followed up by recommending that the HMSMT and HMSAS should develop a strategy for how the U.S. should address North Pacific albacore management going forward.

Ms. Culver moved and Mr. Moore seconded a motion (Motion 10) to send a letter to Rod McInnis, NMFS Southwest Regional Administrator, urging the Region to take a stronger role in WCPFC delegations relative to temperate tuna management issues, and specifically bluefin and albacore.

Motion 10 carried unanimously.

Ms. Vojkovich provided further guidance to the HMSMT and HMSAS with respect to addressing North Pacific albacore management. She said that developing management recommendations for albacore should be a regular part of their meeting agendas and should include consideration of socioeconomic issues as well as management measures. The objective is to help the Council take a more proactive stance with respect to future recommendations on North Pacific albacore management. In response to a question from Mr. Helvey, she agreed that the advisory bodies should consider a range of potential management measures, although the focus should be on effort limitation because that what is in the current conservation measures.

Mr. Helvey recommended that a range of measures should be considered equally since effort limitation may not be the best management approach. Ms. Vojkovich said the advisory bodies should develop a work plan that would explore these issues in greater detail. Ms. Culver recommended the advisory bodies look at a range of potential measures and consider their implications for U.S. fisheries. The Council concurred.

E. Groundfish Management

E.1 National Marine Fisheries Service Report

E.1.a Regulatory Activities

Mr. Frank Lockhart provided an update on the data collection and systems for the rationalized trawl fishery. Further, Mr. Lockhart said following the publication on May 11 of the 2011 final rule for the harvest specifications, accounts were topped off with additional quota pounds for some species as a result of higher specifications. This is the final action for issuing the 2011 quota pounds.

Mr. Lockhart said there were two appeals for the initial issuance which are in final review at NMFS headquarters. The outcome of the appeal is expected this summer and may affect the 2012 issuance of quota pounds.

Mr. Lockhart also reminded the Council that the rationalization program requires that quota pounds be transferred from the quota share account to the vessel account by September 1. Several people have been making these transfers after the landing occurs and this will no longer be possible after September 1.

Dr. Donald McIsaac asked what happens to the quota pounds if they are not transferred to the vessel accounts by September 1. Mr. Lockhart said they would not have access to those quota pounds in 2011.

Mr. Rod Moore asked why the appeals are sent to headquarters. Ms. Mariam McCall said it is good due process since the initial decision is made by one group, in this case the Northwest Region with guidance from their General Counsel. The appeal is then reviewed by another entity, in this case the National Appeals office. This provides an unbiased review of the agency's action and appeal.

Mr. Dale Myer asked Mr. Lockhart to confirm - if the quota pounds are not transferred to a vessel account by September 1, then those pounds are not subject to the 10 percent rollover provision. Mr. Lockhart said that is correct, those pounds would not be rolled over for 2012.

Mr. Lockhart said that a correction to the sablefish tier limits is in final review and should be issued shortly. The error in the tiers was discovered at the April Council meeting. The Council transmitted detailed information on the error and the agency submitted a rule to issue a correction.

Mr. Lockhart noted that changes to the Pacific halibut individual bycatch quota were done through an emergency rule for the 2011 trawl rationalized fishery. This rule is set to expire, so the agency is working to extend that rule. There is no further action required by the Council.

Mr. Lockhart said the current plan for meeting the National Environmental Policy Act (NEPA) requirements with regard to the Pacific halibut Catch Sharing Plan is for NMFS to prepare an Environmental Assessment (EA) with updated information when the next round of regulations go through the system later this year. The agency is not opening up or changing the allocations in the Catch Sharing Plan. When NMFS does the next round of regulations, they will update the EA.

With regards to the ODFW and Port Orford Ocean Resource Team proposal for retention of Pacific halibut in the sablefish fishery south of Point Chehalis, the agency has not completed scoping but the agency plans to have a draft NEPA document in front of the Council next March.

The Pacific Whiting Treaty will be implemented and the rule asks for nominations for the Advisory Panel and for the industry seat on the Joint Management Committee by June 30. Interested parties do not need to re-submit nominations, but NMFS would like confirmation that the individuals are still interested. NMFS expects to review the nominations very quickly and announce the composition shortly thereafter. NMFS is also contacting the tribes with regard to the tribal seat. NMFS expects to hold the advisory panel meetings in late summer.

The Pacific whiting final rule published and the fishery opened on May 15. All of the co-op permits and allocations for the catcher-processor and mothership sectors were issued. The Quileute have submitted a letter to NMFS stating they will not participate in the 2011 Pacific whiting fishery and that NMFS does not have the authority to re-allocate the tribal allocation without consultation and consent from all tribes, including the Quileute tribe (Agenda Item E.1.c, Supplemental Quileute Letter).

Mr. Moore asked for NMFS' legal opinion on the agency's ability to re-allocate tribal allocations. Mr. Lockhart said under the prior regulations NMFS believed they had the authority to re-allocate. The agency does not believe they have the authority under the existing regulations.

Ms. Michele Culver asked if NMFS will be consulting with the tribes, including the Quileute. Mr. Lockhart said yes, they already contacted the tribes and they have indicated interest in the consultation. NMFS also plans to include the states in those consultations.

Ms. Gway Kirchner asked Mr. Lockhart to confirm that NMFS will be producing the EA that analyzes the retention of Pacific halibut in the sablefish fishery south of Point Chehalis for the March meeting. Mr. Lockhart said yes.

E.1.b Fisheries Science Center Activities (06/09/11; 3:58 p.m.)

Dr. John Stein and Dr. Michelle McClure provided Agenda Item E.1.b, Supplemental NWFSC Groundfish PowerPoint. Dr. Todd Lee provided Agenda Item E.1.b, Supplemental NWFSC Economic Data PowerPoint.

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

None.

E.1.d Public Comment

None.

E.1.e Council Discussion

None.

E.2 Stock Assessments for 2013-2014 Groundfish Fisheries

E.2.a Agenda Item Overview (06/09/11; 4:47 p.m.)

Mr. John DeVore provided the agenda item overview

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

Dr. Owen Hamel provided Agenda Item E.2.b, Supplemental SSC Report.

[Council adjourned for the day at 5:38 p.m.]

[8:02 a.m.; 06/10/11; Council returned to the SSC statement (Dr. Martin Dorn).]

Mr. John Budrick and Dr. Jason Kope provided Agenda Item E.2.b, Supplemental GMT Report. Mr. Gerry Richter provided Agenda Item E.2.b, Supplemental GAP Report.

E.2.c Public Comment

Mr. Brad Pettinger, Oregon Trawl Commission, Coos Bay, OR

E.2.d Council Action: Consider Results of the Data-Limited Methodology Review Panel and Approve Updated Stock Assessments (06/10/11; 8:31 a.m.)

Mr. Myer moved and Ms. Culver seconded a motion (Motion 11) to adopt the yelloweye and canary rockfish assessments, adopt the cowcod status report, and to send the bocaccio assessment to the mop-up panel for further review.

Mr. Myer explained these actions were recommended by the SSC.

Ms. Vojkovich said she is frustrated by the lack of information regarding cowcod. She is also uncertain how the bocaccio assessment re-evaluation will lead to clearer decisions. She is hoping that the Stock Assessment Team makes sure that the bocaccio results will best inform management.

Motion 11 carried unanimously.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 12) to adopt the SSC and Groundfish Management Team (GMT) recommendations regarding data-limited methods for estimating harvest specifications.

Motion 12 carried unanimously.

Mr. Moore moved and Ms. Kirchner seconded a motion (Motion 13) to request further review of the darkblotched rockfish update assessment at the mop up panel to explore the issues relating with the trawl survey and any other appropriate issues as noted by the SSC.

Mr. DeVore recommended some discussion with the Northwest Fisheries Science Center (NWFSC) folks to ensure this can be done. Mr. Moore asked Dr. John Stein to discuss this and Dr. Stein said this would be difficult but could be done. Ms. Culver asked if a full assessment can be evaluated at mop-up and Dr. McClure said a full assessment cannot be done but additional investigations of the updated assessment can be done.

Mr. Moore spoke to his motion. Darkblotched is overfished and is an important constraining stock in the trawl fishery. This stock has been the subject of litigation and it is critical to get the best science available to make decisions regarding darkblotched and the trawl fishery. He is not sure an update provides the best available science without a better explanation of how the updated data affects such a significant result. Dr. Dorn, Dr. Stein, and Dr. McClure all agreed additional exploration can be done for this assessment without going to a full assessment.

Ms. Vojkovich was not clear what darkblotched data will receive further evaluation and Mr. Moore said the length composition data from the survey is driving the result.

Ms. Culver said she understands the problems with darkblotched and it is clear from past assessments that the trawl survey does not do a particularly good job at sampling slope rockfish. One off-year science improvement would be an evaluation of the slope survey's ability to sample slope rockfish. Otherwise, we will be continually struggling with this dilemma.

Mr. Lockhart asked if the motion tasks the SSC to provide sideboards on the re-evaluation. Mr. Moore said he is leaving it to the experts to decide how the evaluation will take place. It is clear from comments and in the motion that length compositions in the survey will at least be re-evaluated.

Ms. Kirchner asked if this will follow the Terms of Reference and Mr. Moore said it is conceivable that the final assessment may fall outside the Terms of Reference. Mr. Moore said he is also supportive of the idea to investigate other methods for surveying slope rockfish abundance.

Motion 13 carried unanimously.

E.3 Groundfish Amendment 16-5 and 2012 Harvest Specifications and Management Measures

E.3.a Agenda Item Overview (06/10/11; 9:11 a.m.)

Mr. DeVore gave the agenda item overview.

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

Mr. Richter provided Agenda Item E.3.b, Supplemental GAP Report. Mr. Lockhart answered questions regarding the NMFS attachments and the Secretarial process for adopting an FMP amendment.

E.3.c Public Comment (06/10/11; 9:24 a.m.)

Mr. Jeff Russell, NRDC, San Francisco, CA

E.3.d Council Action: Determine Necessary Process and Actions to Implement Amendment 16-5 and 2012 Groundfish Harvest Specifications and Management Measures (06/10/11; 9:27 a.m.)

Mr. Moore asked what regulations would be implemented at the start of 2012 and Ms. Mariam McCall said there would be roll-over issues that would be addressed. Normally 2011 regulations would roll-over, but those regulations were implemented under emergency authority and could not be rolled over. Mr. Lockhart added that he committed to the court that “appropriate” regulations would be implemented on January 1, 2012.

Ms. Culver asked, if there was direction from the Council on a Secretarial amendment, could that affect regulations after 2012. Mr. Lockhart said that NMFS could receive some direction and consider other elements under a Secretarial amendment.

Mr. DeVore explained one critical issue is the roll-over mechanism for harvest specifications of overfished species that are consistent with adopted rebuilding plans. It is not clear whether the status quo harvest specifications are based on a constant catch or a constant harvest rate.

Ms. Culver moved and Ms. Vojkovich seconded a motion (Motion 14) to allow NMFS to pursue a Secretarial amendment process for Amendment 16-5 with the understanding Amendment 16-5 would be on the Council’s September agenda.

Ms. Culver said this is the most efficient process and is the best pathway for getting Amendment 16-5 implemented by January 1, 2012. Mr. Moore said he does believe this motion abrogates Council authority and he reluctantly supports the motion. Ms. Vojkovich hopes a Secretarial amendment process will create a 2013 roll-over process that is clear for overfished species. Mr. Lockhart said this will be part of the Secretary’s considerations for Amendment 16-5 and that there will be exploration of these issues and those brought up by Mr. DeVore will be thoroughly considered. NMFS will provide clear answers on these issues by September.

Mr. Cedergreen hopes that this Secretarial amendment process does not become a precedent-setting decision.

Motion 14 carried unanimously.

E.4 Final Schedule for Completing the 2013-14 Specifications and Management Measures and Considerations for Solving Biennial Cycle Process Issues

E.4.a Agenda Item Overview

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

E.4.b Reports and Comments of Advisory Bodies and Management Entities (06/10/11; 10:18 a.m.)

Dr. Dorn provided Agenda Item E.4.b, Supplemental SSC Report. Mr. Corey Niles presented Agenda Item E.4.b, Supplemental GMT Report 2. Mr. John Holloway provided Agenda Item E.4.b, Supplemental GAP Report.

E.4.c Public Comment

Mr. Jeff Russell, NRDC, San Francisco, CA

E.4.d Council Action: Adopt a Final Process and Schedule; Adopt Modifications to Council Operating Procedure 19 for Groundfish EFPs; Provide Further Guidance on Solutions for Biennial Cycle Management (06/10/11; 1:09 p.m.)

Ms. Marija Vojkovich said she is interested in finding solutions to the ever-increasing emerging issues in the specifications process. She also said the current schedule for 2013-14 is untenable. She noted that the GMT assignment for stock complexes, which was given in April, was scheduled for June, and now September. That is an indication that no matter how hard people try to accomplish the workload, they are unable to make the schedule. The GMT highlights significant trepidation about the schedule in Attachment 1 and Ms. Vojkovich does not see how we can make it. The Groundfish Advisory Subpanel (GAP) did not offer solutions, but noted the desire to maintain flexibility. Ms. Vojkovich supports finding solutions today.

Ms. Michele Culver shared the same concerns as Ms. Vojkovich. The GMT report highlighted issues relative to their workload. There are a few larger issues that the Council should move forward with, for example, analyzing the existing stock complexes and restructuring the rebuilding analyses. In order to take on some of those larger changes, it will take time. Ms. Culver did not see that time sufficiently built in to the process and schedule in Attachment 1. Ms. Culver noted that we are still working on the 2012 harvest specifications, which makes exploring larger issues in 2013-14 more challenging.

Ms. Culver asked Ms. McCall to speak about the FMP requirements and the biennial specifications. Ms. McCall reviewed the relevant sections of the FMP.

Ms. Culver moved (Motion 15) to follow a process and schedule that meets requirements of the FMP; to follow the process described in Agenda Item E.4.a, Attachment 1 relative to the non-italicized items, specifically the schedule for the September and November Council meetings. At those meetings, we would review the new rebuilding plans and stock assessments. Relative to specifications and management measures, the intent is to reduce the scope and number of management considerations to reduce

complexity and increase efficiency. So, for the most part, we would retain similar specifications and management measures for 2013-14 as specified for 2012. For the schedule, we would review the additional stock assessments and rebuilding analyses at the September and November meetings. At that point, we would have the ability to consider revisions to proposed harvest specifications for 2013-14. Mr. Rod Moore seconded the motion.

Ms. Culver said she does not have a clearly written-out process and schedule that captures her motion, but her intent is to put people on notice that we do not anticipate having significant changes to the harvest specifications and management measures for 2013-14. We do have additional assessments and rebuilding analyses for Council consideration in September and November, so we need to maintain flexibility, depending on the outcome of the assessments and analyses. We have the ability to take inseason actions and to implement a red light scenario, if needed. The intent would be if any of those assessments or rebuilding analyses indicate that we could increase the harvest specifications, we could do so within the range of what was analyzed in the 2011-12 Environmental Impact Statement (EIS) and we could supplement that with additional analyses in a tiered EA or supplemental EIS.

Ms. Culver said the purpose is to give us some time to digest what we have done; to consider new information as well as information from the trawl rationalization program; to provide the advisory bodies, public, and Council family the time needed to consider some of those larger, perhaps more major changes that we might be considering relative to restructuring stock complexes and changing our rebuilding analyses; as well as providing time to change the process and schedule for 2015-16. It is clear from our discussions surrounding the 2013-14 process, that what we have will not work and we need to find a way to get out of this box. Given the Council comments from the last agenda item, she'd like to make it clear she is not suggesting that the Council alleviate itself from its responsibilities to take into account the best available science, the social and economic considerations, and to make the management decisions for the west coast groundfish fishery. The only way to find relief is to give it to ourselves. It's going to be difficult to hold the line. The Council will get requests for new management measures and should consider those on a case-by-case basis, however, for the most part the Council needs this time to develop a new process that works and as such needs to hold the line as much as possible.

Mr. Moore asked if the intent of the motion was to roll over the specifications and management measures from 2012 into 2013-14 with the ability to take necessary actions for conservation purposes (e.g., a stock decline). Mr. Moore asked for confirmation that this approach would not preclude work on other management measures such as those in the rationalized trawl fishery. Ms. Culver said yes, that is correct.

Mr. Moore said that at first he was not supportive of Ms. Culver's approach; he did not like the idea of the Council giving up the ability to take action for both conservation issues and harvest issues. He has seen the Council go through all sorts of efforts to make things go smoother, but none have worked. Mr. Moore felt that this motion was the only way to provide the time necessary for finding solutions that do work.

Ms. Ames asked Ms. Culver if the motion includes a January 1, 2013 fishery start date. Ms. Culver said yes.

Dr. Don McIsaac asked if the schedule in the motion ends with the November Council meeting. Ms. Culver clarified that the motion included all of the items in Attachment 1 that were not italicized. Her comments regarding Council action at the September and November Council meetings were specific to whether the Council would entertain changes to the harvest specifications after reviewing the assessments and rebuilding analyses.

Ms. Dorothy Lowman asked if the motion included maintaining all of the inseason tools. Mrs. Culver said yes.

Mr. Dan Wolford said the motion sounds like a practical approach; it will enable the Council to meet their obligations. However, he noted, there is still no guarantee or close assurance for a January 1 fishery start date. Mr. Frank Lockhart responded that under the previous agenda item (Agenda Item E.3, Groundfish Amendment 16-5 and 2012 Harvest Specifications and Measures) there were some linkages between Amendment 16-5 and the 2013-14 harvest specifications and management measures. NMFS would look at the Council recommendation for Amendment 16-5 and this motion, if it passes, for 2013-14. Amendment 16-5 is setting up the 2012 specifications that you are talking about rolling over for 2013-14 under this agenda item. NMFS will explore these two options and report back at the September Council meeting. Mr. Lockhart says the approach sounds like it will work, but it is a new idea and NMFS needs time for further consideration.

Ms. Mariam McCall said she understood the intent is to comply with the review and assessment requirements of the FMP at the September and November meeting and then potentially making a decision on where to go with the 2013-14 harvest specifications. Ms. McCall said she understood that the Council was not deciding at this meeting whether to roll over the specifications or what to do. Ms. Culver nodded her head yes. Ms. Culver clarified that she did not use the term roll over. She was not prescribing the process, but the intent. NMFS will hopefully tell the Council how to best to get there. Ms. Culver does not care for linkages. There was no administrative tie to NMFS. She deliberately did not link it to the Secretarial Amendment or say that the Council would not consider any changes. The intent is to follow the FMP requirements and provide notice that the Council will reduce the scope and number of management considerations for 2013-14. The harvest specifications and management measures for 2013-14 will be very similar to what is in place for 2012.

Dr. McIsaac asked NMFS, if the motion passes and the scope for 2013-14 is narrow, could an EA, as opposed to an EIS, be considered? Ms. McCall said it depends. The agency just made a decision on a robust final EIS, which was a Council and agency product. If the Council follows through and has a narrow scope of action, NMFS would look at the 2011-12 final EIS and see if the proposed action is within the scope of what was previously analyzed. If it is outside the scope, new NEPA analysis would be required; however, it could be small and easy – perhaps a supplemental or tiered document. However, if the Council adopts a big scope, the analysis will go big. NMFS cannot make a determination on the document until we see the proposed action.

Ms. Gway Kirchner agreed with the motion and the approach.

Motion 15 carried unanimously.

Ms. Vojkovich asked, relative to long-term solutions that may require an FMP amendment, whether the Council needed to choose a schedule option from Attachment 5 at this meeting or wait until November 2011 when we have a better idea of the 2013-14 scope. Dr. McIsaac said it is unnecessary to adopt scheduling decisions at this meeting. We've heard today that doing an EIS every two years is a broken model. If the Council is interested in exploring an amendment, we can start those discussions in November.

Ms. Culver agreed with Dr. McIsaac's comments. Referencing Table 2 in the GMT report, she does not like Option 1. However, at the November 2011 meeting the Council could consider how to move forward. She favors Option 2 to begin the 2015-16 discussion at the March 2012 meeting.

Mr. Moore moved (Motion 16) to adopt the modified Council Operating Procedure #19 (Attachment 2), with the following changes 1) page 3, under paragraph C1, following the GMT add "GAP," 2) page 6,

paragraph E1, following GMT add “and GAP,” and 3) page 6, paragraph E2, following GMT add “and GAP.” Ms. Kirchner seconded Motion 16.

Mr. Moore said the GAP has been involved in the exempted fishing permit (EFP) process; however, the Council Operating Procedure did not formally mention GAP review. His motion formally requires GAP involvement. Mr. Moore considered addressing the GAP recommendation for annual consideration of EFPs that do not require set asides, however, he recommends that be considered in the future.

Mr. Wolford asked for clarification on page 3, item F. Mr. DeVore said the EFP could be for one or two years of the biennium.

Ms. Lowman shared the concerns of Mr. Moore regarding the GAP recommendation for annual consideration of EFPs that do not require set asides. She also recommends considering the matter at a future date.

Motion 16 carried unanimously.

Ms. Culver moved (Motion 17) that the GMT prepare a list of questions for the SSC for clarification on the conservation performance of the Council’s rebuilding plans. There should be more specificity to the items raised in Agenda Item E.4.b, GMT Report. The intent is for the GMT to develop those in the September and November timeframe such that they could be provided to the SSC and considered for the 2015-16 cycle. Mr. Myer seconded the motion.

Mr. Lockhart asked if the questions provided to the SSC will be limited to scientific questions. Ms. Culver said yes, that is the intent. The GMT will provide a list of questions to the SSC. If there are some questions that the SSC can’t or won’t answer, they will tell us.

Ms. Vojkovich said she had two impressions from the GMT report: 1) to evaluate the performance of the rebuilding plans, and 2) to document the history of the rebuilding plans. There is a desire for greater documentation on the scientific basis behind the rebuilding policies that support our decision-making. Ms. Vojkovich wants to ensure the latter goal is recognized by the SSC.

Mr. Wolford echoed Ms. Vojkovich’s comments. Mr. Wolford said simply put, this is why we do what we do. Ms. Culver referenced the GMT report that the rebuilding plans and analyses are a mixture of law, policy, and science. The questions intended for the SSC are science-related. She is seeking not just documentation but an evaluation of the rebuilding progress. From a science perspective, we are looking for guidance from the SSC on how to improve performance, if necessary, based on our policy goals. The SSC is typically a review body; however, in this case we are asking the SSC to help us do the performance assessment and have a brainstorming session on how to improve the stock assessments and rebuilding analyses.

Ms. McCall said she has spent much time with the records for the rebuilding plans. It is important to have the SSC’s perspective on the issue of the constant harvest rate and the constant catch rate policies. The record goes back to 2005 or 2006 when the SSC said, in general, to use a constant harvest rate approach. National Standard 1 says the Council has choices in rebuilding. She hopes the SSC can provide greater information on the scientific considerations for the two policies. Further, she would like a discussion regarding characterizations of the new stock assessment and rebuilding analyses. In the past, we’ve said that the results were more pessimistic than the past analyses. Ms. McCall asked that the advisory bodies move away from that simplistic terminology and use more specificity and context with regard to the changes in the rebuilding progress.

Ms. Kirchner concurred and noted that many current Council members were not present during the development of the original rebuilding plans and therefore she supports the recommendations for historical documentation and SSC analysis.

Ms. Ames asked whether the SSC responses to the GMT questions could be used in the 2013-14 process. Ms. Culver said no, we are trying to limit the scope and amount of analysis for 2013-14. She is looking for the SSC responses for inclusion for 2015-16 and the more in-depth NEPA document which would analyze a larger range of changes in rebuilding plans and rebuilding analyses.

Motion 17 carried unanimously.

Ms. Culver said she would like to offer some additional guidance. The GMT report on rebuilding said that the GMT should also be involved in the project team discussions regarding the re-structuring of rebuilding analyses, rebuilding plans, and the alternatives. Ms. Culver recommends that an opportunity be provided for the project team and the GMT, or sub-set of the GMT, to have those discussions for the 2015-16 process.

Mr. Lockhart asked about the timing of a project team and GMT meeting. Ms. Culver said sometime in the spring would be helpful. Mr. Lockhart agreed with the guidance.

The Council agreed with the guidance offered by Ms. Culver.

E.5 Consideration of Inseason Adjustments – Part 1

E.5.a Agenda Item Overview (06/11/11; 3:30 p.m.)

Ms. Kelly Ames provided the agenda item overview.

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

Ms. Gway Kirchner provided Agenda Item E.5.b, Supplemental ODFW Report. Lieutenant Bob Farrell, newly elected Enforcement Committee (EC) chairman, and Mr. Dayna Matthews provided Agenda Item E.5.b, Supplemental EC Report. Mr. Sean Matson and Mr. Dan Erickson walked the Council through Agenda Item E.5.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item E.5.b, Supplemental GAP Report and Supplemental GAP Report 2.

E.5.c Public Comment

Mr. Daniel Platt, FFMA, Ft. Bragg, CA
Mr. Gerry Richter, Bumblebee Seafoods, Santa Barbara, CA
Mr. Kevin Dunn, F/V Iron Lady, Astoria, OR

E.5.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2011 Groundfish Fisheries (Part II on Monday, if needed)

Mr. Rod Moore moved (Motion 22) to modify the trawl Rockfish Conservation Area (RCA) for the area 45°46' N. lat. (Cape Falcon) to 48°10' N. lat. (Cape Alava) starting September 1 through the end of the year (i.e., Periods 5 and 6), as recommended by the GAP and GMT. Ms. Kirchner seconded the motion.

Mr. Moore said the Council has implemented a trawl rationalization program to provide the flexibility and individual accountability to target resources. Without increased access to fishing grounds, we are

imposing program costs to the fleet without the promised program benefits. Mr. Moore said the Council can take this small first step, in a small area of the coast, and monitor the progress of the fishery, before deciding to make larger changes to the RCA. This is a pilot project.

Mr. Lockhart said when modifications to the RCA were first proposed in March, it included a larger area for a longer duration. The proposal today is much more refined; it is smaller in scope and duration. Mr. Lockhart said in March he voted against the RCA changes, but indicated a desire to explore increased flexibility and access to fishing grounds through RCA modifications. Mr. Lockhart said he will support the motion, as a first step or pilot project to provide flexibility. The GMT report outlined some of the possible implications of moving the RCA, however, we are in a rationalized fishery with full monitoring and individual accountability. We will be able to monitor the impacts of this change and react, if necessary. The Council needs to start allowing some flexibility to the fishermen as a benefit of the trawl rationalization program.

Mr. Dan Wolford agreed with the principal to provide increased flexibility as a result of the rationalized program; however, he did not hear from the industry that the current RCA structure would impede access to target species. Mr. Moore said that we heard from industry that the fish are not always where they are expected to be. Mr. Moore said the motion will provide flexibility and greater access. He noted that prices for sablefish and Dover sole have increased and there is value to provide the fisherman greater access.

Ms. Michele Culver said she would support the motion. She considered restricting the proposal to only Period 5; however, the Council can look at the data in September and make recommendations for Period 6, if necessary. Ms. Culver cautioned that there is a lag in data reporting and urged NMFS to ensure that total catch data from the rationalized fishery be available as soon as possible. Mr. Lockhart said there have been a lot of improvements in the data processing and he is confident total catch data will be available in a timely manner.

Motion 22 carried unanimously.

Mr. Moore moved and Ms. Kirchner seconded a motion (Motion 23) to adopt the final inseason adjustment for 2011 groundfish fisheries as shown in Agenda Item E.5.b, Supplemental GMT Report. Page 20, items 2 and 3:

2. Reduce the bi-monthly trip limits for the [limited entry-fixed gear] LEFG sablefish [daily trip limit] DTL fishery north of 36° N. lat. from “2,000 lb. per week, not to exceed 6,500 lb. per 2 months” to “2,000 lb. per week, not to exceed 3,500 lb. per 2 months,” beginning on July 1 through the end of the year.
3. Reduce the trip limits for the [open access] OA sablefish DTL fishery north of 36° N. lat. from “300 lb. per day, or one landing per week up to 1,200 lb., not to exceed 2,250 lb. per 2 months” to “300 lb. per day, or one landing per week of up to 1,050 lb., not to exceed 2,100 lb. per 2 months,” beginning on July 1 through the end of the year.

Additionally, include recommendations 4, 5, 6, and 7 on page 21:

4. Consider reducing the weekly limits for the LEFG sablefish DTL fishery south of 36° N. lat. from “2,100 lb. per week,” to “1,900 lb. per week,” beginning on July 1 through the end of the year. Any reductions to trip limits would be effective July 1, or as soon as possible thereafter.
5. Increase the open access shelf rockfish trip limit south of 34° 27' N. lat. from “750 lb./2 months” to “1,000 lb./2 months” on July 1, or as soon as possible thereafter.

6. Consider changes to the limited entry and open access trip limits for black rockfish between 42° and 40°10' N. lat. Any increases to trip limits would be effective July 1, or as soon as possible thereafter.
7. Consider increasing the deeper nearshore trip limits south of 40°10' N. lat. Any increases to trip limits would be effective July 1, or as soon as possible thereafter.

Ms. Marci Yaremko moved and Mr. Buzz Brizendine seconded an amendment (Amendment 1 to Motion 23) that the trip limits specified that item 6 be substituted with the GAP recommendation to increase black rockfish trip limits in the limited entry and open access fixed gear fishery between 42° and 40°10' N. lat. from 7,000 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish to 8,500 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish on July 1, or as soon as possible thereafter, through the end of the year. Additionally, substitute the GAP recommended trip limits for item 7, which is to increase deeper nearshore rockfish trip limits in the limited entry and open access fixed gear fishery south of 40°10' N. lat. from 700 lb/ 2 months between 40°10' N. lat. and 34°27' N. lat. and 600 lb/2 months south of 34°27' N. lat. to 900 lb/2 months for the entire area south of 40°10' N. lat. starting July 1, or as soon as possible thereafter, through the end of the year.

Ms. Yaremko spoke to her motion and noted the increases could be accommodated. She also noted that Mr. Moore's motion included item 4; however, the GAP recommendation was to re-evaluate in September.

Amendment 1 to Motion 23 carried unanimously.

Ms. Culver moved to amend Motion 23 to remove item 4 (Amendment 2). Ms. Yaremko seconded the amendment. Ms. Culver said the amendment is consistent with the GAP recommendation to revisit in September.

Amendment 2 to Motion 23 carried.

Motion 23 as amended carried unanimously.

Ms. Ames said relative to item 8 in the GMT report, the Council could continue dialogue with the Pacific Fishery Information Network (PacFIN) data committee. The Council concurred.

Ms. Ames said an updated scorecard based on the actions today will be provided under Agenda Item E.8; however, no Council action is necessary.

Ms. Culver thanked Oregon Department of Fish and Wildlife (ODFW) for their report on trawl fishery progress.

E.6 Trawl Rationalization and Associated General Groundfish Fishery Issues Slated for Final Action, Including those in the Program Improvements and Enhancement (PIE) Rule

E.6.a Agenda Item Overview (06/12/11; 8:05 a.m.)

Mr. Jim Seger provided the agenda item overview.

E.6.b Reports and Comments of Advisory Bodies and Management Entities (8:15 am)

Ms. Jamie Goen walked the Council through Agenda Item E.6.b, NMFS Reports 1 through 5. During her report, Ms. Goen noted that in Agenda Item E.6.b, Supplemental NMFS Report 2, Item 7, paragraph 4, bottom of page 9, the following language was missing from the end of the sentence: “or the original dock ticket if the delivery occurs outside of business hours.”

Mr. Seger noted that the Council had a motion in April to grandfather in vessels which had done at-sea processing of shoreside groundfish and that NMFS determined an EA would be required for that provision. At this time the resources for producing the EA have not been identified and those provisions have not been included in the Program Improvements and Enhancement (PIE) rule; however, the ODFW letter from April has been provided and the Council can take final action on this issue at this meeting.

Mr. Steve Williams presented Agenda Item E.6.b, ODFW Letter. Mr. Rob Jones presented Agenda Item E.6.b, Supplemental GMT Report. Mr. Tommy Ancona presented Agenda Item E.6.b, REVISED Supplemental GAP Report. LT. Bob Farrell presented Agenda Item E.6.b, Supplemental EC Report.

Council break from 10:50 a.m. to 11:04 a.m.

E.6.c Public Comment (11:07 a.m.)

Mr. Tom Libby, Pt. Adams Packing, Seattle, WA
Mr. Brent Paine, United Catcher Boats, Seattle, WA
Mr. Bob Crowley, United Catcher Boats, Seattle, WA
Mr. Mike Hyde, American Seafoods, Seattle, WA
Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR

Council break from 11:30 a.m. to 12:45 p.m.

E.6.d Council Action: Final Action or Further Guidance

Ms. Vojkovich moved (Motion 24) that the Council adopt Agenda Item E.6.a, Attachment 2 (Amendment 21 superseding Amendment 6); Agenda Item E.6.a, Attachment 3 (Flexibility of set asides); and Agenda Item E.6.a, Attachment 6 (AMP pass-through, Alternative 1 continue status quo through 2013). The motion was seconded by Mr. Crabbe.

Ms. Vojkovich noted that the Council had discussed the Amendment 21/6 issue at a number of meetings and that this motion was taking care of the procedural issues that were identified when the Council took action on Amendment 21. The draft FMP and regulatory language provided in the document fulfills the Council’s intent. On the flexibility of set asides, the Council is desirous of providing flexibility for management purposes and attainment of the optimum yield. However, some of the allocations in Amendment 21 may limit the Council’s ability to have that flexibility. She identified that there is no process for how the flexibility would be implemented inseason. NMFS has indicated there needs to be an EA. That provides us an opportunity to develop the process and they have some regulatory language on page 2 and 3 of that document that we might use as a starting point, but that I am not suggesting we adopt that with this motion. The process on how we actually do the set aside or reapportion the set asides still needs to be developed.

In Attachment 6, the Adaptive Management Program (AMP) pass-through, the Council has talked about the timing of the expected new program and how that conflicts with some of the other issues we’re dealing with at this time. If we allow this pass-through to continue through 2013, this allows the Council

to address these other pressing individual quota issues, but it also sets us up to address the whole AMP program sooner rather than later. The short time for the extension assures that we will move forward in a timely fashion. A longer delay may increase the impact on the fleet. There has been supportive public comment on all three issues. Mr. Lockhart noted his understanding that the motion would move Agenda Item E.6.a, Attachments 2 and 6 forward as part of the PIE rule, but that E.6.a, Attachment 3 requires further action and would not go forward as part of the PIE rule. This understanding was confirmed.

Ms. Culver moved to amend Motion 24, relative to Agenda Item E.6.a, Attachment 6 (the AMP, quota pound (QP) pass-through) to continue status quo through 2014 rather than 2013. Mr. Myer seconded the motion.

Ms. Culver noted the two alternatives were 2013, which was too short a time frame, or indefinitely, which is too long. By revising the pass-through to have it in place through 2013 and 2014, the Council could potentially revise the distribution of AMP QP for 2015 and that would coincide with the specification cycle. Mr. Lockhart expressed his understanding of the need to work through other issues of higher priority but felt that this issue is a high priority and toward that end he would start tasking staff with some very preliminary work on this in the coming year. He believes that work would be fully consistent with the motion and emphasized that an alternative approach for distribution of the AMP QP should be in place for 2015. The amendment to the motion carried unanimously. The main motion (Motion 24) passed unanimously.

Ms. Vojkovich moved (Motion 25) to adopt Agenda Item E.6.b, NMFS Report 1, PIE (Part 1), beginning on page 2: for Item 5, which revises cross-over provisions, recommend that we adopt the NMFS recommendation; Item 6, a process to allow end-of-year resolution of accounts, Option 2, adopt NMFS preferred; Item 10, add first receiver to the list and conflict of interest regulations for catch monitors and catch monitor providers, adopt as recommended in the underlined language on page 4; on page 4 on corrections/consistency, it is understood that 11, 12, and 13 have already been taken care of in the corrections rule, so adopt items 14 through and including 27 as recommended in the document. Mr. Brizendine seconded the motion.

Ms. Vojkovich noted that items 5, 6, 10, and 14-27 have all been discussed in the various teams and with the corrections that NMFS has identified there are no controversies or suggested changes. These are details that need to be cleaned up and addressed to make the program much more understandable and clear, and meets the Council's desire to have a TIQ program that is fully functional and operational. Motion 25 passed unanimously.

Ms. Vojkovich moved (Motion 26) to adopt Agenda Item E.6.b, Supplemental NMFS Report 2, PIE (Part 2) as follows. Item 1, observer offload issue - support NMFS recommendations 1, 2, and 5 (remove the language in 5 about catch monitors "removing the posting on the vessel"). Item 2, moving between limited entry and open access fisheries - adopt the underlined language under (i) on page 4. In addition, for issues dealing with other legal groundfish fisheries and gear it should be dealt with through the Trawl Rationalization Regulatory Evaluation Committee (TRREC) as recommended by EC. Item 3, clarify the open access language for non-groundfish trawl fisheries - support the underlined language on pages 5 & 6 (that refers to language 660.333 under paragraphs B1, C1, and D1). Item 4, review and as necessary revise catch accounting regulations, this needs further discussion through a group that includes NMFS, Council staff, GMT representatives, and any state staff knowledgeable with regulations or catch accounting. This work needs to proceed to be included in the PIE being developed during 2012. Item 7, clarify first receiver e-ticket submittal - support NMFS recommendations on pages 9 and 10 with the addition of the missing language in number 4 at the bottom of page 9. Item 8, exvessel value on e-ticket - adopt underlined language on page 12. Item 9, review and clarify ownership changes reported to NMFS - support NMFS recommended changes on pages 12 and 13. Item 33, revise who is required to have a first

receivers site license - support NMFS recommendation on page 14. Item 34, revise designation of quota shares account and vessel account managers - support NMFS recommendation on page 14. Item 35, add a process in case harvest specifications are delayed - support NMFS recommendation on page 15 with the following changes: for Pacific halibut individual bycatch quota (IBQ) incorporate the International Pacific Halibut Commission (IPHC) comment relative to the conversion for legal and non-legal size conversion, and also include the GMT recommended change for interim allocations to be based on some portion of the IPHC's preliminary total catch exploitation yield (TCEY) from their interim meeting, as determined by NMFS; and, also to add a process in case the harvest specifications are delayed for the at-sea whiting fisheries, based on the GAP statement. Item 36, threshold rules for issuance of allocation for shorebased individual fishing quota (IFQ) and mothership co-op programs - support NMFS recommendation on page 16. Mr. Moore seconded the motion.

Ms. Vojkovich noted that there were several documents, advisory body reports and public comment. She tried to address the comments that were made and the recommendations where there were some suggested changes or minor differences, but all of the background rationale and reason why we're addressing these issues and the recommendations were actually gone through by NMFS this morning or are contained in this supplemental NMFS Report 2.

With regard to the first item and the observer documentation on the form, Ms. Culver asked why only bocaccio, yelloweye, canary and cowcod were covered and not other overfished rockfish species. Mr. Lockhart stated that this came out of discussions between the Northwest Region staff with industry and the EC. They were primarily worried about species that can be easily hidden and disposed of in very small amounts to get around their QP limits. Others were not included because they are larger volume species and the opportunity to dispose of a large amount would likely be noticed quickly. Ms. Culver expressed concern that if a vessel knew it was close to its limit for a larger volume species there might be incentive to hide just a few fish. Mr. Lockhart said the observer would have to weigh and potentially count all of those species. This would be time-consuming and counter to the intention of this provision. In response to a question from Ms. Culver, Ms. Majewski stated that they preferred to weigh rather than count, since counting would be very time-consuming. In response to a question from Mr. Seger, Ms. Vojkovich indicated that the motion should be interpreted to provide the Council with the flexibility to both add and remove species from the list of those that would be handled in this fashion. Motion 26 carried unanimously.

(1:21 p.m.)

Ms. Culver moved (Motion 27) that the Council adopt for the issue of halibut bycatch mortality allocation and halibut IBQ as contained in Agenda Item E.6.a, Attachment 4; Alternative 1, which is consistent with the preliminary preferred alternative provided on page 6. Mr. Cedergreen seconded the motion.

Ms. Culver noted that the goal of the halibut IBQ program and the amounts that have been looked at through the Council process has been to achieve a 50 percent halibut bycatch mortality in the trawl fishery. Alternative 1 accomplishes that. In response to the questions about fluctuations and potential substantial increases in TCEY, she did not see that happening in the next few years and noted that when we did have higher quotas available we did not necessarily have a proportionally higher amount of TCEY available to us. TCEY has not fluctuated as much as the quotas. This provides an incentive to the trawl fishery to avoid halibut and there is some fishing behavior changes that could be made to avoid known areas of large quantities of halibut and reduce the mortality of the released fish. Finally, like a lot of these issues, this is not the last conversation we will have about this. The intent is to have this in place for a few years, collect some data, and see whether we need to make adjustments up or down.

Mr. Williams supported the motion but not without having heard the testimony and industry concern about the impacts that halibut have on our ability to access all the target species in the program. He appreciated the comments that this would not be the last discussion on the issue because as we get some experience with regard to the halibut constraints we will need to revisit it. At this point in time it is appropriate to move forward with what we have, learn what it means, and then be willing to potentially readdress it when we have that experience.

In response to a question, Ms. Culver indicated that her motion should be considered to include the modification the IPHC recommended, as per the previous motion, with respect to the legal to sublegal rations. Motion 27 carried unanimously.

Working from Agenda Item E.6.a, Attachment 5 (page 5), Agenda Item E.6.b, Revised Supplemental GAP Report (pages 2-4), and Agenda Item E.6.b, Supplemental NMFS Report 5, Mr. Myer moved (Motion 28) that the Council adopt as the final preferred alternative (FPA), Agenda Item E.6.a, Attachment 5, Alternative 1 as part of the PIE rule, including parts a, b, c, and d. Also as part of this motion, adopt as answers to NMFS questions in E.6.b, Supplemental NMFS Report 5, those given by the Revised Supplemental GAP Report starting on page four and going through to page five and to cover Item 1, the second to the last paragraph of page 2, items 2-6 on page 3 and also the answers in the next three questions that were asked by NMFS. Ms. Culver seconded the motion.

Mr. Myer stated that the rationale is given on the purpose and need statement on page 4 of Attachment 5: “The purpose of the action is to reduce the transaction costs, increase the probability that fisheries and communities are able to fully benefit from the allowable levels of whiting harvest, and reduce the chances that the incentives will develop for vessels to enter into the nonco-op derby style fisheries.” With respect to the NMFS questions, it was clear that the industry was interested in keeping the intent narrow and in doing so hoping to push it through with the PIE amendments. That is echoed in the answer to the very first NMFS question in which the GAP chooses Option 2 which thereby reduces most of the questions and the complications that come from the rest of the answers. There was a discussion of what might be considered a reasonable period of time to allow those permits that have recently combined their permits to uncombine them.

Mr. Moore moved to amend Motion 28 by stating that the reasonable amount of time for taking care of already-combined permits be 90 days at the completion of the final rule. Mark Cedergreen seconded the amendment. The amendment carried unanimously. Motion 28 carried unanimously.

Mr. Williams moved (Motion 29) that the Council recommend the NMFS add language to the PIE rule allowing a vessel operating under a limited entry trawl permit that has legally processed groundfish (other than Pacific whiting) at sea prior to July 20, 2010 be allowed to process at-sea beginning January 1, 2012. To qualify, a permit holder must verify that the activity occurred prior to July 20, 2010 using fish tickets, dock receiving tickets, landing receipts, or other official documents, and that the vessel is operating under the Shorebased IFQ Program regardless of the type of gear used. Regulatory language should also include an appropriate conversion factor and/or an appropriate process for calculating a conversion factor for glazed groundfish. Mr. Moore seconded the motion.

Mr. Williams stated that the rationale for this action has been discussed at several meetings in the past and noted the ODFW excerpt letter E.6.b provided a good background. He stated his hope that the approach would parallel what had been similarly done in Amendment 14 previously for a similar situation for sablefish. ODFW can be responsible for developing the EA as required. Mr. Lockhart noted that if the rule is effective on January 1 it would not be possible to have at-sea processing starting on January 1, 2012, because there would have to be an application period and time allowed to issue the needed permits.

They will work out a process as short as possible. Mr. Myer noted that the exemption is given only to the vessel, not to the permit. Mr. Williams responded that this was correct.

Ms. Culver moved to amend the motion (Amendment to Motion 29) by replacing “be allowed to process at-sea beginning January 1, 2012” with “be allowed to process at-sea after the effective date of the rule; once NMFS has deemed the criteria being met.” Mr. Cedergreen seconded the amendment. The amendment carried unanimously.

Ms. Vojkovich asked whether this would delay the PIE rule. Mr. Lockhart indicated that if the EA is completed on time it would not delay the PIE rule. Mr. Myer stated his aversion to exemptions for a single entity. He would rather see this taken care of as a follow-up trailing amendment that would allow for processing at-sea for all vessels and thereby include this one vessel. However, having seen the work schedule and the trailing amendments and what has come up this week he could not envision that relief could be provided within the next four to five years. He did not think it was right to penalize a vessel that has gone to this effort to go out and make processing at sea work because that is where we need to go, therefore he supported the motion. Motion 29 passed unanimously.

E.7 Priority Trailing Actions under Trawl Rationalization Slated for Preliminary Action (Continues on Monday as Needed)

E.7.a Agenda Item Overview (06/12/11; 2:07 p.m.)

Mr. Jim Seger provided the Agenda Item Overview and a presentation on control rule safe harbor for risk pools and Mr. LB Boydston provided a presentation on control rule safe harbor for community fishing associations (CFAs).

E.7.b Reports and Comments of Advisory Bodies and Management Entities (3:35 p.m.)

Mr. Lockhart provided NMFS Reports 1-4 including a PowerPoint presentation with Ms. Arial Jacobs available for specific slides.

(06/12/11; 4:34 p.m.) Dr. Dorn presented Agenda Item E.7.b, Supplemental SSC Report.

Council adjourned for the day. 4:40 p.m.

Monday (06/13/11; 8:02 a.m.) Continue with Agenda Item E.7.b.

Dr. McClure explained aspects of Supplemental Agenda Item E.7.b, REVISED NMFS Report.

Ms. Culver referenced Agenda Item E.7.b, Supplemental WDFW Letter. Mr. Williams referenced Agenda Item E.7.b, Supplemental ODFW Report. Ms. Vojkovich referenced Agenda Item E.7.b, Supplemental CDFG Report.

(8:32 a.m.) Mr. Dan Erickson presented Agenda Item E.7.b, Supplemental GMT Report. Mr. Ancona presented Agenda Item E.7.b, Supplemental GAP Report. LT. Bob Farrell presented Agenda Item E.7.b, Supplemental EC Report.

E.7.c Public Comment (06/13/11; 9:53 a.m.)

Mr. Tom Libby, California Shellfish Fish Company, Inc., Astoria, OR
Ms. Donna Parker, United Catcher Boats/Arctic Storm, Seattle, WA

Mr. Joe Sullivan, CFA of Ilwaco/Ft. Bragg, Seattle, WA
Mr. Rick Algert, City of Morro Bay, Morro Bay, CA
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Mr. David Jincks, Midwater Trawlers Association, Newport, OR
Mr. Paul Kjola, Trawler, Warrenton, OR
Mr. Tommy Ancona, Tommy's Marine Service; F/V Caito Bros., Ft. Bragg, CA
Mr. Brad Pettinger, Oregon Trawl Commission, Coos Bay, OR

E.7.d Council Action: Adopt Preliminary Preferred Alternatives for Issues Concerning Cost Recovery and Safe Harbors from the Control Rule or Guidance as Necessary

(1:09 p.m.) back in session.

Ms. Vojkovich asked if under Alternative 1 there would be specifications for a designated CFA since it addresses the issue of special privileges that would not be afforded to any other entity that operates within the control caps, even if it is community-based. Mr. Seger confirmed that this was correct. Ms. Vojkovich also asked whether in its final action the Council could choose, within the range of alternatives, a total groundfish accumulation limit that is status quo and, for example, for sablefish south of 36° N. lat., an increase in that accumulation limit of anywhere from 1.5 times (15 percent) and on up to 60 percent. Mr. Seger confirmed that was correct and that the Council could choose anything on down to 10 percent, since that is status quo and within the range. Ms. Vojkovich noted concerns about the approach of increasing the accumulation limit for everyone south of 36° N. lat. She noted that if the discussion is just limited to designated CFAs that we can choose within the range.

Ms. Vojkovich moved (Motion 30) that the Council move forward the package as it is for CFA special privileges, the qualifying criteria, and other elements that a designated CFA would have to adhere to and then have the Council make decisions in September. Mr. Crabbe seconded the motion. No preliminary preferred alternative was designated. Motion 30 passed (Mr. Moore voted no). Mr. Moore explained that he believed that the CFA issue is using too much time on the Council floor and would have preferred to make a decision today.

Ms. Culver moved (Motion 31) that the Council adopt as its preliminary preferred alternative, a limited modification alternative for risk pools with the following specifications: (1) retain the language in the No Action Alternative as described in Section 2.2.2 in Agenda Item E.7.a, Attachment 1 (June 2011), page 38 and (2) adopt the language in Agenda Item E.7.b, Supplemental GAP Report. Relative to the limited modification, select Option A with a sub-option to allow renewal of annual contracts across multiple years (as preliminary preferred), but analyze both Options A and B. Adopt the language on qualifying risk pools; risk pool species; eligible members; agents (including the language identified in the paragraph entitled "Option"); the qualifying risk pool holding account Option B; and, for the Application, Oversight, Enforcement, and Monitoring section, Option A with a mechanism to notify NMFS of the risk pool. Mr. Williams seconded the motion.

Ms. Culver stated that the Council had given considerable thought to setting control limits and the purpose of the limits to avoid excessive control. We need to be careful that we don't erode the intent of that. If we were to go down the route of a blanket exception there's the possibility of that occurring. We need to remind ourselves that the purpose of risk pools was so that fishermen could develop voluntary arrangements to pool their QP. It was envisioned that these arrangements would effectively spread the risk of inadvertent catch events of high risk constraining species across a collective group of harvesters, thereby reducing the risk to individuals as well as to all sectors that might be encountering those overfished species. At the time that we made that decision, we had limited data available to us regarding the needs of risk pools to successfully function given the control limits that we had identified. In general

we need to keep the program simple and relieve the administrative burden on NMFS and the Council while providing risk pools the tools that they need. In that light, she thought we needed to be adaptive throughout this program and we need to react in an efficient and appropriate manner when concerns are brought to our attention. This preliminary preferred alternative accomplishes that. Mr. Williams stated that this motion provides the flexibility that was asked for and at the same time, if this is the final preferred alternative, it is cost-effective as well, based on the options chosen. Motion 31 carried unanimously.

Ms. Lowman made a motion (Motion 32) that would have created a committee to work on cost recovery and develop a PPA for the September Council meeting (seconded by Mr. Crabbe). The motion was withdrawn. Prior to withdrawal, Ms. Lowman noted that this is a new world. Industry has a responsibility to help pay for the incremental costs of the program and there needs to be a process for determining what that cost should be. Things have changed for agencies as well. Agencies need to and have been making progress in thinking about costs in a different way than they have been accustomed. We have heard many comments about getting the cost recovery process started right. We also need to find opportunities to make the program more cost-efficient. This committee will assist us in that, make the process transparent, and save time over the long run. It will help us best realize the most cost-effective program, a way to refine it, and a method to be able to have people understand and have buy-in--not quibbling over what the price is as much as to understand how we got to the price. The other piece is figuring out having this pay for itself as much as possible. We either need to increase value or reduce cost. We also need to look for appropriations. Having stakeholders that feel they do understand the costs, and what is necessary to have the program be successful, will help them be good advocates in getting the funds necessary for this program.

Mr. Lockhart indicated that by taking final action in November the final rule would likely not come out until the end of the summer. Mr. Moore noted that this implies that come September 2012 everyone might be hit with the cost recovery for nine months. Mr. Lockhart agreed, but noted that while they intend to collect fees for the full year, there was nothing in the MSA that indicated it must be done that way. Later in the discussion he reviewed the list of items NMFS was currently working on and expressed his doubt about being able to work with this committee and have a PPA ready in September. At most, NMFS could commit to a phone call meeting and that would not provide the amount of time needed to prepare something for the briefing book deadline. He felt that the schedule was too ambitious.

Dr. McIsaac asked what NMFS would bring to the September meeting. Mr. Lockhart responded that if the Council makes a statement as to what it wants in the cost recovery program, it would be more achievable for September because NMFS can achieve that internally on its own schedule, but even that cannot be promised. The main thing that NMFS would have a hard time providing by September are the details on incremental costs.

Ms. Culver stated her opinion that the charge of the committee was too broad and therefore introduced an amendment to modify the committee's charge and keep the proposed schedule with the Council providing comments on the NMFS proposal at the September meeting. Mr. Cedergreen seconded the motion to amend. The motion to amend Motion 32 was withdrawn when the original motion was withdrawn. Prior to withdrawal of the motion to amend, Ms. Culver noted the interest of the GAP and public testimony in having a committee drill down into the activities and tasks behind the identified incremental costs. As we have heard in testimony a few times, the costs may remain the same but they want to know what is behind the number. She appreciated wanting that understanding but questioned how gaining that understanding fit with moving forward on cost recovery. It does not necessarily seem that we would want to hold up cost recovery until the committee could get together to have their meetings and address what is described in their charge.

Ms. Lowman expressed concern about the committee giving recommendations after the decision is made. Ms. Culver noted the two questions posed to the Council, the first being what is the structure/design of the program. The second is what are the costs being proposed by that structure. That could be developed later. They want to know what costs are to be recovered, what is the definition of incremental, and want to try to identify ways to reduce costs. She laid out the following as the sequence of events. The ad hoc committee is formed. They meet to drill down into the details of the activities behind the costs identified today. We ask their input be provided when they have an understanding of those activities, an understanding of what can be recovered, and an understanding based on the guidance we give today on what the structure would look like. They would also report to the Council on whether they have any recommendations on those costs or how to reduce those costs. Those recommendations would come before the Council in September. We could provide that as recommendations to NMFS. They could then revise their proposal if needed, if the Council deems it appropriate, to reduce the actual costs that are recovered, before they adopt their final decision.

Mr. Williams noted that the discussions this week matched Ms. Culver's description of what should be covered in this committee. The issue is whether we have the right costs, are incremental costs being identified correctly? The confusion is that there were no objections to the structure but there is not a good understanding about how the costs were derived. That is where people want to drill down, not so much on the structure that is before us. He expressed uncertainty about how the schedule would work and that the approach Ms. Culver provided may or may not work and may have to be adjusted as we go along. But right now, this separation between structure and drilling down into the costs is the way to give the committee the charge that has been requested all week.

Ms. Vojkovich agreed that the structure needed had been identified. She noted that there is not time to drill into the cost estimates between now and September. She favored moving forward with the general structure.

Ms. Culver stated that her intent was that NMFS would move forward by drafting a proposal on structure based on the guidance to be provided in a following motion. If the committee were to meet prior to September that would be fine. If they cannot, they could meet later and if there were revisions there would be flexibility midyear to adjust the amount of the costs that would be recovered. Dr. McIsaac asked Mr. Lockhart about the timeframe in which NMFS would be able to come forward with the needed information. Mr. Lockhart stated that if the structure is clarified as is anticipated, NMFS can commit to taking the results of that motion and developing a proposal for the September Council meeting. If we are going to drill down into the costs in more detail, it takes a lot of work to do that. That we could not do in time for September. This would interfere with meeting other deadlines. Therefore, the Council could move forward in September with a preliminary preferred alternative on the structure.

Mr. Crabbe noted that the GAP stated they had agreed on the structure but wanted more information on what they were paying for and would be willing to go forward with the structure to pay for it when they knew what they were paying for. The motion and amendment were withdrawn at this point.

Mr. Myer moved (Motion 33) that the Council adopt the following guidance on the questions and options on cost recovery as described in Agenda Item E.7.b, Supplemental NMFS Report 2:

Question 1: Should the cost recovery program be developed for the trawl fishery as a whole, or further subdivided? - Adopt Option A: 3 separate cost recovery programs developed for each of the 3 sectors: shore-based IFQ, mothership, catcher processor.

Question 2: What entity should pay the fee? – Adopt the following:
Catcher processors—Option a: Charge each vessel based on value of whiting harvested by that vessel.

Motherships—Option a: Charge each catcher vessel based on value of whiting delivered by that vessel.

Shoreside—Option a: Charge each catcher vessel based on value of IFQ species delivered by that vessel.

Question 3: How should fee collection be structured? – Adopt the following:

Catcher-processors—Option a: Bill entity chosen under Question 2 in last quarter of the calendar year.

Motherships—Option c: Catcher vessel billed at time of delivery by mothership and collected by the Agency in coordination with buyback fee.

Shoreside—Option b: Fishermen billed at time of landing by first receiver, and collected monthly by Agency in coordination with buyback fee.

Question 4: Linkage to permitting requirements? – Clarify that any linkage to permitting requirements would be to the entity responsible for remitting payment to the Agency (i.e., Catcher processor vessel, mothership, and first receiver). Analyze options a, b, and c, and request NMFS indicate a preferred option and rationale at September meeting.

Question 5: How are agency costs identified? - Costs would be calculated for each sector and each sector would be assessed a fee based on the sector-specific cost calculation. Option C: Use yearly projection of costs, as calculated and provided by the Agency, to determine fee percentage at the beginning of each fishing year.

Question 6: How is the ex-vessel value of the fish harvested under the LAPP calculated to ensure fee does not exceed 3 percent? – Adopt the following:

Catcher processors—Option C: Use mothership pricing and at-sea tonnage caught to calculate value.

Motherships—Option C: Use mothership pricing and at-sea tonnage delivered to calculate value.

Shoreside—Option C: Calculated from information on buyback form.

Ms. Culver seconded the motion.

Mr. Myer noted that the division into three sectors, specified in response to the first question, was consistent with earlier Council actions on that issue. Once that decision is made, it sets up the response to the other questions. On Question 2, the GAP answered it a little differently, but he thought their intent is reflected in this motion, that the catcher vessels should be assessed the fee, but the processors would be responsible for collecting it and ensuring its remittance to the agency, as is covered by Question 3. On Question 4 he deleted alternatives d and e, which NMFS had indicated would not be feasible.

Mr. Moore supported the motion and commented with respect to Questions 2 and 3 that they had clarified with the GAP chairman that the fee collection and payment process be identical to the buyback program. There was an earlier discussion amongst the Council members that there was some awkward wording in the question but what was meant was that the buyback program system would be used. Mr. Moore noted, on Question 4, linkage to permit requirements, Mr. Myer seemed to be leaving available Option a, which is no linkage, and presumed that NMFS could decide not to link failure to pay to a permit process, but rather to an enforcement action. Mr. Myer confirmed this interpretation. Discussion clarified that a PPA was not being selected at this time but that options were being moved forward and the Council could still select FPAs in September. In response to a question on whether Question 5 should be interpreted as drilling down into cost data, Mr. Myer responded that the only costs we know of are projection costs, but that in terms of the agency it would be similar to what is shown today. It would not be just NMFS, it would be enforcement and the state agencies, but working it all through NMFS. The motion (Motion 33) carried unanimously.

Ms. Lowman moved (Motion 34) that the Council establish a Trawl Rationalization Cost Recovery Committee (CRC) and that the committee's charge is as follows:

1. Review cost information provided by National Oceanic and Atmospheric Administration (NOAA) Fisheries and Office of Law Enforcement, as well as the state agencies and evaluate which costs should be categorized as incremental costs and which are more appropriately considered general program costs.
2. Provide recommendations of incremental costs on a sector by sector basis that are subject to cost recovery.
3. Discuss opportunities for long-term cost efficiencies. The committee membership would include one representative from each of the following industry sectors and agencies: shoreside trawl sector (whiting and non-whiting seats), at-sea whiting mothership sector, at-sea catcher-processor sector, processor, NMFS Northwest Region, NOAA Office of Law Enforcement, Northwest Fisheries Science Center, Washington Department of Fish and Wildlife, Oregon Department of Fish and Wildlife, California Department of Fish and Game, and Pacific States Marine Fisheries Commission.

Mr. Cedergreen seconded the motion.

Ms. Lowman expressed her concern that this committee meet at the appropriate time so that their recommendations to the Council are effectively used to make sure that we have a program that has buy in; that people feel the system is fair and equitable; that they have the opportunity to participate and figure out ways to make this more cost efficient over time; that it is not just pro forma but they are helping understand what is being paid for; that they can see the process; that we are going to be able to have a defensible program into the future; and that they can help make sure that we have the funds for the program.

Ms. Culver supported the motion and stated that this would accomplish the goals which had been heard by the GAP and the public. She stated that she does feel it important that we provide some further level of detail and some thought behind the origin of the numbers. She indicated WDFW would send people knowledgeable about the generation of the number, but that those people would not be in the position of making policy decisions. She also expressed her hope that guidance would also come through the Council family and advisory bodies and not just the CRC.

Mr. Williams supported the motion and indicated that the CRC would provide an opportunity for the agencies to further explain the derivation of their cost estimates. He also expressed concern about the pace at which we are moving forward on this action given that there is not a mandate to get this done right away. He expressed hope that if this group runs on to something within their charge that affects overall implementation, that the time will be provided to slow down a bit and include it. Part of the success of the program will be being able to have some influence on what you're being charged for.

Mr. Lockhart stated it has been obvious that the agency would prefer that the cost recovery be in place as soon as possible, however, it is important to take the time to work with those who will be paying those costs to make sure they know where they are coming from.

Ms. Vojkovich agreed on the need for people to know about costs and expressed comfort with this approach. She also expressed an interest in gaining efficiency by using alternative meeting technologies, e.g. teleconferences. Mr. Lockhart concurred and was working on options in that regard.

Dr. McIsaac asked about expectation regarding the timing of the meeting. Ms. Lowman said that she had deliberately not included the schedule in the motion and that it might be appropriate under future agenda

planning. Her main concern is that we consider the timing so, as Mr. Williams said, we can make sure that the input is relevant. Mr. Lockhart noted NMFS ability to participate will depend on what they have to be prepared for. He indicated a simple meeting to begin talking about it might be feasible this summer but a full budget review would be much more difficult.

Motion 34 carried unanimously.

Mr. Crabbe asked about retroactivity and when the decision would be made. Mr. Lockhart indicated that this would be a topic for discussion in September.

E.8 Consideration of Inseason Adjustments - Part 2, if needed

This agenda item was not needed. However, Agenda Item E.8.b, Supplemental GMT Report (updated scorecard for June 2011) was provided to the Council.

F. Administrative Matters

F.1 Legislative Matters (06/10/11; 2:21 p.m.)

F.1.a Agenda Item Overview

Mr. Mike Burner provided the agenda item overview.

F.1.b Report of the Legislative Committee

Mr. Burner reviewed Agenda Item F.1.b, Supplemental LC Report. Mr. Moore noted that the Legislative Committee (LC) meeting was productive and was well-attended due to broad interest in H.R. 946. He thanked the Tribes and the States for their considerable work on the issue.

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

None.

F.1.d Public Comment

None.

F.1.e Council Action: Consider Legislative Committee Recommendations

Mr. Roth asked if someone from the LC could expand on the discussion of H.R. 946. He was interested in a brief review of what practices are in place currently and how H.R. 946 would change current practices. He specifically asked if the geographic extent of predator control would be expanded. He also noted the LC's recommendation to extend the 14-day duration of the permits under H.R. 946 and asked if the LC had discussed a more appropriate time frame.

Mr. Moore said that the LC did not recommend an alternate time frame for permit renewal, but felt that the impacts from lethal removals have already been analyzed under NEPA and that a 14-day renewal period would be overly repetitive, unnecessary, and inefficient.

Mr. Williams spoke to the current predation control program. He stated that Oregon, Washington, the Tribes, and the Federal government, have been operating under Section 120 of the Marine Mammal Protection Act since 2008. The program requires non-lethal hazing, individual identification, and considerable documentation of their behavior (i.e., five observations with at least one documentation of salmon predation). Individual identification is difficult and requires trapping and branding. Over the last 4 years approximately 40 animals have been removed and that each year there are roughly 100 animals in the river at the annual peak. There have been legal challenges and suspensions of operations and the current authorization is currently under legal challenge. The States and Tribes are planning to testify at the June 14th Congressional hearing on H.R. 946. There are three major areas that will be brought forward at the hearing: the requirement to identify individual animals, the determination of “significant mortality occurring,” and the inclusion of only ESA-listed salmonids when predation on other species, principally white sturgeon, is also of concern. Additionally, current operations are limited to an area near Bonneville Dam and including new problem areas would require a substantial effort and process. The current program is costly and inefficient. He was appreciative of the time the LC and the Council has spent on the matter and is hopeful that the Council will approve a comment letter.

Mr. Wolford noted that H.R. 946 is an attempt to streamline the process, but it is not “open season on sea lions, it will remain a regulated and controlled process. He also spoke to future meeting plans noting that the San Joaquin Valley Water Reliability Act (H.R. 1837) has raised several concerns among Californian salmon industry representatives and review by the LC in September is warranted, but no formal request for Council comment has come forward to date.

Mr. Williams echoed Mr. Wolford’s comments regarding the constraints on the program saying that the estimated population size of California sea lions is 250,000. ODFW has been branding animals for several years and have documented around 3,000 individuals entering the Columbia River, with around 200-300 going as far as Bonneville Dam. In the context of the total population, relatively few become a substantial problem at passage sights and the control program is very measured. In addition, no females have been observed in the river so the program is only dealing with males.

Mr. Moore moved (Motion 18) to adopt Agenda Item F.1.b, Supplemental LC Report and the recommendations contained therein. Seconded by Mark Cedergreen.

Motion 18 passed unanimously (Mr. Lockhart abstained). Mr. Burner read Agenda Item F.1.b, Supplemental LC Report.

F.2 Approval of Council Meeting Minutes (3:03 p.m.)

F.2.a Council Action: Approve June 2010 and March 2011 Council Meeting Minutes

Mr. Moore moved and Ms. Culver seconded Motion 35 to approve the June 2010 and March 2011 minutes as shown in Attachment 1 and Supplemental Attachment 2, respectively. Motion 35 carried unanimously.

F.3 Fiscal Matters

F.3.a Agenda Item Overview

Dr. John Coon provided the agenda item overview.

F.3.b Budget Committee Report (3:07 p.m.)

Mr. Mallet read Agenda Item F.3.b, Supplemental Budget Committee Report.

F.3.c Reports and Comments of Advisory Bodies and Management Entities

None.

F.3.d Public Comment

None.

F.3.e Council Action: Consider Budget Committee Recommendations

Vice chairman Wolford clarified that funds for stipends are designated by National Marine Fisheries Service and not determined by the Council. Vice Chair Lowman expressed deep appreciation for Mr. Mallet's service as chairman of the Budget Committee. Mr. Mallet is retiring from the Council at this time.

Mr. Mallet moved and Mr. Moore seconded Motion 36 to approve the report of the Budget Committee. Motion 36 carried unanimously.

F.4 Membership Appointments and Council Operating Procedures

F.4.a Agenda Item Overview (3:16 p.m.)

Dr. Coon provided the agenda item overview.

F.4.b Reports and Comments of Advisory Bodies and Management Entities

None.

F.4.c Public Comment

None.

F.4.d Council Action: Elect Council Chair and Vice Chairs, Consider Changes to Council Operations and Procedures and Appointments to Advisory Bodies

Vice Chair Dan Wolford moved and Mr. Brizendine seconded Motion 37 to amend the guidance in Council Operating Procedure (COP) 1 (reproduced on page 1 of Agenda Item F.4 under "Election of Officers") by modifying the first sentence to read: "The Chair and up to two Vice Chairs of the Council shall be elected by majority vote of Council members present and voting." Motion 37 carried unanimously.

Regarding the election of the vice chairs, Mr. Wolford moved and Mr. Moore seconded Motion 38 specifying that the Council elect only one vice chair beginning with the 2011-2012 term. Motion 38 passed unanimously.

Chairman Mark Cedergreen moved and Mr. Herb Pollard seconded Motion 39 to elect Mr. Dan Wolford to Council Chair and Ms. Dorothy Lowman to Council Vice Chair for the 2011-2012 term. Motion 39 carried unanimously.

To fill three vacancies on the Council Budget Committee created by the change in Council members, Chairman Cedergreen reported that he has appointed Mr. Dale Myer, Mr. Dave Ortmann, and Ms. Dorothy Lowman. In addition, he appointed Mr. Ortmann to be the new Budget Committee Chair. Chairman Cedergreen noted that the vacancy on the Legislative Committee will be dealt with at a later time.

Mr. Steve Williams moved and Mr. Moore seconded Motion 40 to appoint Dr. David Sampson to the ODFW position on the SSC and Mr. Jeff Miles to the Northern Open Access Position on the GAP. Motion 40 passed unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 41 to appoint Mr. Ricardo Belmontes to the IATTC position on the HMSMT and Ms. Jennifer Simon to the CDFG positions on the Salmon Technical Team (STT) and the Model Evaluation Workgroup. Motion 41 passed unanimously.

Ms. Culver moved and Mr. Myer seconded Motion 42 to appoint Mr. Kirt Hughes to the WDFW position on the HMSMT and Mr. Mark Cedergreen to the Washington charter boat position on the GAP. Motion 42 passed (Chairman Cedergreen abstained).

Ms. Lowman moved and Ms. Culver seconded Motion 43 to appoint Ms. Susan Chambers to the processor at-large position on the GAP. Motion 43 passed (Mr. Moore recused himself).

Ms. Culver moved and Ms. Lowman seconded Motion 44 to add the position of processor at-large to the TRREC. Motion 44 passed unanimously.

Chairman Cedergreen announced that he is appointing Mr. Rod Moore to fill the newly-created processor at-large position on the TRREC. The Council concurred.

Also, Chairman Cedergreen noted that under Agenda Item E.7, at the request of the GAP and others, the Council created an ad hoc Cost Recovery Committee to assist in identifying total trawl rationalization costs, reviewing applicable law and recommending appropriate incremental costs to the Council as well as cost efficiencies. He stated he will appoint the members of that committee in the near future. The Council concurred.

F.5 Future Council Meeting Agenda and Workload Planning

F.5.a Agenda Item Overview (06/13/11; 3:36 p.m.)

Dr. McIsaac provided the agenda item overview.

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

Mr. Erickson presented Agenda Item F.5.b, Supplemental GMT Report.

With regard to GMT workload, Ms. Culver emphasized that the intent for the 2013-2014 biennial process is to look at stock assessments and rebuilding analyses, but as much as possible to simply carry over specifications from 2012.

F.5.c Public Comment

None.

F.5.d Council Discussion and Guidance on Future Meeting Agenda and Workload Planning (4:03 p.m.)

Council members worked with the Executive Director and Council staff on the September agenda. Ms. Vojkovich asked to replace the Ecosystem-Based Management Report and replace it with the CDFG Enforcement Report. (Dr. McIsaac agreed to the change at the end of this agenda item).

Regarding the Ecosystem-Based Management Report item, Ms. Culver stated the report is necessary and should include previous requests from the Council. However, the timing may need to be flexible to meet the needs of the EPDT chair. Mr. Lockhart said the EPDT chair agreed to defer it to November and to bundle together the specific Council requests.

Ms. Culver spoke to shortening the time allocated for A-20 scoping. She strongly recommended narrowing down the issues to a short list of top priority items rather than a long laundry list. Along those lines she would like to pare down the last day to be 4 hours or less, in light of the Budget Committee's recommendation to reduce spending. Ms. Lowman agreed.

Mr. Lockhart asked to consider a briefing on the National Fish, Wildlife, and Plants Climate Adaptation Strategy for November. A public review draft is scheduled for release in late 2011.

Council staff noted the input from the Council to consider as the agenda is firmed up over the next several weeks.

Chairman Cedergreen expressed his appreciation for serving on the Council and noted some highlights of the Council meetings and members, and the improvements that have been made in the process.

G. Coastal Pelagic Species Management

G.1 National Marine Fisheries Service Report

G.1.a Regulatory Activities

Mr. Mark Helvey said that although there would be no formal NMFS report, he wanted to inform the Council that as part of the CPS FMP amendment process, Amendment 13 documents (the EA and draft implementing regulations) are out for public review, closing August 8, 2011.

Mr. Helvey stated that NMFS just received the EFP application for the summer sardine aerial survey, and that the second period sardine fishery opens July 1, with an allocation of 18,000 mt.

Mr. Moore asked about the timing for Amendment 13, relative to Council action regarding management measures for Pacific mackerel. Mr. Helvey replied that for mackerel, we'll need to incorporate the old terminology as well as the new terminology.

G.1.b Fisheries Science Center Activities

Dr. Paul Crone provided a PowerPoint presentation on recent research cruise activities by the Southwest Fisheries Science Center. Two vessels were used for paired trawl surveys, the R/V Shimada and the F/V Frosti. They collected a good amount of data. He noted that it appears that the sardine spawning biomass

moves into the Northwest as the season progresses, but that only minimal spawning takes place, and that synopticity is important because the fish distribution varies, especially toward the west (further offshore).

Dr. Steve Ralston gave a PowerPoint presentation on the recently-held sardine research workshop, which developed a report containing two versions of a coordinated, synoptic research plan. Workshop participants included NOAA scientists, industry representatives, Canadian and Mexican representatives; and representatives from Oregon, Washington, and California. One version assumed approximate level funding, and the other assumed a much higher level of funding. The workshop was a follow-up to a June 2010 workshop. Dr. Cisco Werner answered questions about funding, saying that now we have the “roll up our sleeves” and work to get the project funded. Both PowerPoint presentations are on the website.

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

Dr. Robert Emmett provided Agenda Item G.1.c, Supplemental CPSMT Report. Mr. Mike Okoniewski provided Agenda Item G.1.c, Supplemental CPSAS Report.

G.1.d Public Comment

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA, asked for any support for the research that the Council can provide, and noted that a report from the CWFPA fall 2010 Lidar pilot survey was forthcoming.

G.1.e Council Discussion

Mr. Wolford asked if the costs in the report represent only the U.S. portion of the costs of the surveys. Mr. Ralston said yes.

Ms. Yaremko asked if there was any precedent for this type of international survey arrangement, including the number of different survey methods and the volume of information to be shared. Mr. Helvey responded that he was not aware of anything of this magnitude, but noted that in the past there had been letters and efforts to get data sharing from Mexico and Canada. Mr. Moore said that the whiting fishery for many years has involved a joint acoustic effort between U.S. and Canada.

Mr. Williams expressed a sense that the Council should support moving forward, despite the fact that the “full funded” version would require a lot of money; it never hurts to ask. The proposal has a lot of advantages for obtaining increased information on stocks, as well as increased international work. From a scientific basis, the opportunity to compare/contrast, and to get the information planned, may allow us to save some money.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 18) to send a letter of support to NOAA to endorse the fully funded survey option as presented. Motion 18 carried unanimously. (06/11/11; 9:02 a.m.)

Mr. Wolford asked if the transect lines could be adjusted in order to include other fish species in the survey. Dr. Ralston came to the podium to state that, after speaking with Dr. Werner, transects could be modified to accommodate other species. Mr. Wolford encouraged the Council to support such an adjustment, and the Council expressed concurrence.

G.2 Pacific Mackerel Management for 2011-2012 (06/11/11; 9:05 a.m.)

G.2.a Agenda Item Overview

Mr. Kerry Griffin provided the agenda item overview.

G.2.b Summary of Mackerel Stock Assessment (06/11/11; 9:07 a.m.)

Dr. Paul Crone provided a PowerPoint (on website). Ms. Yaremko thanked Dr. Crone for the report and appreciated the additional recreational data and indices included in the assessment. She asked about the Mexican larval data in the Southern California Bight, noting that in 2009 and 2011 this data was not included, due to patchiness. Dr. Crone said that he would like to see more coordination with both Mexico as well as Canada.

Ms. Culver asked about being locked into an annual assessment cycle and therefore not able to examine mackerel and other species' biology as much as he would like. She noted that the SSC report recommends updating the mackerel F_{msy} based on current analytical approaches, and asked whether Dr. Crone would have sufficient data and time to do that, given his other duties. Dr. Crone responded that additional information would indeed help to refine F_{msy} not only for Pacific mackerel, but for other CPS species as well. The F_{msy} fraction term is certainly conservative, especially for mackerel, but more information would help pin down a more appropriate F_{msy} .

G.2.c Reports and Comments of Advisory Bodies and Management Entities (06/11/11; 9:49 a.m.)

Dr. Martin Dorn provided Agenda Item G.2.c, Supplemental SSC Report. Mr. Bob Emmett provided Agenda Item G.2.c, Supplemental CPSMT Report. Mr. Mike Okoniewski presented Agenda Item G.2.c, Supplemental CPSAS Report.

Ms. Culver asked about the CPSAS report addressing an increase in the fishery. Mr. Griffin clarified and Mr. Okoniewski concurred, that this statement referred more to a potential increase in fishing opportunity rather than an increase in the number of vessels participating.

Ms. Yaremko asked whether the CPSAS reference to incidental set-aside may be more appropriately referred to as an ACT. Mr. Okoniewski replied affirmatively.

G.2.d Public Comment

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA. Noted the challenge in working under the old and the new definitions, until Amendment 13 is approved.

G.2.e Council Action: Approve Stock Assessment, Harvest Guideline, and Management Measures (06/11/11; 10:18 a.m.)

Ms. Yaremko moved and Mr. Brizendine seconded a motion (Motion 19) to approve the stock assessment as shown in Agenda Item G.2.b, Attachment 1; and the next formal stock assessment be done in 2013; adopt an OFL of 44,336, mt; a P^* of 0.45 with the resulting ABC of 42,375 mt; an ACL of 40,514 mt, a harvest guideline (HG) of 40,514 mt, an ACT of 30,386 mt which is 75 percent of the HG as recommended by the CPSAS. In the event the directed fishery closes: a 45 percent incidental catch is allowed when Pacific mackerel are landed with other coastal pelagic species; and up to 1 mt of Pacific mackerel could be landed without landing any other CPS.

Ms. Yaremko stated that fishing mortality rate (F) has been low for this species, the harvest fraction is only 30 percent, and the risk of overfishing is low.

Mr. Crabbe moved to amend Motion 19 to add an in-season review of the 2011-2012 Pacific mackerel fishery at the April 2012 Council meeting, if needed, to consider releasing a portion of the incidental set-aside to the directed fishery. Mr. Moore seconded the amendment.

Ms. Culver was not inclined to support the amendment; we could explore for further flexibility if we do have sufficient information to make those decisions. Mr. Pollard said, this is a July 1-June 30 fishery, if we are reviewing in April we are affecting the last few months of the fishery; that makes sense to allow for a correction/look-in.

Mr. Steve Williams asked if we are looking at this in terms of an “if the situation warrants”; is that correct? Mr. Crabbe replied yes; it is intended that if industry determined that mackerel harvest spiked and they anticipate lower incidental harvest, that there would be room within the incidental set aside; and during the review period we would hear that information from industry and get their comfort level; they could say they are comfortable or uncomfortable – it is just opening the opportunity to access incidental catch.

Mr. Moore said this is just a review and if the Council decides to take action, they can. If the Council does not want to take action, they don’t have to.

Ms. Culver asked, if there is a check-up at the March meeting agenda, when do we consider if Council action is needed? Mr. Crabbe agreed that is a good point. He did not think March is a realistic timeframe to make a decision to determine a review. Dr. McIsaac noted that NMFS will be monitoring this fishery and if there warrants a policy decision for the Council, then it would be brought to the attention of the Council and there would be something for the Council to consider.

Mr. Helvey suggested that at the March meeting, during the future meeting planning agenda item, this discussion could take place.

The amendment to Motion 19 carried unanimously.

Mr. Moore asked for clarification of the main motion; on the issue of P*, he noted the SSC endorsed the OFL and range of P*s included in the motion; but was not sure about management uncertainty. Ms. Yaremko said she was confident that the stock assessment results heard from Dr. Crone reflect the best available science, and represented considerable improvement from the 2009 assessment. The P* value, considering all the terms and HG, adequately addresses the risk of overfishing.

Motion 19 as amended carried unanimously.

H. Ecosystem Based Management

H.1 Ecosystem Fishery Management Plan (FMP)

H.1.a Agenda Item Overview (10:55 a.m.)

Mr. Mike Burner provided the agenda item overview and reviewed the process for considering advisory body, management entity, and public comments. The Ecosystem Advisory Subpanel (EAS), SSC Ecosystem-Based Management Subcommittee, CPSMT, CPSAS, GMT, STT, and Salmon Advisory Subpanel reports were included in the Briefing Book under H.1.b. Because these materials were available for advanced review, the advisory body representatives did not give a presentation, but they were

available for questions. One exception is the EAS report which was presented to the Council as the first report under H.1.b.

H.1.b Reports and Comments of Advisory Bodies and Management Entities (06/11/11; 11 am)

Mr. Dan Waldeck summarized and answered questions on Agenda Item H.1.b, EAS Report.

Mr. Waldeck then read Agenda Item H.1.b, Supplemental GAP Report. Ms. Cyreis Schmitt summarized Agenda Item H.1.b, Supplemental HMSMT Report. Dr. Dahl summarized Agenda Item H.1.b, Supplemental HMSAS Report and Supplemental HMSAS Report 2. Ms. Fran Recht provided Agenda Item H.1.b, Supplemental HC Report. Dr. Dorn presented Agenda Item H.1.b, Supplemental SSC Report. Ms. Yvonne deReynier presented Agenda Item H.1.b, Supplemental EPDT Report.

Mr. Dave Sones summarized Agenda Item H.1.b, Supplemental Tribal Comment. Ms. Culver thanked the tribes for their participation and expressed appreciation for their partnership with WDFW.

H.1.c Public Comment

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

Mr. Steve Marx, PEW Environment Group, Portland, OR

Mr. Tom Rudolph, PEW Environment Group, Portland, OR

Dr. Geoff Shester, Oceana, San Francisco, CA

Mr. Ben Enticknap, Oceana, Portland, OR

Ms. Peg Regan, Wedderburn, OR

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

H.1.d Council Action: Provide Guidance on Whether the Ecosystem FMP should have Regulatory Authority and Management Unit Species and Adopt a Purpose and Need Statement

Ms. Culver moved and Mr. Ortmann seconded the following motion (Motion 20):

1. Move forward in developing an Ecosystem Plan using the Purpose and Need statement as provided by the Ecosystem Plan Development Team as the basis for the plan.
2. Develop an Ecosystem Plan that is primarily advisory in nature, as described by Option 2, the "Advisory Fishery Ecosystem Plan (FEP)," in the Ecosystem Plan Development Team report, with the potential for expanding the plan to include regulatory authority in the future.
3. Continue to manage stocks and fisheries through existing Council-adopted fishery management plans (FMP); additional management measures for forage fish species, if any, would be considered through the Coastal Pelagic Species FMP, as the Council deems appropriate.
4. In developing the Ecosystem Plan, address the recommendations provided by the Coastal Treaty Tribes; Scientific and Statistical Committee (SSC); SSC Ecosystem Subcommittee; Ecosystem Advisory Subpanel; Groundfish Management Team and Advisory Subpanel, Highly Migratory Species Management Team and Advisory Subpanel; Salmon Technical Team and Advisory Subpanel; Coastal Pelagic Species Management Team and Advisory Subpanel; and Habitat Committee, as appropriate.
5. Given this guidance, request the Ecosystem Plan Development Team and Ecosystem Advisory Subpanel provide a preliminary draft process and schedule at the September Council meeting for development of the Ecosystem Plan.

Ms. Culver agreed with some of the public comments relating to the need for forage fish protection and is not in favor of developing new forage fish fisheries without more information. She noted that her motion

is focused on providing a vehicle for moving forward with ecosystem-based management and felt there are some misconceptions regarding the inclusion of forage fish. She discussed the June 2010 action on Amendment 13 to the CPS FMP where the CPSMT and the Council recommended against monitoring additional forage species under that plan with the understanding that monitoring the overall forage base was an important component of ecosystem-based management. She did not want to impede or delay implementation of the Ecosystem FMP (EFMP) by making its scope too broad at this stage and preferred to focus on the design of the plan, particularly on its advisory components. She expressed concerns about creating a new regulatory process at this time and, as noted in the motion, she favored using our existing regulatory processes as necessary.

Ms. Culver clarified for Mr. Moore that item number 3 of the motion does not involve moving species in one of the Council's other FMPs into the CPS FMP, rather, there is a need to look at additional forage species that are not currently covered and to consider the value of bringing them into Council management via the CPS FMP.

Ms. Yaremko moved and Mr. Brizendine seconded an amendment to Motion 20 by striking items number 2 and 3 from the motion. In their place, Ms. Yaremko recommended moving forward with a hybrid of regulatory authority options 2 and 3 in the Supplemental EPDT Report under Agenda Item H.1.b. The amendment would move ahead with an advisory EFMP to bring ecosystem science into the Council process without regulatory authority at this time. The amendment would also initiate the development of possible future regulatory authorities under an EFMP by exploring a list of species that are not currently included in any FMP, that are not under State management, are not listed under the ESA, or are species that could be the target of future fishery exploitation.

Ms. Yaremko stated that the amendment is intended to provide the EPDT and other Advisory Bodies with a clear pathway forward. Ms. Yaremko noted that the CPS FMP, particularly the 13th Amendment, is focused on sustainable harvest of forage species and that all FMPs would benefit from a comprehensive understanding of forage issues making an EFMP a better management mechanism. Ms. Yaremko stated that this modification to the original motion involved few changes in workload for the next steps in EFMP development.

Mr. Lockhart offered an amendment to Motion 20 as a substitute to the amendment moved by Ms. Yaremko. Mr. Lockhart moved and Ms. Culver seconded an amendment to Motion 20 that would leave the five items as originally moved and would add the following sixth item:

6. Develop a list of species that are not currently included in any FMP, that are not under State management, are not listed under the ESA, or are species that could be the target of future fishery exploitation.

Mr. Lockhart noted that the original motion provides a similar path toward FEP development and logically considers the CPS FMP as a potential vehicle for the forage protections discussed under public comment and by Ms. Culver. Mr. Lockhart also spoke in favor of Ms. Yaremko's concept of developing a list of potentially vulnerable or ecologically valuable species as a means of determining the threats to these important species before determining the best management approach.

Mr. Lockhart's substitute amendment to Motion 20 passed on a roll call vote: Ms. Yaremko, Mr. Moore and Mr. Brizendine voted in opposition.

Motion 20 as amended carried unanimously on a voice vote.

I. Habitat

I.1 Current Habitat Issues

I.1.a Agenda Item Overview (06/11/11; 3:19 p.m.)

Ms. Jennifer Gilden provided the agenda item overview.

I.1.b Report of the Habitat Committee

Ms. Fran Recht provided Agenda Item I.1.b, Supplemental Habitat Committee Report.

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

None.

I.1.d Public Comment

None.

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

Ms. Culver moved and Ms. Kirchner seconded a motion (Motion 21) to forward the letter on levee vegetation to the US Army Corp of Engineers as shown in Agenda Item I.1.a, Attachment 1.

Ms. Culver noted that the letter was available in the advance briefing book and was carried over from April.

Motion 21 carried unanimously.

ADJOURN

Mr. Moore moved and Mr. Brizendine seconded Motion 45 to adjourn. Motion 45 passed unanimously. The Council adjourned Monday, June 13, 2011 at 4:20 p.m.

DRAFT VOTING LOG
Pacific Fishery Management Council
209th Meeting
June 2011

Motion 1: Approve the meeting agenda as shown in Agenda Item A.4., June Council Meeting Agenda.

Moved by: Rod Moore
Motion 1 carried unanimously.

Seconded by: Dave Ortmann

Motion 2: Adopt the stock classification stock complexes and indicator stocks, and international exceptions from page 1 of Agenda Item C.1.d, Supplemental NMFS motion, except that Puyallup fall, Mid-Hood Canal fall, LCR natural tule, and LCR natural spring Chinook would not be added to the FMP.

Moved by: Peter Dygert

Seconded by Marija Vojkovich

Amdmnt #1: Add ESA-listed Puyallup fall, mid-Hood Canal fall, LCR natural tule, and LCR natural spring Chinook to the list of FMP stocks.

Moved by: Dan Wolford
Amendment #1 to Motion 2 failed (voice vote).
Main Motion 2 carried unanimously.

Seconded by: Buzz Brizendine

Motion 3: Adopt the status determination criteria from pages 4 through 8 of Agenda Item C.1.d, Supplemental NMFS Motions, with a maximum fishing mortality threshold (MFMT) equal to F_{MSY} and an overfishing SDC of a single year $F > F_{MSY}$; a minimum stock size threshold (MSST) equal to $0.5 * S_{MSY}$. And, an overfished SDC of a 3-year geometric mean spawning escapement less than MSST; ESA listed stocks would continue to be managed to the ESA consultation standards. SDC for approaching overfished and rebuilt would also be based on a three-year geometric mean.

Moved by: Peter Dygert

Seconded by: David Crabbe

Amdmnt #1: Adopt S_{MSY} for SRFC equal to 180,000 spawners rather than 122,000 as represented on page 8 of Agenda Item C.1.d, Supplemental NMFS Motions.

Moved by: Marija Vojkovich
Amendment #1 to Motion 3 failed (9 no, 4 yes). Mr. Myer, Dr. Dygert, Mr. Sones, and Ms. Vojkovich voted in favor.

Seconded by: David Crabbe

Amdmnt #2: Set MSST for SRFC and KRFC at $0.75 * S_{MSY}$.

Moved by: Marija Vojkovich

Seconded by: David Crabbe

Amdnt #2.a: Set MSST for KRFC and SRFC at 0.6 percent $* S_{MSY}$.

Moved by: Dale Myer

Seconded by: Steve Williams

Amendment 2.a to Amendment 2 to Motion 3 failed (7 no, 6 yes). Mr. Sones, Mr. Wolford, Mr. Moore, Mr. Patillo, Mr. Crabbe, Ms. Lowman, and Ms. Vojkovich voted no (Voting Sheet #1).

Amendment 2 to Motion 3 passed (9 yes, 4 no). Mr. Moore, Mr. Williams, Mr. Wolford, and Dr. Dygert voted no (Voting Sheet #2).

Amdmnt #3: Change the MFMT for Quillayute fall coho on page 6 of Agenda Item C.1.d, Supplemental NMFS Motions to $F=0.65$.

Moved by: Pat Pattillo

Seconded by: Dale Myer

Amendment 3 to Motion 3 carried. Dr. Dygert voted no.

Main Motion 3, as twice amended (Amendment 2 and Amendment 3), carried unanimously.

Motion 4: Adopt the Overfishing Limit (OFL), Acceptable Biological Catch (ABC), and Annual Catch Limit (ACL) Alternative 3, identified as the preliminary preferred alternative, from page 9 of Agenda Item C.1.d, Supplemental NMFS Motions, including the statements on scientific uncertainty and specification of ABC, and the process of ABC specification and SSC approval.

Moved by: Peter Dygert

Seconded by: Steve Williams

Motion 4 carried unanimously.

Motion 5: Adopt the Accountability Measures (AMs) Alternative 3 from page 10 of Agenda Item C.1.d, Supplemental NMFS Motions.

Moved by: Peter Dygert

Seconded by: Herb Pollard

Motion 5 carried unanimously.

Motion 6: Adopt the *de minimis* fishing provision from page 11 of Agenda Item C.1.d, Supplemental NMFS Motions.

Moved by: Peter Dygert

Seconded by: Marija Vojkovich

Motion 7 substituted for Motion 6.

Motion 7: [Substitute for Motion 6] Adopt that as the stock size declines, the allowable exploitation rate declines from F_{ABC} in order to achieve S_{MSY} until $F=0.25$; a constant exploitation rate of 0.25 is then allowed until the midpoint between S_{MSY} and MSST, below which F must be reduced to $F=0.15$. At abundance levels less than or equal to half of MSST, the allowable exploitation rate will be reduced to levels approaching zero (see Agenda Item C.1.d, Supplemental Motions for De Minimis Fishing, and Agenda Item C.1.d, Supplemental Motion 7 Graphic).

Moved by: Steve Williams

Seconded by: Rod Moore

Amdmnt #1: Follow the normal control rule until the fishing mortality reaches the $F=0.25$; maintain $F=0.25$ from that point to an abundance level equal to MSST; for abundance below MSST linearly reduce the fishing mortality such that it intersects the origin; when

recommending an allowable *de minimis* exploitation rate in a given year, the Council shall consider the following circumstances in determining a reduction in the allowable maximums stated above:

- The potential for critically low natural spawner abundance, including considerations for sub-stocks that may fall below crucial genetic thresholds;
- Spawner abundance levels in recent years;
- The status of co-mingled stocks;
- Indicators of marine and freshwater environmental conditions;
- Minimal needs for tribal fisheries;
- Other considerations as appropriate. (see Agenda Item C.1.d, Supplemental Motion 7 Graphic 2)

Moved by: Dan Wolford

Seconded by: Rod Moore

Amdnt #1.a: Include these additional bullets:

- Consideration of whether the stock is in an approaching an overfished condition;
- Consideration of whether the stock is in an overfished condition;
- Consideration of California State recommendation on *de minimis* fisheries.

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Amendment 1.a to Amendment 1 to Motion 7 failed 7 to 6. Mr. Patillo, Dr. Dygert, Mr. Moore, Mr. Myer, Mr. Williams, Ms. Lowman, and Mr. Cedergreen voted no (Voting Sheet #3).

Amdnt #1.b: Include these additional bullets:

- Consideration of whether the stock is in an approaching an overfished condition;
- Consideration of whether the stock is in an overfished condition.

Moved by: Rod Moore

Seconded by: Dorothy Lowman

Amendment #1.b to Amendment #1 to Motion 7 carried unanimously.

Amendment #1 to Motion 7 failed. Mr. Myer, Mr. Sones, Mr. Patillo, Mr. Crabbe, Mr. Ortmann, Ms. Vojkovich, Dr. Dygert, Mr. Pollard, and Mr. Brizendine voted no (Voting Sheet #4).

Amdmnt #2: Add “gradually be” to the reduction from $F=0.25$ to $F=0.13$ (see Agenda Item C.1.d, Supplemental Motions for *De Minimis* Fishing); and accept a friendly amendment by Ms. Vojkovich to include the bullets from Amendment 1.b to Amendment 1 to Motion 7.

Moved by: Rod Moore

Seconded by: Dorothy Lowman

Amdnt #2.a: In Amendment 2, change from “below which F must gradually be reduced to 15 percent” to “the F will be reduced proportional to prefishery abundance to no more than 15 percent” (see Agenda Item C.1.d, Supplemental Motions for *De Minimis* Fishing).

Moved by: Pat Patillo

Seconded by: Dale Myer

Amendment 2.a to Amendment 2 to Motion 7 carried unanimously

Amendment 2 to Motion 7 as amended by Amendment 2.a carried unanimously.

Amdmnt #3: Change $F=0.15$ to $F=0.1$, which would also comport with Agenda Item C.1.d, Supplemental Motion 7 Graphic (see Agenda Item C.1.d, Supplemental Motions for *De Minimis* Fishing).

Moved by: Dale Myer

Seconded by: Pat Pattillo

Amendment 3 to Motion 7 carried. Mr. Moore, Mr. Sones, Ms. Vojkovich, and Mr. Williams voted no (Voting Sheet #5).

Motion 7 carried. Ms. Vojkovich and Dr. Dygert voted no.

Motion 8: Adopt the following recommendations for North Pacific albacore to the U.S. Delegations to the IATTC and WCPFC Northern Committee from the Supplemental HMSMT Report (Agenda Item D.2.b):

1. Support management measures that address the relative impacts of all international fisheries participants without disadvantaging the U.S. fleet;
2. Support the Northern Committee's proposed three year stock assessment cycle;
3. Promote research to update the life history parameters such as maturity, and age and growth in the stock assessment, efforts which will require additional sampling and data collection;
4. Define reference points for international management and utilize simulation analyses of potential BRPs, as appropriate;
5. Give weight to management measures for which monitoring, compliance, and enforcement are effective; and
6. If the stock assessment results are similar to the 2006 stock assessment results, the HMSMT recommends that current management measures be maintained and clarified, and compliance with data reporting requirements should be promoted.

And also adopt the additional recommendations to the U.S. Delegation to the IATTC:

1. Support the adoption of biological reference points and effective conservation measures for Pacific bluefin tuna, as identified above;
2. Support the adoption of management measures in the commercial fisheries for Pacific bluefin tuna;
3. Do not support the adoption of management measures in the recreational fisheries for Pacific bluefin tuna;
4. Support reopening the non-binding recommendations for tropical tunas agreed to at last year's IATTC meeting for adoption as binding resolutions at this year's meeting, Recommendation C-10-01 on tropical tuna measures, Recommendation C-10-02 on seabird mitigation measures, and Recommendation C-10-03 on prohibiting fishing around data buoys;
5. Support proposals that would increase compliance with IATTC management measures; and
6. Advocate for more comprehensive data reporting and collection by members of the IATTC and the WCPFC.

And further (friendly amendment), recommend to the IATTC delegation that any conservation measure for Pacific bluefin not include a measure for recreational fisheries, or if that could not be agreed to, that the base period for determining recreational effort be the same as the period proposed for commercial fisheries (1994-2007).

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Motion 8 carried unanimously.

Motion 9: Adopt the following based on the recommendations in the HMSAS Report:

1. Regardless of the results of the July 2011 ISC albacore stock assessment, encourage the WCPFC NC, particularly Japan, to define artisanal fisheries and a method to quantify their harvest capacity;

2. Encourage securing data from the Canadian government on landings by Canadian vessels in Canadian ports of albacore caught in the U.S. west coast EEZ;
3. Encourage the IATTC to require establishment of national observer programs to put observers on longline vessels; and
4. Encourage discussions between the U.S. and Mexico through MEXUS Pacifico concerning albacore fishing opportunities in Mexican Exclusive Economic Zone.

Moved by: Marija Vojkovich
Motion 9 carried unanimously.

Seconded by: David Crabbe

Motion 10: Send a letter to Rod McInnis, NMFS Southwest Regional Administrator, urging the Region to take a stronger role in WCPFC delegations relative to temperate tuna management issues, and specifically bluefin and albacore.

Moved by: Michele Culver
Motion 10 carried unanimously.

Seconded by: Rod Moore

Motion 11: Adopt the yelloweye and canary rockfish assessments, adopt the cowcod status report, and send the bocaccio assessment to the mop-up panel for further review.

Moved by: Dale Myer
Motion 11 carried unanimously.

Seconded by: Michele Culver

Motion 12: Adopt the SSC and GMT recommendations regarding data-limited methods for estimating harvest specifications.

Moved by: Michele Culver
Motion 12 carried unanimously.

Seconded by: Dale Myer

Motion 13: Request further review of the darkblotched rockfish update assessment at the mop-up panel to explore the issues relating with the trawl survey and any other appropriate issues as noted by the SSC.

Moved by: Rod Moore
Motion 13 passed unanimously.

Seconded by: Gway Kirchner

Motion 14: Allow NMFS to pursue a Secretarial amendment process for Amendment 16-5 with the understanding Amendment 16-5 would be on the Council's September agenda.

Moved by: Michele Culver
Motion 14 carried unanimously.

Seconded by: Marija Vojkovich

Motion 15: Follow a process and schedule that meets requirements of the FMP; to follow the process described in Agenda Item E.4.a, Attachment 1 relative to the non-italicized items, specifically the schedule for the September and November Council meetings. At those meetings, review the new rebuilding plans and stock assessments. Relative to specifications and management measures, the intent is to reduce the scope and number of

management considerations to reduce complexity and increase efficiency. So, for the most part, we would retain similar specifications and management measures for 2013-14 as specified for 2012. For the schedule, we would review the additional stock assessments and rebuilding analyses at the September and November meetings. At that point, we would have the ability to consider revisions to proposed harvest specifications for 2013-14.

Moved by: Michele Culver
Motion 15 passed unanimously.

Seconded by: Rod Moore

Motion 16: Adopt the modified Council Operating Procedure #19 (Attachment 2), with the following changes: 1) page 3, under paragraph C1, following the GMT add “GAP,” 2) page 6, paragraph E1, following GMT add “and GAP,” and 3) page 6, paragraph E2, following GMT add “and GAP.”

Moved by: Rod Moore
Motion 16 passed unanimously.

Seconded by: Gway Kirchner

Motion 17: Have the GMT prepare a list of questions for the SSC for clarification on the conservation performance of the Council’s rebuilding plans. There should be more specificity to the items raised in Agenda Item E.4.b, GMT Report. The intent is for the GMT to develop those in the September and November timeframe such that they could be provided to the SSC and considered for the 2015-16 cycle.

Moved by: Michele Culver
Motion 17 passed unanimously.

Seconded by: Dale Myer

Motion 18: Adopt Agenda Item F.1.b, Supplemental LC Report and the recommendations contained therein.

Moved by: Rod Moore
Motion 18 passed unanimously.

Seconded by: Mark Cedergreen

Motion 19: Approve the stock assessment as shown in Agenda Item G.2.b, Attachment 1; and the next formal stock assessment be done in 2013; adopt an OFL of 44,336, mt; a P* of 0.45 with the resulting ABC of 42,375 mt; an ACL of 40,514 mt, a HG of 40,514 mt, an ACT of 30,386 mt which is 75 percent of the HG as recommended by the CPSAS. In the event the directed fishery closes: a 45 percent incidental catch is allowed when Pacific mackerel are landed with other coastal pelagic species, and up to 1 mt of Pacific mackerel could be landed without landing any other CPS.

Moved by: Marci Yaremko

Seconded by: Buzz Brizendine

Amndmnt #1 Add an in-season review of the 2011-2012 Pacific mackerel fishery at the April 2012 Council meeting, if needed, to consider releasing a portion of the incidental set-aside to the directed fishery.

Moved by: David Crabbe
Amendment 1 passed unanimously. Motion 19 as amended passed unanimously.

Seconded by: Rod Moore

Motion 20: Adopt the following:

1. Move forward in developing an Ecosystem Plan using the Purpose and Need statement as provided by the Ecosystem Plan Development Team as the basis for the plan.
2. Develop an Ecosystem Plan that is primarily advisory in nature, as described by Option 2, the “Advisory Fishery Ecosystem Plan (FEP),” in the Ecosystem Plan Development Team report, with the potential for expanding the plan to include regulatory authority in the future.
3. Continue to manage stocks and fisheries through existing Council-adopted fishery management plans (FMP); additional management measures for forage fish species, if any, would be considered through the Coastal Pelagic Species FMP, as the Council deems appropriate.
4. In developing the Ecosystem Plan, address the recommendations provided by the Coastal Treaty Tribes; Scientific and Statistical Committee (SSC); SSC Ecosystem Subcommittee; Ecosystem Advisory Subpanel; Groundfish Management Team and Advisory Subpanel, Highly Migratory Species Management Team and Advisory Subpanel; Salmon Technical Team and Advisory Subpanel; Coastal Pelagic Species Management Team and Advisory Subpanel; and Habitat Committee, as appropriate.
5. Given this guidance, request the Ecosystem Plan Development Team and Ecosystem Advisory Subpanel provide a preliminary draft process and schedule at the September Council meeting for development of the Ecosystem Plan..

Moved by: Michele Culver

Seconded by: David Ortmann

Amndmnt #1: Amend Motion 20 by striking items number 2 and 3 from the motion. In their place, move forward with a hybrid of regulatory authority options 2 and 3 in the Supplemental EPDT Report under Agenda Item H.1.b. The amendment would move ahead with an advisory EFMP to bring ecosystem science into the Council process without regulatory authority at this time. The amendment would also initiate the development of possible future regulatory authorities under an EFMP by exploring a list of species that are not currently included in any FMP, that are not under State management, are not listed under the ESA, or are species that could be the target of future fishery exploitation.

Moved by: Marci Yaremko

Seconded by: Buzz Brizendine

Amndmnt #1.a [Substitute for Amendment #1] Leave the five items as originally moved in Motion 20 and add the following sixth item:

6. Develop a list of species that are not currently included in any FMP, that are not under State management, are not listed under the ESA, or are species that could be the target of future fishery exploitation.

Moved by: Frank Lockhart

Seconded by: Michele Culver

The substitute amendment to Motion 20 passed on a roll call vote: Ms. Yaremko, Mr. Moore, and Mr. Brizendine voted no.

Motion 20 as amended passed unanimously.

Motion 21: Forward the letter on levee vegetation to the US Army Corp of Engineers as shown in Agenda Item I.1.a, Attachment 1.

Moved by: Michele Culver
Motion 21 passed unanimously.

Seconded by: Gway Kirchner

Motion 22: Modify the trawl Rockfish Conservation Area (RCA) for the area 45°46' N. lat. (Cape Falcon) to 48°10' N. lat. (Cape Alava) starting September 1 through the end of the year (i.e., Periods 5 and 6), as recommended by the GAP and GMT.

Moved by: Rod Moore
Motion 22 passed unanimously.

Seconded by: Gway Kirchner

Motion 23: Adopt the final inseason adjustment for 2011 groundfish fisheries as shown in Agenda Item E.5.b, Supplemental GMT Report. Page 20, items 2 and 3:

2. Reduce the bi-monthly trip limits for the LEFG sablefish DTL fishery north of 36° N. lat. from "2,000 lb. per week, not to exceed 6,500 lb. per 2 months" to "2,000 lb. per week, not to exceed 3,500 lb. per 2 months," beginning on July 1 through the end of the year.
3. Reduce the trip limits for the OA sablefish DTL fishery north of 36° N. lat. from "300 lb. per day, or one landing per week up to 1,200 lb., not to exceed 2,250 lb. per 2 months" to "300 lb. per day, or one landing per week of up to 1,050 lb., not to exceed 2,100 lb. per 2 months," beginning on July 1 through the end of the year.

Additionally, include recommendations 4, 5, 6, and 7 on page 21:

4. Consider reducing the weekly limits for the LEFG sablefish DTL fishery south of 36° N. lat. from "2,100 lb. per week," to "1,900 lb. per week," beginning on July 1 through the end of the year. Any reductions to trip limits would be effective July 1, or as soon as possible thereafter.
5. Increase the open access shelf rockfish trip limit south of 34° 27' N. lat. from "750 lb./2 months" to "1,000 lb./2 months" on July 1, or as soon as possible thereafter.
6. Consider changes to the limited entry and open access trip limits for black rockfish between 42° and 40°10' N. lat. Any increases to trip limits would be effective July 1, or as soon as possible thereafter.
7. Consider increasing the deeper nearshore trip limits south of 40° increases to trip limits would be effective July 1, or as soon as possible thereafter. □10

Moved by: Rod Moore

Seconded by: Gway Kirchner

Amdmnt #1: Substitute the trip limits specified for item 6 with the GAP recommendation to increase black rockfish trip limits in the limited entry and open access fixed gear fishery between 42° and 40°10' N. lat. from 7,000 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish to 8,500 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish on July 1, or as soon as possible thereafter, through the end of the year. Additionally, substitute the GAP recommended trip limits for item 7, which is to increase deeper nearshore rockfish trip limits in the limited entry and open access fixed gear fishery south of 40°10' N. lat. from 700 lb/ 2 months between 40°10' N. lat. and 34°27' N. lat. and 600 lb/2 months south of 34°27' N. lat. to 900 lb/2 months for the entire area south of 40°10' N. lat. starting July 1, or as soon as possible thereafter, through the end of the year.

Moved by: Marci Yaremko

Seconded by: Buzz Brizendine

Amendment 1 to Motion 23 passed unanimously.

Amdmnt #2: Amend Motion 23 to remove item 4.

Moved by: Michele Culver

Seconded by: Marci Yaremko

Amendment 2 to Motion 23 passed. Main Motion 23 passed unanimously.

Motion 24: Adopt Agenda Item E.6.a, Attachment 2 (Amendment 21 superseding Amendment 6); Agenda Item E.6.a, Attachment 3 (Flexibility of set asides); and Agenda Item E.6.a, Attachment 6 (AMP pass-through, Alternative 1 continue status quo through 2013).

Moved by: Marija Vojkovich

Seconded by: David Crabbe

Amdmnt #1: Amend Motion 24, relative to Agenda Item E.6.a, Attachment 6 (the adaptive management program, quota pound pass-through) to continue status quo through 2014 rather than 2013.

Moved by: Michele Culver

Seconded by: Dale Myer

Amendment 1 to motion 24 carried unanimously.

Motion 24 carried unanimously.

Motion 25: Adopt Agenda Item E.6.b, NMFS Report 1, PIE (Part 1), beginning on page 2: for Item 5, which revises cross-over provisions, recommend that we adopt the NMFS recommendation; Item 6, a process to allow end-of-year resolution of accounts, Option 2, adopt NMFS preferred; Item 10, add first receiver to the list and conflict of interest regulations for catch monitors and catch monitor providers, adopt as recommended in the underlined language on page 4; on page 4 on corrections/consistency, it is understood that 11, 12, and 13 have already been taken care of in the corrections rule, so adopt Items 14 through and including 27 as recommended in the document.

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Motion 25 carried unanimously.

Motion 26: Adopt Agenda Item E.6.b, Supplemental NMFS Report 2, PIE (Part 2) as follows. Item 1, observer offload issue - support NMFS recommendations 1, 2, and 5 (remove the language in 5 about catch monitors "removing the posting on the vessel"). Item 2, moving between limited entry and open access fisheries - adopt the underlined language under (i) on page 4. In addition, for issues dealing with other legal groundfish fisheries and gear it should be dealt with through the TRREC as recommended by EC. Item 3, clarify the open access language for non-groundfish trawl fisheries - support the underlined language on pages 5 & 6 (that refers to language 660.333 under paragraphs B1, C1, and D1). Item 4, review and as necessary revise catch accounting regulations, this needs further discussion through a group that includes NMFS, Council staff, GMT representatives, and any state staff knowledgeable with regulations or catch accounting. This work needs to proceed to be included in the PIE being developed during 2012. Item 7, clarify first receiver e-ticket submittal - support NMFS recommendations on pages 9 and 10 with the addition of the missing language in number 4 at the bottom of page 9. Item 8, exvessel value on e-ticket - adopt underlined language on page 12. Item 9, review and clarify ownership changes reported to NMFS - support NMFS recommended

changes on pages 12 and 13. Item 33, revise who is required to have a first receivers site license - support NMFS recommendation on page 14. Item 34, revise designation of QS account and vessel account managers - support NMFS recommendation on page 14. Item 35, add a process in case harvest specifications are delayed - support NMFS recommendation on page 15 with the following changes: for Pacific halibut IBQ incorporate the IPHC comment relative to the conversion for legal and non legal size conversion, and also include the GMT recommended change for interim allocations to be based on some portion of the IPHC's preliminary TCEY from their interim meeting, as determined by NMFS; and, also to add a process in case the harvest specifications are delayed for the at-sea whiting fisheries, based on the GAP statement. Item 36, threshold rules for issuance of allocation for shorebased IFQ and mothership co-op programs - support NMFS recommendation on page 16.

Moved by: Marija Vojkovich
Motion 26 carried unanimously.

Seconded by: Rod Moore

Motion 27: Adopt, for the issue of halibut bycatch mortality allocation and halibut IBQ as contained in Agenda Item E.6.a, Attachment 4: Alternative 1, which is consistent with the preliminary preferred alternative provided on page 6.

Moved by: Michele Culver
Motion 27 carried unanimously.

Seconded by: Mark Cedergreen

Motion 28: Working from Agenda Item E.6.a, Attachment 5 (page 5), Agenda Item E.6.b, Revised Supplemental GAP Report (pages 2-4), and Agenda Item E.6.b, Supplemental NMFS Report 5: adopt as the FPA, Agenda Item E.6.a, Attachment 5, Alternative 1 as part of the PIE rule, including parts a, b, c, and d. Also as part of this motion, adopt as answers to NMFS' questions in E.6.b, Supplemental NMFS Report 5, those given by the Revised Supplemental GAP Report starting on page four and going through to page five and to cover Item 1, the second to the last paragraph of page 2, Items 2-6 on page 3, and also the answers in the next three questions that were asked by NMFS.

Moved by: Dale Myer

Seconded by: Michele Culver

Amdmnt #1: Amend Motion 28 by stating that the reasonable amount of time for taking care of already-combined permits be 90 days at the completion of the final rule.

Moved by: Rod Moore
Amendment 1 to Motion 28 carried unanimously.
Motion 28 carried unanimously.

Seconded by: Mark Cedergreen

Motion 29: Direct the Council to recommend the National Marine Fisheries Service (NMFS) add language to the Program Improvement and Enhancement (PIE) rule allowing a vessel operating under a limited entry trawl permit that has legally processed groundfish (other than Pacific whiting) at sea prior to July 20, 2010 be allowed to process at-sea beginning January 1, 2012. To qualify, a permit holder must verify that the activity occurred prior to July 20, 2010 using fish tickets, dock receiving tickets, landing receipts, or other official documents, and that the vessel is operating under the Shorebased IFQ Program regardless of the type of gear used. Regulatory language should also include an appropriate conversion factor and/or an appropriate process for calculating a conversion factor for glazed groundfish.

Moved by: Steve Williams

Seconded by: Rod Moore

Amdmnt #1: Amend the motion by replacing “be allowed to process at-sea beginning January 1, 2012” with “be allowed to process at-sea after the effective date of the rule; once NMFS has deemed the criteria being met.”

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Amendment 1 to Motion 29 carried unanimously.

Motion 29 carried unanimously.

Motion 30: Move forward the package as it is for CFA special privileges, the qualifying criteria, and other elements that a designated CFA would have to adhere to and then make Council decisions in September.

Moved by: Marija Vojkovich

Seconded by: David Crabbe

Motion 30 passed. Mr. Moore voted no.

Motion 31: Adopt as its preliminary preferred alternative, a limited modification alternative for risk pools with the following specifications: (1) retain the language in the No Action Alternative as described in Section 2.2.2 in Agenda Item E.7.a, Attachment 1 (June 2011), page 38 and (2) adopt the language in Agenda Item E.7.b, Supplemental GAP Report. Relative to the limited modification, select Option A with a sub-option to allow renewal of annual contracts across multiple years (as preliminary preferred), but analyze both Options A and B. Adopt the language on qualifying risk pools; risk pool species; eligible members; agents (including the language identified in the paragraph entitled “Option”); the qualifying risk pool holding account Option B; and, for the Application, Oversight, Enforcement, and Monitoring section, Option A with a mechanism to notify NMFS of the risk pool.

Moved by: Michele Culver

Seconded by: Steve Williams

Motion 31 carried unanimously.

Motion 32: Withdrawn. Amendment to Motion 32: Withdrawn.

Motion 33: Adopt the following guidance on the questions and options on cost recovery as described in Agenda Item E.7.b, Supplemental NMFS Report 2. Question 1: Should the cost recovery program be developed for the trawl fishery as a whole, or further subdivided? Option A: 3 separate cost recovery programs developed for each of the 3 sectors: shore-based IFQ, mothership, catcher processor. Question 2: What entity should pay the fee? Catcher processors—Option A: Charge each vessel based on value of whiting harvested by that vessel. Motherships—Option A: Charge each catcher vessel based on value of whiting delivered by that vessel. Shoreside—Option A: Charge each catcher vessel based on value of IFQ species delivered by that vessel. Question 3: How should fee collection be structured? Catcher-processors—Option A: Bill entity chosen under Question 2 in last quarter of the calendar year. Motherships—Option C: Catcher vessel billed at time of delivery by mothership and collected by the Agency in coordination with buyback fee. Shoreside—Option B: Fishermen billed at time of landing by first receiver, and collected monthly by Agency in coordination with buyback fee. Question 4: Linkage to permitting requirements? Clarify that any linkage to permitting requirements would be

to the entity responsible for remitting payment to the Agency (i.e., Catcher processor vessel, mothership, and first receiver). Analyze options A, B, and C, and request NMFS indicate a preferred option and rationale at September meeting. Question 5: How are agency costs identified? Costs would be calculated for each sector and each sector would be assessed a fee based on the sector-specific cost calculation. Option C: Use yearly projection of costs, as calculated and provided by the Agency, to determine fee percentage at the beginning of each fishing year. Question 6: How is the ex-vessel value of the fish harvested under the LAPP calculated to ensure fee does not exceed 3 percent? Catcher processors—Option C: Use mothership pricing and at-sea tonnage caught to calculate value. Motherships—Option C: Use mothership pricing and at-sea tonnage delivered to calculate value. Shoreside—Option C: Calculated from information on buyback form.

Moved by: Dale Myer

Seconded by: Michele Culver

Motion 33 carried unanimously.

Motion 34: Establish a Trawl Rationalization Cost Recovery Committee (CRC) and that the committee's charge is as follows:

1. Review cost information provided by NOAA Fisheries and Office of Law Enforcement, as well as the state agencies and evaluate which costs should be categorized as incremental costs and which are more appropriately considered general program costs.
2. Provide recommendations of incremental costs on a sector by sector basis that are subject to cost recovery.
3. Discuss opportunities for long-term cost efficiencies. The committee membership would include one representative from each of the following industry sectors and agencies. shoreside trawl sector (whiting and non-whiting seats), at-sea whiting mothership sector, at-sea catcher-processor sector, processor, NMFS Northwest Region, NOAA Office of Law Enforcement, Northwest Fisheries Science Center, Washington Dept of Fish and Wildlife, Oregon Dept of Fish and Wildlife, California Department of Fish and Game, and Pacific States Marine Fisheries Commission.

Moved by: Dorothy Lowman

Seconded by: Mark Cedergreen

Motion 34 carried unanimously.

Motion 35: Approve the June 2010 and March 2011 minutes as shown in Attachment 1 and Supplemental Attachment 2, respectively.

Moved by: Rod Moore

Seconded by: Michele Culver

Motion 35 carried unanimously

Motion 36: Approve the report of the Budget Committee.

Moved by: Jerry Mallet

Seconded by: Rod Moore

Motion 36 carried unanimously

Motion 37: Amend the guidance in Council Operating Procedure (COP) 1 (reproduced on page 1 of Agenda Item F.4 under "Election of Officers") by modifying the first sentence to read:

“The Chair and up to two Vice Chairs of the Council shall be elected by majority vote of Council members present and voting.”

Moved by: Dan WOLFORD
Motion 37 carried unanimously.

Seconded by: Buzz Brizendine

Motion 38: Specify that the Council elect only one vice chair beginning with the 2011-2012 term.

Moved by: Dan WOLFORD
Motion 38 carried unanimously.

Seconded by: Rod Moore

Motion 39: Elect Mr. Dan WOLFORD to Council Chair and Ms. Dorothy Lowman to Council Vice Chair for the 2011-2012 term.

Moved by: Mark Cedergreen
Motion 39 carried unanimously.

Seconded by: Herb Pollard

Motion 40: Appoint Dr. David Sampson to the ODFW position on the SSC and Mr. Jeff Miles to the Northern Open Access Position on the GAP.

Moved by: Steve Williams
Motion 40 passed unanimously.

Seconded by: Rod Moore

Motion 41: Appoint Mr. Ricardo Belmontes to the IATTC position on the HMSMT and Ms. Jennifer Simon to the CDFG positions on the STT and the MEW.

Moved by: Marija Vojkovich
Motion 41 passed unanimously.

Seconded by: Buzz Brizendine

Motion 42: Appoint Mr. Kirt Hughes to the WDFW position on the HMSMT and Mr. Mark Cedergreen to the Washington charter boat position on the GAP.

Moved by: Michele Culver
Motion 42 passed (Chairman Cedergreen abstained).

Seconded by: Dale Myer

Motion 43: Appoint Ms. Susan Chambers to the processor at-large position on the GAP.

Moved by: Dorothy Lowman
Motion 43 passed (Mr. Moore recused himself).

Seconded by: Michele Culver

Motion 44: Add the position of processor at-large to the Trawl Rationalization Regulatory Evaluation Committee (TRREC).

Moved by: Michele Culver
Motion 44 passed unanimously.

Seconded by: Dorothy Lowman

Motion 45: Adjourn the meeting.

Moved by: Rod Moore
Motion 45 passed unanimously.

Seconded by: Buzz Brizendine

DRAFT MINUTES
205th Session of the
Pacific Fishery Management Council
September 11-16, 2010
Doubletree Hotel Boise - Riverside
2900 Chinden Boulevard, Boise, Idaho 83714

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A. Call to Order

A.1 Opening Remarks

Mr. Mark Cedergreen, Chairman, called the 205th meeting of the Pacific Fishery Management Council to order at 9:00 a.m., Saturday, September 11, 2010. There was a closed session held from 8 a.m. to 8:45 a.m. to discuss litigation and personnel matters. A moment of silence was held to commemorate the anniversary of 9/11/2001 fallen heroes.

A.2 Council Member Appointments

Mr. Frank Lockhart swore in newly-appointed Council member Mr. Herb Pollard and recognized the reappointment of Mr. Dan Wolford. Mr. Dave Ortmann was noted as an additional designee representing the State of Idaho. Mr. Barry Ross was also recognized (former Idaho Council member in attendance).

A.3 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 Corrigan (US Coast Guard, non-voting designee)
Ms. Michele Culver (Washington State Official, designee)
Mr. David Crabbe (California Obligatory)
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 designee)
Mr. Steve Williams (State of Oregon Official)
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)

A.4 Executive Director's Report

Dr. McIsaac provided the Executive Director's report which included noting the two informational reports in the briefing book, advising the Council that Agenda Items I.4-I.6 will be broadcast via the web as a test of our capabilities and the benefits of such broadcasts, and he also discussed the need to plan a review of the groundfish biennial specifications process to determine better ways of completing the process.

A.5 Agenda

A.5.a Council Action: Approve Agenda

Mr. Rod Moore moved and Mr. Steve Williams seconded Motion 1 to adopt the proposed agenda (Agenda Item A.5) with the removal of Agenda Item G.2, Legislative Matters, as suggested by the Legislative Committee. The motion passed unanimously.

B. Open Comment Period

B.1 Comments on Non-Agenda Items

None.

C. Salmon Management

C.1 2010 Salmon Methodology Review (09/11/10; 9:19 a.m.)

C.1.a Agenda Item Overview

Mr. Chuck Tracy presented the agenda item overview.

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

Dr. Robert Kope presented Agenda Item C.1.b, Supplemental STT Report.

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

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

Mr. David Sones presented Agenda Item C.1.b, Supplemental Tribal Comment.

Dr. Dygert presented Agenda Item C.1.b, NMFS Report.

C.1.c Public Comment

None.

C.1.d Council Action: Adopt Final Review Priorities

Mr. Steve Williams moved (Motion 2) to set the priorities as indicated by the two bulleted items on the bottom of page 1, and the one bulleted item on the top of page two of Agenda Item C.1.b, Supplemental SSC Report. Mr. Moore seconded the motion.

Motion 2 carried unanimously.

Mr. Steve Williams directed the Salmon Technical Team (STT) to provide a prospective report on mark selective fisheries.

Mr. Pat Pattillo directed the STT to include recommendations for the improvements in monitoring and reporting of mark selective fisheries.

C.2 Fishery Management Plan Amendment 16, Annual Catch Limits and Accountability Measures

C.2.a Agenda Item Overview (09/11/10; 10:25 a.m.)

Mr. Tracy presented the agenda item overview.

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

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

Mr. Robert Conrad presented Agenda Item C.2.b, Supplemental SSC Report.

Mr. Butch Smith presented Agenda Item C.2.b, Supplemental SAS Report.

Mr. Mike Orcutt presented Agenda Item C.2.b, Supplemental Hoopa Valley Report.

Mr. Dave Hillemeier, Yurok Tribe, recommended the Council adopt 40,700 as the best estimate of maximum sustainable yield spawning escapement (S_{MSY}) and the annual management objective for Klamath River fall Chinook (KRFC), and revisit that value as restoration efforts improve and expand available habitat; minimum stock size threshold (MSST) should be greater than 50 percent of S_{MSY} to protect Klamath basin sub-stocks and genetic integrity of the aggregate stock; tier 2 stocks are components of the Southern Oregon/Northern California Chinook complex, so a 10 percent buffer on F_{ABC} would be appropriate; the Salmon Amendment Committee (SAC) should develop a *de minimis* alternative similar to Alternative 3, but with the inflection point at $0.75 * S_{MSY}$, and zero out at 22,000 spawners or $0.5 * S_{MSY}$ to more closely reflect National Marine Fisheries Service (NMFS) guidance on implementing Amendment 15.

C.2.c Public Comment

Mr. Duncan MacLean, troller, El Granada, CA

C.2.d Council Action: Adopt Proposed Alternatives for Public Review

Mr. Dan Wolford recommended the Council use an arithmetic mean for setting status determination criteria (SDC) alternatives rather than the geometric mean, and to use the 35,000 spawner floor for KRFC until an economic analysis is conducted to see the impacts of adopting 40,700 as S_{MSY} .

Mr. Wolford moved (Motion 3) to adopt the alternatives in Agenda Item C.2.b, SAC Report for public comment and adopt the following as preliminary preferred alternatives (PPA):

- From Table ES-1, Stock Classification Alternative 3 relative to individual stocks in the fishery, stock complexes, ESA listed stocks, hatchery stocks, and exploitation rate exceptions; and to further note that the northern range of KRFC and Sacramento River fall Chinook (SRFC) does not extend North of Cape Falcon.

- From Table 2-7 SDC Alternative 2 for Overfishing and Rebuilt and Alternative 3 for Overfished and Approaching an Overfished Condition, except that Alternative 3 would be defined in terms of an arithmetic mean rather than a geometric mean.
- From Table 2-8 and 2-9 Reference Points for individual stocks for S_{MSY} , maximum fishing mortality threshold (MFMT), and MSST associated with Alternative 3 SDC except that for KRFC, S_{MSY} should be 35,000 spawners.
- From Table 2-10 Annual Catch Limit (ACL) Alternative 3, including the 5 percent buffer for tier 1 stocks and 10 percent buffer for tier 2 stocks.
- For Accountability Measures (AMs) Alternative 2 on page 65 and replace the term “overfishing concern” with “abundance alert” and the term “overfished” with “depleted.”
- A new alternative *de minimis* control rule applied to KRFC and SRFC similar to those on page 74 except that F would not fall below 25 percent, but would become undefined at abundance levels less than the midpoint between S_{MSY} and MSST; this would not include a prescriptive approach but require the Council to consider a measured approach should the stock be in that situation, which will allow the Council to consider community impacts as well as stock status.
- Another *de minimis* alternative for KRFC using 86 percent of S_{MSY} as MSST.

Ms. Vojkovich seconded the motion.

Mr. Pattillo moved to amend Motion 3 (Amendment 1 to Motion 3) to include in the description of *de minimis* fishing alternatives that only fishing impacts south of Cape Falcon would be included when considering implementation of *de minimis* fishing rates. Mr. Moore seconded Amendment 1 to Motion 3.

Amendment 1 to Motion 3 carried. Mr. Lockhart abstained.

Mr. Steve Williams moved to amend Motion 3 (Amendment 2 to Motion 3) to include the 14 Chinook, 11 coho, and two pink salmon stocks shown on Table ES-1, Stock Classification Alternative 2 as in the fishery and designate them as international exceptions to the ACL and AM requirements. Mr. Moore seconded Amendment 2 to Motion 3.

Mr. Tracy asked if ecosystem components were included in either Motion 3 or Amendment 2 to Motion 3. Mr. Moore replied no.

Amendment 2 to Motion 3 carried unanimously.

Ms. Vojkovich moved to amend Motion 3 (Amendment 3 to Motion 3) to include new *de minimis* alternatives for each current alternative that specifies 35,000 as S_{MSY} for KRFC, to provide analysis and comment opportunity for S_{MSY} of both 40,700 and 35,000. Mr. Brizendine seconded Amendment 3 to Motion 3.

Mr. Lockhart stated that S_{MSY} is not a policy decision but a scientific decision, and the SSC has provided their recommendation for 40,700; however, having both values in the Environmental Assessment (EA) for comparison is acceptable.

Amendment 3 to Motion 3 carried unanimously.

Ms. Lowman moved to amend Motion 3 (Amendment 4 to Motion 3) to also include the 3-year geometric mean alternatives for public review. Mr. Lockhart seconded Amendment 4 to Motion 3.

Mr. Lockhart noted the Scientific and Statistical Committee (SSC) recommended that the SDC be based on a 3-year geometric mean; however, having both geometric and arithmetic means in the EA for comparison is acceptable.

Amendment 4 to Motion 3 carried unanimously.

Mr. Lockhart requested Motion 3, as amended, be presented in writing prior to a vote. Dr. McIsaac replied that could be done by tabling the Motion while staff prepared a presentation.

Mr. Myer asked if Motion 3 replaced “overfished” with “depleted” throughout the Fishery Management Plan (FMP). Mr. Wolford replied yes.

Mr. Lockhart noted that the term overfished is a requirement of the FMP.

Mr. Lockhart moved to amend Motion 3 (Amendment 5 to Motion 3) to strike the replacement of the term “overfished” with “depleted.” Ms. Vojkovich seconded Amendment 5 to Motion 3.

Amendment 5 to Motion 3 carried; Mr. Ortmann and Mr. Wolford voted no.

Mr. Lockhart moved (Motion 4) to table action on Motion 3 until staff can present the motion in writing. Mr. Brizendine seconded Motion 4.

Main Motion 3 was tabled.

09/12/10; 10:39 a.m.

Mr. Moore moved (Motion 7) to bring Motion 3, as amended, on Agenda Item C.2. back to the table. Mr. Brizendine seconded the motion. Motion 7 carried unanimously.

Mr. Tracy presented Agenda Item C.2.d, Supplemental Motion in Writing.

Ms. Vojkovich asked if the far-north migrating spring-summer Chinook complex was not included in the stock classification PPA, what would be required. Mr. Tracy replied that in addition to SDC, each individual stock would need an ACL.

Dr. Dygert stated that S_{MSY} is a biological parameter, not a policy option, and it would be difficult for NMFS to support something other than 40,700 for KRFC, which is based on an analysis reviewed by the SSC and approved by the Council. NMFS would also need to consider all sources of mortality for determining whether a stock was overfished, including impacts to KRFC and SRFC north of Cape Falcon.

Mr. Mohr noted all *de minimis* fishing alternatives presented assume $MSST = 0.5 * S_{MSY}$, but it is possible to have other MSST alternatives, which would affect the abundance levels specified for the *de minimis* alternatives.

Mr. Mohr asked if the *de minimis* alternatives were defined by the stock abundance levels or the description relative to the reference points. Mr. Tracy replied the latter, the former are examples of application to specific stocks.

Mr. Lockhart moved to amend Motion 3 (Amendment 6 to Motion 3) to remove insertion of 35,000 for KRFC as S_{MSY} . Ms. Vojkovich seconded Amendment 6 to Motion 3.

Mr. Lockhart stated S_{MSY} is a biological parameter, the SSC is the appropriate body to recommend that parameter, and the Council should take their recommendation, which is based on an extensive record. It would be confusing to have two estimates of S_{MSY} in the EA. In doing so, *de minimis* Alternatives 2b and 3b would be eliminated.

Mr. Wolford stated his intent in Motion 3 was to establish a conservation objective of 35,000, not to replace S_{MSY} .

Mr. Moore asked if there was latitude in the FMP to change estimates of S_{MSY} if new information was available. Mr. Tracy replied the *de minimis* control rules are tied to the reference points, not hard numbers; therefore, as new information became available and the Council accepts new estimates, the control rules would reflect that difference.

Ms. Vojkovich asked if the terms S_{MSY} and conservation objective were equivalent. Mr. Lockhart replied no, and the Council would have to manage for a conservation objective that was no lower than S_{MSY} .

Ms. Vojkovich asked if 40,700 would become the new KRFC spawning escapement floor.

Mr. Mohr replied that under the alternatives in the EA, yes, until abundance fell to *de minimis* levels.

Mr. Moore moved to amend Amendment 6 to Motion 3 (Amendment 1 to Amendment 6 to Motion 3) to establish a conservation objective in Alternatives 2b and 3b of 35,000 for KRFC. Mr. Crabbe seconded Amendment 1 to Amendment 6 to Motion 3.

Mr. Wolford felt it was appropriate to add language to the PPA as well as Alternatives 2b and 3b.

Mr. Moore withdrew his amendment, Mr. Crabbe concurred.

Amendment 1 to Amendment 6 to Motion 3 was withdrawn.

Mr. Moore moved to amend Amendment 6 to Motion 3 (Amendment 2 to Amendment 6 to Motion 3) to establish a conservation objective in Alternatives 2b and 3b and the PPA of 35,000 for KRFC. Mr. Crabbe seconded Amendment 2 to Amendment 6 to Motion 3.

Amendment 2 to Amendment 6 to Motion 3 carried unanimously.

Amendment 6 to Motion 3, as amended by Amendment 2 to Amendment 6 to Motion 3, carried unanimously.

Mr. Lockhart moved (Amendment 7 to Motion 3) to eliminate from Agenda Item C.2.d, Supplemental Motion in Writing, under the SDC and *De Minimis* Fishing Provisions sections defining Cape Falcon as the northern limit for impacts contributing to Overfishing SDC, ACL compliance and *de minimis* provisions; and add to the *De Minimis* Fishing Provisions section the statement that “for the purpose of implementing *de minimis* fishing provisions, Cape Falcon will be defined as the northern limit for impacts counted toward KRFC and SRFC.” Ms. Vojkovich seconded Amendment 7 to Motion 3.

Mr. Lockhart stated that the Magnuson-Stevens Act and National Standard 1 Guidelines require all impacts to count towards SDC, but allows fishery implementation to consider stock distribution.

Amendment 7 to Motion 3 carried unanimously.

Mr. Roth moved (Amendment 8 to Motion 3) to remove the reference of $0.86 \cdot S_{MSY}$ as MSST for KRFC under the new *de minimis* fishing Alternative, and to insert it as Alternatives 3a and 5a for KRFC only under the SDC Section Alternatives 3 and 5, respectively. Mr. Sones seconded Amendment 8 to Motion 3.

Amendment 8 to Motion 3 carried unanimously.

Motion 3 as amended (Amendments 1, 2, 3, 4, 5, 6 [as amended], 7, and 8) carried unanimously.

(1:38 p.m.)

C.3 Mitchell Act Hatchery Draft Environmental Impact Statement (DEIS)

C.3.a Agenda Item Overview (09/11/10; 4:20 p.m.)

Mr. Tracy presented the agenda item overview.

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

Mr. Bob Turner presented Agenda Item C.3.b, Supplemental NMFS PowerPoint. Mr. Butch Smith and Mr. Steve Watrous presented Agenda Item C.3.b, Supplemental SAS Report.

C.3.c Public Comment

Mr. Butch Smith, Ilwaco Charterboat Association, Ilwaco, WA
Mr. Kent Martin, gillnetter, Skamokawa, WA
Mr. Jim Olson, Washington Trollers Association, Auburn, WA
Mr. Duncan MacLean, troller, El Granada, CA

C.3.d Council Action: Provide Comments on the DEIS (09/12/10; 8:05 a.m.)

Mr. Cedergreen moved (Motion 5) to establish a committee made up of five Council members - one each from Washington, Oregon, Idaho, Tribes, and the Council Chairman. The committee will meet before the November Council meeting in Costa Mesa; task is to put together a draft Council statement on the Mitchell Act (MA) DEIS to be adopted by the full Council and forwarded to NMFS prior to the public comment deadline. In addition, Council staff is directed to develop a list of specific questions regarding the DEIS and to whom they should be assigned, which would be finalized as an additional agenda item later at this meeting. Mr. Steve Williams seconded the motion.

Mr. Moore moved to amend Motion 5 (Amendment 1 to Motion 5) to include one member from US Fish and Wildlife Service and one from Alaska Department of Fish and Game. Ms. Lowman seconded the amendment. Amendment 1 to Motion 5 carried unanimously.

Motion 5 as amended carried. Mr. Lockhart abstained.

09/13/10; 10:45 a.m.

Dr. McIsaac presented Agenda Item C.3.d, Supplemental Council Staff Report, a list of questions and proposed entities to respond to each question.

Ms. Culver asked if the intent was to bring the answers back to the full Council. Dr. McIsaac replied yes, that it would be available in the November 2010 briefing materials.

Council members and advisory bodies were assigned to answer the list of questions.

C.4 National Marine Fisheries Service Report (09/12/10; 8:27 a.m.)

C.4.a Fisheries Science Center Activities

Mr. Steve Lindley and Dr. Pete Lawson presented Agenda Item C.4.a, Supplemental FSC Report.

C.4.b Reports and Comments of Advisory Bodies and Management Entities

None.

C.4.c Public Comment

None.

C.4.d Council Discussion

None.

C.5 Salmon Essential Fish Habitat (EFH) Review (09/12/10; 9:18 a.m.)

C.5.a Agenda Item Overview

Mr. Kerry Griffin provided the agenda item overview.

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

Mr. Eric Chavez provided Agenda Item C.5.b, Supplemental HC Report. Dr. Martin Dorn provided Agenda Item C.5.b, Supplemental SSC Report.

C.5.c Public Comment

None.

C.5.d Council Action: Approve the Salmon EFH Report for Public Review

Mr. Griffin stated the comments from the Habitat Committee (HC) and SSC will be considered in the final report which right now is scheduled to come back to the Council as a final report in March 2011.

Mr. Lockhart said he was concerned about how each of the considerations in the advisory body comments will or will not be incorporated in the report and would like that information at the March 2011 meeting. Vice Chair Wolford concurred, but felt it might double the document in size.

Mr. Roth asked about the timeline/timeframe. Mr. Griffin replied NMFS essential fish habitat (EFH) regulatory guidance said that EFH descriptions should be reviewed periodically, at least every five years. We are at five years now. This is not the first or last time that an EFH review has taken more than five years to complete.

Mr. Lockhart said Mr. Griffin is right and that taking a bit more time to get it right is more important than meeting the five-year review deadline.

Dr. Coon reminded Council members that this is really not the Council's document. It is a NMFS report to the Council completed on a contract with the purpose of the report to help develop and guide the Council process in the review of EFH. The point is to get this out for public comment so the Oversight Panel (Panel) can take the comment into account in its final report to help the Council decide what they want to do about updating salmon EFH in the fishery management plan.

Mr. Griffin said the function of the Panel report is to review the science and available tools to see if EFH descriptions are more or less accurate as intended. If new information comes to light, or if the Council chooses to adopt habitat areas of particular concern (HAPCs), then that is the next step. The Panel's first step was to conduct the review and present the information to the Council and public.

Dr. Coon recommended the Council invite Dr. John Stadler up to the podium as he is the chairman of the Panel.

Dr. Stadler, NMFS Northwest Region EFH Coordinator, spoke about the content of the report, particularly to the water quality and quantity issues. He stated the report was not intended to contain that type of information. That information is already in Salmon Amendment 14. The intent of the report is to find and pull together new information to supplement and update what is in Amendment 14.

Mr. Lockhart said it seems that the Council staff wants to go out with something for public review, but Council members are saying that might give the wrong impression if it is viewed as not complete. He thought that if the linkage between the report and Amendment 14 was made clear and viewed as a whole package that this might bely Council concerns. Mr. Steve Williams concurred with this thought.

Dr. Stadler agreed that beefing up and making clear the connection between the report with updated information and the already existing description of EFH in Amendment 14 would help the process and respond to the Council's concerns. He also noted that the annotated bibliography will include any new information brought forward.

Mr. Roth suggested that if there was some summation of the new information, so people don't have to dig so much, it would be helpful. Dr. Stadler said they would do that in the final document.

Dr. Coon said again that the Panel is trying to provide a service to the Council to assist in its required review of salmon EFH and potential need to amend the salmon plan. When the Panel provides its final report, it is up to the Council to decide how to use the information in completing its EFH review.

Mr. Moore moved (Motion 6) to adopt for public review Agenda Item C.5.a, Attachment 1: *Pacific Coast Salmon Essential Fish Habitat Review Draft Report* and Agenda Item C.5.a, Attachment 2: *Appendix A – Annotated Bibliography for 2010 Essential Fish Habitat Update*, with the expectation that this would be returned to the Council showing linkage to Amendment 14, and consider the comments of the Council (verbally today), the SSC, and HC and describe why their comments were or were not included. Ms. Lowman seconded the motion.

Ms. Vojkovich expressed concern about some of the information in the report and Amendment 14, e.g., the hagg fish fishery and the range of Chinook habitat, and asked that those be looked at and any nonfactual information be noted or removed.

Dr. Stadler said those items were all taken from Amendment 14 and we can do a better job of reviewing that material to answer the concerns voiced here today.

Motion 6 carried unanimously.

Break at 10:24 a.m.; then to Agenda Item C.2. Council Action.

D. Pacific Halibut Management

D.1 2011 Pacific Halibut Regulations (09/12/10; 1:45 p.m.)

D.1.a Agenda Item Overview

Mr. Chuck Tracy presented the agenda item overview.

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

Mr. Steve Williams presented Agenda Item D.1.b, ODFW Report.

Mr. Lockhart presented Agenda Item D.1.b, Supplemental NMFS Report.

Mr. John Holloway presented Agenda Item D.1.b, Supplemental GAP Report.

D.1.c Public Comment

None.

D.1.d Council Action: Adopt for Public Review Proposed Changes to the 2011 Pacific Halibut Catch Sharing Plan and Annual Fishery Regulations

Mr. Steve Williams moved (Motion 8) to adopt for public review, Agenda Item D.1.b, ODFW Report, under Central Coast Subarea, items 1, 2, and 3; and remove item 1 under South of Humbug Mountain Subarea. Mr. Moore seconded the motion.

Motion 8 carried unanimously.

Mr. Lockhart moved (Motion 9) to adopt for public review, the proposal provided under Agenda Item D.1.b, Supplemental NMFS Report; and note that NMFS will provide the specific changes to the Council during public review. Ms. Vojkovich seconded the motion.

Motion 9 carried unanimously.

D.2 Proposed Procedures for Estimating Pacific Halibut Bycatch in the Groundfish Fisheries

D.2.a Agenda Item Overview (09/12/10; 2:17 p.m.)

Mr. Tracy presented the agenda item overview.

D.2.b Northwest Fisheries Science Center Report

Ms. Eliza Heery and Ms. Janell Majewski presented Agenda Item D.2.b, Supplemental NWFSC PowerPoint, which summarized Agenda Item D.2.b, NMFS Report.

D.2.c Reports and Comments of Advisory Bodies and Management Entities

Dr. Dorn presented Agenda Item D.2.c, Supplemental SSC Report.

Ms. Lynn Mattes presented Agenda Item D.2.c, Supplemental GMT Report.

Mr. John Holloway presented Agenda Item D.2.c, Supplemental GAP Report.

Ms. Culver presented Agenda Item D.2.c, WDFW Report.

D.2.d Public Comment

None.

D.2.e Council Action: Review and Provide Guidance on Appropriate Bycatch Estimation Procedures

Ms. Culver requested Oregon Department of Fish and Wildlife (ODFW) forward a more recent report of halibut bycatch in the pink shrimp trawl fishery, which should be essentially eliminated due to use of excluders. Mr. Steve Williams agreed to forward that report.

Ms. Culver moved (Motion 10) to approve Agenda item D.2.b, NMFS Report and transmit it to the International Pacific Halibut Commission (IPHC), representing the best available science for West Coast trawl and fixed gear fisheries, including legal and sublegal mortality information, and to forward the latest pink shrimp trawl bycatch report from ODFW. Mr. Myer seconded the motion.

Motion 10 carried unanimously.

D.3 Initial Consideration of Proposed Changes to Pacific Halibut Allocation for Bycatch and Catch Sharing in the Groundfish Fisheries (09/12/10; 3:07 p.m.)

D.3.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

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

Ms. Lynn Mattes presented Agenda Item D.3.b, Supplemental ODFW PowerPoint, which summarized Agenda Item D.3.b, ODFW Report and Agenda Item D.3.b, Supplemental ODFW Report 2.

Ms. Culver presented Agenda Item D.3.b, WDFW Report.

Mr. Gregg Williams presented Agenda Item D.3.b, Supplemental IPHC Report.

Mr. John Holloway presented Agenda Item D.3.b, Supplemental GAP Report.

D.3.c Public Comment

Mr. Ralph Brown, trawler, Brookings, OR

Mr. Bill James, fisherman, Salem, OR

Ms. Leesa Cobb, Port Orford Ocean Resource Team, Port Orford, OR

D.3.d Council Action: Consider the Proposed Changes and Plan Further Actions as Appropriate

Mr. Steve Williams moved (Motion 11) to develop an analysis of the biological, socioeconomic, and fishery management costs and benefits of modifying the Area 2A Pacific Halibut Catch Sharing Plan to the allow incidental halibut catch retention in the sablefish fixed gear fishery; which may include limited entry, daily trip limit and open access sectors. Mr. Moore seconded the motion.

Mr. Steve Williams stated that a ten hour directed halibut fishery is hard to manage and may not be the best economic use of available fish, and while allocation will be an issue at some point, the motion has a narrow scope to explore changes to make the fishery manageable, sustainable, and economically viable. ODFW will do the work necessary to bring the issue back to the Council.

Mr. Wolford asked what the geographic extent of the proposal was. Mr. Steve Williams replied south of Pt. Chehalis.

Mr. Mallet asked what the timeframe for the proposal was. Mr. Steve Williams replied the intent was to complete the process in time for 2012 fisheries.

Dr. McIsaac asked if the necessary allocation of halibut would come from the directed halibut fishery only. Mr. Steve Williams replied yes.

Ms. Culver concurred that the proposal was timely, but was concerned about consistency with halibut bycatch retention north of Pt. Chehalis; for example, north of Pt. Chehalis fisheries are closed out to 100 fm to reduce bycatch of yelloweye rockfish, and the proposal may increase yelloweye impacts south of Pt. Chehalis.

Ms. Vojkovich concurred with Ms. Culver's comments about yelloweye impacts and was concerned that incidental catches could become targets. A long-term strategy for halibut allocation should be investigated rather than pursuing a narrowly-focused proposal.

Mr. Lockhart stated the first step is to provide more information to the Council, although the 2012 implementation may be ambitious.

Mr. Dale Myer was concerned with allocation issues between the directed halibut fishery and bycatch retention.

Motion 11 carried 9 to 4; Mr. Crabbe, Ms. Vojkovich, Mr. Myer, and Ms. Culver voted no.

E. Habitat

E.1 Current Habitat Issues (09/13/10; 8:05 a.m.)

E.1.a Agenda Item Overview

Ms. Jennifer Gilden provided the agenda item overview.

E.1.b Report of the Habitat Committee

Ms. Fran Recht provided the Habitat Committee 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

No Council action was taken.

E.2 National Marine Fisheries Service National Habitat Assessment Plan Briefing

E.2.a Agenda Item Overview

Ms. Gilden provided the agenda item overview.

E.2.b Fisheries Science Center Report

Ms. Mary Yoklavich and Dr. Waldo Wakefield provided Agenda Item E.2.b, Supplemental SWFSC PowerPoint.

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

None.

E.2.d Public Comment

No public comment.

E.2.e Council Discussion

Mr. Tim Roth said he strongly supported endorsing the Habitat Assessment Improvement Plan (HAIP). He felt that Council habitat actions have lined up well with the actions described in the HAIP. He

supported writing a letter of endorsement to National Oceanic and Atmospheric Administration (NOAA) about the HAIP, and discussed several points of agreement between the Council and the HAIP.

Ms. Culver agreed that the Council has many habitat science needs, especially with regard to stock assessments and EFH. If the Council agrees to send a letter of endorsement for the HAIP, she supports including comments to the effect that we do not want to detract from funding our other priorities or unfunded mandates, but support new funding. She would also include supporting projects such as the Washington Department of Fish and Wildlife (WDFW) research on yelloweye stock abundance and density.

Mr. Wolford supported writing a letter, and said he would like to include something about not pursuing public/private partnerships – those come with lots of strings and attachments. He asked that be included in the Council letter.

Ms. Vojkovich also supported the letter and the work of the HAIP. She agreed with Ms. Culver's recommendation to focus on the Council's key issues. She asked that we focus on what will have the biggest payoffs for the Council first. She supports work that is readily transferable and understandable. Also, states need resources in order to engage in processes like this.

Mr. Moore concurred, but noted that the Council cannot lobby for NMFS funding. He did not want to detract from current funding, but wanted to look at amalgamating existing data; the highest priority would be yelloweye.

Mr. Sones agreed with Mr. Roth's and Ms. Vojkovich's comments. He noted that the Olympic Coast Sanctuary plays an important role in his area, and can coordinate a lot of this data. Much valuable data can be combined at a lower cost.

Mr. Steve Williams endorsed the plan, and believed that comments about the Council's priorities were important. He warned against attempting to meet everyone's needs, which could dilute the effort. Prioritizing is critical. Data coordination by a broad range of users was important to him.

Mr. Wolford said, in addition to yelloweye, inland habitat for anadromous salmon is important.

Dr. McIsaac said a motion is not needed; he had not heard any negative comments. Absent any other discussion, staff would proceed with a letter along the lines of this discussion.

F. Marine Protected Areas

F.1 Update and Further Review of the National System of Marine Protected Areas (09/13/10; 9:24 a.m.)

F.1.a Agenda Item Overview

Mr. Kerry Griffin provided the agenda item overview. Ms. Wenzel provided Agenda Item F.1.a, Supplemental National MPA Center PowerPoint. In her presentation, Ms. Wenzel summarized the genesis and structure of the national System of Marine Protected Areas (MPAs), established under Executive Order (E.O.) 13158. Mr. Mallet asked whether the E.O. provides authority to establish new MPAs, and Ms. Wenzel replied that the National System only considers already-existing MPAs but does not create any new ones. Dr. McIsaac asked about the process for removing a site, and whether the

“avoid harm” provision would apply in that case. Ms. Wenzel stated that the “avoid harm” provision would not be a consideration in the decision of whether to remove a site from the system.

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

Dr. Martin Dorn provided Agenda Item F.1.b, Supplemental SSC Report. Ms. Fran Recht provided Agenda Item F.1.b, Supplemental HC Report.

F.1.c Public Comment

Dr. Geoff Shester, Oceana, San Francisco, CA

F.1.d Council Action: Consider Updated Information and Plan Further Actions as Appropriate

Mr. Griffin walked the Council through the rest of the white paper.

Ms. Culver asked about the 52 sites proposed for nomination in a letter from Barry Thom, and the difference between the MPA Inventory and the MPA Registry. Mr. Griffin and Ms. Wenzel explained that the inventory is merely a list resulting from researching all those MPAs that fit the criteria. The registry is those MPAs that have been nominated for inclusion in the national system of MPAs. Ms. Culver also asked about the “avoid harm” language in the E.O., and Ms Wenzel clarified that the mandate to avoid harm to MPA resources applies only to those in the national system; not necessarily those in the inventory. NOAA anticipates issuing guidance on the “avoid harm” clause in the near future. Ms. Wenzel and Mr. Griffin further clarified that for any federally-managed MPA, all Federal agencies are already obligated to avoid harm to those MPA resources for which the MPA exists.

Dr. McIsaac asked why some salmon MPAs were not included in the list of 52 nominated sites, while the groundfish closed areas were. Ms Wenzel said that there was no particular reason, and that those on the list simply represent those that appeared to fit the MPA criteria.

Mr. Moore asked whether the “avoid harm” criteria would apply to a decision about whether to remove an MPA from the registry. Ms. Wenzel said that no, it would not apply to those cases.

In response to further concerns expressed from the Council, Mr. Sam Rauch came to the podium and said that in all of these scenarios (with respect to adding or removing an MPA to/from the list), NMFS intends to give deference to the Council’s wishes.

Dr. McIsaac suggested the Council could pause and consider the question of looking at a more comprehensive list a little further. We will just look for scheduling this again next year in the fall when the legal definition becomes available to us.

Ms. Lowman said she would like to see the legal definition in writing. Even though this issue is not much of a workload, we have a public process involved and it would be good to get and review the guidance fairly soon.

G. Administrative Matters

G.1 Briefing on Marine Spatial Planning (09/13/10; 10:49 a.m.)

G.1.a Agenda Item Overview

Mr. Griffin provided the agenda item overview.

G.1.b Marine Spatial Planning from the National Perspective

Mr. Sam Rauch, Deputy Director, NMFS, provided Agenda Item G.1.b, Supplemental NOAA PowerPoint.

G.1.c Marine Spatial Planning on the West Coast

Dr. Usha Varanasi, NWFSC, and Ms. Jessica Keys (Oregon Governors office) provided a west coast perspective on CMSP.

G.1.d Reports and Comments of Advisory Bodies and Management Entities

None.

G.1.e Public Comment

Mr. Ralph Brown, Fishermen's Marketing Association, Brookings, OR

G.1.f Council Discussion on Marine Spatial Planning

Mr. Dave Ortmann said he supported the strongest possible involvement of this Council in any effort that regards marine spatial planning. He mentioned he just attended an international forum, and that included a presentation on coastal marine spatial planning (CMSP). The main message was with any planning body addressing CMSP, we have to be at the table. If you are not at the table, you will probably have the risk of losing out.

Ms. Culver noted that this topic is scheduled for discussion only, but there was a request from the Council to designate a staff person who could coordinate. She appreciated the inclusion of a Council person should the West Coast Governors' Agreement become the regional planning body for the WC, and suggested that the Council should write a letter supporting the WCGA as the future Regional Planning Body. Ms. Culver also suggested that as this develops further, the Council should work closely with the regional planning body to ensure we get Council input through that stakeholder process.

Ms. Steve Williams agreed with Ms. Culver's and Mr. Ortmann's comments about participation but voiced concerns about the workload issues.

Dr. McIsaac offered to be the primary policy-level contact for CMSP issues, and supported the next step of drafting a letter prior to the December 10 comment deadline.

G.2 Legislative Matters

This agenda item was cancelled on the recommendation of the Legislative Committee.

G.3 Approval of Council Meeting Minutes

G.3.a Council Member Review and Comments (09/16/10; 2:36 p.m.)

Mr. Mark Cedergreen called the Council members attention to the Situation Summary for the Draft September 2009 Council Meeting Minutes and Attachment 1.

G.3.b Council Action: Approve September 2009 Council Meeting Minutes

Mr. Moore moved and Mr. Wolford seconded Motion 34 to approve the September 2009 Council Meeting minutes (Agenda Item G.1.a, Supplemental Attachment 1, June 2010) with the correction provided in Attachment 1 (correction and spelling-out of the term “coefficient of variation”). Motion 34 carried unanimously.

G.4 Fiscal Matters

G.4.a Agenda Item Overview (09/16/10; 2:37 p.m.)

Chairman Cedergreen called upon the Budget Committee Chairman to provide the Budget Committee Report.

G.4.b Budget Committee Report

Mr. Jerry Mallet summarized the Budget Committee report and recommendations (Supplemental Budget Committee Report).

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

None.

G.4.d Public Comment

None.

G.4.e Council Action: Consider Budget Committee Recommendations

Ms. Vojkovich moved and Ms. Lowman seconded Motion 35 to approve the Budget Committee Report recommendations found on page 2 of that report, concerning adjustments of the CY 2010 operational budget. Motion 35 carried unanimously.

G.5 Membership Appointments and Council Operating Procedures

G.5.a Agenda Item Overview (09/16/10; 2:44 p.m.)

Dr. Coon provided the agenda item overview.

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

None.

G.5.c Public Comment

None.

G.5.d Council Action: Consider Changes to Council Operating Procedures and Advisory Body Appointments

Mr. Lockhart moved and Mr. Pollard seconded Motion 36 to appoint Dr. Phil Levin to the NMFS Northwest Fisheries Science Center position on the Ecosystem Plan Development Team (replacing Dr. Mary Ruckelshaus). Motion 36 carried unanimously.

Ms. Culver moved and Mr. Myer seconded Motion 37 to appoint Ms. Heather Reed to the vacant WDFW position on the GMT. Motion 37 carried unanimously.

Mr. Moore moved and Mr. Steve Williams seconded a Motion 38 to approve staff's proposed change to Council Operating Procedures 2 through 8 as shown on pages 2 through 3 of Agenda Item G.5, Situation Summary. The change basically requires a two-week notice to the Executive Director for approving an alternate for an advisory body member. Mr. Moore emphasized that the Executive Director was granted discretion to waive the two-week notice requirement in special cases. Motion 38 carried. Ms. Vojkovich voted no.

Council concurred to have staff advertise the vacant conservation community position on the Highly Migratory Species Advisory Subpanel.

G.6 Future Council Meeting Agenda and Workload Planning

G.6.a Agenda Item Overview (09/16/10; 2:57 p.m.)

Dr. McIsaac provided the agenda item overview by reviewing proposed future agendas and the changes provided in Supplemental Attachments 3 and 4. In particular he emphasized the proposed review of the groundfish biennial management process, the catch shares trailing amendments, the potential delay of final action on the salmon annual catch limit amendment, and a follow-up on marine spatial planning.

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

Dr. Coon read Agenda Item G.6.b, Supplemental GMT Report into the record.

G.6.c Public Comment

None.

G.6.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning

Mr. Steve Williams stated that ODFW would likely use a contractor to develop its proposal on allocation and retention of halibut bycatch in the fixed-gear fisheries and will not have a camera-ready proposal for the March Council meeting. The development and approval process would most likely fit a 2013 implementation schedule rather than 2012.

Council members worked with the Executive Director and staff in making some minor revisions to the November 2010 proposed agenda.

H. Ecosystem Based Management

H.1 Ecosystem Fishery Management Plan (FMP) (09/13/10; 1:35 p.m.)

H.1.a Agenda Item Overview

Mr. Mike Burner provided the agenda item overview; including Agenda Item H.1.a, Supplemental EFMP History PowerPoint.

H.1.b Report and Recommendations of the Ecosystem Plan Development Team (EPDT)

Ms. Yvonne deReynier walked the Council through Agenda Item H.1.b, EPDT Report; and Agenda Item H.1.b, Supplemental EPDT PowerPoint.

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

Mr. Dan Waldeck provided Agenda Item H.1.c, Supplemental EAS Report. Dr. Dorn provided Agenda Item H.1.c, Supplemental SSC Report. Ms. Recht provided Agenda Item H.1.c, Supplemental HC Report. Mr. Waldeck provided Agenda Item H.1.c, Supplemental GAP Report. Mr. Sones provided Agenda Item H.1.c, Supplemental Tribal Report.

H.1.d Public Comment

Mr. Don Maruska, Marine Interest Group of San Luis Obispo County, Morro Bay, CA
Mr. Geoff Shester, Oceana, San Francisco, CA
Mr. Whit Sheard, Oceana, Portland, OR

H.1.e Council Action: Review Recommendations of the EPDT and Provide Guidance for Further Development of the Ecosystem FMP (09/13/10; 3:42 p.m.)

Mr. Burner reiterated the requested Council guidance from the situation summary and highlighted advisory body and public comments. Mr. Burner concluded by reviewing the tentative “year-at-a-glance” Council calendar (Agenda Item G.6.a, Attachment 1) where the Ecosystem FMP (EFMP) matter is scheduled for March 2011 and June 2011 Council sessions. He requested Council input on those plans either under this Agenda Item or under Agenda Item G.6.

Ms. Culver felt the best way to proceed with Council guidance was to first focus on what the Council does and does not want the EFMP to address rather than trying to determine the most appropriate format the EFMP could take within the option presented. She suggested that once the Council has given direction on the desired outcomes of the EFMP, the advisory bodies can then make recommendations on the pros and cons of various formats and approaches.

Working from the recommendations on the second page of Agenda Item H.1.b, Supplemental EPDT Report, Ms. Culver offered the following as Council guidance. She recommended taking Ms. deReynier’s advice and task the EPDT with reviewing the Council’s four existing FMPs for existing approaches and common needs rather than assigning this task to the various advisory bodies as suggested

in the Supplemental EPDT report. Ms. Culver noted that she had not yet determined the best format for the EFMP from the suite of options provided in Agenda Item H.2.b, Attachment 1, but as she reviewed the descriptions of the options she leaned against the “omnibus” FMP option and in favor of retaining the four separate FMPs. She spoke in favor of the Ecosystem Advisory Subpanel (EAS) recommendation for an overarching or programmatic framework, but she would like to maintain an option that has some regulator authority. This approach could eventually lead to Council consideration of a purely advisory FMP as well as a hybrid that is advisory yet contains some regulatory authority. Ms. Culver felt that after the EPDT completes its review of the four FMPs, the Council would be in a better position to decide what management decisions, if any, would be made under the new EFMP. She agreed with the suggestion to improve the way we address cumulative effects analyses and felt that future work may shed light regarding the implementation of potential improvements within or outside the EFMP. Ms. Culver agreed with the EPDT recommendation to consider a coastwide geographic range and to focus on the marine component (i.e., the Exclusive Economic Zone). Regarding a schedule of regular briefings to the Council on the California Current Large Marine Ecosystem, Ms. Culver suggested that an annual presentation may be adequate with interim updates provided as written informational reports, as available.

Ms. Vojkovich agreed there could be benefits from regular briefings on the ecosystem status, but she is not clear on what the Council might be expected to do with the information. Ms. Culver said she shares Ms. Vojkovich’s question and she referenced the SSC suggestion to couple the ecosystem briefing with stock assessment efforts so that the Council has a full component of information when reviewing assessment projections and setting harvest specifications. Ms. Culver clarified that this is just an illustrative example and that here, guidance is not intended to prescribe any use of the information. She was simply suggesting that an annual briefing would be appropriate.

Ms. Vojkovich supports the concept of an annual briefing, and noted that it is her understanding that there may be considerable data available, but what is lacking is the linkage to what it means and how it may fit into our management decisions. Therefore, an important part of the briefing will be to help the Council determine the best way to apply the most useful information.

Mr. Lockhart said he agrees that an annual report is eventually the best fit for the Council process, but the content of the report will need significant discussion. The Council could ask the Science Centers to review the large amount of biological and socioeconomic information on the California current ecosystem and prioritize items that may be of particular Council interest. He would recommend creating an informational Agenda Item that involves no Council action and is not lengthy (limited to 30 minutes with 15 minutes of clarifying questions). Ms. Culver concurred with Mr. Lockhart’s suggestion.

Ms. Culver clarified for Mr. Williams that her guidance relative to cumulative effects was intended to task the EPDT and the EAS to think about ways an EFMP could improve our understanding of the cumulative effects of our multiple Council actions across multiple FMPs and their effects on the ecosystem or ecosystem components. She referenced the groundfish harvest specification process as an example of an action that may benefit from such an analysis.

Mr. Moore spoke in favor of incorporating ecological science into our stock assessment and management process. He provided some hypothetical situations whereby ecosystem consideration could improve decision-making and expressed his support for the guidance proposed by Ms. Culver.

Mr. Mallet understands this process will be evolutionary and will be built and modified over the years, but he also believes the Council should define the scope of the plan before determining the content of an annual report or the models to be used in assessing ecosystem health. He spoke in favor of starting with

the U.S. Exclusive Economic Zone (EEZ) as the geographic scope and felt that the Council should strive to be specific at this session in its guidance to the EPDT.

Mr. Burner thanked Ms. Culver for her lead in this discussion and ask for clarification on the plan's potential regulatory authority, specifically its role in non-FMP forage or predator species and "no take" marine areas. Ms. Culver said that her intent was not to limit the range of alternatives at this point. She stated that as she considers the list of management unit species (MUS) contained in an EFMP, it is difficult to envision where such a list might stop. Forage species have been discussed, but we are not proposing a forage species FMP, rather an EFMP. She would like to hear back from the EPDT on the range of regulatory options available and to narrow the Council's intent under this plan before removing any regulatory authority options from consideration.

Mr. Sones stated that the tribes feel it is important to improve our understanding of the ecosystem, including climate change and ocean acidification, and the potential effects that ecological changes may have on fisheries. There will likely be both positive and negative effects, and more information regarding these relationships will improve our understanding of ecological trends and, thereby, our domestic management as well as our participation in international forums.

Mr. Lockhart agreed with most of the comments that have been shared and felt the EPDT presentation really helped people understand the complexities of an ecosystem approach from both biological and socioeconomic standpoints. He felt the EPDT report did a good job characterizing the management tools provided by the Federal management framework to protect the ecosystem, but he would like to hear more about the state frameworks and what state tools are available. He liked Ms. Culver's suggestion of asking the various advisory bodies to review the existing FMPs for common needs and successful approaches. He also agreed that an omnibus plan would not be the place to start and he suggested the Council could start with an informational plan that may evolve to a regulatory plan as necessary. On the geographic scope, he supported looking at the full EEZ, but he would also be interested in looking into a regional approach in the future. Overall he expressed support for the direction things are going and recommended the Council receive its first report on ecosystem science under a 30-minute session early in the November Council meeting.

Mr. Dan Wolford felt that it is too early to narrow the scope of the plan and spoke strongly in favor of bringing more science into the process and for maintaining regulatory authority under the plan. He felt that keeping the document as merely advisory would not best serve the Council and its management efforts.

Ms. Culver suggested that the Council ask Ms. deReynier to come back to the table to see if she has any questions or needs clarification.

Ms. deReynier said she understands that the Council is interested in removing the omnibus approach from consideration at this time. She also heard a Council desire to not rearrange the existing FMPs, but to explore the concept of smaller management areas or regional approaches. She understands one task to the EPDT is to review existing ecosystem approaches and identify management gaps within and across our existing FMPs. She also heard the Council request more information on spatial management or closed areas and whether or not the current FMPs or an EFMP could be helpful with matters like the marine protected area issues within the Channel Island National Marine Sanctuary. She also felt there are issues that cross FMPs such as bycatch or EFH that the EPDT could focus on for their next report.

Mr. Steve Williams felt that the Council has given specific guidance on the plan's regulatory authority and he characterized it as a Council desire to maintain a regulatory option at this time, but to first focus on the informational aspects of the plan until a regulatory need is identified.

Ms. Culver said Ms. deReynier summed up Council guidance well and she generally agreed with Mr. William's clarification. The intent is certainly to preserve the option for regulatory authority and to look to the EPDT to identify and contrast the different vehicles available to the Council. Ms. Lowman concurred and spoke in favor of the guidance presented including the "gap" analysis, the review of state management, and the proposal for an ecosystem report to the Council.

Regarding the next steps, Dr. McIsaac appreciated the thoughtful Council guidance and noted that the current draft November agenda has a placeholder for a 30-minute informational report on ecosystem science. The ecosystem question is next on the Council meeting scheduled in March 2011 and June 2011. The question of regulatory authority seems to be of interest, and perhaps the Council could look to NOAA General Council for further guidance. He closed by suggesting the Council hear from the North Pacific Fishery Management Council on their annual ecosystem report and how it is used in management.

I. Groundfish Management

I.1 Groundfish Essential Fish Habitat Review (09/14/10; 8:04 a.m.)

I.1.a Agenda Item Overview

Mr. Tracy provided the agenda item overview.

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

Dr. Waldo Wakefield provided Agenda Item I.1.b, Supplemental HC Report. Mr. Holloway provided Agenda Item I.1.b, Supplemental GAP Report.

I.1.c Public Comment

Mr. Geoff Shester, Oceana, San Francisco, CA

I.1.d Council Action: Discuss and Initiate Planning for the Five-Year Review

Mr. Lockhart referred to several comments that talked about getting data into the system, and he noted that this would largely be NOAA's task. He then asked Dr. Waldo Wakefield and Ms. Yoklavich to comment.

Dr. Wakefield and Ms. Yoklavich came to the podium. Mr. Lockhart asked them what resources are available to the science centers to gather new information since the last EFH review. Dr. Wakefield and Ms. Yoklavich summarized some of the research currently underway, including coral and sponge mapping, geological seafloor mapping, and NMFS trawl surveys and observer information. They noted that to conduct a major review of data would take enormous time and money, but that a reasonable effort might take about six months, to compile information.

Ms. Culver remarked that the GAP made a good point in terms of reviewing the goals/objectives for the HAPCs already in place. Given the questions asked by Mr. Lockhart, she said that there were many

different goals/objectives/criteria used for each of those different HAPCs identified and that there was no single set of criteria. The evaluation of whether or not they are achieving those particular goals is going to be on a regional basis. As a Council, we should probably make sure we are on the same page of the role of the review committee. On the timeline issue, Ms. Culver wondered why the newly-available data and information had not been gathered already, knowing that the 5-year EFH review was approaching.

Members of the Council were concerned about the process and scope, and also about the issue of staffing time and money.

Mr. Lockhart said he thinks the answer is mostly about gathering the data for use by the EFHRC. He then asked Dr. John Ferguson, NWFSC Acting director of Fishery Regulation Assessment Model (FRAM), to comment. Dr. Ferguson said Ms. Yoklavich and Dr. Wakefield were talking about the habitat data collected since 2006. He appreciates everyone's concerns about being able to see this data, he also heard requests for observer data. On the observer side, he said we are in a massive ramp-up of data collection for the catch shares program. He did not think March 2011 was realistic to complete the EFH review.

Mr. Moore asked Dr. Ferguson whether at some point in time there will be some data available to the public. At that point, we could solicit nominations for new HAPC areas, changes, whatever. He suggested having an appropriate amount of time for those things to come in, then start going down the path.

Mr. Tracy reminded the Council that the EFHRC can meet between now and final Council action to further develop the scope, schedule, and information needs. Ms. Vojkovich agreed.

Mr. Lockhart said that given the discussion today and the comments of the Groundfish Advisory Subpanel (GAP), HC, and public, it seems the role of the EFHRC is potentially two-fold. There is the current role on the proposals brought forth today. Then, they need to see if there are other things out there to consider (removals/additions of HAPCs, etc). He suggested the EFHRC should meet roughly in the January timeframe and would like to extend the deadline of submitting proposals from November 19 to the late spring with a report to the Council in June. There could be one EFHRC meeting in January and one in June to prepare for the June Council meeting.

Mr. Moore responded that he was trying to lay out the general path, not the specific dates of the process. Whether it starts in March or June or whatever, it is more a matter of do we have these time chunks properly laid out. In terms of the role of the EFHRC, it seems that the reason we set up this committee was to review potential changes – whether they be new or modifications of existing HAPCs. At whatever time we start the process, information given to public, solicitation of changes, and whatever cutoff dates and sideboards, at that point the EFHRC gets to start to review and follows up with the Council deciding what to do with their recommendations. It would be helpful to get input from the EFHRC first before we go to final action.

Mr. Tracy said Mr. Moore's description of the role of the committee is accurate, and asked whether there are other items the EFHRC should do? What is their role in the new information – are they to gather it or what? What additional work should they be charged with as we are involved in a larger coastwide review process?

Mr. Moore said that when we set up the EFHRC, it was only to review information. If we are now asking them to gather the data and other things, that is going way beyond what we initially set up.

Mr. Roth felt we are struggling with the role we now have in place for the EFHRC and wondered if the charge should be expanded. He said maybe the EFHRC needs to have more of a role to create the questions and create the call for data. He asked Council staff whether we have a specific deadline for completion of the EFH review. Mr. Tracy said there are two potential timeframes, but no requirement for a particular deadline.

Mr. Dale Myer noted that one of the points made in public comment was that a full review should include economic and socio-economic data to determine if there was harm by the closed areas. He was curious if that type of information was being collected and if collected, can it be teased out.

Mr. Tracy replied that those sorts of impacts more appropriate in a National Environmental Policy Act context when going through a process of being considered for adoption in the fishery management plan, but not for proposal development.

Ms. Culver asked whether the Council should formally accept the changes proposed in COP 22. Mr. Tracy said no. It might be better to let the Council provide feedback and guidance on COP 22 and finalize it in April, 2011.

Ms. Culver moved and Mr. Moore seconded a motion (Motion 12) to have the EFHRC meet this winter to review and identify the scope/workload for reviewing/recommending potential changes; make comments on COP 22; have the Council identify data sets, including habitat, trawl survey, and other data that the EFHRC might want to consider in their process; and ask the EFHRC to identify other data sets. The EFHRC would meet again potentially in the spring, or when data is available for them to consider; they would also review the description of the goals/objectives of existing HAPCs -- why they were developed (from Amendment 19). The Council would then solicit proposals from the public and outside entities after the data is available for them to review; no specific timeline, but at least a month (scheduled for as early as the next Council meeting following the month of review period). The role of the EFHRC is described in COP 22, with no new changes at this time.

Motion 12 carried unanimously.

Mr. Lockhart noted that he thought the language in item #1 of COP 22 could be improved.

I.2 Consideration of Inseason Adjustments - Part I

I.2.a Agenda Item Overview (09/14/10; 1 p.m.)

Ms. Kelly Ames provided the agenda item overview.

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

Mr. Rob Jones provided Agenda Item I.2.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item I.2.b, Supplemental GAP Report. Deputy Chief Jeff Samuels provided Agenda Item I.2.b, Supplemental EC Report.

Mr. Jones made one correction to the GMT statement, it should be 800 lbs per week.

I.2.c Public Comment

Mr. Daniel Platt, STMA, Fort Bragg, CA

Mr. Gerry Richter, Pt. Conception Groundfish Fishermen's Marketing Association, Santa Barbara, CA

I.2.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2010 Groundfish Fisheries (Part II on Thursday if necessary)

Ms. Marija Vojkovich asked if the 2010 trip limits will be carried over to 2011, if there is a delay in the 2011-12 harvest specifications and management measures. She asked if it was appropriate to talk about 2011 trip limits under this agenda item. Mr. Frank Lockhart said he believes the 2010 limits would rollover to 2011. He said it is appropriate to discuss 2011 limits under this agenda item; however, he recommended that the Council revisit the 2011 trip limits in November when inseason adjustments to the 2011 fisheries are publically noticed. That is a more appropriate time for Council action. Ms. Vojkovich asked if the proposed rule for the 2011-12 harvest specifications and management measures are out for public comment. Mr. Lockhart said no, but the rule should publish soon. Ms. Vojkovich asked if the comment period would be open during the November 2010 Council meeting, should the Council discuss and make recommendations regarding the 2011 trip limits. Mr. Lockhart said no, the Council meeting would miss the comment period by about a week and a half, given our current schedule. Ms. Vojkovich asked if there is a solution for the Council to provide comments, given this mismatch in the schedules. Mr. Lockhart said the discussion could happen under this agenda item and then the states could submit public comment. Alternately, the Council could ask the Executive Director to submit comments on behalf of the Council.

Ms. Vojkovich moved and Mr. David Crabbe seconded a motion (Motion 15) to adopt lower sablefish trip limits for the limited entry fixed gear fishery at 2,800 pounds/week with no daily limit and the open access fixed gear fishery at 800 lbs/week not to exceed 1,600 lbs/month south of 36° N. latitude, as stated in the GAP report.

Ms. Vojkovich spoke to her motion, noting that the decrease was necessary to prevent exceeding the optimum yield (OY).

Ms. Michele Culver supports the motion. She is not sure if the limits are low enough, but the current data and analysis support the motion. She noted that there may be increased effort in September, given the pending lower limits. She asked if NMFS would have the ability to take action after the November Council meeting if the proposed reductions are insufficient and the Council recommends further reductions. Mr. Lockhart said it would be challenging to implement reductions in November, but reductions could be in place by December 1.

Motion 15 carried unanimously.

Mr. Rod Moore moved to adopt (Motion 16) for limited entry non-whiting trawl, the cumulative limit increases as described in Alternative 3, Table 6 in the GMT report, which includes leaving petrale cutouts open in period 6. Mr. Steve Williams seconded the motion.

Mr. Moore said he is concerned about darkblotched interactions, but the data does not support those concerns. His motion is based on the analysis of the GMT and recommendation of the GAP.

Mr. Lockhart said he has the same concerns as Mr. Moore; however, the GMT presented the information and the projections that support the motion. He noted that NMFS also has conditional authority to take action under certain circumstances, if problems arise.

Motion 16 carried unanimously.

Ms. Vojkovich asked the Council to discuss the GAP recommendation that the GMT develop 2011 trip limits for the limited entry and open access fisheries south of 36° N. latitude for Council consideration on Thursday (Agenda Item I.7). The Council has talked about the challenges of managing the open access fisheries, yet the Council is also interested in providing increased fishing opportunities when those opportunities arise. Ms. Vojkovich said the sablefish OY south of 36° N. latitude is higher compared to the last ten years, and naturally the Council wants to provide fishing opportunity, which also causes management issues. Ms. Vojkovich is interested to provide opportunity but the Council must be able to take action before next year to maintain more control than we had this year. She is interested in reducing trip limits for the start of the year when we have sufficient data for recommending such limits. She is not sure if the GMT has that data to begin the analysis at this meeting.

Mr. Moore said we have made inseason adjustments at the November meeting for the next year; however, this time we would be making recommendations for something that the Secretary of Commerce has not approved. NMFS should provide guidance on this issue. He recommends that between now and November, especially when we get more data from the August and September fisheries, the GMT and GAP craft trip limits for consideration at the November Council meeting.

Mr. Lockhart noted that when the 2009-10 harvest specifications and management measures were delayed, the Council recommended inseason adjustments at the November meeting to address the conservation issues. He believes this same process could occur for 2011-12. He also noted that inseason adjustments could be contemplated at the March 2011 meeting. He also reminded the Council that the states could comment on these issues during the proposed rule public comment period.

Ms. Culver asked if the Council could recommend NMFS extend the public comment period such that it would incorporate the November Council meeting. Mr. Lockhart said yes.

Mr. Moore said he believes the last time we made an inseason adjustment prior to the start of a biennium was in response to a court order. He noted the sablefish OY is scheduled to be reduced substantially in 2011, therefore, we should make inseason adjustments to ensure the catch stays within the anticipated lower specifications.

Mr. Steve Williams asked Mr. Lockhart if NMFS could discuss this further and report back under the second inseason agenda item. Mr. Lockhart said yes and NMFS will also be prepared to speak about this issue under the NMFS Report on Wednesday.

Ms. Vojkovich asked if the public comment period is extended, would it affect the timing of the 2011-12 regulations. Mr. Lockhart said yes.

Ms. Ames said action under this agenda item has been completed.

I.3 Preliminary Review of Exempted Fishing Permits (EFPs) for 2011

I.3.a Agenda Item Overview (09/14/10; 2:35 p.m.)

Mr. John DeVore provided the agenda item overview.

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

Mr. Jones provided Agenda Item I.3.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item I.3.b, Supplemental GAP Report. Deputy Chief Jeff Samuels provided Agenda Item I.3.b, Supplemental EC Report.

I.3.c Public Comment

Ms. Kathy Fosmark, longliner, Pebble Beach, CA
Mr. John Holloway, Recreational Fishing Alliance, Portland, OR
Mr. Bill James, fisherman, Salem, OR
Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR

I.3.d Council Action: Adopt Preliminary Recommendations for EFPs

Ms. Vojkovich noted that the Council has gone on record in the past stating that EFPs may not be the highest priority given competing tasks and initiatives. She expressed concern regarding the value of some of these EFPs and whether the expected benefit can be attained. She does not support any of the EFPs going forward this year.

Mr. Williams asked Mr. Lockhart if the ODFW yelloweye EFP impacts can come from the research set-aside as recommended by the GMT. Mr. Lockhart thought this was an interesting idea. However, since there are no ODFW observers on board the charter vessels, this should be a more reasoned decision. He would rather deliberate further with staff before deciding.

Mr. Williams asked if there was a recommended process for changing the yellowtail EFP set-aside decided in the biennial specifications process. Mr. DeVore explained that management of set-asides was made more stringent under Amendment 21 rulemaking, which has been finalized. He deferred to Mr. Lockhart on whether there was a process to modify the EFP set-asides decided in the harvest specifications process. Mr. DeVore added that this is an issue for yelloweye and chilipepper rockfish set-asides as well since the requested caps are greater than the yield set aside for EFPs in 2011. Mr. Lockhart said how all of these things inter-relate is a challenge throughout the whole process. NMFS has not explored how all of this fits together with biennial specifications and Amendment 21 rulemaking. Mr. DeVore added that yellowtail and chilipepper impacts are projected well under the 2011 ACLs, while yelloweye impacts are projected to be close to the ACL. The process for changing EFP set-asides is the issue.

Ms. Culver said she would prioritize the ODFW EFP over the other EFPs to spend any EFP set-asides.

Ms. Culver moved and Mr. Myer seconded Motion 17 to preliminarily approve the ODFW yelloweye EFP and prioritize this EFP with respect to the yelloweye set-aside.

Mr. Wolford asked whether this motion means the balance of the yelloweye impacts with respect to the entire EFP set-aside would come from the Oregon RFA EFP and Ms. Culver said the requested EFP cap is 0.06 mt. That would leave 0.04 mt of yield for other EFPs.

Mr. Williams moved and Mr. Moore seconded a substitute motion (Motion 18) to preliminarily adopt the ODFW EFP and take the yelloweye impacts from the research set-aside.

Mr. Moore noted everyone who has reviewed this EFP has identified that, but for the fact that there is no ODFW person onboard, this would be a research program. The information being gathered will definitely support research and the EFP should therefore be able to use yield set aside to accommodate research activities.

The Council discussed how to balance the 2011 scorecard for yelloweye if the substitute motion passes. If the 0.1 mt of yelloweye yield set aside to accommodate 2011 EFPs were also fully subscribed, then projected impacts of yelloweye risks exceeding the ACL. This is especially true if there are no modifications of bycatch caps in the approved Oregon yellowtail and California RFA EFP caps since both EFPs roll into 2011.

Mr. Williams asked if the Council will be able to make adjustments to EFP bycatch caps in November and Mr. Lockhart said the Council will have some, but not unlimited flexibility. Ms. Culver asked if we would be limited to looking at non-trawl fisheries for yelloweye yield to cover EFPs and Mr. Lockhart thought that was correct. Mr. Wolford noted we would have the same problem if NMFS reports in November that the ODFW EFP bycatch cap cannot be accommodated in the research set-aside.

Substitute Motion 18 carried on a roll call vote (7 yes, 5 no. Mr. Brizendine, Mr. Myer, Ms. Culver, Ms. Vojkovich, and Mr. Crabbe voted no; Mr. Lockhart abstained).

Mr. Lockhart remarked that EFP workload could be the straw that breaks the camel's (i.e., NMFS) back. NMFS approval of any new EFPs is especially problematic given how busy staff is with implementing trawl rationalization and the other ongoing groundfish initiatives. He urged that NMFS workload be considered in this EFP program. Potential Amendment 20 law suits will also impact future NMFS workload. NMFS is intrigued with the GAP recommendation to change the EFP process into a two-year one that syncs with the biennial specifications process.

Mr. Moore had a discussion with Ms. Fosmark. She explained she does not want their EFP application to stand in the way of directed fisheries. However, there needs to be a way to test innovative new gears and strategies.

Mr. Williams moved and Ms. Lowman seconded a motion (Motion 19) to adopt the Pacific sanddab EFP for public review. He explained that this EFP is an appropriate way to test new fishing areas and target strategies, which are some of the anticipated benefits of trawl rationalization. If adopted for public review, this EFP would be modified as recommended by the GMT and the applicant (Mr. Pettinger) during his public comment.

Mr. Lockhart believes this is an interesting idea; however, there is no way this EFP can be provided by next March. There will certainly be a delay in getting this EFP out early since it is a new EFP.

Ms. Lowman said she believes a refined EFP process should be considered before the next biennial specifications process.

Mr. Wolford said he was concerned with this EFP. He thought there should be some evaluation of performance of the fleet under trawl rationalization before considering trawl EFPs. Ms. Culver shared this concern and thought new trawl EFPs should be considered after there is some demonstration of the IFQ program. Relaxing the RCA is problematic until it can be demonstrated that overfished species' impacts can be minimized under trawl rationalization. Mr. Crabbe said he was also concerned and would oppose the motion. Mr. Ortmann thought there should be preliminary approval and consider all these issues in November when final adoption is scheduled.

Motion 19 failed on a roll call vote (8 no, 5 yes: Mr. Crabbe, Mr. Wolford, Ms. Vojkovich, Mr. Myer, Mr. Brizendine, Ms. Culver, Mr. Sones, and Mr. Lockhart voted no).

I.4 National Marine Fisheries Service Report

I.4.a Regulatory Activities, including Update on Biennial Specifications and Management Measures, Amendment 16-5, and Amendment 23 (09/15/10; 8:04 a.m.)

Mr. Frank Lockhart said the timeline for the 2011-12 harvest specifications and management measures has been a challenge, particularly with concurrent trawl rationalization implementation. The draft Environmental Impact Statement has been published and the comment period ends mid-October. NMFS is working with Council staff on the transmittal letter for Amendment 16-5, which is scheduled for September 22. The proposed rule to implement the 2011-12 regulations will follow shortly after, with a comment period ending in mid-October. The final rule, if approved, is anticipated in the November timeframe. We are on schedule for an on-time implementation.

Mr. Lockhart provided an update on the 2010 Pacific whiting fishery, which has progressed slowly with many small fish. There was some concern regarding Chinook bycatch rates, which were higher than historical rates. Mr. Lockhart reminded the Council that high Chinook bycatch rates and catches greater than 11,000 fish could trigger a consultation on the salmon biological opinion. Mr. Lockhart noted the total number of Chinook caught to date is low and we are not close to the 11,000 fish threshold. The rates, however, are near the trigger point. NMFS sent a notice to industry regarding this issue and the bycatch rates have lowered. There have been no other bycatch issues.

Mr. Lockhart said, as he did in November, that NMFS has the authority to reapportion Pacific whiting from the treaty sector to the non-treaty sector after tribal consultation. Those discussions have been ongoing the past few weeks and the agency is in the final stages of decision-making. All three non-treaty sectors have expressed interest in the re-appointment. Recall, the interim treaty allocation of 49,000 mt was based on the Makah and Quileute tribal requests. The Quileute request of 16,000 mt was based on two vessels participating; however, at this time the Quileute indicated they will likely have one rather than two boats. This and other factors will be taken into consideration relative to the reapportionment.

Ms. Mariam McCall spoke about modifications to the 2011 trip limits raised under Agenda Item I.2 (inseason adjustments). General Counsel looked at past practices and concluded it is appropriate for the Council and NMFS to act on the best scientific information available. She suggested that adjustments for the 2011 fisheries be noticed for the November meeting. Ms. McCall said that even though the 2011-12 regulations are not final, the Council can still make refinements of regulations previously recommended to NMFS. The most important thing is to have the proper notice for considering adjustments and then use the most updated information.

Ms. McCall spoke with Ms. Eileen Cooney on the issue of set-asides for EFPs raised under Agenda Item I.3. Both Ms. McCall and Ms. Cooney were uncertain whether it would be appropriate to take the Oregon Department of Fish and Wildlife EFP ([Agenda Item I.3.a, Attachment 4](#)) impacts out of the research set-aside. They both agreed that the Council could notice for the November meeting that they are considering a refinement to the Council's EFP and research set-asides recommendations for 2011.

Ms. Culver noted that there was also a question regarding the non-overfished species set-asides and how to modify those amounts, if desired. She noted that the Recreational Fishing Alliance EFP, which has already been issued, requires more yellowtail set-asides than what was previously recommended by the

Council. Ms. McCall said the process is the same - Council could notice for the November meeting that they are considering a refinement to the Council's EFP and research set-asides recommendations for 2011.

Ms. Culver said under the 2011-12 process, we changed the calculation steps that were used for the EFP set-asides. The set-aside amounts were taken off the top before the allocations were made. Ms. Ames noted the calculation was changed under Amendment 21 and implemented for the first time in the 2011-12 cycle. Ms. McCall said the Secretary of Commerce has not made a decision on the 2011-12 rule. Therefore, the Council could notice refinements for the November meeting and the agency could take those recommendations into consideration when making their final decision. Ms. McCall said refinements would only be accepted for review by NMFS if received before the 2011-12 final rule is issued. Once the final rule is issued, the set-asides cannot be modified per Amendment 21.

Ms. Culver noted that the proposed rule public comment period would be closed at the November Council meeting. She asked about the process for communicating Council revisions to set-asides from the November meeting. Ms. McCall said that this would not be a public comment, but an update from the body that provided the original recommendation to NMFS. She noted that this approach does not work for everything, but in this case, with proper notice, NMFS believes they could take refinements from the Council into consideration for the final rule.

Mr. Steve Williams appreciated the discussion and noted the Council needs to find a way of dealing with EFP set-asides in the future given the changes we made under Amendment 21. The Council does not have information about the future EFPs when we are recommending the biennial set-asides. Ms. McCall agreed and noted the GAP recommendation to align EFPs with the biennial cycle.

Dr. Donald McIsaac asked if Secretarial approval for the 2011-12 regulations is scheduled for December. Mr. Lockhart said yes.

I.4.b Fisheries Science Center Activities

Mr. John Stein introduced Dr. John Ferguson as acting director of NWFSC, Fishery Resource Analysis and Monitoring Division (FRAM). Mr. Stein spoke of the recent Government Accountability report that recommended improving surveys. Dr. Elizabeth Clarke will be undertaking that effort and the agency will be issuing a vacancy announcement to fill the FRAM division director position.

Dr. Ferguson said the NWFSC, along with Pacific States Marine Fisheries Commission, has started work on the voluntary economic data cost-earning survey for participants in the groundfish open access, crab, shrimp, and non-tribal salmon fisheries.

Dr. Ferguson said the 2010 West Coast groundfish bottom trawl survey is underway and things are going well. The F/V Ms. Julie and Noah's Ark have completed pass one from the US/Canada border to Mexico, 30 to 700 fathoms (fm). The survey is on the second pass with the F/V Excalibur and Raven. Dr. Ferguson noted a large catch of canary rockfish (2,842 lbs) on May 24, which accounted for approximately 80-90 percent of the total canary rockfish catch for the first pass. Further, he said, the southern California hook-and-line cooperative research, which uses two charter vessels, will start on September 24.

Dr. Ferguson said he would like to alert the Council to the issue surrounding the Pacific whiting acoustic vessel calibration between the R/V Miller Freeman and Bell Shimada since the Freeman is retiring. The inter-vessel calibration is extremely important for the retrospective and prospective acoustic surveys. This

item is high on the NWFSC priority list both for ship time and personnel. The NWFSC scheduled both ships for 30 days. Unfortunately, the R/V Miller Freeman is ageing and the Bell Shimada is new; there were equipment issues on both sides and sampling only occurred on 15 of the 30 days. Further, there were not a lot of Pacific whiting during the operations, as Mr. Lockhart noted earlier. We have not started to analyze the data but we may need to repeat the survey.

Dr. Ferguson said the NWFSC is trying to schedule at least 70 days on the R/V Miller Freeman for 2011; however, there is great uncertainty over the R/V Miller Freeman's mechanical ability to complete the work. If the R/V Miller Freeman is unable, the NWFSC will request another ship for 70 days. If the sea days are unavailable the confidence intervals around the Pacific whiting levels will be large.

Dr. Ferguson said the transition period in FRAM is going well. The NWFSC is focused on data collection and reporting. We are focused on the recruitment package for the FRAM Division Director vacancy and would like external partners to be involved in the process. The center is working to have the selection completed by March.

Dr. Ferguson also reported about the NWFSC's bycatch reduction work. In particular, Mr. Lockhart mentioned the Chinook bycatch rate was higher than desired in the 2010 Pacific whiting fishery. Dr. Ferguson said that Dr. Waldo Wakefield and Mr. Mark Lomeli have been testing devices to reduce salmon bycatch. Dr. Ferguson offered that the NWFSC could present more information on this research if the Council was interested.

Mr. Rod Moore asked what time of the year the 2010 Pacific whiting acoustic survey was conducted. Dr. Ferguson said mid-June to mid-July. Mr. Moore also asked if the Council should convey to Mr. Schwaab the importance of the acoustic surveys to the Pacific whiting stock assessment and the west coast. Dr. Stein said yes, that would be helpful.

Chairman Mark Cedergreen asked if the cost earning survey included recreational, for-hire charters. Dr. Todd Lee said it is a commercial-only survey. There was a survey in 2007 that included the recreational for-hire charters in Washington and Oregon; the report from this survey is anticipated shortly. Mr. Moore asked if the current cost earnings survey included processors. Dr. Lee said only vessels are included in the survey.

I.4.c Reports and Comments of Advisory Bodies and Management Entities

Ms. Culver referred the Council to Agenda Item I.4.c, WDFW Report.

Mr. Lockhart thanked WDFW for their report and said NMFS will take it into consideration.

I.4.d Public Comment

Mr. Bill James, fisherman, Salem, OR

I.4.e Council Discussion on NMFS Groundfish Report

Mr. Moore said he recognizes there is no Council Action specified under this agenda item; however, he recommends sending a letter to Dr. Lubchenco and Mr. Schwaab requesting adequate ship time for the joint US/Canada acoustic survey for Pacific whiting, which is important to our stock assessment and the economics of the coastal communities. The 2009 survey was problematic because of Humboldt squid.

Mr. Moore said if we don't have an updated survey, we will be about four to six years behind in the stock assessment data.

Dr. McIsaac said such a letter is appropriate for Council discussion and can be reasonably accomplished, if requested by the Council.

Mr. Lockhart said he does not object but would like to abstain from the discussion.

Chairman Cedergreen asked Dr. McIsaac to write a letter with regard to the ship time issues raised under this agenda item.

I.5 Status and Follow-up on Implementation of Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation)

I.5.a Agenda Item Overview (09/15/10; 9:24 a.m.)

Mr. Jim Seger provided the agenda item overview.

I.5.b National Marine Fisheries Service Report

Mr. Frank Lockhart (referencing the Will Stelle letter) noted NMFS is looking forward to implementation of the program, but that there was a partial disapproval. The disapproval was over a process and record issue rather than the specific policy recommended. The disapproved portions can be addressed by the Council easily alongside another trailing amendment. It does not have to go through in a separate process.

The program components rule was published August 31 and the comment period is open until September 30. This rule announces all the other program details: catch monitor program, observer, quota share (QS)/quota pound accounts, economic data collection, etc.

I.5.c Reports and Comments of Advisory Bodies and Management Entities

Mr. Tommy Ancona provided Agenda Item I.5.c, Supplemental GAP Report. Mr. Jones provided Agenda Item I.5.c, Supplemental GMT Report. Mr. Dayna Matthews provided Agenda Item I.5.c, Supplemental EC Report.

I.5.d Public Comment

Mr. Jeff Russell, NRDC, San Francisco, CA

Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA

I.5.e Council Action: Discussion and Follow-up Action on Implementation of Amendments 20 and 21 as Necessary (09/15/10; 11:15 a.m.)

Ms. Culver moved Motion 20 - with regard to NMFS partial disapproval, that the Council follow-up with a specific amendment to override Amendment 6 allocations and take that up under Agenda Item I.6. Mr. Myer seconded the motion. Ms. Culver said the NMFS letter shows the rationale and that the motion follows the NMFS advice on how to address the disapproved portions of Amendment 21. Motion 20 carried. Mr. Lockhart abstained.

Ms. Culver moved Motion 21 - relative to the program components rule, recommend to NMFS: (1) remove the trip limits for the mothership catcher-vessel endorsed permits; (2) transfer of the registration for the mothership catcher vessel endorsement limited entry trawl permits would be effective immediately, and (3) remove the bycatch reduction and utilization program for at-sea processors. Mr. Dale Myer seconded Motion 21.

Ms. Culver said there was discussion about this in the GAP meeting and among members of the mothership sector. NMFS, in their Supplemental Attachment 7, indicated that, without trip limits for the mothership catcher vessels, permit transfers could be effective immediately. We heard from the Enforcement Consultants (EC) that absent trip limits, the double dipping issue would be addressed. Given that the only trip limits in place for the mothership sector pertain to yellowtail rockfish, it is safe to assume that the catcher vessels participating in the mothership sector are targeting on whiting and there would not be any targeting on yellowtail rockfish as a result of removing the trip limits. The mothership sector would still be subject to the sector level limits for yellowtail. With those actions, removal of the bycatch donation program is warranted. In response to questions, Ms. Culver said the intent of the motion is to remove the trip limits for those sectors that would be affected by not being able to have their permits transferred immediately; that would be both mothership and the catcher-processor sector. Ms. Culver also clarified that her motion on immediacy of effectiveness applied only to the second transfer (the second transfer is only allowed if a vessel declares that it will not be participating in the shorebased fishery).

Mr. Moore moved to amend Motion 21 to remove the trip limits for both mothership catcher vessel endorsed permits and catcher-processor endorsed permits. Ms. Culver seconded the amendment. There is only one trip limit for the at-sea fishery, for yellowtail rockfish. The amendment to Motion 21 carried. Mr. Lockhart abstained, since these were comments to be provided by the Council to NMFS.

Motion 21 as amended carried. Mr. Lockhart abstained.

With regard to the conflict of interest issue raised by the GAP, Mr. Wolford asked Dr. McIsaac to explain the deeming issues. Dr. McIsaac reviewed Supplemental Attachment 7, page 7. In response to a question about the language that NMFS had proposed, Mr. Lockhart said this language applies to the observers on the west coast. NMFS had concern about adopting different language inconsistent with the national observer program as well as the language in place now for the West Coast Observer Program. The additional language is important to maintain the high level of trust. Ms. Majewski expanded that all national observer programs, including those covering shoreside monitors, adhere to the conflict of interest standards in the proposed regulations.

Ms. Culver moved Motion 22 that the Council recommend the NMFS-proposed language relative to limitations for conflict of interest for catch monitors as described in Agenda Item I.5.a, Supplemental Attachment 7 in the Appendix, specifically Alternative 2. Mr. Myer seconded the motion. Ms. Culver said this language is consistent across NMFS regulations for other observer and catch monitoring programs, with the exception that there is some specificity for the Alaska and West Coast regions, which was added based on recommendations from the Regulatory Deeming Committee. Mr. Myer concurred with the consistency issue. In response to a question, Ms. Culver said the intent of the motion was to use the Alternative 2 language for catch monitors and observers.

Mr. Moore said he was reluctant to vote against the motion because we had a long process on deeming that gave the proposed regulations a lot of scrutiny, but now he was concerned that NMFS was coming back and saying it did not like what the Council had deemed. Mr. Williams expressed concern that the standard language had not been available to the Council during deeming and that the breadth of the

conflict of interest provisions might make it difficult to find observers. He was not supportive of the motion. Mr. Wolford also expressed concerns with the motion and asked whether ownership of a vessel catching recreational fish would be included in the scope of conflict of interest. Mr. Lockhart said it is hard to go through hypothetical situations. He stated they had talked with the observer providers and those providers are not worried about the language making it hard to get observers.

Motion 22 carried on a roll call vote: 10 yes, 2 no. Mr. Moore and Mr. Wolford voted no. Mr. Lockhart abstained.

Mr. Moore noted that the GAP went through several issues in their statement. Although that is not a formal Council comment, are these comments going to be included for the components rule? Mr. Lockhart said from a policy perspective it was not official public comment, but NMFS is here and heard it. They would not treat it as official public comment unless Council forwarded it as such.

Council on Break from noon to 1 p.m. (09/15/10)

With respect to the issue of process product conversion rates, Mr. Moore moved Motion 23 - using Agenda Item I.5.c, Supplemental GMT Report, Table 3, back page, that the Council recommend to NMFS they revise the components rule as follows: for sablefish, lingcod, Pacific whiting, and skates, use the values shown under the ODFW column; and for the remaining species use the values shown under the individual fishing quota column. Ms. Culver seconded the motion.

Mr. Moore said we had some discussion on this issue with the GMT and the various states have discussed this with their GMT members. We need to have a uniform set of numbers to start out with and because of the differences in state rules we have the ODFW conversion rates available. He expects that as time goes on and we get more data there may be an ability to adjust the conversions later. Mr. Lockhart requested that ODFW supply NMFS the background for these conversions. Mr. Williams agreed.

Motion 23 carried. Mr. Lockhart abstained.

I.6 Potential Trailing Actions to Amendment 20 on Trawl Rationalization

I.6.a Agenda Item Overview (09/15/10; 1:18 p.m.)

Mr. Jim Seger provided the agenda item overview.

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

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

I.6.c Public Comment

Mr. Joe Bersch, Phoenix Processors, LP, Seattle, WA
Mr. Rick Algert, Central Coast Groundfish Project, Morro Bay, CA
Mr. Chris Kubiak, Central Coast Groundfish Project, Morro Bay, CA
Mr. Craig Cochran, Midwater Trawlers Cooperative, Newport, OR
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Mr. John Silva, Coos Bay Trawlers Association, Coos Bay, OR
Break for 10 minutes (until 2:45 p.m.)
Mr. Ralph Brown, trawler, Brookings, OR

Ms. Susan Chambers, on Behalf of Mr. Tom Libby, Portland, OR
Mr. Bill James, fishermen, Salem, OR
Ms. Meghan Mackey, EcoTrust, Portland, OR
Mr. Joe Sullivan, The Nature Conservancy, Seattle, WA
Mr. Shems Judd, Environmental Defense, Lake Oswego, OR
Mr. Don Maruska, Marine Interest Group of San Luis Obispo County, Morro Bay, CA
Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA
Mr. Brent Paine, United Catcher Boats, Seattle, WA

I.6.d Council Action: Designate Amendment Process, Prioritize Issues, and Provide Guidance on Trailing Actions for the Trawl Rationalization Program

(09/15/10; 4:51 p.m.)

Mr. Seger identified, based on public comment and earlier Council discussion, that in addition to the issues for possible trailing action listed in Agenda Item I.6.a, Attachment 2, the Council might also wish to consider Amendment 6 vs. Amendment 21, moving the shoreside whiting season opening date, revising the initial allocation of halibut individual bycatch quota, revising the initial allocation for all overfished species (i.e., expanding Item 5 in Agenda Item I.6.a, Attachment 2 to cover all overfished species).

With respect to the first issue on the list for Council action, "Decide on the process to be followed for regulatory amendments modifying Appendix E to the groundfish FMP," Ms. Vojkovich moved Motion 24, that the Council use its regular regulatory process, and not develop a new process for considering any of the trailing amendments. Mr. Crabbe seconded Motion 24. Ms. Vojkovich noted that the full rulemaking process is appropriate and provides adequate opportunity for public comment. There is no need to try anything different at this stage. Motion 24 carried unanimously.

Ms. Vojkovich moved (Motion 25) that the Council adopt, as a prioritized list of trailing amendments, the following issues from Agenda Item I.6.a, Supplemental Attachment 3, September 2010: (1) Disapproved portions of Amendment 21; (2) Cost Recovery; (3) Safe Harbors including (a) bycatch risk pools including overfished species and halibut (using the ideas or suggestions in the Burden et al. proposal as a starting point), (b) community fishing associations (CFAs) (using the ideas or suggestions in the Burden et al. proposal as a starting point), and (c) quota shares (QS) as collateral in financing (using the ideas and suggestions in the Burden et al. proposal as a starting point), include issues concerning Quota Share/Quota Pound control and accumulation limits in a range from 1.5 to 2.5 times the adopted levels; and (4) severability of mothership/catcher vessel endorsement. Mrs. Culver seconded motion 25.

Ms. Vojkovich noted that the Council had the intent of going forward with Amendment 21 when portions of it were disallowed because of technical issues. This was addressed by the Council under Agenda Item I.5. Cost recovery has been discussed and the options need to be developed so we know how the program will be paid for. With respect to the remainder of the list of possible actions, she considered the whole purpose of the program. That program is not about a single sector, but the entire groundfish fishery, the communities they support, and the public in general. We can't start over on the allocation issues and we can't address every bycatch allocation issue individually. Bycatch risk pools are addressed in the safe harbors issue. There are not enough fish to go around and we need to figure out the tools that can be developed to deal with what we have. This is the only positive way of going forward. In selecting the issues for trailing action, she also considered those which might address a number of different problems, the degree to which some work has already been done, workload, and time urgency.

On CFAs, again it is about communities at large. When the program was adopted, the Council set up this possibility of CFAs and adaptive management to address the community issues in National Standard 8. It also addresses the issue of encouraging new entrants and communities interested in CFAs. With respect to the issue of lenders being able to use QS as collateral without violating control limits, we know the fishery wants to upgrade infrastructure and consolidate and that this will require financing. We need to consider where the control rules might inhibit money flowing into the fleet. On the issue of severability, she included this because of the concern that this allows rationalization and management of bycatch so that a non-co-op fishery does not develop. Severability would help move forward rationalization of the at-sea fleet.

Mr. Myer concurred with the inclusion of the severability issue. This is important, not just for the whiting vessels, but also for the shoreside vessels receiving very small amounts of mothership sector allocation that want to use their permit in the shoreside sector and dispose of their at-sea sector allocations.

Based on an exchange with Ms. Vojkovich, Mr. Seger said he concluded that the 60 percent allocations in the Burden et. al. proposal should be included as part of the starting point the Council would work from.

Mr. Moore moved to amend Motion 25 as follows - under CFAs, strike the language “use the ideas and suggestions in the Burden et al. proposal as a starting point.” There was no second. Mr. Moore expressed his concern that the Burden et. al. proposal not preempt the consideration of other approaches, such as those proposed previously by Environmental Defense Fund and The Nature Conservancy.

Ms. Lowman commented on the importance of the adaptive management program to the trawl rationalization program and the need to address this issue, particularly so that people don’t think the program has gone away. Ms. Culver noted that risk pools can be effective locally but should also be considered for areas of a broader geographic scope. She also noted that while the adaptive management program (AMP) and CFA issues are not necessarily linked, they are complementary, and that while the intent of the motion is to limit the Council to deliberation on four issues at the November Council meeting, the scope under any one of those issues might be broader than is indicated in the document that has been cited as a starting point (i.e., the Burden et al. proposal). Mr. Lockhart concurred with Ms. Culver and Ms. Lowman. In response to a question from Mr. Lockhart, Ms. Vojkovich indicated that this list would not preclude taking up other issues at a later time as some of these issues are addressed, workload allows, and needs arise. On the AMP issue, Ms. McCall concurred with a statement by Mr. Lockhart that a rollover in the third year would not automatically occur without Council action but that such a rollover could be done relatively quickly and easily in conjunction with the other Council actions.

Mr. Steve Williams moved Amendment #1 to Motion 25 under the heading of safe harbors which includes the bycatch risk pools, CFAs, and collateral financing. He proposed that the wording be changed to “using the ideas and suggestions on each of these specific topics from a range of suggestions included in the Burden et al., Coos Bay Trawlers, West Coast Seafood Processors, and other written documents and verbal testimony provided here today.” Mr. Moore seconded the amendment. Mr. Williams expressed concern about the specificity of the language of the motion with respect to what documents would be considered as a starting point for this process and wanted to be clear that a broader range of ideas would be considered. Amendment #1 carried unanimously.

Ms. Culver moved to amend Motion 25 (Amendment #2) to indicate that the Council may decide to have a pass-through on the adaptive management program beginning in year three, considered through a regulatory amendment process in conjunction with one of these other items on the list. Mr. Cedergreen seconded the amendment. Ms. Lowman asked if this implied a pass-through forever and noted that we might even do something other than a pass-through before year three. Ms. Culver responded, concurring

that something might be done earlier to replace the pass-through. Amendment #2 to Motion 25 passed (Mr. Moore voted no).

Mr. Moore moved (Amendment #3 to Motion 25) that in the line about accumulation limits being in a range from 1.5 to 2.5 times the adopted levels, strike “in a range from 1.5 to” and insert “up to,” so we would have a 2.5 cap as was suggested earlier, rather than a range. Mr. David Crabbe seconded the amendment. Amendment #3 carried unanimously.

Motion 25 carried unanimously as amended three times.

The subject of workgroups for these issues was put off until the November meeting. Ms. Culver volunteered to work with NMFS and be the lead entity to formulate the mothership whiting endorsement severability issue. Mr. Lockhart noted that while supportive of these issues, NMFS staff ability to work on these issues would be constrained between now and the November Council meeting.

Dr. McIsaac noted that the Budget Committee has discussed the idea of having some workshops that would address development of options for CFAs. Some targeted money was received for that. Tomorrow when the Council gets to workload matters additional guidance might be provided. These hearings would be held during the month of October.

09/16/10; 12:13 p.m.

Mr. Williams moved (Motion 31) that the Council reconsider the actions took under Agenda Item I.6 (Motion 25) for the purpose of adding the halibut trawl allocation adjustment issue as a trailing action priority item. Mr. Moore seconded the motion.

Based on information the Council received yesterday and other information he had in front of him, Mr. Williams believes that reconsideration of this item would be appropriate. He believes this would be a relatively small workload for the Council.

Ms. Culver disagreed and noted that this item was in the moderate effort category. She felt a substantial amount of effort would be required to consider this issue because of the impact of an increase for the trawl sector on the catch opportunities of others. She noted a 30 percent decline in the halibut quota for all of the nontrawl sectors over the last four-year period relative to the previous 10-year average. The impacts on all sectors would have to be considered because the fish have to come from somewhere. She views this as an item for which substantial efforts would be required and as a consequence other priorities set in the previous motion would need to be re-evaluated.

Mr. Williams commented that not all the decisions on the trawl halibut bycatch allocation have been completed, noting that the groundfish specifications for 2011 had not been finalized. He expressed concern about the large change that had been made for what was available for bycatch and desired the opportunity to look at that in a relatively narrow scale. This was a top priority for the GAP and he was not presupposing an outcome.

Ms. Lowman said she supports the motion to reconsider. The Council needs to be sure it understands the magnitude and narrowness of the issue. If we find in our scoping that this is a much higher workload, then she would be looking at this differently later.

In response to a question from Mr. Lockhart, Mr. William noted that reconsideration is appropriate because the total workload at the end of yesterday’s action appeared to allow the potential opportunity to

add this item and that there was a strong sentiment that the Council's action on this yesterday had been off target.

Ms. Vojkovich expressed her concern about workload and fairness to others whose issues of concern had not been taken up because of workload concerns. Mr. Cedergreen expressed concern that the workload would be more substantial because it would open the entire Area 2A catch sharing plan.

Motion 31 carried on a roll call vote (9 yes, 4 no). Ms. Culver, Ms. Vojkovich, Mr. Myer, and Mr. Cedergreen voted no.

Mr. Steve Williams moved (Motion 32) to add to the list of trailing amendment priorities in Ms. Vojkovich's previous motion (Motion 25), a fifth priority examining an adjustment in the overall halibut allocation (Item #7, page 12, of Agenda Item I.6.a, Attachment 2); the information to be presented to the Council in November should include a comparison between the existing IBQ allocation and the most recent halibut bycatch levels in the trawl fishery and the trawl bycatch amounts used by the IPHC in Area 2A. Mr. Moore seconded the motion.

Mr. Williams noted that the final EIS speaks to a 50 percent reduction in the trawl bycatch estimates and indicated that given the new trawl bycatch estimates provided earlier this week, the degree of difference would be even greater. He expressed concern about the amount of testimony indicating that halibut could be the first issue that shuts down the fishery and he indicated he is not advocating for providing the trawlers with more halibut than was available to them prior to the program. This motion is proposing a review of the available information, and making an informed decision about whether the proposed cut in trawl bycatch goes too far. He indicated that he believed an adjustment could be made without affecting the catch sharing plan and that the motion is not addressing the issue of the initial allocation of halibut IBQ. This does not require that the Council move ahead with this issue in November. In response to a question from Ms. Vojkovich, Mr. Williams indicated that despite the wording of the motion, he was not assuming that the result would be an increase.

Ms. Culver argued that the 50 percent reduction referred to in the EIS was a reduction from total bycatch by all sectors with bycatch, not a 50 percent reduction relative to the trawl bycatch, and that when the other sectors are removed, the actual reduction imposed on the trawl fishery was much less. She provided numbers indicating that the actual reduction would be less. She also noted that increasing the amount of bycatch for the trawl fishery will decrease the amount available for the tribal fishery and all the other fisheries to which catch is allocated through the catch sharing plan. Thus if the trawl bycatch allocation is increased, the door will be opened on the allocation to other sectors and the catch sharing plan. A number of other Council members expressed interest in the information that this motion would bring forward and concern about whether a revision would require reopening the halibut catch share plan.

Mr. Lockhart expressed concern that the motion states that this is a priority but there is uncertainty at this time about the need for it to be a priority. On that basis, Mr. Lockhart made a substitute to Motion 32 (Motion 33) to direct Council staff to present information to the Council in November which would include a comparison between the existing IBQ allocation and the most recent halibut bycatch levels in the trawl fishery and the trawl bycatch amount used by the IPHC in area 2A. Ms. Culver seconded the motion.

Mr. Lockhart indicated that while this is a big concern, if the reduction for the trawl fleet is as small as indicated by some in this discussion, it should not be prioritized for action at this time. At the same time, there is some uncertainty about the overall impact. Therefore, given that the numbers can be pulled

together relatively easily, this should be brought forward in November and a decision made at that time as to whether or not to make it a priority for a trailing amendment.

Mr. Sones expressed his concern about the issue, noting that up until now the tribes have not made any claim on the trawl bycatch, which is taken off the top. There is a debate as to whether the tribes are entitled to a portion of that allocation as part of the nontreaty 35 percent. This is a sensitive issue and the discussion could make things a lot worse by focusing attention back on this issue.

Ms. Culver moved to amend the substitute motion (Amendment 1 to Motion 33) to specify that data be brought forward on the most recent 5 year period (2005 through 2009), since the most recent data we have is for 2009. Mr. Cedergreen seconded the motion. The amendment carried unanimously.

Ms. Vojkovich spoke against the main motion and stated that similar issues apply to other species for which other groups of trawlers had an interest.

Motion 33, as amended, passed, with Ms. Vojkovich, Mr. Myer, and Mr. Sones voting no. Motion 25, as amended through the reconsideration, passed.

I.7 Consideration of Inseason Adjustments - Part II, if Necessary

I.7.a Agenda Item Overview (09/16/10; 8:11 a.m.)

Ms. Kelly Ames provided the agenda item overview.

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

Mr. Rob Jones reviewed Agenda Item I.7.b, Supplemental GMT Report (updated scorecard).

I.7.c Public Comment

None.

I.7.d Council Action: Adopt Final Recommendations for Adjustments to 2010 Groundfish Fisheries

There was no action under this agenda item. It was just an informational check-in. All inseason actions were completed under Agenda Item I.2.

J. Coastal Pelagic Species Management

J.1 Terms of Reference for Stock Assessment and Methodology Review Panels

J.1.a Agenda Overview (09/14/10; 9:48 a.m.)

Mr. Kerry Griffin provided the agenda item overview.

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

Mr. Griffin read Agenda Item J.1.b, Supplemental CPSMT Report and Agenda Item J.1.b, Supplemental CPSAS Report. Dr. Martin Dorn provided Agenda Item J.1.b, Supplemental SSC Report.

J.1.c Public Comment

None.

J.1.d Council Action: Approve for Public Review the Terms of Reference for Stock Assessment and Methodology Review Panels

Mr. Moore moved (Motion 13) to send out the draft Terms of Reference (TOR) for CPS stock assessments and the draft TOR for methodology reviews, as modified by the SSC statements and the CPS Management Team (CPSMT) comments regarding Appendix A of the stock assessment review TOR. Ms. Lowman seconded the motion.

Ms. Vojkovich asked for clarification about which exact recommendations Mr. Moore was referring to in the SSC and CPSMT reports. Mr. Moore said that he meant the issue of the ecological role and the next three paragraphs that are mostly re-wording suggestions; the final item would be in the CPSMT report, which suggests updating the work to include ACLs.

Mr. Myer asked about the SSC statement's recommendation that the TOR for groundfish and coastal pelagic species be combined. Mr. Moore said that the recommendations should be considered in the longer term, not in this round of review.

Mr. Steve Williams noted that the part of the SSC report regarding constraints on the TOR assessment and the first paragraph references of the CPSMT report appear to be in conflict. Mr. Moore did not address that part of the CPSMT report, but he did not perceive them as being in conflict.

Mr. Griffin said that the CPSMT and SSC have been talking about this a lot and that these are draft documents for public review. The CPS advisory bodies are meeting in October and plan to make changes where they are in agreement now, and discuss differences in October to come up with statements for November. Dr. Dorn said the significant area of disagreement with the CPSMT is whether a new stock assessment modeling platform would be a suitable candidate for a methodology review. The SSC said yes, but the CPSMT said it should be addressed by the Stock Assessment Team (STAT). In the past, we've dealt with new models in a slow way, and this way is consistent with how it's been addressed historically, said Dr. Dorn. That is really the only major item of disagreement between the SSC and CPSMT.

Ms. Vojkovich moved a substitute motion (Motion 14) to send out for review both of the TORs and direct staff to edit the TOR with the suggested changes in the SSC, CPSMT, and CPS Advisory Subpanel (CPSAS) reports where there are no disagreements. For those items where there were different interpretations, disagreement, or no discussion, that the CPSMT, CPSAS, and SSC CPS Subcommittee should meet at the November Council meeting and develop final language for the TORs for final adoption by the Council. Also, the CPSMT and CPSAS should draft a list of new sources of information, procedures for data collection, treatment of new data or methods for use of the new data sources and stock assessments that would be reviewed in this next cycle; that the regular review by the SSC and the Council take place in November; and that staff should apply the appropriate editorial changes to documents as shown in the SSC report. Mr. Brizendine seconded the motion.

Mr. Moore supported Ms. Vojkovich's motion.

Motion 14 carried unanimously.

K. Highly Migratory Species Management

K.1 National Marine Fisheries Service Report

K.1.a Regulatory Activities (09/16/10; 8:15 a.m.)

Mr. Mark Helvey gave the NMFS regulatory report (reviewed Agenda Item K.1.a, NMFS Report).

K.1.b Fisheries Science Center Activities

Ms. Sarah Shoffler presented Agenda Item K.1.b, Supplemental SWFSC PowerPoint.

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

Mr. Wayne Heikkila presented Agenda Item K.1.c, Supplemental HMSAS Report.

K.1.d Public Comment

None.

K.1.e Council Discussion on NMFS Report on HMS

None.

K.2 Changes to Biennial Management Measures for 2011-2012

K.2.a Agenda Item Overview (09/16/10; 9:22 a.m.)

Dr. Kit Dahl provided the agenda item overview.

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

Dr. Stephen Stohs presented Agenda Item K.2.b, Supplemental HMSMT Report. Mr. Heikkila provided Agenda Item K.2.b, Supplemental HMSAS Report. Ms. Culver summarized Agenda Item K.2.b, WDFW Report.

K.2.c Public Comment

Mr. Pete Dupuy, Ocean Pacific Seafood, Tarzana, CA
Mr. August Felando, commercial purse seiner, San Diego, CA

K.2.d Council Action: Adopt Proposed Changes to Biennial Management Measures for 2011-12 for Public Review

Ms. Culver moved (Motion 26) to adopt for public review a range of alternatives for albacore bag limits that would apply on a per-trip basis for the Washington recreational fishery of: status quo, 10, 15, 20 and 25 fish. Mr. Cedergreen seconded the motion. Mr. Cedergreen said this range of alternatives includes the full spectrum that needs to be considered.

Motion 26 carried unanimously.

Mr. Moore moved (Motion 27) to adopt for public review the alternatives proposed by the HMSMT to make west coast regulations at 50 CFR 660.712 consistent with the recommendation made by the WPFMC for changes to the swordfish retention limit in the Hawaii deep-set longline fishery, as identified in Agenda Item K.2.b, Supplemental HMSMT Report (page 2); except under Alternative 2, strike the following: “except for the requirement to use circle hooks.” The alternatives are 1) status quo (no change to current regulations) and 2) establishing a 25 swordfish trip limit for deep-set tuna targeting longline vessels using circle hooks, and 10 swordfish per trip for vessels using tuna-hooks, if vessels are not carrying observers. If an observer is being carried by a deep-set tuna vessel, then there is no limit to the amount of swordfish that can be retained by a longline vessel. Ms. Culver seconded the motion.

Mr. Moore said we should at least analyze this proposal for reasons of consistency between west coast and Hawaii regulations applicable to the pelagic longline fishery. Mr. Helvey clarified that the Western and Central Pacific Fisheries Commission has proposed this change as an FMP amendment, but regulations have not been developed yet. Therefore, he asked for an amendment to the motion (Motion 27) to include in the analysis for public review the same measure as being proposed by WPFMC. Mr. Brizendine seconded the amendment to Motion 27.

The amendment to Motion 27 carried. Motion 27 carried as amended. Ms. Vojkovich abstained from both votes.

Mr. Moore then discussed the recommendation from the HMSAS and the public to reconsider the current regulations for the shallow-set longline (SSLL) fishery, which is currently closed. He noted the inequity between the regulations for the Hawaii SSLL fishery versus the west coast fishery and the implications for the west coast supply of swordfish. At this time, the Council and NMFS staff workload should not be increased if it won't result in anything. Therefore, he did not recommend initiating action at this time. However, he noted that NMFS SWR is proposing to conduct a workshop related to west coast swordfish fisheries including the currently closed SSLL fishery. This could provide the Council with some additional information as a basis for action in the future, such as June 2011.

Ms. Culver noted that the Council has previously considered proposals to allow the SSLL fishery a couple of times. She noted those proposals included a limited entry component and suggested that future consideration could include additional limits on the number of hooks or sets that could be made. She suggested through the Council's workload discussion (Agenda Item G.6), the Council could consider future action on an FMP amendment. The issue could be put on a future Council agenda, at which time the Council could narrow the scope of options to consider.

Ms. Vojkovich asked if the scoping Ms. Culver described would occur at the November 2010 Council meeting. Ms. Culver said she wasn't specifying when to start the process. She noted that under a regulatory amendment process, a limited entry fishery could not be considered. An FMP amendment

would be necessary and the Council should provide public notice on when such an FMP amendment process would be initiated.

Mr. Helvey discussed what NMFS is considering in relation to a workshop and possible “white paper” on the future of the fishery and potential options. The “white paper” would be intended to provide information on which the Council could base taking action on this issue.

Ms. Vojkovich reviewed what options were available to the Council for taking action (i.e., using the biennial management process, another regulatory amendment process, or an FMP amendment process). She asked if what Mr. Moore and Ms. Culver were discussing was an FMP amendment process to establish a limited entry fishery.

Mr. Moore acknowledged that only a few vessels are likely to participate in an SSL fishery, at least initially. Nonetheless, he preferred considering a limited entry fishery at the outset rather than trying to implement limited entry after an open access fishery had already been established. He is supportive of Ms. Culver’s ideas on how to go about the process for a limited entry fishery.

Ms. Vojkovich asked if the Council would make a decision on whether to proceed with considering a limited entry SSL fishery after the workshop proposed by NMFS occurred. Mr. Moore’s concern is to not let the issue die while recognizing that it didn’t seem possible to address the issue at this meeting. He reiterated his support for Ms. Culver’s approach and the possibility of discussing it under Agenda Item G.6 (workload and agenda planning).

Ms. Culver emphasized that the Council wants to consider a limited entry program for the fishery, which can’t occur at the current meeting; therefore, the Council should consider future action on an FMP amendment. She hoped the Council would take up this issue relatively soon, either in November 2010 or in 2011, and looked forward to more discussion as part of agenda planning.

Mr. Brizendine asked if the Council needs to make a statement of their intent on this item or would discussion under Council workload session planning suffice. Dr. McIsaac said adding it to the “year at a glance” (Agenda Item G.6, Supplemental Attachment 3) would be sufficient; if the Council wanted to make a broader statement something could be put in the newsletter or decision document.

Vice Chairman Wolford recalled that NMFS was going to address the issues raised when the Council last considered allowing a SSL fishery in April 2009 and he looked forward to receiving those findings as soon as possible.

K.3 Recommendations to International Fishery Management Organizations

K.3.a Agenda Item Overview (09/16/10; 10:55 a.m.)

Dr. Kit Dahl provided the agenda item overview.

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

Dr. Stephen Stohs presented Agenda Item K.3.b, Supplemental HMSMT Report. Mr. Wayne Heikkila presented Agenda Item K.3.b, Supplemental HMSAS Report.

K.3.c Public Comment

None.

K.3.d Council Action: Adopt Recommendations for U.S. Delegation to the Inter-American Tropical Tuna Commission

Ms. Vojkovich asked about the appropriateness of the Council making recommendations relative to the work assignment for the ad hoc working group described in Section 3 of Document IATTC-81-06b, IATTC Secretariat Conservation recommendations (“...an ad hoc working group to develop an operational definition of ‘current levels’ of effort specified in paragraph 1 of Resolution C-05-02”). Mr. Helvey discussed issues associated with defining “current effort” in international forums, including the relative impact of fisheries in the Western Pacific versus the Eastern Pacific. Mr. Helvey exchanged views with Mr. Moore on the question of whether the U.S. should get involved in an exercise of defining “current effort” and implications with respect to allocation of catch opportunity at the international level. Dr. Dahl provided his perspective, concluding in response to Ms. Vojkovich’s question that it was appropriate for the Council to provide recommendations to the U.S. delegation on the work assignment for the ad hoc group.

Ms. Vojkovich moved (Motion 28), using Agenda Item K.3.b, Supplemental HMSMT Report, that:

The U.S. delegation to the 81st IATTC meeting should:

- Support the IATTC Secretariat’s recommendations for bigeye and yellowfin tuna management measures;
- Support renewal of the tuna retention requirement in the purse seine fishery only if uniformly implemented and enforced by all parties to the IATTC.

Mr. Brizendine seconded Motion 28. Motion 28 carried unanimously.

Ms. Vojkovich moved (Motion 29), with respect to a conservation measure for Pacific bluefin tuna, recommend, as the U.S. delegation’s primary position, to exempt all fisheries except for the commercial purse seine fishery from the IATTC Secretariat’s Conservation Recommendations (Document IATTC-81-06b), Section 2 on bluefin tuna. As a secondary, fallback position, the U.S. delegation should support a conservation measure where all catches in both recreational and commercial fisheries are accounted for as part of the proposed commercial management measure in the Secretariat’s recommendation (“...during each of the years 2011-2012 to ensure that the annual catches in the Convention Area by the commercial vessels under its jurisdiction do not exceed the average level of such catches during 1994-2007”). Mr. Brizendine seconded Motion 29.

Ms. Vojkovich noted that U.S. recreational catches account for very small proportion of stockwide Pacific bluefin catch. Mr. Helvey reviewed recent average annual landings of Pacific bluefin from west coast commercial and recreational fisheries. He linked the recommendation to exempt recreational fisheries to a conservation measure proposed by the WCPFC Northern Committee which would exempt Japanese artisanal fisheries.

Ms. Culver asked a clarifying question relative to the HMSMT’s recommendation with respect to Pacific bluefin. Ms. Vojkovich responded that her motion generally supports a conservation measure for Pacific bluefin, but provides flexibility for the U.S. to develop a position that does not disadvantage the U.S. given the relatively small amount of west coast catches.

Motion 29 carried unanimously.

Ms. Vojkovich and Mr. Moore exchanged views on U.S. participation in the ad hoc working group for defining current effort as specified in paragraph 1 of IATTC Resolution C-05-02. Mr. Moore asked about the recommendation in the HMSAS Report that the U.S. should not propose or endorse any changes to international management of North Pacific albacore until the 2010 stock assessment of North Pacific albacore is completed in 2011. Mr. Helvey responded that he supported the recommendation.

Mr. Moore moved and Mr. Cedergreen seconded a motion (Motion 30) to recommend to the U.S. delegation to the 81st IATTC meeting a position consistent with the three recommendations contained in the HMSAS Report which are:

1. The U.S. should participate in the ad hoc working group on defining current level of effort specified in paragraph 1 of IATTC Resolution C-05-02.
2. The U.S. should evaluate the best base periods for the U.S. fishing fleet to achieve the maximum percentage of harvest when compared to other nations that harvest North Pacific albacore.
3. The U.S. should not propose or endorse any changes to international management of North Pacific albacore until the 2010 stock assessment of North Pacific albacore is completed in 2011.

Motion 30 carried unanimously.

Ms. Vojkovich commented on a previous recommendation that NMFS provide funding to support research on North Pacific albacore (specifically, projects identified by the ISC and endorsed by the Northern Committee). She recommended that the Council reiterate this recommendation, considering funds have not yet been forthcoming. The Council agreed by consensus.

Mr. Moore noted the request in the HMSAS Report under Agenda Item K.1 that the Highly Migratory Species Management Team and Scientific and Statistical Committee analyze, review, and explain the candidate biological reference points presented at the Northern Committee meeting in regards to North Pacific albacore tuna. He asked Mr. Helvey if his staff, or Council staff, could address this request at the November 2010 meeting.

Mr. Helvey recommended that individuals with expertise with stock assessments address this request and noted the reference to the SSC in the HMSAS Report. Ms. Vojkovich noted that it may be up to three years until reference points may be considered in the Pacific RFMO arena and that Dr. McIsaac had said that they might be reviewed by the SSC to determine whether they are appropriate for management. In contrast, Mr. Moore's request is to have someone explain the reference points to the HMSAS and not necessarily evaluate them.

Mr. Moore responded that he was thinking about both aspects, having advisory bodies gain a better understanding and also a potential Council recommendation on appropriate reference points for North Pacific albacore management. He conceded that this might be accomplished on a longer timeline than just the upcoming November Council meeting. Dr. Dahl recalled Council guidance at the April 2010 meeting to revisit issues related to North Pacific albacore in the first half of 2011, so this might be added to the list of tasks for the March or April 2011 Council meetings. The SSC and HMSMT could brief the Council and HMSAS on reference points at one of those meetings.

Mr. Brizendine asked about recent case of illegal, unregulated, and unreported fishing brought up by the U.S. albacore fleet. Mr. Helvey responded along with the Coast Guard.

ADJOURN

The Council adjourned on September 16, 2010 at 3:27 p.m.

Dan Woford
Council Chairman

Date

DRAFT VOTING LOG
Pacific Fishery Management Council
205th Meeting
September 2010

Motion 1: Approve the meeting agenda as shown in Agenda Item A.5., September Council Meeting Agenda, with the removal of Agenda Item G.2, Legislative Matters.

Moved by: Rod Moore

Seconded by: Steve Williams

Motion 1 carried unanimously.

Motion 2: For salmon methodologies, set the priorities as indicated by the two bulleted items on the bottom of page 1, and the one bulleted item on the top of page two of Agenda Item C.1.b, Supplemental SSC Report.

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 2 carried unanimously.

Motion 3: Adopt the alternatives in Agenda Item C.2.b, SAC Report for public comment and adopt the following as preliminary preferred alternatives (PPA):

- From Table ES-1, Stock Classification Alternative 3 relative to individual stocks in the fishery, stock complexes, ESA listed stocks, hatchery stocks, and exploitation rate exceptions; and to further note that the northern range of KRFC and Sacramento River fall Chinook (SRFC) does not extend North of Cape Falcon.
- From Table 2-7 Status Determination Criteria (SDC) Alternative 2 for Overfishing and Rebuilt and Alternative 3 for Overfished and Approaching an Overfished Condition, except that Alternative 3 would be defined in terms of an arithmetic mean rather than a geometric mean.
- From Table 2-8 and 2-9 Reference Points for individual stocks for S_{MSY} , maximum fishing mortality threshold (MFMT), and MSST associated with Alternative 3 SDC except that for KRFC, S_{MSY} should be 35,000 spawners.
- From Table 2-10 Annual Catch Limit (ACL) Alternative 3, including the 5 percent buffer for tier 1 stocks and 10 percent buffer for tier 2 stocks.
- For Accountability Measures (AMs) Alternative 2 on page 65 and replace the term “overfishing concern” with “abundance alert” and the term “overfished” with “depleted.”
- A new alternative *de minimis* control rule applied to KRFC and SRFC similar to those on page 74 except that F would not fall below 25 percent, but would become undefined at abundance levels less than the midpoint between S_{MSY} and MSST; this would not include a prescriptive approach but require the Council to consider a measured approach should the stock be in that situation, which will allow the Council to consider community impacts as well as stock status.
- Another *de minimis* alternative for KRFC using 86 percent of S_{MSY} as MSST.

Moved by: Dan Wolford

Seconded by: Marija Vojkovich

Amndt #1: Include in the description, that only fishing impacts south of Cape Falcon will be included in that calculation.

Moved by: Pat Pattillo Seconded by: Rod Moore
Amendment #1 to Motion 3 carried. Mr. Lockhart abstained.

Amdnt #2: Include, as international exceptions to the ACLs and AMs, the 14 chinook and 11 coho stocks not ESA listed or hatchery identified and the two pink salmon stocks shown on page 1 of the SAC Report.

Moved by: Steve Williams Seconded by: Rod Moore
Amendment #2 to Motion 3 carried unanimously.

Amdnt #3: Include new *de minimis* alternatives for each current alternative that specifies 35,000 as S_{MSY} for KRFC, to provide analysis and comment opportunity for S_{MSY} of both 40,700 and 35,000.

Moved by: Marija Vojkovich Seconded by: Buzz Brizendine
Amendment #3 to Motion 3 carried unanimously.

Amdnt #4: Include the 3 year geometric mean as an alternative for public review.

Moved by: Dorothy Lowman Seconded by: Frank Lockhart
Amendment #4 to Motion 3 carried unanimously.

Amdnt #5: Strike the replacement of the term “overfished” with “depleted.” (i.e., use “overfished”)

Moved by: Frank Lockkhart Seconded by: Marija Vojkovich
Amendment #5 to Motion 3 carried. Mr. Ortmann and Mr. Wolford voted no.

Motion 4: Table Motion #3 until we get this information in writing.

Moved by: Frank Lockhart Seconded by: Buzz Brizendine
Motion 4 carried unanimously.

[Motions 5 and 6 were completed before Motion 3 was moved back for consideration in Motion 7.]

Motion 5: Establish a committee made up of five Council members - one each from Washington, Oregon, Idaho, Tribes, and the Council Chairman. The committee will meet before the November Council meeting in Costa Mesa; task is to put together a draft Council statement on the Mitchell Act (MA) DEIS to be adopted by the full Council and forwarded to NMFS prior to the public comment deadline. In addition, Council staff is directed to develop a list of specific questions regarding the DEIS and to whom they should be assigned, which would be finalized as an additional agenda item later at this meeting.

Moved by: Mark Cedergreen Seconded by: Steve Williams

Amdnt #1: Include one member from USFWS and ADFG on the Mitchell Act DEIS committee.

Moved by: Rod Moore Seconded by: Dorothy Lowman
Amendment 1 to Motion 5 carried unanimously.
Motion 5 as amended carried. Mr. Lockhart abstained.

Motion 6: Adopt for public review Agenda Item C.5.a, Attachment 1: *Pacific Coast Salmon Essential Fish Habitat Review Draft Report* and Agenda Item C.5.a, Attachment 2: *Appendix A – Annotated Bibliography for 2010 Essential Fish Habitat Update*, with the expectation that this would be returned to the Council showing linkage to Amendment 14, and consider the comments of the Council (verbally today), the SSC, and HC and describe why their comments were or were not included.

Moved by: Rod Moore
Motion 6 carried unanimously.

Seconded by: Dorothy Lowman

Motion 7: Bring Agenda Item C.2. (Motion 3) back to the table.

Moved by: Rod Moore
Motion 7 carried unanimously.

Seconded by: Buzz Brizendine

Return to Consideration of Motion 3:

Amdnt #6: Remove insertion of 35,000 for KRFC as S_{MSY} . [Amendment #6 to Motion 3]

Moved by: Frank Lockhart

Seconded by: Marija Vojkovich

Amdnt #6.a: Establish a conservation objective in Alternatives 2b and 3b of 35,000 for KRFC. [Amendment #1 to Amendment 6]

Moved by: Rod Moore
Motion #6.a was withdrawn, not voted on.

Seconded by: David Crabbe

Amdnt #6.b: Establish a conservation objective in Alternatives 2b and 3b and the PPA of 35,000 for KRFC. [Amendment #2 to Amendment #6]

Moved by: Rod Moore
Amendment #6.b to Amendment #6 carried unanimously.
Amendment #6, as amended, to Motion 3 carried unanimously.

Seconded by: David Crabbe

Amdnt #7: Eliminate from Agenda Item C.2.d, Supplemental Motion in Writing, under the SDC and *De Minimis* Fishing Provisions sections defining Cape Falcon as the northern limit for impacts contributing to Overfishing SDC, ACL compliance and *de minimis* provisions; and add to the *De Minimis* Fishing Provisions section the statement that “for the purpose of implementing *de minimis* fishing provisions, Cape Falcon will be defined as the northern limit for impacts counted toward KRFC and SRFC.”

Moved by: Frank Lockhart
Amendment #7 to Motion 3 carried unanimously.

Seconded by: Marija Vojkovich

Amdnt #8: Remove the reference of $0.86 \cdot S_{MSY}$ as MSST for KRFC under the new *de minimis* fishing Alternative, and to insert it as Alternatives 3a and 5a for KRFC only under the SDC Section Alternatives 3 and 5, respectively.

Moved by: Tim Roth
Amendment #8 to Motion 3 carried unanimously.
Motion 3, as amended, carried unanimously.

Seconded by: David Sones

Motion 8: Adopt for public review, Agenda Item D.1.b, ODFW Report, under Central Coast Subarea, items 1, 2, and 3; and remove item 1 under South of Humbug Mountain Subarea.

Moved by: Steve Williams
Motion 8 carried unanimously.

Seconded by: Rod Moore

Motion 9: Adopt for public review, the proposal provided under Agenda Item D.1.b, Supplemental NMFS Report; and note, NMFS will provide the specific changes to the Council during public review.

Moved by: Frank Lockhart
Motion 9 carried unanimously.

Seconded by: Marija Vojkovich

Motion 10: Approve the Agenda item D.2.b, NMFS Report and transmit it to the IPHC, representing the best available science for West Coast trawl and fixed gear fisheries, including legal and sublegal mortality information, as well as forward the latest pink shrimp trawl bycatch report from ODFW as representing Area 2a bycatch accounting.

Moved by: Michele Culver
Motion 10 carried unanimously.

Seconded by: Dale Myer

Motion 11: Develop an analysis of the biological, socioeconomic, and fishery management costs and benefits of modifying the Area 2A Pacific Halibut Catch Sharing Plan to the allow incidental halibut catch retention in the sablefish fixed gear fishery; which may include limited entry, daily trip limit and open access sectors.

Moved by: Steve Williams
Motion 11 carried. 9 Yes; 4 No. Mr. David Crabbe, Ms. Vojkovich, Mr. Dale Myer, and Ms. Michele Culver voted no.

Seconded by: Rod Moore

Motion 12: Have the EFHRC meet this winter to review and identify the scope/workload for reviewing/recommending potential changes; make comments on COP 22; have the Council identify data sets, including habitat, trawl survey, and other data that the EFHRC might want to consider in their process; and ask the EFHRC to identify other data sets. The EFHRC would meet again potentially in the spring, or when data is available for them to consider; they would also review the description of the goals/objectives of existing HAPCs -- why they were developed (from Amendment19). The Council would then solicit proposals from the public and outside entities after the data is available for them to review; no specific timeline, but at least a month (scheduled for as early as the next Council meeting following the month of review period). The role of the EFHRC is described in COP 22, with no new changes at this time.

Moved by: Michele Culver
Motion 12 carried unanimously.

Seconded by: Rod Moore

Motion 13: Send out the draft TOR for CPS stock assessments and the draft TOR for methodology reviews, as modified by the SSC statements and the CPSMT comments regarding Appendix A of the stock assessment review TOR.

Moved by: Rod Moore

Seconded by: Dorothy Lowman

Motion 13 not voted on (replaced by substitute Motion 14).

Motion 14: Send out for review both of the TORs and direct staff to edit the TOR with the suggested changes in the SSC, CPSMT, and CPSAS reports where there are no disagreements. For those items where there were different interpretations, disagreement, or no discussion, that the CPSMT, CPSAS, and SSC CPS Subcommittee should meet at the November Council meeting and develop final language for the TORs for final adoption by the Council. Also, the CPSMT and CPSAS should draft a list of new sources of information, procedures for data collection, treatment of new data or methods for use of the new data sources and stock assessments that would be reviewed in this next cycle; that the regular review by SSC and Council take place in November; and that staff should apply the appropriate editorial changes to documents as shown in the SSC report.

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Motion 14 carried unanimously.

Motion 15: Adopt lower sablefish trip limits for the limited entry fixed gear fishery at 2,800 pounds/week with no daily limit and the open access fixed gear fishery at 800 lbs/week not to exceed 1,600 lbs/month south of 36° N. latitude, as stated in the GAP report.

Moved by: Marija Vojkovich

Seconded by: David Crabbe

Motion 15 carried unanimously.

Motion 16: Adopt for limited entry non-whiting trawl, the cumulative limit increases as described in Alternative 3, Table 6 in the GMT report, which includes leaving petrale cutouts open in period 6.

Moved by: Rod Moore

Seconded by: Steve Williams

Motion 16 carried unanimously.

Motion 17: Preliminarily approve the ODFW yelloweye EFP and prioritize this EFP with respect to the yelloweye set-aside.

Moved by: Michele Culver

Seconded by: Dale Myer

Motion 17 not voted on, substitute Motion 18.

Motion 18: Preliminarily adopt the ODFW EFP and take the yelloweye impacts from the research set-aside.

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 18 carried on a roll call vote (7 Yes, 5 No). Mr. Brizendine, Mr. Myer, Ms. Culver, Ms. Vojkovich, and Mr. Crabbe voted no. Mr. Lockhart abstained.

Motion 19: Adopt the Pacific sanddab EFP for public review modified as recommended by the GMT and the applicant (Mr. Pettinger) during his public comment.

Moved by: Steve Williams

Seconded by: Dorothy Lowman

Motion 19 failed on a roll call vote (8 no, 5 yes). Mr. Crabbe, Mr. Wolford, Ms. Vojkovich, Mr. Myer, Mr. Brizendine, Ms. Culver, Mr. Sones, and Mr. Lockhart voted no.

Motion 20: With regard to NMFS partial disapproval, that the Council follow up with a specific amendment to override Amendment 6 allocations and take that up under Agenda Item I.6.

Moved by: Michele Culver

Seconded by: Dale Myer

Motion 20 carried. Mr. Lockhart abstained.

Motion 21: Relative to the program components rule, recommend to NMFS: (1) remove the trip limits for the mothership catcher-vessel endorsed permits; (2) transfer of the registration for the mothership catcher vessel endorsement limited entry trawl permits would be effective immediately, and (3) remove the bycatch reduction and utilization program for at-sea processors.

Moved by: Michele Culver

Seconded by: Dale Myer

Amdnt #1: Remove the trip limits for both mothership catcher vessel endorsed permits and catcher processor endorsed permits.

Moved by: Rod Moore

Seconded by: Michele Culver

Amendment to Motion 21 carried. Mr. Lockhart abstained. Motion 21 as amended carried. Mr. Lockhart abstained.

Motion 22: Recommend the NMFS proposed language relative to limitations for conflict of interest for catch monitors as described in Agenda Item I.5.a, Supplemental Attachment 7 in the Appendix, specifically Alternative 2.

Moved by: Michele Culver

Seconded by: Dale Myer

Motion 22 carried on a roll call vote (10 yes, 2 no). Mr. Wolford and Mr. Moore voted no. Mr. Lockhart abstained.

Motion 23: Using Agenda Item I.5.c, Supplemental GMT Report, Table 3, back page, that the Council recommend to NMFS they revise the components rule as follows: for sablefish, lingcod, Pacific whiting, and skates, use the values shown under the ODFW column; and for the remaining species use the values shown under the IFQ column.

Moved by: Rod Moore

Seconded by: Michele Culver

Motion 23 carried. Mr. Lockhart abstained.

Motion 24: Use the Council's regular regulatory process, and not develop a new process for considering any of the trailing amendments.

Moved by: Marija Vojkovich

Seconded by: David Crabbe

Motion 24 carried unanimously.

Motion 25: Adopt, as a prioritized list of trailing amendments, the following issues from Agenda Item I.6.a; Supplemental Attachment 3; September 2010:

1. Disapproved portions of Amendment 21
2. Cost Recovery
3. Safe Harbors including:
 - Bycatch Risk Pools - using the ideas or suggestions in the Burden et al. proposal as a starting point
 - Community Fishing Associations – using the ideas or suggestions in the Burden et al. as a starting point
 - Quota Shares as Collateral in Financing - using the ideas and suggestions in the Burden et al. proposal as a starting point.

[Include issues concerning Quota Share/Quota Pound control and accumulation limits in a range from 1.5 to 2.5 times the adopted levels.]
4. Severability of MS/Catcher Vessel Endorsement.

Moved by: Marija Vjokovich

Seconded by: Michele Culver

Amdnt #1: Under the heading of safe harbors which includes the bycatch risk pools, CFAs, and collateral financing, that the wording be changed to “using the ideas and suggestions on each of these specific topics from a range of suggestions included in the Burden et al., Coos Bay Trawlers, West Coast Seafood Processors, and other written documents and verbal testimony provided here today.”

Moved by: Steve Williams

Seconded by: Rod Moore

Amendment #1 carried unanimously.

Amdnt #2: Indicate that the Council may decide to have a pass-through on the adaptive management program beginning in year three, considered through a regulatory amendment process in conjunction with one of these other items on the list.

Moved by: Michele Culver

Seconded by: Mark Cedargreen

Amendment #2 carried (Mr. Moore voted “no”).

Amdnt #3: In the line about accumulation limits in a range from 1.5 to 2.5 times the adopted levels, strike “in a range from 1.5 to” and insert “up to,” so we would have a 2.5 cap as was suggested earlier, rather than a range.

Moved by: Rod Moore

Seconded by: David Crabbe

Amendment #3 carried unanimously. Motion 25: Passed unanimously as amended three times.

Motion 26: Adopt for public review a range of alternatives for albacore bag limits that would apply on a per-trip basis for the Washington recreational fishery of: status quo, 10, 15, 20 and 25 fish.

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Motion 26 carried unanimously.

Motion 27: Adopt for public review the alternatives proposed by the HMSMT to make west coast regulations at 50 CFR 660.712 consistent with the recommendation made by the WPFMC for changes to the swordfish retention limit in the Hawaii deep-set longline fishery, as identified in Agenda Item K.2.b, Supplemental HMSMT Report (page 2); except under Alternative 2, strike the following: “except for the requirement to use circle hooks.” The alternatives are 1) status quo (no change to current regulations), and 2) establishing a 25 swordfish trip limit for deep-set tuna targeting longline vessels using circle hooks, and 10 swordfish per trip for vessels using tuna-hooks, if vessels are not carrying observers. If an observer is being carried by a deep-set tuna vessel, then there is no limit to the amount of swordfish that can be retained by a longline vessel.

Moved by: Rod Moore

Seconded by: Michele Culver

Amdnt #1: Include in the analysis for public review, the same regulations that are being proposed by WPFMC (for consistency purposes).

Moved by: Mark Helvey

Seconded by: Buzz Brizendine

Amendment to Motion 27 carried. Motion 27 carried as amended. Ms. Vojkovich abstained from both votes.

Motion 28: Using Agenda Item K.3.b, Supplemental HMSMT Report: The U.S. delegation to the 81st IATTC meeting should:

- Support the IATTC Secretariat’s recommendations for bigeye and yellowfin tuna management measures;
- Support renewal of the tuna retention requirement in the purse seine fishery only if uniformly implemented and enforced by all parties to the IATTC.

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Motion 28 carried unanimously.

Motion 29: With respect to a conservation measure for Pacific bluefin tuna, recommend, as the U.S. delegation’s primary position, to exempt all fisheries except for the commercial purse seine fishery from the IATTC Secretariat’s Conservation Recommendations (Document IATTC-81-06b), Section 2 on bluefin tuna. As a secondary, fallback position, the U.S. delegation should support a conservation measure where all catches in both recreational and commercial fisheries are accounted for as part of the proposed commercial management measure in the Secretariat’s recommendation (“...during each of the years 2011-2012 to ensure that the annual catches in the Convention Area by the commercial vessels under its jurisdiction do not exceed the average level of such catches during 1994-2007”).

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Motion 29 carried unanimously.

Motion 30: Recommend to the U.S. delegation to the 81st IATTC meeting a position consistent with the three recommendations contained in the HMSAS Report which are:

1. The U.S. should participate in the ad hoc working group on defining current level of effort specified in paragraph 1 of IATTC Resolution C-05-02.

2. The U.S. should evaluate the best base periods for the U.S. fishing fleet to achieve the maximum percentage of harvest when compared to other nations that harvest North Pacific albacore.
3. The U.S. should not propose or endorse any changes to international management of North Pacific albacore until the 2010 stock assessment of North Pacific albacore is completed in 2011.

Moved by: Rod Moore
Motion 30 carried unanimously.

Seconded by: Mark Cedergreen

Motion 31: Reconsider the actions the Council took under Agenda Item I.6 for the purpose of adding the halibut trawl allocation adjustment issue as a trailing action priority item.

Moved by: Steve Williams
Motion 31 passed on a roll call vote (9 yes, 4 no). Ms. Culver, Ms. Vojkovich, Mr. Myer, and Mr. Cedergreen voted no.

Seconded by: Rod Moore

Motion 32: Add to the list of trailing amendment priorities in Ms. Vojkovich's previous motion (Motion 25), a fifth priority examining an adjustment in the overall halibut allocation (Item #7, page 12, of Agenda Item I.6.a, Attachment 2); the information to be presented to the Council in November should include a comparison between the existing IBQ allocation and the most recent halibut bycatch levels in the trawl fishery and the trawl bycatch amounts used by the IPHC in Area 2A.

Moved by: Steve Williams
Not voted on.

Seconded by: Rod Moore

Motion 33: Substitute for Motion 32: Direct Council staff to present information to the Council in November which would include a comparison between the existing IBQ allocation and the most recent halibut bycatch levels in the trawl fishery and the trawl bycatch amount used by the IPHC in area 2A.

Moved by: Frank Lockhart

Seconded by: Michele Culver

Amdnt #1: Specify that data be brought forward on the most recent 5 year period (2005 through 2009), since the most recent data we have is for 2009.

Moved by: Michele Culver
Amendment #1 carried unanimously. Motion 33 carried as amended. Ms. Vojkovich, Mr. Myer, and Mr. Sones voted no.
Motion 25, as amended through the reconsideration, passed unanimously.

Seconded by: Mark Cedergreen

Motion 34: Approve the September 2009 Council Meeting minutes (Agenda Item G.1.a, Supplemental Attachment 1) with the correction in Attachment 1 (correction and spelling out of "coefficient of variation").

Moved by: Rod Moore
Motion 34 carried unaimously.

Seconded by: Dan Wolford

Motion 35: Approve the Budget Committee Report recommendations found on page 2 of that report, concerning adjustments of the CY 2010 operational budget.

Moved by: Marija Vojkovich
Motion 35 carried unanimously.

Seconded by: Dorothy Lowman

Motion 36: Appoint Dr. Phil Levin to the NMFS Northwest Fisheries Science Center position on the Ecosystem Plan Development Team (replacing Dr. Mary Ruckelshaus).

Moved by: Frank Lockhart
Motion 36 carried unanimously.

Seconded by: Herb Pollard

Motion 37: Appoint Ms. Heather Reed to the vacant WDFW position on the GMT.

Moved by: Michele Culver
Motion 37 carried unanimously.

Seconded by: Dale Myer

Motion 38: Approve staff's proposed change to COPs 2 through 8 as shown on pages 2 through 3 of Agenda Item G.5, Situation Summary. The change basically requires a two-week notice to the Executive Director for approving an alternate for an advisory body member.

Moved by: Rod Moore
Motion 38 carried. Ms. Marija Vojkovich voted no.

Seconded by: Steve Williams

FISCAL MATTERS

The Council's Budget Committee will meet on Tuesday, September 13, 2011, at 3:30 PM 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, September 19.

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

John Coon
Dave Ortmann

PFMC
08/12/11

REPORT OF THE BUDGET COMMITTEE

The Budget Committee (BC) met on Tuesday, September 13, 2011 and received the Executive Director's Budget Report. The report covered: (1) a review of the calendar year (CY) 2010 audit report; (2) status of the CY 2011 operational budget and expenditures through July 31, 2011; (3) additional funding received by the Council since the June meeting; (4) a proposed revision to the operational budget for CY 2011; and (5) expectations for future funding. The BC attendance was as follows:

Members Present: Mr. Dave Ortmann, Chairman; Dr. Dave Hanson, Mr. Mark Helvey, Mr. Frank Lockhart, Ms. Dorothy Lowman, Mr. Dale Myer, Ms. Michele Culver, and Mr. Dan Wolford

Absent: none

Nonmembers Present: Dr. John Coon, Ms. Patricia Crouse, Mr. Donald Hansen, Dr. Donald McIsaac, Ms. Carolyn Porter, and Mr. Steve Williams

CY 2010 Audit Report

Dr. John Coon provided a brief overview of the audit report for CY 2010. The auditor's findings for the Council's financial statements were an unqualified approval with no reportable conditions or material weaknesses. With regard to Federal award conditions, the auditors noted one deficiency in internal control with regard to documentation of a sole source contract. Council staff responded to the auditor's finding to correct the documentation and prevent future occurrences.

CY 2011 Budget and Status of Expenditures

Overall expenditure of the CY 2011 operational budget is proceeding within normal expectations for the first seven months of the year. Staff will closely monitor expenditures to anticipate any future need for spending adjustments.

Additional CY 2011 Funding

Dr. McIsaac updated the BC on new funding received by the Council since the June BC meeting. He reported an additional \$600,000 had been received from the Northwest Region to help fund trawl rationalization trailing actions for CYs 2011-2013. He also noted \$410,000 has been received to carry out the facilitation of a national fishery management conference in October of 2012 in the Washington DC area; the Pacific Council was assigned the lead role for this effort by the Council Coordination Committee. No funds have been received to date in response to a request for supplemental funding for highly migratory species (HMS) management activities.

Proposed Revisions to the CY 2011 Budget

With the receipt of additional funding for trawl rationalization trailing actions and a national fishery conference in 2012, Dr. McIsaac proposed the CY 2011 operational budget be increased by \$50,000; bringing the total CY 2011 operational budget to \$4,798,877. Of the new funding, \$40,000 would be budgeted for contractual, meeting, and travel expenses for trawl rationalization trailing actions; and \$10,000 for contracting and initial planning activities to begin facilitation for the national fishery conference.

Preliminary Expectations for Future Funding

Dr. McIsaac reported that with the current state of the federal budget process, 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. Council staff will provide budget alternatives for 2012 at the November BC meeting with various scenarios to take into account a likely decrease in funding.

Budget Committee Recommendation

The BC recommends the Council increase the CY 2011 operational budget by \$40,000 for trawl rationalization trailing actions and \$10,000 for planning activities for the 2012 national fishery conference, resulting in a CY 2011 budget of \$4,798,877.

PFMC
09/16/11

MEMBERSHIP APPOINTMENTS AND COUNCIL OPERATING PROCEDURES

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

Council Members and Designees

The appointments to the 2011-2014 Council member term were announced in early June. Mr. Jeff Feldner was appointed to his first term as an at-large member and Mr. Rich Lincoln to his first term as the Washington obligatory member.

Standing Council Member Committee Appointments

At the April meeting, to fill vacancies by departing Council members, Council Chair Mark Cedergreen appointed Mr. Dale Myer, Ms. Dorothy Lowman, and Mr. Dave Ortmann to the Budget Committee. He also named Mr. Ortmann as Budget Committee Chair. No appointment has been made to the vacancy created by the departure of Mr. Rod Moore on the Legislative Committee.

Council Advisory Body Appointments

Scientific and Statistical Committee (SSC)

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

Management and Technical Teams

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

Advisory Subpanels

Ecosystem Advisory Subpanel (EAS)

Council staff solicited for nominations to replace a Washington at-large position on the EAS left vacant by the resignation of Mr. Merrick Burden. As of the August 10, 2011 deadline, we have received one nomination for Ms. Caroline Gibson, Northwest Straits Commission, Port Townsend, Washington (Closed Session A.1.a, Attachment 1).

Enforcement Consultants (EC)

LCDR Elisa Garrity has been designated to replace LT Steve Arnwine as the District 11 US Coast Guard representative on the EC (Closed Session A.1.a, Attachment 2).

Groundfish Allocation Committee (GAC)

Council staff solicited for nominations to replace the conservation position on the GAC left vacant by the resignation of Mr. Merrick Burden. As of the August 10, 2011 deadline, we have received one nomination for Mr. Shems Jud, Environmental Defense Fund, West Linn, Oregon (Closed Session A.1.a, Attachment 3).

Habitat Committee (HC)

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

Groundfish Essential Fish Habitat Review Committee (EFHRC)

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

Ad Hoc Council Committees

At the June meeting, the Council established a new ad hoc committee, the Cost Rationalization Committee, to advise the Council on the structural aspects involved in implementing the trawl rationalization program and the basis for cost recovery from the fishing industry participants. The Council Chair appointed the following members to the committee, which met in a webinar format on July 29: Randy Fisher (Chair), Dan Waldeck, Brent Paine, Dave Jincks, Brad Pettinger, Rod Moore, Michele Culver, Steve Williams, Marija Vojkovich, Frank Lockhart, Michelle McClure, and Vicki Nomura.

Unfilled Vacancies

The following vacancies remain unfilled with no nominations at the current time:

HC	Tribal government
LC	One Council member

Appointments to Other Forums

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

Changes to Council Operations and Procedures

At its June meeting, the Council approved revisions to Council Operating Procedure 19, Protocol for Consideration of Exempted Fishing Permits for Groundfish Fisheries. The revisions provide for a biennial rather than annual review and approval cycle for Exempted Fishing Permits.

Council Action:

Consider issues with regard to appointments and potential operational changes, specifically:

- 1. Consider the nomination of Ms. Caroline Gibson to a Washington at-large position on the EAS.**
- 2. Confirm the appointment of LCDR Elisa Garrity to the US Coast Guard 11th District position on the EC.**
- 3. Consider the nomination of Mr. Shems Jud to the conservation position on the GAC.**
- 4. Provide direction concerning the unfilled vacancies on the HC and LC.**

Reference Materials:

1. Closed Session A.1.a, Attachment 1: Nomination of Ms. Caroline Gibson to a Washington at-large position on the EAS.
2. Closed Session A.1.a, Attachment 2: Assignment of LCDR Elisa Garrity to the US Coast Guard 11th District position on the EC.
3. Closed Session A.1.a, Attachment 3: Nomination of Mr. Shems Jud to the nonvoting conservation position on the GAC.

Agenda Order:

- a. Agenda Item Overview
- b. Council Discussion of Personnel Issues

John Coon

PFMC
08/25/11

QUINULT TRIBAL SARDINE ALLOCATION REQUEST

The Quinault Indian Nation submitted a request to the National Marine Fisheries Service Southwest Region on August 31, 2011 for a 9,000 metric ton (mt) allocation of Pacific sardine in the 2012 fishing year (Supplemental Open Comment 6). The Coastal Pelagic Species (CPS) Fishery Management Plan provides framework guidance to accommodate such requests but does not provide specific procedural guidance.

In response to interest from the Makah Tribe several years ago, the Council established an ad hoc CPS Tribal Allocation Committee (CPSTAC). However, the request for an allocation never came to fruition and the CPSTAC never convened. The Council abolished the CPSTAC in 2010. At that time, the committee consisted of Phil Anderson, Steve Williams, Marija Vojkovich, Mark Helvey, Frank Lockhard, David Sones, and Don Hansen.

Should the Council wish to re-create the CPSTAC, it should also provide guidance regarding what will be expected of the committee. The Council Chair would then be responsible for appointing members of the committee.

PFMC
09/08/11

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 November 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 November 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 November 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, Attachment 2: Preliminary Proposed Council Meeting Agenda, November 1-7, 2011, Costa Mesa, 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
08/25/11

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>November 2011</u> (Costa Mesa)	<u>March 2012</u> (Sacramento)	<u>April 2012</u> (Seattle)	<u>June 2012</u> (San Mateo)	<u>September 2012</u> (Boise)
CPS	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) Part 1 of 2013-14 Bien Mgmt Mop-up Stk Assmnts & RB Anal (& Evening Stk Assmnt Briefing) Part 2 - 2013-14 Bien Mgmt (PPAs Range of Mgmt Meas) A20 Priority Trailing Issues: Refine & Complete (as appr) 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 A24: Scope New Process Pac Whiting Mgmt Meas. A20 further refinement	NMFS Report Inseason Mgmt BienSpx & Mgmt 2013-14 for Pub Rev (3) A20 Trailing Actions: PPA Review Initial EFH Report	NMFS Report Inseason Mgmt (2) BienSpx & Mgmt 2013-14 (2) Adopt Final Adopt Stk Assmnt Plan-Final Trlng Actions: PPA/FPA Final EFPs for 2013-14	NMFS Report Inseason Mgmt (2) Report on Results of Science Workshops A24: Preliminary Alts. for New Spx & MM Process Scoping of Further A20 Actions Progress Rpt on EFH
HMS	NMFS Report Consider Pac Bluefin Tuna OF Input to WCPFC	WCPFW Update on Albacore	NMFS Report	NMFS Report Scope Changes to Routine Mgmt Measures Internat'l RFMO Matters	NMFS Report Changes to Routine Mgmt Measures for Pub Rev
Salmon	2011 Method Rev.--Final (Inc. CRT Recom'dations) 2012 Preseas'n Mgmt Schd	NMFS Rpt 2012 Season Setting (6) Cons. Obj. Report Scoping of A17-EFH	NMFS Rpt 2011 Method Rev.--Identify & Include CRT Update 2011 Season Setting (3)	Adopt PPA for A17-EFH	NMFS Rpt Method Rev: Adopt Priorities
Other	Pac Halibut: Adopt Final CSP Habitat Issues Ecosystem FMP Dev Plan Integrated Ecosystem Asmnt Ocean Obsrv. Init. Rpt NS 10 (Safety) Proposed Rule 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)	Pacific Halibut (2) NMFS Enforcement Rpt Habitat Issues Routine Admin (8)
Apx. Floor Time	5.7 days	5.5 days	5.7 days	5.5 days	4 days

PRELIMINARY PROPOSED COUNCIL MEETING AGENDA, NOVEMBER 1-7, 2011 COSTA MESA, CALIFORNIA
(shaded items are tentative)

Tue, Nov 1	Wed, Nov 2	Thu, Nov 3	Fri, Nov 4	Sat, Nov 5	Sun, Nov 6	Mon, Nov 7
	A. OPEN SESSION 8 AM 1-4. Opening & Approve Agenda (30 min) <hr/> HIGHLY MIGRATORY SPECIES 1. NMFS Rpt (30 min) 2. Input to WCPFC (1 hr 30 min) 3. Status of Bluefin Tuna (1 hr) <hr/> SALMON 1. Adopt Final Methodology Changes for 2012, & advice for Col. River Tules (2 hr) 2. Preseason Salmon Mgmt Schedule for 2013 (15 min) <hr/> PACIFIC HALIBUT 1. Adopt Final Changes to 2012 Regs (30 min) <hr/> OPEN COMMENT 1. Comments on Non-Agenda Items (45 min) <hr/> CLOSED SESSION (1 hr)	ADMINISTRATIVE 1. Comments on Proposed Rule Implementing National Standard 10 Guidelines (Safety) (1 hr) <hr/> GROUNDFISH 1. NMFS Report (1 hr) 2. Approve Stock Assessments from Mop-up Panel & Rebuilding Analyses (2 hr) 3. 2013-14 Biennial Mgmt Process – Part 1: Adopt PPAs & FPAs for Mgmt Spx as per the Schedule (4 hr)	ADMINISTRATIVE 2. Ocean Observatories Initiative Report (1 hr) <hr/> HABITAT 1. Current Issues (30 min) <hr/> ECOSYSTEM MANAGEMENT 1. Integrated Ecosystem Assessment Report (1 hr) 2. Development of Ecosystem Fishery Mgmt Plan (3 hr) <hr/> GROUNDFISH 4. Further Direction on 2013-14 Biennial Mgmt Process – Part 1 as needed (1 hr) 5. Trawl Rationalization Priority Trailing Issues: Refine & Complete as Necessary (1 hr 30 min) <i>[Continues on Saturday]</i>	ADMINISTRATIVE 3. Legislative Matters (30 min) <hr/> GROUNDFISH 5. Continue Trawl Rationalization Priority Trailing Issues: Refine & Complete as Necessary (4 hr 30 min) 6. Consider Inseason Adjustments – Part I (2 hr) 7. Further Direction on 2013-14 Biennial Mgmt Process – Part 1 as needed (1 hr)	COASTAL PELAGIC SPECIES 1. NMFS Rpt (30 min) 2. Sardine Assessment & CPS Mgmt Measures for 2012 (4 hr) <hr/> GROUNDFISH 8. 2013-14 Biennial Mgmt Process – Part 2 (Adopt PPAs for a Range of Mgmt Measures (3 hr 30 min)	GROUNDFISH 9. Adopt EFP Recommendations: Final for 2012 & Preliminary for 2013-14 for Public Review (3 hr) 10. Consider Inseason Adjustments– Part 2, if needed (1 hr) <hr/> ADMINISTRATIVE 4. Approve Council Minutes (15 min) 5. Fiscal Matters (15 min) 6. Membership Appointments & COPs (15 min) 7. Future Meeting Agenda & Workload Planning (30 min)
	8 hr	8 hr	8 hr	8 hr	8 hr	5 hr 15 min
8 am Secretariat 8 am GAP & GMT 8 am HMSAS & MT 8 am STT 8 am SSC 2:30 pm Legislative Cm 3:45 pm Budget Cm 5:15 pm Chair's Brfg	8 am EC 8 am GAP & GMT 8 am HMSAS & MT 8 am SAS & STT 8 am SSC 7:30 pm Mop-up Stock Assmnt Briefing	As Needed EC 8 am GAP & GMT 8 am HC 6 pm Chair's Reception	As Needed EC 8 am CPSAS & MT 8 am GAP & GMT 8 am SAS & STT	As Needed EC 8 am CPSAS & MT 8 am GAP & GMT	As Needed EC 8 am GAP & GMT	As Needed EC

Agenda Item F.5.a
 Attachment 2
 September 2011

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)

	November 2011 (Costa Mesa)	March 2012 (Sacramento)	April 2012 (Seattle)	June 2012 (San Mateo)	September 2012 (Boise)
CPS	NMFS Rpt Sardine Asmnt & Mgmt Meas. Including Tribal Allocation	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) Part 1 of 2013-14 Bien Mgmt Mop-up Stk Assmnts & RB Anal (& Evening Stk Assmnt Briefing) Part 2 - 2013-14 Bien Mgmt (PPAs Range of Mgmt Meas) Whiting MC Summary of 2011 A20 Priority Trailing Issues: Refine & Complete (as appr) 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 A24: Scope New Process Shorebased Fishery Sum 2011 A20 further refinement Pac Whiting Mgmt Meas.	NMFS Report Inseason Mgmt BienSpx & Mgmt 2013-14 for Pub Rev (3) A20 Trailing Actions: PPA Review Initial EFH Report	NMFS Report Inseason Mgmt BienSpx & Mgmt 2013-14 (2) Adopt Final Adopt Stk Assmnt Plan-Final Trlng Actions: PPA/FPA Final EFPs for 2013-14	NMFS Report Inseason Mgmt Report on Results of Science Workshops A24: Preliminary Alts. for New Spx & MM Process Scoping of Further A20 Actions Progress Rpt on EFH
HMS	NMFS Report Consider Pac Bluefin Tuna OF Input to Intern'l RFMO	Report on Swordfish Mgmt Report on WCPFC Mtg Report on WCPFC & Update on Albacore Mgmt Strategy	NMFS Report Final Recmnds. For Bluefin	NMFS Report Scope Changes to Routine Mgmt Measures Internat'l RFMO Matters Including Albacore	NMFS Report Changes to Routine Mgmt Measures for Pub Rev
Salmon	2011 Method Rev.--Final (Inc. CRT Recom'dations) 2012 Preseas'n Mgmt Schd	NMFS Rpt 2012 Season Setting (6) Cons. Obj. Report Scoping of A17-EFH	NMFS Rpt 2011 Method Rev.--Identify & Include CRT Update 2011 Season Setting (3)	 Adopt PPA for A17-EFH	NMFS Rpt Method Rev: Adopt Priorities
Other	Pac Halibut: Adopt Final CSP Habitat Issues Ecosystem FMP Dev Plan Integrated Ecosystem Asmnt Ocean Obsrv. Init. Rpt Routine Admin (8)	Pacific Halibut (2) Incidental Halibut Ret'n. in LE Sablefish Fishery--PPA Habitat Issues NS 10 (Safety) Proposed Rule CMSP Update? 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)	Pacific Halibut (2) NMFS Enforcement Rpt Habitat Issues Routine Admin (8)
Apx. Floor Time	5.6 days	6 days	5.8	5.5 days	4 days

PROPOSED COUNCIL MEETING AGENDA, NOVEMBER 1-7, 2011 COSTA MESA, CALIFORNIA
(shaded items are tentative)

Tue, Nov 1	Wed, Nov 2	Thu, Nov 3	Fri, Nov 4	Sat, Nov 5	Sun, Nov 6	Mon, Nov 7
CANDIDATE AGENDA ITEMS 1. Legislative Matters (30 min) 2. Ocean Observatories Initiative Report (1 hr)	A. OPEN SESSION 9:30 AM 1-4. Opening & Approve Agenda (30 min) <hr/> OPEN COMMENT 1. Comments on Non-Agenda Items (45 min) <hr/> SALMON 1. Adopt Final Methodology Changes for 2012, & advice for Col. River Tules (2 hr 30 min) 2. Preseason Salmon Mgmt Schedule for 2013 (15 min) <hr/> PACIFIC HALIBUT 1. Adopt Final Changes to 2012 Regs (1 hr) <hr/> GROUNDFISH 1. Approve Stock Assessments from Mop-up Panel & Rebuilding Analyses (2 hr)	GROUNDFISH 2. NMFS Report (1 hr) 3. Adopt EFP Recommendations: Final for 2012 & Preliminary for 2013-14 for Public Review (2 hr) 4. 2013-14 Biennial Mgmt Process – Part 1: Adopt PPAs & FPAs for Mgmt SpX as per the Schedule (4 hr) <hr/> CLOSED SESSION (1 hr)	COASTAL PELAGIC SPECIES 1. NMFS Rpt (1 hr) 2. Sardine Assessment & CPS Mgmt Measures for 2012 (5 hr) <hr/> GROUNDFISH 5. Further Direction on 2013-14 Biennial Mgmt Process – Part 1 as needed (1 hr) – – 6. Whiting Mothership Cooperative Report on 2011 Season (1 hr) – – – –	GROUNDFISH 7. Trawl Rationalization Priority Trailing Issues: Refine & Complete as Necessary (6 hr) 8. Consider Inseason Adjustments – Part I (2 hr)	HABITAT 1. Current Issues (45 min) <hr/> ECOSYSTEM MANAGEMENT 1. Integrated Ecosystem Assessment Report (1 hr) 2. Development of Ecosystem Fishery Mgmt Plan (3 hr) <hr/> 9. 2013-14 Biennial Mgmt Process – Part 2 (Adopt PPAs for a Range of Mgmt Measures (3 hr 30 min)	GROUNDFISH 10. Consider Inseason Adjustments – Part 2, if needed (1 hr) <hr/> HIGHLY MIGRATORY SPECIES 1. Input to International RFMO (2 hr) 2. Initial Consideration of Input on Bluefin Tuna OF (1 hr) <hr/> ADMINISTRATIVE 3. Approve Council Minutes (15 min) 4. Fiscal Matters (15 min) 5. Membership Appointments & COPs (15 min) 6. Future Meeting Agenda & Workload Planning (30 min)
	7 hr	8 hr	8 hr	8 hr	8 hr 15 min	4 hr 15 min
8 am Secretariat 8 am GAP & GMT 8 am SAS & STT 8 am SSC 2:30 pm Legislative Cm 3:45 pm Budget Cm 7:30 pm Mop-up Stock Assmnt Brfg	8 am Chair's Brfg 8 am EC 8 am GAP & GMT 8 am CPSAS & MT 8 am SAS & STT 8 am SSC 6 pm Chair's Banquet	As Needed EC 8 am CPSAS & MT 8 am GAP & GMT	As Needed EC 8 am GAP & GMT 8 am HC 1 pm EAS & EPDT	As Needed EC 8 am EAS & EPDT 8 am GAP & GMT 8 am HC 1 pm HMSMT	As Needed EC 8 am GAP & GMT 8 am HMSAS & MT	As Needed EC

Agenda Item F.5.a
Sup. Attachment 4
September 2011

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON
FUTURE COUNCIL PLANNING AND WORKLOAD PLANNING

The Highly Migratory Species Advisory Subpanel (HMSAS) recommends to the Council that HMSAS meetings be dropped from September Council agendas. September is the heart of HMS seasonal fisheries and many cannot attend these meetings without serious financial burdens. HMSAS meetings should be held at November, March, April and June meetings unless important issues require a September meeting.

PFMC
09/14/11