



**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

**MINUTES OF THE 126<sup>TH</sup> COUNCIL MEETING of the  
WESTERN PACIFIC REGIONAL  
FISHERY MANAGEMENT COUNCIL**

March 14-17, 2005

Ala Moana Hotel  
410 Atkinson Dr.  
Honolulu, HI 96814

Western Pacific Regional Fishery Management Council  
1164 Bishop St., Suite 1400  
Honolulu, HI 96813

APPROVED BY COUNCIL: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'Uyeki', is written over the signature line.

CHAIR

Western Pacific Regional Fishery Management Council



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

**126<sup>th</sup> Council Meeting**  
**Minutes**  
**Ala Moana Hotel**  
**Honolulu, Hawaii**  
**March 14-17, 2005**

**TABLE OF CONTENTS**

<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
<b>1. Introductions .....</b>	<b>1</b>
<b>2. Approval of Agenda .....</b>	<b>1</b>
<b>3. Approval of 124<sup>th</sup> and 125<sup>th</sup> Meeting Minutes .....</b>	<b>1</b>
<b>4. Island Reports</b>	
A. American Samoa .....	2
B. Guam .....	3
C. Hawaii .....	6
D. Northern Mariana Islands .....	7
<b>5. Reports from Fishery Agencies and Organizations</b>	
A. Department of Commerce .....	10
1. National Marine Fisheries Service	
a. Pacific Islands Regional Office .....	10
b. Pacific Islands Fisheries Science Center .....	13
2. National Marine Sanctuary Program	
a. Pacific National Marine Sanctuaries Update ..	140
3. NOAA General Counsel SWR .....	17
B. Department of Interior - Fish and Wildlife Service .....	20
C. State Department .....	22
D. Report from the GBR Marine Park .....	24

**6. Enforcement/VMS**

A. USCG Activities ..... 34  
B. NOAA OLE Activities ..... 38

**TITLE PAGE**

---

6.B.1 OLE Report ..... 39  
C. Enforcement Activities of Local Agencies ..... 40  
D. Status of Violations ..... 41  
E. HI Shallow-set Operational Plan ..... 43  
F. American Samoa Limited Entry Program ..... 46  
G. Bottomfish Fishery Permits and Reporting Requirements ..... 47  
H. Update on Electronic Logbooks Amendment ..... 48  
I. Standing Committee Recommendations ..... 48  
J. Council Discussion and Action ..... 261

**7. Pelagic Fisheries (Domestic and International)**

A. Bigeye Overfishing Plan ..... 51  
B. Institutional Arrangements for Pelagic Management in the WCPO .....110  
C. Am. Samoa & Hawaii Longline Fisheries ..... 69  
    1. 2004 Third and Fourth Quarter Reports ..... 69  
    2. Shallow-set Longline Set Definition ..... 77  
    3. Proposed Changes to Hawaii-based Longline  
        Fishery Closed Area ..... 79  
D. International Issues  
    1. Precon 7/WCFMC1 ..... 91  
    2. FAO Technical Consultation on Turtles ..... 88  
    3. FAO/COFI ..... 95  
    4. Sea Turtle Mitigation ..... 86  
    5. IFF3 ..... 96  
E. Recreational Fisheries  
    1. HMRFS Workshop ..... 96  
F. Pelagic Ecosystem Modeling ..... 88  
G. Sea Turtles  
    1. Biological Opinions and Section 10 Permits .....100  
    2. Results from First Year of Conservation Measures ..... 104  
    3. Vision for the Future ..... 105  
    4. Report on Sea Turtle Workshops:  
        Loggerhead turtle, Bayesian Belief Network, FP Workshop .. . . . . 106  
    5. Second Turtle Advisory Committee Meeting ..... 106  
H. Marine Mammals ..... 108, 257  
I. Petition to List Black-footed Albatrosses Under the ESA ..... 109  
J. Plan Team Recommendations ..... 115  
K. SSC Recommendations ..... 57,115  
L. Standing Committee Recommendations ..... 116,234

**TITLE** **PAGE**

---

M. Public Hearing ..... 117  
 N. Council Discussion and Action ..... 117, 234, 258

**8. Observer Programs**

A. Report on the Native Observer Program .....134  
 B. Report on the NWHI Bottomfish Observer ..... 136  
 C. Report on the Hawaii Longline Observer Program ..... 137  
 D. Report on the American Samoa Observer Program ..... 138

**9. Insular Fisheries**

**A. Bottomfish Fisheries**

1. CNMI Bottomfish Management ..... 122  
 2. Bottomfish Final EIS .....124  
 3. Status of Guam’s 50/50 Measure .....124  
 4. SSC Recommendations .....128  
 5. Standing Committee Recommendations ..... 130  
 6. Public Hearing ..... 133  
 7. Council Discussion and Action ..... 133

**B. Precious Coral Fisheries**

1. Update on Black Coral Research ..... 220  
 2. Precious Corals Draft EIS ..... 220  
 3. SSC Recommendations ..... 220  
 4. Standing Committee Recommendations ..... 220  
 5. Public Comment ..... 220  
 6. Council Discussion and Action ..... 221

**C. Crustaceans Fisheries**

1. Update on Crustaceans Research .....221  
 2. Crustaceans Draft EIS .....231  
 3. SSC Recommendations .....231  
 4. Standing Committee Recommendations .....232  
 5. Public Comment ..... 231  
 6. Council Discussion and Action .....232

**D. Ecosystems and Habitat**

1. NWHI Sanctuary Fishing Regulations ..... 142  
     a. Process and Alternatives .....149  
     b. Impact Analyses ..... 155  
     c. Report on Public Meetings ..... 159

2. NWHI Science Symposium Report .....	161
3. Hawaiian Archipelago Research Program Update .....	163
4. Status of NWHI Reserve and Sanctuary Designation .....	165
5. Ecosystem Based Fishery Management	
a. Update on Ecosystem Research .....	167
c. Update on Council Ecosystem Workshop .....	169
d. Update on Mariana Archipelago FEP Pilot Project .....	171
e. Update on Programmatic EIS for FEPs .....	172
f. Draft MPA Objectives and Criteria .....	172
6. Shark Viewing .....	174
7. Coral Reef Plan Team Recommendations .....	177
8. SSC Recommendations .....	180
9. Standing Committees Recommendations .....	182
10. Public Hearing .....	183
11. Council Discussion and Action .....	189

## **10. Fishery Rights of Indigenous Peoples**

A. Community Demonstration Projects Program	
1. First Solicitation Reports	
a. Paepae He`ei`a Kea Project .....	199
b. Moloka`i Aku Fishing Training Project .....	202
c. Guam Longline Fishing Experiment .....	203
d. Remote Island Fishing Station .....	205
2. Second Solicitation Report .....	207
3. Third Solicitation Report .....	207
B. Update on Guam Community Development Program .....	207
C. FAO/SPC/Council Coastal Fishery Management Workshop .....	210
D. American Samoa Marine Conservation Plan .....	210
E. Standing Committee Recommendations .....	211
F. Public Comment .....	212, 217
G. Council Discussion and Action .....	215, 218

## **11. Program Planning and Budget**

A. Update on Legislation .....	239
B. Status of Hawaii \$5 Million Disaster Funds for Federal Fisheries .....	242
C. Building Community Networks .....	240
D. WpacFIN .....	243
E. NEPA Activities .....	245
F. Programmatic Grants Report .....	246
G. Administration Response to the Ocean Commission Report .....	251
H. Marine Debris Disposal Facility Project .....	252

**12. Administrative Matters**

A. Financial Reports ..... 254  
B. Administrative Report ..... 254  
C. Meetings and Workshops ..... 255  
D. Advisory Group Changes  
    1. SSC changes ..... 256  
    2. Advisory Panel Changes ..... 256  
    3. Working Group Changes ..... 257

**13. Other Business ..... 263**



**126th COUNCIL MEETING  
OF THE  
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL  
MINUTES  
Honolulu, Hawaii  
Ala Moana Hotel**

Tuesday, March 15, 2005 through Thursday March 17, 2005

Roy Morioka, chair, formally opened the 126<sup>th</sup> meeting of the Western Pacific Regional Fishery Management Council (WPRFMC, or Council) on March 15, 2005.

**1. Introductions**

Morioka welcomed all participants and had each member introduce themselves. Present were: Bill Gibbons-Fly, Director of the Office of Marine Conservation and Department of State; Commander Dwight Mathers, US Coast Guard(USCG), District 14; Stephen Haleck, American Samoa; Ed Ebisui, Council member, Hawaii; Francis Oishi (representing Peter Young); Sean Martin, Council member, Hawaii; Adrienne Loerzel, Council member from Guam; Manny Duenas, Guam; Kitty Simonds, the Executive Director; Frank Farm, Hawaii; Frank McCoy, American Samoa; Ben Sablan, Commonwealth of the Northern Mariana Islands(CNMI); Ray Tulafono, Council Member, American Samoa; Richard Seman, Council member, CNMI; Bill Robinson, National Oceanic and Atmospheric Administration(NOAA) Fisheries Service, Pacific Islands Region; Craig Severance, SSC rapporteur; Judson Feder, NOAA Office of General Counsel; Don Palawski, U.S. Fish and Wildlife Service(USFWS); and Roy Morioka, Council Chair.

**2. Approval of the Agenda**

Morioka detailed the following agenda changes:

- Agenda Item 5.A.2, 2.A, Pacific National Marine Sanctuaries update by Allen Tom would follow Item 9.C, the Crustaceans Fisheries on Wednesday. Pacific National Marine Sanctuaries update would be followed by a GIS update by Evan Weinberg.
- Item 7, Pelagic Fisheries, Domestic and International, Item D.1, under Prep Con 7 and Western and Central Pacific Fisheries Commission, Bill Gibbons-Fly and Bob Skillman would report. Simonds suggested that the commission be referred to as the Honolulu Convention since the name was so long and the treaty was concluded in Honolulu (other parts of the world have adopted similar naming).

**3. Approval of 124<sup>TH</sup> and 125<sup>TH</sup> Meeting Minutes**

Morioka asked for a motion to approve the 124<sup>th</sup> and 125<sup>th</sup> meeting minutes. The motion was moved, seconded and approved.



## **4. Island Reports**

Tulafono referred the members to the report at 4.A.1.

### **4.A. American Samoa**

Pelagics and Bottomfish: Offshore creel surveys covering recreational, subsistence and commercial boat-based fisheries continue. Sampling is done three days per week and the sampling period is from 5 o'clock in the morning to 9 o'clock at night and sometimes adjusted to catch the boats coming in after that time.

Tulafono referred to three charts that summarized the offshore survey: catch by month, by method; catch by pound, by method, by year; and the last from October to December of '04 by year.

They are working very closely with their legislature and Congressman to resolve the IRS Section 936 issue, trying to prevent the possibility of the canneries leaving American Samoa. If not resolved, it is almost guaranteed that the canneries will leave American Samoa. They hope to resolve this issue in the very near future.

Enforcement: The enforcement of local Fish and Wildlife regulations continues with very close work with the NMFS Office of Law Enforcement in American Samoa in reporting of fishing boats and other assistance that the enforcement officers are asked to help with.

The importation of shark fin to the territory is one case currently under investigation and being monitored closely.

Ecosystem and Habitat: The inshore creel survey continues and they are currently working very closely with West Pac FIN. Tulafono recognized Dave Hamm and his staff for the work that's been done in American Samoa.

New forms have been created for the inshore creel survey to collect more of the data they need. The sampling method was modified and a new survey schedule with randomly selected areas was implemented last October.

The creel survey in the Manua Islands is being reactivated after two years due to the importance of the data.

The palolo survey was a huge success this year. Palolo, a delicacy of the islanders in American Samoa, had a large catch this past year. The final report on that survey will come out very soon.

MPA: Community-based fisheries management program continues with meetings of seven or eight villages, who participate in the community-based program. This program has been going on very well. Three or four other villages have expressed an interest in being part of the program.

FADs: No FADs have been deployed. While American Samoa did not get a direct hit by Hurricane Olaf, the Manua Islands did. They are ready to deploy their FADs, but are waiting until the end of the hurricane season.

Other issues, Hurricane Olaf: The main island of Tutuila did not receive a direct hit; however the Manua Islands have been devastated. They are with FEMA and other federal agencies to help the Manua Islands. During the hurricane there was a boat from Western Samoa capsized and two of the fishermen have been reported missing and presumed dead.

Morioka asked the Council members for questions.

Farm asked if any of the existing FADs survived the hurricane.

Tulafono replied no, there were waves up to about 30, 40 feet. None of the FADs survived.

Morioka asked if there were groundings of any vessels.

Tulafono said that there were just the two from Western Samoa.

Morioka asked for further comments?

Martin asked if the Council could lend support to assist in the repeal of the act Tulafono mentioned, maybe a letter of support. If the canneries choose to leave American Samoa it would be devastating to the industry and to the economy of the island itself.

Tulafono thanked Martin and said that any support the Council could provide would be very helpful since the two canneries in American Samoa employ the majority of the workforce.

Morioka asked Tulafono to bring the issue up during Administrative Matters on the last day so the Council could take action.

Morioka asked for further comments or questions. Hearing none, he moved on to Guam's Island Report.

#### **4.B. Island Reports - Guam**

Duenas began with Pelagics and noted that mahimahi and wahoo were being harvested. There have been a lot of shark interactions in recent months both with surface troll and bottomfish fisheries.

Yellowfin and skipjack has been rather scarce, however, there have been reports of yellowfin catches of 50-pound and 100-pound classes.

Extremely rough sea conditions occur periodically during this season.

On the consumer side, the Fishermen's Co-op and its staff have been working hard at diverting consumer taste from the much-prized reef resource to the troll fishery products.

**Bottomfish:** There have been poor fishing conditions and interaction with a lot of sharks. There was more interest in the community to establish community-based fishery management programs for the offshore banks.

**Spearfishing:** There has been more rough water and while on the decline, the catch rates have been maintained.

**Surveys:** Surveys are still being conducted to evaluate the spillover of the MPAs on Guam. MPAs cover 20 percent of the island. The integration of inshore and offshore species determines the species that are involved in the areas. Duenas thanked the Council for assisting in the development of a program to get the inshore database up to date.

**Enforcement:** The Conservation Officer Reserve Program (Public Law 27-87) is being introduced on Guam to assist in monitoring the fishing zones and the land-based issues.

**DAWR** continues work on a citation system. It has been in process for three years and will hopefully get done this year.

They are also updating the fishing regulations, with the help of fishermen, to determine the size of juvenile and nonjuvenile species that are being harvested.

**FADs:** There are two FADs offline due to heavy seas. Eight shallow-water moorings, largely used by charter companies and recreational groups, have been reinstalled to alleviate damage to the coral reefs around Guam.

**Coastal reef areas:** Laurie Raymundo has identified several coral disease syndromes that have yet to be worked on.

The White Syndrome, a disease from other places in the Indo-Pacific, such as the Great Barrier Reef, was recently observed affecting several colonies of two species of *Acropora* at Double Reef.

Two different types of tumors affecting massive *Porites* colonies have been discovered at Luminao Reef. They are working on this invasive species problem.

A working group of the Coral Reef Initiative Coordinated Committee completed its work on the Status of Coral Reef Ecosystems in the Freely Associated States of Micronesia.

**Noncommercial, community-based fishery:** Fishermen in the last meeting here asked that the Fishery Council address the issue of a community-based fishery and allow these communities to manage the offshore banks on an experimental scale.

Fishing tournaments: The 10th Annual Guam Marianas International Fishing Tournament will be held on June 25<sup>th</sup>, after the annual Fishermen's Festival being on June 18<sup>th</sup>.

Last year nearly 1,000 people attended the Fishermen's Festival. An environmental cleanup that worked with the Coastal Zone Management Program was added to the program. It was very successful and a greater success was expected this year.

Duenas suggested that the Council schedule a meeting during that time to see the work with the community on Guam.

This year's Fishermen's Festival will include a speardivers fish competition sponsored by the Marianas Underwater Fishing Federation, who participated in the North Shore Fishing Tournament recently.

The Fishermen's Cooperative sponsored a 100 Day Fishing Derby. Prior to the annual fishing derby, it allows fishermen of the association to compete amongst themselves and make a little extra money to pay for the derby entrance fee.

DAWR Kid's Fishing Derby is being planned for this summer for kids seven to twelve years old, teaching them to tag and release. With the help of the Hawaii DAR, we have worked out a tag and release program using the Hawaii tags from the Ulua Tagging Program.

New Initiatives: The Port Authority of Guam has a \$30 to \$60 million project for modifications of Apra Harbor to increase the berthing facilities down at the port. Homeland Security has divided the port into a lot of little sections that has created issues with fishing people involved with the foreign fishing fleet, the cruise liners and the cargo handlers trying to offload at the same time. There are only two small piers, so if there is a cruise ship in dock, a fishing boat has to wait for three days until the cruise ship leaves. Or a container ship offloading with cause a cruise ship to wait for a few days. The government has been forced to spend a lot of money in trying to design a new wharf to alleviate this concern.

Marine Education Initiative: In conjunction with the Fisherman's Festival, the Fishermen's Cooperative with the Coastal Zone entity is establishing collection points for waste oil, used batteries and coolants.

Safe Boating Week: Is scheduled for April. The Coast Guard Auxiliary is a partner in this event to get boaters involved in safe boating activities.

Coco's Swim: This annual swim involves about 300 participants, local and international. The Fishermen's Co-op again has volunteered its services to assist in the setup and the safety requirements of the swim.

An AP scoping meeting hosted by the Fishermen's Co-op was held in January. Over 30 fishermen attended this scoping meeting.

Marine Education Initiative continues. Participation in Island Pride and Environment Outreach is a main concern of the Fishermen's Co-op, who is working with the Coastal Zone, EPA and all the other agencies involved in this area. An in-flight video, Kika Clearwater, has been produced to provide incoming visitors with six-minutes about maintaining and handling Guam reefs.

Duenas showed a picture of a longline vessel recently purchased by the Fishermen's Cooperative through the Community Demonstration Projects Program. It took about eight months to acquire this vessel. In the photo the members were scraping the bottom of the boat and collected about 400 pounds of oysters. He noted that this might have been a better project than the longline vessel.

The longline is a 60 foot Yamaha-type built boat with 14 fish holds in the front. A live bait boat, she has 14 compartments on the forward section. Each compartment has the ability to be filled with water and has a drain port on the side. There are a lot of the bulkheads and departments to be dealt with. The Coast Guard was not too comfortable having a boat that will sink on its own. All the holes will be plugged and it will be safe. Sean Martin from POP is assisting them on this project.

Guam Volunteer Data Collection Project: This project continues to progress forward. More fishermen are receptive to the program. They actually get excited about how much they keep, or how much interaction they have with other species, such as sharks. These are mainly pelagic sharks, not coastal reef sharks.

Council staff, John Calvo and Charlie, continue to monitor the longline project. The Council staff also facilitated a CDP Application Workshop with about ten people attending that workshop.

Morioka asked for any questions. Hearing none, he called on Francis Oishi to do the Hawaii Island report.

#### **4.C. Island Reports - Hawaii**

Oishi directed the members to Item 4.C.1.

In the study of black corals, the Department of Aquatic Resources conducted 18 days of fieldwork collecting data on size distributions on black coral species. The data is being compiled and compared to historical data to determine changes in the fishery. A more detailed presentation is planned for the Precious Coral Section in the Council's agenda.

The DLNR has proposed a Northwestern Hawaiian Islands Marine Refuge for states waters and held public hearings in July 2004. Over 24,000 comments were received. Comment analysis and rule language revision based on those comments have been completed. Legal review of these changes is the next step.

The Hawaii Marine Recreational Fishery Survey Project continues to generate recreational fishing effort data. From January 2004 to January 2005 a total of 1280 angler intercepts were completed. The data was processed and submitted to NOAA Fisheries Statistics and Economic Division. The Division of Aquatic Resources also recently hired a new project coordinator for that project.

The ulua tagging project is in its fifth year. In 2004 there were 1341 volunteer angler taggers with 17,335 fish tagged and 2476 recoveries. The data seems to indicate that this year the growth rate of omilu, or the blue jack, was below rates seen in previous years. This may be attributable to the low density of normal prey items.

DLNR saw the publication of the Marine Protected Area newspaper insert on March 9th in the Honolulu Advertiser. The publication's intent was to make information available to the public on Marine Protected Areas; what they are, what they are not. So far it's been well received. It is on DLNR's website.

Morioka asked for questions or comments.

Farm remarked that the last few months have been slow for fishing, that there is only ono and mahimahi around. The free divers held United States Nationals in Hawaii this past year and the Guam delegation had a good showing. There were some 98 competitors from across the country that came. This sport is not without risk; there was one fatality with a shallow-water blackout.

Ebisui noted that he had reported at the 124th Council Meeting what appears to be a trend in increasing of sightings of sharks along the North Shore. A few months ago at Rocky Point, which is very close to the Sunset Beach area, a short boarder was bumped off his board and the shark bit his board.

He had done some fishing in the same area where the shark tour operators are. Within no more than an hour and a half there were four interactions with four different sharks.

The recent weather has been a very limiting factor for the small boats off the North Shore, not very many boats are venturing out. They have limited activities to bottomfish only, not trolling or anything else.

The swordfish fishery here is active. There are probably between 10 and 15 boats active in the fishery now.

Morioka asked for comments, questions. Hearing none, he moved on to the CNMI report.

#### **4.D. Island Reports - Commonwealth of the Northern Mariana Islands**

Seman directed the members to Item 4.D.1.

On February 24th the U.S. Court of Appeals of the Ninth Circuit Court upheld the U.S. District Court ruling that the federal government owns the CNMI submerged lands. In other words, the CNMI has no state waters. The court ruling puts an end to the summary stay granted by the U.S. District Court that allowed the CNMI to enforce its fishing statutes and regulations during the appeal process. The CNMI government can still appeal the Ninth Circuit Court's ruling to the Supreme Court or take this matter up during the 902 Negotiations.

The Division of Fish and Wildlife Conservation Officers made four arrests from January to present. The arrests were for harvesting corals and trochus, turtle take and illegal fishing at a sanctuary. All four cases are awaiting administrative proceedings. The maximum penalty for each illegal activity is \$1,000 or imprisonment, or both.

The Division of Fish and Wildlife has procured 12 FADs, which will be ready for deployment this summer. These FADs will replace the ones deployed earlier, that are now gone due to the series of typhoons last year.

The Department of Land and Natural Resources is assisting the Saipan Fishermen Association in hosting the Mahimahi Jackpot Fishing Derby, to be held in April.

Two of the Fish and Wildlife's personnel are being trained by Dr. George Balaz here in Honolulu on turtle tagging and monitoring activities. The training is part of the CNMI Turtle Research Project. The project has been in the works for some time, but is moving and will be in full operation once the Endangered Species permit has been issued.

Morioka asked the members for questions.

Simonds inquired what the government would do about the courts' decision.

Seman replied that they had missed a 14 day deadline to the Appeals Court to have it reheard. The next option is to appeal to the Supreme Court; there are 90 days to do so with a deadline of May 27th. The Lieutenant Governor at the time the ruling was made was contemplating taking it through 902 Negotiations, which would be the only option if the CNMI does not file the official appeal by May 27th.

Simonds noted that another option would be to require the legislation introduced in the Congress to include the Territories.

Seman noted that the biggest problem is who is going to enforce any marine regulations, local or federal. The summary stay approved by the U.S. District Court is only for the appeal period. The appeal has been made, so now it is null and void. They were worried about other types of activities that may occur, such as destructive methods.

Simonds asked if they had an agreement with the USCG, right, and the National Marine Fisheries Service (NMFS)?

Seman replied, yes, however it is within the three miles, the coastal area.

Simonds asked if there was a reciprocal agreement.

Mathers noted that the EEZ starts as the baseline, jurisdiction from the baseline out to 200 miles.

Seman remarked that they were not there.

Mathers noted that the USCG is there as much as they are able. The Galveston Island and the Sequoia were both there on patrol. However, there are no vessels home-ported there.

Seman explained that they were worried about the beach.

Simonds suggested that a letter be written to the Director of the Department to explain the dilemma and to request that enforcement be beefed up for the Marianas Archipelago.

Sablan asked to add that even if the USCG presence is in Saipan, or anywhere in the CNMI, enforcement would be diminished the USCG has no regulations to enforce except boating safety. He did not feel the Coast Guard would be able to enforce the State fisheries regulations.

He proposed that the Council look into the demise of enforcement capability with regards to fishing regulations inshore, the zero to three miles. He was working the staff to come up with amendments for that matter, so that the Council would continue with the three mile Territorial waters.

Morioka noted that would be discussed with Agenda Item 6, Enforcement and VMS.

Sablan offered any interested council members a copy of the decision of the Ninth Circuit Court.

The villagers of Tanapag are excited about the idea of a Village MPA. They were hoping the traditional Carolinian chief would get all the people together and accept a village MPA from the bottom up, rather than the top down.

The village has been highly contaminated with carcinogens such as PCB, heavy metals and all the military arsenic that were dumped on both sides of the creeks which border the village. The village remains in the center of these two creeks. They felt that those contaminants have contributed to the demise of the coral reef bordering the Village of Tanapag.

Morioka wished them good luck on the project. He offered his apologies to the Council members from American Samoa and asked if they had anything to add to the report?

McCoy offered that the offshore albacore fishing has been slow with six hurricanes tracking down in the same area.



There was one more death at sea that wasn't part of the report and brought to light the need for safety equipment on boats and regular Coast Guard inspections, especially for carrying observers.

Fuel costs continue to be high and some of the fishing fleet was damaged. The New Zealand group and the Coast Guard spent quite a bit of time looking for some of the missing people.

Haleck added that he wished to recognize the USCG vessel Polar Star and Swains, who were transported food and aid to the Manua Islands.

Morioka asked for further questions. Hearing none, he moved on to Agenda Item 5, Reports from Fishery Agencies and Organizations and the Department of Commerce, National Marine Fisheries Service.

#### **5.A.1.a. Report from NMFS Pacific Islands Regional Office**

Robinson began with the Pacific Islands Regional Office transition. Mr. Walter Ikehara from the State of Hawaii has joined PIRO as the head of the Fishery Information and Permits Program, with responsibilities including issuing federal limited access permits, the longline shallow-set certificates and High Seas Fisheries Compliance Act permits. He will also lead the Fishery Information System Projects.

Mr. Keith Schultz, who will be the lead for review of all the Environmental Impact documents associated with fisheries management, is from the Northwest Region and has joined the staff. Keith will add a lot to the Sustainable Fisheries Division.

There has been one resignation and one transfer from Sustainable Fisheries to another office within PIRO and one person on academic leave. So the Sustainable Fisheries group is still not at full strength.

As they recruit, they are catching up on backlogs and sticking to agreed-upon schedules.

Brandee Gerke has also joined PIRO as the Sea Turtle Coordinator. She is beginning with a tough assignment, the reinitiation of Section 7 Consultation on sea turtle interaction in the longline fishery.

The Protected Resources Division headed up by Tamra Faris is being reorganized. The regulatory activities have been moved to the regulatory branch with a separate supervisor and the marine mammals activities, including marine mammal strandings, working with the Council's Marine Mammal Advisory Committee and all of the other growing fishery interaction and marine mammal issues have been moved into a separate branch. Chris Yates will head the Marine Mammal Branch of Protected Resources.

Sarah Malloy in Protected Resources Division has transferred over into the Marine Mammal Branch. An FTE from the Regional Director's Office was moved to Marine Mammal Branch to hire a full-time Marine Mammal Stranding Coordinator.

In the NEPA arena, Council and Regional Office staff attended a three-day workshop on identification and selection of alternatives under NEPA. The NEPA coordinator and staff participated in an Alaska Region-sponsored workshop focused on Programmatic NEPA document.

Based on their feedback from that meeting and his experience with Programmatic EIS, he felt that until Programmatic EIS could be relied on to provide NEPA analysis, or at least provide the foundation for tiering down to Environmental Assessments or lesser documents, Programmatic EIS is somewhat limited in utility and value. The experience in Alaska with Programmatic EIS showed they still had to do a separate and distinct EIS on almost each and every regulatory action.

Sustainable Fisheries Fishery Management Actions: Work with the Council staff is nearly about complete to update the Final Environmental Impact Statement for the Bottomfish and Seamount Groundfish FMP. The EIS is back in Headquarters and should be published in early April.

The Final Environmental Impact Statement for the Pelagics FMP for the seabird interaction and avoidance methods and the Pelagics Squid Fishery Management should also be complete in early April.

Review comments on the Crustaceans and Precious Corals DEIS, on the proposed regulatory amendment establishing a bottomfish closed area for large vessels, and the regulatory amendment have been provided to the Council staff.

The final rule for implementing Amendment 11 to the Pelagics FMP, the American Samoa longline limited access program has been signed and submitted to Headquarters for final approval and publication in the Federal Register. The rule was delayed due to failure by the Main NOAA to transmit the appropriate Paperwork Reduction documents to OMB for review.

They are beginning Secretarial review on the Comprehensive FMP for amendments for bottomfish and seamount groundfish, crustaceans and precious corals in the Commonwealth of the Northern Mariana Islands and the Pacific Remote Island Areas.

A notice was published in the Federal Register on February 22nd announcing the no-harvest guideline for the lobster fishery coming out this year.

Permits Program: Eight Northwestern Hawaiian Islands bottomfish permits, 120 longline permits, and 28 general longline permits have been processed. Since September, when the issuance of the High Seas Fisheries Compliance Act permits was switched from the Southwest Region to the Pacific Islands Region, six of those permits have been issued.

Robinson indicated that today was the deadline for the governors of the islands and territories to submit their nominations for Council members. Two Council members were completing three full terms.

He deferred discussion of International Fisheries related to Prep Con 7 and the first meeting of the Western and Central Pacific Fisheries Commission to Mr. Gibbons-Fly under Pelagics.

Protected Resources Division: Formal consultation was initiated under Section 7 since the last meeting for the Hawaii-based deep-set tuna longline fishery based upon the take in that fishery exceeding the incidental statement from olive ridley turtles. They are working with the Council and HLA, who are applicants in the case. They have worked out a schedule and are working with the Science Center to provide the underlying science to complete that consultation.

Under the ESA the consultation period is 90 days with an additional preparation period of 45 days, if needed. Based upon a re-initiation date of February 17th, we'd be looking at concluding it on July 2nd. However, the consultation can be extended by agreement with the applicant if it becomes necessary to do so. It was probably too early to say what the final time frame will be on that.

The State of Hawaii has applied to NOAA Fisheries Service for an incidental take permit pursuant to Section 10 of ESA to address interactions between protected species and nearshore fisheries in the Main Hawaiian Islands. Currently, an EIS is being developed to support that.

There have been a number of marine mammal incidents, which were all resolved.

Habitat Conservation: A joint State of Hawaii, Fish and Wildlife Service and NMFS team have been working together to do damage assessment and do restoration activities due to the grounding of the Cape Flattery. They've been diving for several weeks re-cementing broken-off coral heads. The extent of the damage is quite extensive.

Observer Program: A full report on the observer program would be provided later in the agenda. Since the Council's last meeting 20 observer trainees have successfully completed training. They were all certified and have been deployed. Another class started yesterday.

A bottomfish observer training class scheduled for ten trainees will start shortly. Observer program expertise was provided to the South Pacific Forum Fisheries Agencies in Majuro. They have also been asked to participate in FFA observer training in Pohnpei, Federated States in Micronesia.

Robinson expressed his gratitude to Haleck, McCoy and Tulafono for the wonderful hospitality on a recent visit to American Samoa. They were very generous in showing him around and helping him understand some of the issues down there.

Morioka asked the members for questions.

Martin asked Robinson to elaborate on a public announcement that NOAA was going to relocate to Ford Island.

Robinson noted that the relocation and consolidation of most of the offices on Oahu in a single facility on Ford Island had been announced at a Line Office staff meeting with Headquarters and NOAA staff. The preliminary planning has been done and if funded, the completion and move-in date is somewhere around 2010.

The Science Center is also very interested in having a waterfront satellite office to serve the commercial fishing fleet on the waterfront. They are negotiating with NOAA Headquarters Chief Administrative Officer to try to get permission to secure some space down at the commercial fishing village at Pier 38. The negotiations are not going well, but they are hopeful that there will be a break through and they will have an office where they can provide observers and scientist support and interact with the commercial fishing fleet right.

Morioka inquired that given national security issues and the location of Ford Island, what sort of access arrangements have been made for the public?

Robinson responded that he was not sure of any arrangements made yet, but considerable development was planned on the island, shops and stores, along with additional housing, and that there would be changes and a means for people to access the island. He expected some level of security with employees having bumper stickers or I.D. cards and the public having to get visitor passes as they start across the causeway. But he was not really aware of the details yet.

There was some concern about non-nationals, in particular, visiting scientists and how easily they would be able to the facility given the security arrangements.

Simonds noted that the public can hardly access the offices now and housing for visiting scientists is currently a problem. Traffic to and from Ford Island is an issue as well.

Morioka said he didn't think the causeway was built for regular traffic. But he was sure that the powers had considered all those things.

Morioka called on Pooley to provide the report from the Pacific Fisheries Science Center. He also noted that the Center did a great job on the Northwestern Hawaiian Islands Scientific Symposium.

#### **5.A.1.b. Report from NMFS Pacific Islands Fisheries Science Center**

Pooley noted that he was also pleased with the Symposium and that it was a collaborative effort by lots of people. Gerard DiNardo and Frank Parrish of the Center did a good job, especially with the rollout of 25 years of science that the public could see. There was also a public outreach event that the Council helped facilitate that will be discussed later.

The Science Center has the opportunity to do cetacean research, which it didn't have before. Dave Johnston, a cetacean biologist, is part of the staff and has already made links with the Humpback Whale Sanctuary people at NOS. He was talking to Paul Dalzell about the Council's Marine Mammal Mitigation Workshop. They will be sponsoring a Marine Mammal Research Workshop later this summer to set up that program and to see where to go in terms of a variety of cetacean issues, including how to measure stock abundance in the region, how to deal with mitigation of fishing effects, and behavioral issues concerning programs like Swim With the Dolphins.

It has been almost two years that two researchers put out a note to the Journal of Nature on the decline of top predator species, primarily pelagics in the Pacific. It was quite alarming. His staff, along with staff from the SPC, Pelagics Fishery Research Program, IATTC and others, have reviewed that paper, reviewed the evidence and submitted a rejoinder to Nature, which has been accepted for publication. It has not been published. Nature is very strict about its pre-publication embargoes. This represents the collaborative work in the pelagic arena.

The research vessel Oscar Elton Sette just completed its usual cruise around the Main Hawaiian Islands to look at coral reef ecosystems, do the rapid ecological assessments and spent several days on the Cape Flattery grounding site to work with State of Hawaii biologists. The Oscar Elton Sette was currently cruising around the Main Hawaiian Islands doing billfish larval surveys.

Pooley has just returned from the Science Board held Pascagoula, Mississippi. VT Halter is located there and is where the NOAA research vessels are built. The Bigelow, a huge deep-draft vessel, was on the blocks and will be in the Northeast Fisheries Science Center. Its twin, the Dyson, was just launched and delivered to the Alaska Fisheries Science Center.

The Hawaiian Islands is on the schedule to get a similar vessel. It has twice the draft of the Sette, which is twice the draft of the Cromwell. This reduces the ability to go nearshore. They have teamed up with the Miami Center to look at a shallow-draft vessel that has good acoustic qualities and duration. They are looking at issues of funding, timing and feasibility.

He has raised some issues with the Science Directors and the Office of Science and Technology that have been of interest to the Council: VMS and E-logs. Enforcement is still working to get out a VMS policy. E-logs seem to be just down to technical issues. Kurt Kawamoto, Tim Timoney and others are working on those technical issues. The resolution of both of these issues represents real opportunities for research and monitoring.

Pooley was scheduled to attend the Fisheries Management Conference and then the Interim Scientific Committee on Tuna and Tuna-like species in Tokyo. The development of the Western and Central Pacific Fisheries Commission and its Northern Committee and the relationship of ISC as a science body are very important.

Pooley will speak about the Data Quality Act and science accreditation at the next meeting to give the members a flavor of what the Science Centers are dealing with these days.

Morioka expressed appreciation for Pooley's embracing of the marine mammal issue. Morioka then asked for questions from the members.

Duenas asked Pooley if the Sette was coming out to the Marianas in October. He requested that they be able to put a couple of fishermen on board to do fish sampling similar to the CPUE-type method. He had received an email that requested biologist and scientists, but he would like to put some fishermen onboard

Pooley responded that the challenge he had on the coral reef cruises was that they were so diver-intensive that they use up all the bunks. There were a couple of cruises where people slept on futons in the lounge, but they decided that wasn't appropriate from a safety standard.

Pooley was not even sure the Sette would be a proper platform for fish sampling. The longline cutout was pretty low, but higher than the Cromwell where handline gurneys were set. He would check with Rusty Brainard, the program coordinator and get back to Duenas.

Duenas remarked that they would like to have better information on what is occurring and could create a baseline of some sort.

Pooley noted that the Council, the Center and the Region have worked out a cooperative research plan, and that could be a use of those funds once the funding was secured.

Duenas added that the calmest months around Guam are between June and August; the seas are too rough towards the end of the year.

Pooley noted that they just try to avoid typhoons.

Simonds remarked that she was glad to hear that the E-log problems are technical type things. While it was high on the list for funding, it was moved on to the funding for next year. They gave it a high priority because both their offices requested it. She thought it was just funding, not technical issues as well.

Pooley explained that there are different approaches to dealing with these issues. He used the observer program, VMS, as an example where there are people who want to have a one-size-fits-all approach. The disadvantages of one-size-fits-all are that you don't get what you really want for the specific area or application, or it costs a fortune to develop it so that it has all the modularities.

His approach has been, let's figure out something that works and let the data folks worry how to communicate the data. It has been a discussion with Science and Technology and might be why the proposal for the E-log project hasn't been resolved. However, it is conceivable that the technical problems can be resolved without the costs, which is so much the better.

Sablan explained that they were approaching the 50 nautical mile closure for bottomfish, and felt it was time for another RAIOMA to be conducted for the CNMI, and

perhaps Guam. However, there has been no follow-up on the first RAIOMA. They believed they have healthy resources, but don't really know that on bottomfish.

He asked if Pooley could plan for a RAIOMA-type survey of the Marianas for this year or next. At the moment there were fishermen harvesting, and they wanted to know whether those resources are healthy today.

Pooley remarked that one of his first trips to sea was on the Cromwell on one of the Raioma cruises for shrimp trapping, and both bottom and handline. He always thought it would be nice to have more follow-up. So, it is one of the things in their development agenda as a Center.

The issue is the way that NOAA is doing the budgeting. In developing a systematic planning program budgeting system, their office had little input in anything other than the 2007 budget. That is done and they are now in the midst of planning for FY08.

So to the extent that cooperative research or stock assessment improvement funds can be attached in substantial quantities, would make possible those kinds of activities in the Marianas, American Samoa or remote island areas. There is some big money going into stock assessment improvement, and they are hoping to get more of it next year. It is an issue of funding and it involves a ship, or bottomfish boats, it becomes a little more difficult.

He promised to keep Sablan informed.

Simonds asked if Pooley had use of more than one ship include the Hiialakai?

Pooley responded that the Hiialakai was allocated to the Northwestern Hawaiian Island Reserve.

Simonds noted that the Senator said that the ship was to be used for the Western Pacific Region, not just for the Northwestern Hawaiian Islands.

Pooley responded that to a certain extent it was being used by the Coral Reef Conservation Program and possibly in other areas. So there was one collaborative cruise with NOS, but it is up to them to schedule it.

Pooley noted that the Hiialakai does not have a longline cutout. So it becomes much less useful as a fishing platform than the Sette is. So one of the things they interested in doing was shifting nonfishing activities to the Hiialakai, and focus fishing activities on the Sette. But it is something that NOS has to lead.

Simonds remarked that they could work this out because the research consortium had begun and it could be part of the agenda.

Pooley agreed.

Simonds asked about the smaller boats that they have?

Pooley replied that they have a small boat but preferred to use the larger one.

Morioka called on Judson Feder.

### **5.A.3. NOAA General Counsel SWR**

Feder referred the members to section 5.A.3.a in the Council's briefing book.

The Hui Malama I Kohala case was brought by environmental organizations challenging the decision of the National Marine Fisheries Service to categorize the Hawaii-based longline fishery as a Category III fishery under the Marine Mammal Protection Act.

The Agency successfully defended its decision to categorize the fishery as a Category III fishery. There was a decision by the District Court here upholding that decision almost a year.

Subsequently, the National Marine Fisheries Service decided to categorize the fishery as a Category I fishery. As a result, the appeal by the environmental plaintiffs was rendered, for all intents and purposes, moot.

However, the Ninth Circuit decided to hear the appeal of this case anyway, probably because the plaintiffs had requested the Ninth Circuit to vacate the underlying decision of the District Court.

HLA intervened in this case and vigorously opposed the vacature of the District Court's decision, and the Ninth Circuit agreed with HLA and decided to brief this case. So this case is still active.

But because the fishery has been categorized by the Fishery Service as a Category I fishery anyway, the impact on the management of the Hawaii-based longline fishery is probably minimal.

Another case of interest to the Council is the Turtle Island Restoration Network case. That was also brought by environmental groups challenging the regulation issued last April to reopen the swordfish fishery, among other things.

The environmental plaintiffs allege the National Marine Fisheries Service is violating the Migratory Bird Treaty Act, violating the National Environmental Policy Act and the Endangered Species Act in the management of this fishery because of allegedly unauthorized take of migratory seabirds and sea turtles and allegedly inadequate analysis under NEPA.

The Government won this case before the District Court here in Honolulu on Magnuson Act grounds. The court found that this case although styled as a breach under the Migratory Bird Treaty Act, Endangered Species Act, NEPA, was in fact a challenge to the



Magnuson Act regulations, and therefore subject to statute of limitations that the Magnuson Act imposes on challenges to decisions of the Secretary under the Magnuson Act. The case was dismissed. Environmental plaintiffs immediately appealed to the Ninth Circuit, where it has not been scheduled yet for briefing.

The status of the case is that the plaintiff's motion to issue an immediate injunction against the fishery pending appeal is pending before Judge Ezra here in Honolulu. That motion has been before Judge Ezra now since early January. It's been over two months. A ruling is expected any day, and after that there will be a briefing scheduled before the Ninth Circuit on appeal.

Another case of some interest to the Council might be the Trans World Marine case. This is a case brought by a longline fisherman who was denied relief by the National Marine Fisheries Service under the Direct Economic Assistance Program, which was a program that the Fisheries Service administered a couple years ago to provide economic relief to fishermen who were affected adversely by the closure of the longline fishery under court order.

The Government won this Trans World Marine case at the district court level in the Southern District of California. The appeal is being briefed at the Ninth Circuit level.

As the distinguished Council members from CNMI reported, the Ninth Circuit has ruled in favor of the federal government in the case brought by the CNMI to quiet title to the submerged lands within 12 nautical miles of the CNMI. The Ninth Circuit affirmed the decision at the District Court that not only did the CNMI lack sovereignty over those lands, but the Marine Sovereignty Act and the Submerged Lands Act of the CNMI were preempted by federal law.

The stay that was issued by the Ninth Circuit that holds in abeyance the decision in the district court is actually still in effect, because that stay was specified to be in effect until the, quote, end quote, mandate is issued by the Ninth Circuit. That mandate is normally issued within 60 days after the Ninth Circuit issues an opinion. In this case, the Ninth Circuit issued an opinion on February 24th.

Also, Feder pointed out that like any other state or territory, the CNMI has continuing authority to regulate its own vessels, vessels registered in the CNMI, even in the Exclusive Economic Zone. In this case, the Exclusive Economic Zone extends from the low water mark out to 200 nautical miles, and the CNMI under the Magnuson Act may continue to regulate its own vessels to the extent those regulations are consistent with regulations which are under the Magnuson Act. He didn't think that this decision should affect the ability of CNMI to protect nearshore resources. Except insofar as the Marine Sovereignty Act and the Submerged Lands Act have been declared preemptive, but the CNMI has ongoing authority to enact other laws to conserve marine resources in the EEZ around the CNMI.

Feder referred to the Earth Island Institute case in his report. That case involved the labeling standard to be used on tuna products that are harvested in the purse seine fishery in the

Eastern Tropical Pacific and is important in relationship to the agreement on the International Dolphin Conservation Program and the ongoing success of that program. That case is at the Ninth Circuit and is quite convoluted.

A case not in his written report that might be of interest to the Council, is a case before the U.S. District Court here in Honolulu called UFO Chuting. This is a case that was brought about a year ago or so by a private company here in Honolulu against the State of Hawaii that challenges Hawaii State regulations that prohibit parasailing operations off of Maui from December 15th through May 15th of every year. The purpose of those regulations was to protect humpback whales. The U.S. Government, the federal government, did not participate in that case.

However, on July 9th of last year the District Court ruled that the Hawaii laws at issue in that case were preempted by Section 109(a) of the Marine Mammal Protection Act. The Marine Mammal Protection Act has some very strong language that preempts attempts by states to enforce laws or regulations relating to the taking of any species of marine mammals within state boundaries. The District Court relied on that language to rule in favor of plaintiffs and strike down the Hawaii State laws.

Subsequent to that decision in December there was a provision inserted into the Consolidated Appropriations Act of 2005 that specifically allows the State of Hawaii, and only the State of Hawaii, to regulate recreational and commercial vessels in state waters for the purposes of the conservation of humpback whales. So the State of Hawaii is back in District Court now arguing that the injunction issued by the court should be thrown out and revoked because of the new federal legislation.

The plaintiffs are arguing that the court should not revoke its July injunction because of a separation of powers issue. They're arguing that the U.S. Congress in effect has acted in an unconstitutional manner by interfering in this court case. The federal government is considering whether to intervene in this case on the side of the State of Hawaii. If the federal government intervenes, a brief will be filed tomorrow in that case. He believed the State of Hawaii was filing a brief in support of its motion to have the District Court injunction thrown out.

Morioka asked the members for questions.

Sablan noted that the case for CNMI in the quiet titles for the submerged land and the Marine Sovereignty Act have become very interesting. While the Council may understand that CNMI continues to have the three mile territorial waters, CNMI did not. He asked how that kind of information could be disseminated. Should they go to the Attorney General's Office and have them report out to the general public that the state and local laws are going to continued to be enforced and that there's no lawlessness about our marine resources?

Feder clarified that the stipulation in the stay is still in effect. But that's in effect temporarily until this mandate is issued.

Sablan said that he understood that it was 60 days before the mandate is issued.

Feder agreed.

Sablan felt that in the meantime, it was appropriate for the fishermen in the Northern Marianas to understand that until this case is resolved whether or not they can use illegal methods of harvesting fish?

Feder noted that the Government of CNMI through the Magnuson Act can continue to manage its own vessels and fishing activities even in the EEZ around the CNMI. So even if it's assumed that EEZ goes to the low water mark, CNMI can continue to regulate its own vessels.

Sablan clarified that by the CNMI regulating its own vessels would mean that the state laws, the local laws, the municipal laws, can continue to be enforced?

Feder replied, yes, they can, as the local laws of any state can be enforced.

Sablan asked Feder to communicate with the CNMI Attorney General on those opinions.

Feder said he would be happy to.

Morioka hearing no other questions moved on to the Department of Interior, Fish and Wildlife Service and Mr. Palawski.

## **5.B. The Department of Interior, Fish and Wildlife Service**

Palawski reported the following personnel changes. Mr. Barry Christian was the new manager at Midway Refuge and deployed to Midway two weeks ago. Mr. Christian has a long history at Fish and Wildlife Service with managing refuges and as a refuge supervisor

There will be a new field supervisor for the Division of Ecological Services in May. That position has been vacant for quite a while, since Paul Hansen left. Patrick Leonard will be taking that position and is the chief of the Listing Program. Mr. Leonard has a great deal of experience on endangered species.

The new project leader for our Hawaii Pacific Island Refuges, Barry Stiglet, arrived last Friday. Jerry Leinecke will be training Mr. Stiglet.

Rose Atoll: Palawski thanked the Coast Guard for their help during the hurricanes. On very short notice they did a fly-over of Rose Atoll to see whether there was any chance that wave action may have moved some ship wreckage up on to the reef. That did not occur.

Palawski wants to inform McCoy and Tulafono that they had put out a request for a quote to continue the cleanup of the shipwreck that is on the coral reef at Rose Atoll. They would like to begin the clean up late April or early May by getting the engine block and some

things off of that coral reef. Then later this summer, do another assessment trip to determine the progress.

Palawski shared an insert depicting the Pacific Island Refuges including cable coral, a monk seal and a researcher in the background at French Frigate Shoals, which is within the Hawaiian Islands National Wildlife Refuge.

Morioka asked for questions.

Martin asked if Palawski was aware of an educational group out of the Bay area wanting to charter a boat to Kure later in the year. He believed they had all the permits in place and was a group of 15 people that were going to go up and spend two weeks on Kure Island.

Palawski responded he had heard that proposal, didn't have details, but believed it was managed by the Division of Forestry and Wildlife Resources, and Oishi's group, the Division of Aquatic Resources.

Oishi remarked that he hadn't heard of the request.

Duenas asked if there was a possibility of changing the opening and closing times for the Guam refuge.

Palawski responded that he could ask about that. He assumed Duenas was asking that it be opened earlier and closed later.

Duenas said, right. Because like the Northern Refuge, it is a favorite picnic spot for a lot of families and on holidays it's closed, he believed they closed the 4 o'clock. The most beautiful thing about an island is the sunset and it would be nice to have that.

McCoy thanked Palawski for his work and asked if during the Coast Guard flyover, were there any file photos taken?

Palawski replied that they did take a few.

McCoy asked if the Council could see them.

Palawski replied he would check and see how they could coordinate that.

McCoy asked if Palawski would be sending the request for proposal for Rose Atoll to Ray Tulafono's office?

Palawski said he would do that.

Sablan remarked that he was still interested in some plans from the Fish and Wildlife Service to look at FDM with regard to the endangered species area. The U.S. military has been increasing their target bombing on the islands. Sablan was aware of the possibility of live bombs

on the island that prevent the Fish and Wildlife Service from getting onto the island. But, Sablan felt ESA, the Endangered Species Act, would encourage them to continue to look at that particular island in the Northern Marianas to know the conditions and if there is still some existence of endangered species.

Palawski noted that they are continuing to work with the Navy and now with some of the exceptions to the ESA as a result of military training activities. They are working toward some agreement because the live bombs on the island are a very big factor to anyone going on that island to be able to do any.

Sablan asked to clarify if there was a waiver on the ESA for the military?

Palawski said, yes, they have some waivers to carry out activities for military.

Sablan said that was news to him.

Palawski promised more information on that.

Martin asked if the Fish and Wildlife had any ongoing activities in Palmyra at this time.

Palawski noted there were ongoing activities supported out of the Honolulu office. They have volunteers down there during the course of the year. The biggest effort down at Palmyra is a very serious problem of invasive insects affecting the Pisonia forest. They are working very hard to try to control that.

The other issue on the terrestrial side is rats.

They are continuing to work with TNC to develop a long-term management arrangement down there

Morioka called on Bill Gibbons-Fly from State Department.

### **5.C. State Department**

Gibbons-Fly reported that a meeting to review the results of the North Pacific Albacore Workshop took place in December between delegations from the United States and Japan to discuss possible measures with respect to North Pacific albacore. This meeting was a result of a request from our West Coast Albacore Troll industry, particularly Western Fishboat Owners Association.

A team including Bill Robinson, folks from here, the Long Beach Region and both Science Centers went to Tokyo to look at whether or not some conservation and management measures might be appropriate for the stock.

One of the difficulties of making an assessment is that there is no determined reference point for the North Pacific albacore, but compare the current level of fishing effort for the North

Pacific albacore against commonly accepted reference points for similar species, the level of fishing effort is greater. In fact, the current level of fishing effort on Northern albacore would result in a spawning stock biomass less than 20 percent of its pre-exploitation rate. So there was mutual agreement between delegations that at a minimum fishing effort on North Pacific albacore should not be increased.

The U.S. side, in particular, expressed the view that the fishing effort might already be too high and that a reduction of fishing effort should be considered at some point. But there was not full agreement between the two sides on that point.

What was agreed was that in the absence of a reference point, the effort should be to maintain the spawning stock biomass within the range of historical experience and not to allow a level of fishing effort that would result in a spawning stock biomass dropping below the historical range of that stock based on assessments from 1973 to the present.

The delegations requested that the Interim Scientific Committee, which would be meeting in Tokyo, provide advice on a range of target levels of fishing effort that would allow maintenance of the spawning stock biomass within the range of historical experience. The advice from the Interim Scientific Committee would help determine what future actions would be appropriate in terms of conservation and management measures. These measures would be carried out through the organizations that manage the highly migratory species in the Pacific: the IATTC in the Eastern Pacific, the WCPFC in the Western Pacific, and the Northern Committee of the WCPFC.

Upcoming meetings include the ISC. The ISC was created as a placeholder back at a time when the establishment of a management regime for those North Pacific stocks was being considered by the U.S., Japan and others. The effort never got off the ground and was rendered moot by the negotiations which subsequently established the WCPFC. So the ISC has been looking for a role.

Given that there are two management agencies responsible for those stocks, which are Pan Pacific, the ISC is ideally situated to be a bridge in terms of scientific advice between those two organizations and provide advice to the parties of both organizations in an effort to ensure that management decisions by the two organizations are consistent throughout the range of those stocks.

The ISC may decide at this meeting to continue its work on an annual basis rather than a biannual basis, as has been the case in the past. There will also be questions about whether or not it's appropriate to establish a permanent Secretariat and where that will be located. Bill Fox, from the Southwest Fisheries Science Center, and a number of folks here will be participating, including someone from Gibbons-Fly's office.

The annual Tuna Treaty Consultations are also coming up in Tonga.

Martin asked if there was specific information on what the albacore landings were for the U.S. in proportion to the entire North Pacific. He was also concerned about information on the Hawaii longline portion of that.

Gibbons-Fly replied that they did not have that information, but maybe he and Pooley could come up with that information.

Martin encouraged the Council and the local industry be included in further discussions. The first meeting was announced with very short notice, but the local NMFS staff handled it very well.

Gibbons-Fly agreed and said they would make sure that the Council and local industry were included.

Morioka asked for further questions.

Robinson stated that it was important given the strategic planning process that there be some protocols for a working group and meeting both before and after each international meeting so that the Council can provide input into any U.S. positions, discuss recommendations, and meet afterwards to debrief. This needed to be kept in mind during the Council meeting so the Council could move forward quickly, identify these international meetings and plan to have a Council working group meet with U.S. Delegation.

Morioka said that as discussed in Standing Committee, that is going to become a dominant issue.

Sablan asked Robinson about the PIRO staff member in the Northern Marianas Islands and what her role was in the CNMI.

Robinson replied that there was a staff person in CNMI who works for the Habitat Conservation Division and is involved in working with the Territory in implementing the local action strategies. He did not have more details on that but would find out more what her duties are and report back to the group.

Sablan said he looked forward to a more formal report.

## **5.D Great Barrier Reef Marine Park Presentation**

Morioka presented to the members Randall Owens, a waterman with great experience from the Great Barrier Reef and the West Coast of Australia, who has significant insight to the politics of creating Marine Protected Areas and Threatened Species Management in the world. Currently, he's in the final stages of completing an MPA on Marine Resource Management.

He is currently engaged with the Great Barrier Reef Marine Protected Area where he assisted and developed and implemented the Representative Areas Programs or RAPs.

Owens prefaced his presentation by adding that he had an appreciation of the differences between the Great Barrier Reef and the Northwestern Hawaiian Islands.

The Representative Areas Program (RAP) is a redesigning of the Barrier Reef. The responsibilities and pressures under the program make how the program is done very important.

The RAP principles underpin everything that is done. The consultation was extensive and so was the analysis of over 30,000 submissions. His presentation would cover the principles, the design, the past, the draft and now to show how the fisheries information was brought onboard and how it was used. He was also going to talk about the impacts and the question of compensation.

Owens showed a picture of the Great Barrier Reef and the Great Barrier Reef Marine Park superimposed over a map of the West Coast of the United States. It is a very big area, as is the Northwestern Hawaiian Islands.

It is 340,000 square kilometers, 2,000 kilometers long with 900 islands, and 3,000 reefs. The key message in what was done was the concept of connectivity, connecting habitats.

The Great Barrier Reef is not just a coral reef; it is a lot of habitats that connect that reef complex together.

While they don't have the science or fully understand what that is, they do know that the habitats are equally important as coral reefs and there is a need to protect all habitats on which species depend.

They did the project because of legislative responsibility and the need to address some very substantial pressures in the Great Barrier Reef; fishing, development and water quality. His understanding was that the Northwestern Hawaiian Islands do not have the same water quality and fishing effort issues.

Legislative responsibilities: The federal act, established in 1975 provides for the establishment, control, care and development of the Great Barrier Reef Marine Park. Under the act, they became a conservation agency.

Protection must allow reasonable use. Reasonable use is a very important concept, because reasonable use includes fisheries. Fisheries are a reasonable use for the Great Barrier Reef Marine Park provided they're conducted in an ecological and sustainable manner.

Activities are regulated to minimize their effect. These activities include tourism and fishing and reservation of areas for appreciation and enjoyment. These are commonly called Green Zones, no-take areas.

The preservation of areas undisturbed by man or Sanctuary Areas is high value areas and represents less than two percent of the whole park.



Policies are set to ensure basic responsibilities are met and the ecological integrity of the marine park is not compromised.

They are not directly responsible for fisheries management. However, fishing is a major activity that has the capacity to compromise the conservation and the World Heritage values of the GBRMP. The GBRMP is the largest World Heritage Area on the planet.

They have a very high latent effort of fisheries in Queensland which have a significant pressure on stocks. Not only that, a number of the fisheries operate on a dubious economic base, there is no cost recovery. Most of the major fisheries are on a cost recovery basis and are economically sound.

The shrimp trawl fishery is large and is now working under a management plan. The number of vessels has been reduced from 830 down to 520 and continues to shrink. There's about an 8,500 ton target catch, clearly an important fishery for the economy of Queensland.

Another big one is an inshore fishery, 1400 tons, with 850 net licenses currently. We estimate that must be reduced to about 350 net licenses. That fishery currently is not sustainable and what was done has had a big impact on that fishery.

Reefline or inshore reef fishery is the other big one. This provides fish to the live fish trade. There were 1700 boats in that fishery. Under a really fine management plan that's come in, that's been reduced to around about 450 boats. It's now a quota-managed fishery. Effort had to be reduced back to the 1996 level, which is about 3,061 tons, after it had gone over 5,400 tons. That was clearly not sustainable.

The dive-based fishing operators, which includes sea cucumber, tropical lobster, coral collection and marine aquarium fishing, is quite a substantial fishery in Queensland.

Recreational fishery is approximately 800,000 recreational fishers. Their catch of coral reef fish is about 3,500 to 4,000 pounds.

Indigenous fisheries are close to communities and are associated with hunting. The resource allocation pressure is from people using the resources and trying to get what they feel is their fair share of the resources. And it's also threatened species management, the right to hunt.

They work through a process called TUMRAS, Traditional Use of Marine Resource Agreements. It involves working with indigenous communities in their country to come up with agreements about how they want to manage their country and try to fit that into the whole scheme of things. That's a very important initiative that the GBRMP has undertaken.

The other pressures that the reef is under:

- Downstream effects of land use;
- Water quality issues is a very big one;
- Coral bleaching, which he assumed is also an issue here, as it is worldwide;

- Coastal development;
- Shipping and pollution incidents; and
- Increasing tourism and recreation. The tourism industry in Queensland is deemed to be a bit like Honolulu.

Also trends in regional biodiversity:

- Dugong, over 90 percent decline since the 1960s in the Southern GBR;
- Loggerhead turtles, 70 to 90 percent decline in the last 30 years;
- Coral bleaching, fishing, anecdotal evidence of localized declines.

Trends for most species are unknown.

Like most people, there is no perfect science and no one is isolated from world trends.

Ten percent of the world's reefs are already destroyed or severely degraded, 58 percent of the world's reefs are threatened, and 70 percent of the reefs are degraded in Indonesia and the Philippines.

Seventy percent of the world's reef will be gone in 40 years. That makes the Northwestern Hawaiian Islands a very important area.

The Representative Areas Program delivered by explaining the pressures that the reef was under and the objectives in doing this were very clear up front.

It is about the protection of biodiversity, not fisheries management. However, it affects fisheries management quite clearly. The fact that the level of effort was so high, something had to be done.

The program is about maintaining natural systems and ecosystem resilience. The fishing was about wise use and reasonable use. Fishing is a legitimate activity in that marine park. It's called wise use if it's done correctly and managed correctly.

The messages were clear and consistent and they got hammered by the fishermen.

Seventy bioregions were identified, 40 nonreef bioregions and 30 reef bioregions. He provided some handouts. On the basis of the bioregions, BOPs or Biophysical Operational Principles were developed with socio-economic considerations.

The aim of the Representative Areas Program up front was a network of no-take areas or Green Zones, representative of all bioregions. There had to be a minimum of 20 percent protection of these bioregions to maintain biological diversity, to maintain ecological processes and systems, to provide an ecological safety margin, and to ensure viable and sustainable industries.

If the reef goes down there is no industries. Most people understand that, even though they'll argue about the extent.

The BOPs with a minimum of 20 percent per habitat type within no-take areas was what had to be achieved at a minimum. The diversity of plants had to be represented, that's both latitudinal, north and south, and cross shelf transects, the connectivity concept.

There are a few biophysically special or unique places. They may be particular turtle nesting areas or foraging areas. They are fairly small, but they are particularly special places.

And the socio-economic principle of what was done was to achieve the least cost. It is a huge task.

Owens showed a picture of the non-reef bioregions.

He showed one of the posters that was used. It depicted a red emperor. The program requires estuaries through the outer edge. It requires all those habitats to maintain its life style. This is what was important in what they were trying to do.

The extensive public consultation generally had positive community response. There was a huge range of people, not just fishermen, environmentalists but, government, politicians, federal and state, both sides. Information was clarified with two major public consultation periods. There were over 31,500 submissions, biggest response ever for a marine environmental program.

There were over 500 community meetings. He showed a photo of his colleague, Darren McCameron and himself at what they called the Battle of Repulse Bay. He attended 300 of those meetings and got nailed against the wall on a number of occasions. But they stood their ground and told the community what they were doing, why, and addressed the arguments.

They had 350 formal meetings; local communities, conservation groups, fishers, traditional owners, tourism operators, local councils, state and federal politicians, politicians from both sides of the fence. There was a political argument in what they were doing.

Over 50,000 submission brochures and 10,000 information packages were distributed. They had over 35,000 hits on their website, 450 newspaper articles, 60 radio and television spots, and 88 newspaper advertisements. This was a big, big project.

There was a process to go through each of the 31,000 submissions they received. A lot of submissions came through from community groups. A group got together, and rather than doing an individual submission, they sorted out what they wanted and they put a group submission together, with some very good information.

They were criticized initially for not going out with lines on maps. The reason for no lines was they wanted the input from the communities to where the community thought these areas should be placed. The second time we came back with the lines on the maps.

A database was set up and could be queried in a number of ways.

He showed a zoning map before and after the zoning plan that took into account the fisheries and other information.

He went through the following slides:

- the far northern section before and after the draft zoning plan, where there is a lot of indigenous people and one big cross-shelf transect;
- a map showing the center of the lobster fishery in Northwest Queensland. They were able to achieve what they needed and ensured that the lobster fishery could survive;
- One of the areas that provided the spawning stock for a major fishery at Torres Straits;
- the central area with the draft zoning and how the shape changed as a result of the information that came in;
- the southern end of a ridge had no protection before and where there are important turtle areas; that became the proposed zoning; and
- a picture of the final zoning;
- the VMS data from the trawl fishery, they worked hard to minimize the impact on the fishery there.

Everyone including people with knowledge about fisheries thrashed out options. They tried to avoid all impacts, which is impossible.

An interesting zone was the Conservation Park. It didn't increase much in area, but it is a reduced fishing zone, basically a recreational fishing zone with a limit of one line, one hook. This limits the amount of effort in an area while still allowing recreational fishing in that area.

Consultations with fishers are hard work. You have to be up front with the industry. You have to be prepared to state your case. To do that, they brought people onboard who had the knowledge and experience. The only way you'll earn respect from the fishing industry is to understand what they do, listen to their arguments.

Owens went on to explain the interaction in Queensland with the industry and the FIG or Fisheries Issues Group, his group.

Under the Offshore Constitutional Settlement, called the OCS, between Queensland and the Commonwealth, management of fisheries adjacent to Queensland is the responsibility of the Queensland Government. That goes out 200 miles, out to the EEZ. It's basically a state-based fishery.

If it is a highly migratory species, like the billfish, they are managed by the Commonwealth. But most of the residentials, the lobster fishery, and the red fish type fisheries are managed by the state under the OCS agreement.

In 1998 there was a Memorandum of Understanding between the GBRMPA and the QDIF, Queensland Department of Industries and Fisheries, that said that Queensland would manage fisheries. Queensland developed a number of management plans and reduced the effort. However, the problem was they didn't deliver the outcomes and they reneged on some agreements.

The Commonwealth said, look, the reef is going down; you guys are not doing your job. You're a federal agency; you've got to do something about it. Basically it was that clear-cut. The sustainability of the resource is at risk and ecologically-dependent species are unable to maintain their populations. If habitat is destroyed, biodiversity suffers, species richness declines and World Heritage value is degraded and so are the fisheries values.

So the goal of the fisheries issues group:

- ecologically sustainable fisheries that do not compromise the values;
- Objective, to have strategic policy which basically reflects our own, and is equitable across the community;
- To have integration of fisheries and ecosystem management, and not to manage on a single-species basis;
- to have an effective information base so that we can make sound decisions; and
- to have fisheries management strategies that are understood and accepted by the users of the reef and that are complied with.

Representative Areas Programs is just part of our ongoing task.

He provided the Council with a handout: Standards for Australian Fisheries. This has helped their group enormously. It is reflective of where they have come from.

There is a very powerful environmental act in Australia, the Environmental Protection and Biodiversity Conservation Act. It has a requirement; fisheries have to meet two principles:

The first principle is the operation should be managed to minimize their impact on the structure, productivity, function and biological diversity of the ecosystem. The fishery has to be conducted in a manner that does not lead to overfishing. It's sound management sense.

The beauty of this process is all Australian fisheries that need to export, right, or occur in Commonwealth waters, what happens to those fisheries, in a public process they have to put their management plans up, their management arrangements up. Comments are solicited.

In the end, what comes out is a report card on the fishery. Everybody has had their side. It is published and says how this fishery is going and what standards are being met.

Then there is a set of recommendations that are signed off by the management agency and by the federal government, and at this stage all the environmental groups and everybody else will have had their say. So it's a set of signed-off recommendations.

The fisheries agency and the industry agree to undertake these improvements in the next several years. The Fisheries Issues Group will be doing the monitoring as to what they said they would do.

It has been a learning process. He showed a list of the standards they have to meet in the next three years when certification comes up.

Most fisheries have got their certification. The sea cucumber fishery has only got it conditional for a year; it has to do certain things.

But this has been a major advance in ecological management of fisheries in Australia.

The Fisheries Issues Group puts pressure on Queensland and the industry to meet those standards. They are a small team of six. They use on ground knowledge, their knowledge of the fisheries and the place, to achieve best outcomes. Their management advisory committee process includes a Queensland management advisory, fisheries management advisory committees and environmental management advisory committees.

They are out with the boats and the fleets and talk to them about what the issues are. They do it in collaboration with the Department of Environmental Heritage, researchers and other stakeholders.

When Queensland won't, they innovate. They are not shutting fisheries down. They have managed to achieve certain management arrangements for the sea cucumber fishery way beyond what Queensland would do. That fishery will achieve ecological sustainability for a fishery that's in trouble worldwide. They are doing the same for the coral collection fishery.

He has worked for an environmental agency; he has been a fisherman and has worked for a fisheries agency. His agency advocates fisheries interests internally. He does his best to ensure the fisheries interests are understood, the right of people to make a livelihood and how they contribute to the economy.

The official line from the federal government was: there will be no compensation for what is done. A lot of fishing area was taken including the red zone, which was 33 percent of the fishing areas. That did not change until the Final Zoning Plan came into effect in July 2004.

Negotiation was really difficult because there was no compensation. He believed the actual political reason for that was so they would be really good, get the best outcome and could genuinely make a comment on what the impacts were. It would have been nice if they'd been up front with the industry in the first place.

Because of that, the state pulled back from joint consultation. They walked out of the process.

But the federal government did come with a structural adjustment package. It's administered by the Department of Environmental Heritage and what's called the Queensland Rural Adjustment Authority. There's been a license buyout of the net fishery. There's also a Business Exit, land-based assistance, where the tackle business and the charter business has been impacted. Business advice and crew assistance have been made available.

This has now set a precedent for compensation in Australia.

Clearly, you can't take away 30 percent of an area that was available for fishing before without having an impact. If the fishery had been tighter in the first place, the impact would not have been as great and it wouldn't have had to come down so hard on so many people.

Morioka asked for questions from the members.

Duenas commended the Australian government and Owens' agency for working with the fishery organizations and the NGOs at the same time. He recalled that there was a problem with sedimentation pouring out onto the Barrier Reef through the estuaries and the rivers. He believed there was a remedy designed, like a wall, or something, at the mouth of these estuaries.

Owens replied that they have a Water Quality Action Plan, where big sugar cane farms, and a number of agricultural runoffs and rivers, causes sedimentation issues on the reef and cause water quality issues. The state and Commonwealth are working on a Water Quality Action Plan.

There is a Water Quality Critical Issues Group. People are getting in there and talking with the state. A lot of this stuff is actually fairly simple. And like fisheries, it is all about getting people to do things better.

Morioka asked if Owens' authority was given by the federal government.

Owens replied that there is what is called statutory authority in Australia. They work under a federal act, the GBRMP Act. To administer that act a federal authority was set up, called the Great Barrier Reef Marine Park Authority. In legislation, if they want to use a big stick they can, but they try not to use that big stick because that's really the last straw. But yes, they do have that power.

Morioka clarified that there is legislation that created this body and they have statutory authority. How does enforcement evolve?

Owens referred to his management chart and noted the connections were not nice, neat boxes. The reason for that is to fit in with fisheries effort. There is a Day-to-Day Management Coordination Unit. There is a coordinated effort with the state where a number of agencies are used: the Queensland Fisheries and Buddy Patrol, Coast Watch, the federal police and Customs.

They have developed a Strategic Management Response and a Strategic Compliance Plan. They haven't had any major infringements; people have actually been doing the right thing. But there is a lot of compliance, with aerial and VMS tracking of boats.

Morioka asked if across the jurisdictional bodies, there were Memorandums of Understanding or a Memorandum of Agreement to say that they will work collectively to enforce.

Owens replied, yes, in theory.

The Day-to-Day Management Coordination Unit sets up the structure using a cooperative approach, much of which is personality-driven. The people who are communicators and can get along with people helps the group to achieve a lot. But, there are others too who don't want to listen, or come from a particular viewpoint, and then it doesn't work. Right now they are doing fairly well, but have a way to go.

Morioka asked about the tools used to manage the fisheries within the region, in particular vessel monitoring systems?

Owens replied yes. However, a lot of our fisheries are small-boat fisheries, dory boat fisheries that fish for live trout. They are looking at VMS sensors patrol. It's a bit of a mixture but they are trying to use technology more.

Morioka noted that Owens indicated compliance was pretty good. So there was buy-in from the user groups?

Owens replied, yes. The penalties are extraordinarily high. The penalties for an individual can be up to \$200,000; for a corporation, \$1.1 million. That's just for fisheries.

But they have worked well with the industry, especially in West Australia. The fishery realized that working outside of the law is just stealing off colleagues. The industry is interested in catching the bad guys and is very supportive of this. But, it has taken a lot of effort.

Duenas asked why if they were a legislatively enabled entity with the authority to carry a big stick, but choose not to and other entities are allowed to continue to exist on a lower scale?

Owens clarified that the Great Barrier Reef Marine Park is set up for reasonable use. Fisheries are a reasonable use.

If they just adopt a big stick approach, the community will be against them. They have worked hard to get the community on their side and don't want to be seen as a federal body against the State of Queensland. They are trying to do is something that will protect the future economy of Queensland.

Politically it would not be prudent to use a big stick. They are not afraid to go to the industry, stand there all day if necessary, but by the end of it get an agreement.



Duenas asked if in Owens' experience and with his knowledge of the Northwestern Hawaiian Island situation, which would he rather handle?

Owens replied that in his experience, the Northwestern Hawaiian Islands are not the same issue. There is not the same fishing effort out there, but from what he could see there is a big marine debris problem. It ought to be easier to deal with. It's a matter of what is considered as reasonable use of the area.

McCoy noted that Owens' presentation was very educational and asked if he had authority over all of the nation's coral reef? Are there any more other than the Great Barrier Reef, to the north and south and to the west?

Owens replied, no. They only deal with the Great Barrier Reef. That is their legislative authority. However, they do work with people in the Coral Sea and the Torres Straits. But their authority is defined by the act, the Great Barrier Marine Park.

McCoy asked if there was great inventory there, size-wise?

Owens replied, yes, there is an enormous amount of science. But the science is not perfect and while they have a lot of information, there is more they need to know.

Sablan asked if the Australian Aborigines had a role in his endeavor.

Owens said, yes, they did and the TUMRA or Traditional Use of Marine Resources Agreement had a lot to do with it. They were working very hard to facilitate indigenous engagement. However, there was no simple answer and he offered to speak with Mr. Sablan about it later.

Morioka reconvened the 126th meeting of the Western Pacific Regional Fisheries Management Council. He called on Tulafono to take the chair and to begin with Item 6, Enforcement and VMS.

## **6. Enforcement/VMS**

Tulafono accepted the chair and called on Mathers for the U.S. Coast Guard activities.

### **6.A. USCG Activities**

Mathers reported that he was there on behalf of Rear Admiral Wurster, District 14, who was not able to attend. The Admiral would be staying in Hawaii for another year and hoped to be at the next Council meeting.

He directed the members to Item 6.A.1 in the binders. His report would cover Coast Guard Fisheries Enforcement from January 1, 2004 to January 31, 2005.

During that period there were three suspected foreign fishing vessel encroachments in the Wake Island Exclusive Economic Zone and one suspected foreign fishing vessel encroachment in Howland Baker EEZ. There were not able to respond to these possible encroachments due to unavailability of resources or the fact that the determination if there was a possible encroachment was delayed in getting to them.

They conducted scheduled aerial patrols in the EEZ surrounding the Main Hawaiian Islands, American Samoa, Kingman/Palmyra Atolls, Wake and Guam and the Northern Marianas Islands. No foreign fishing vessel encroachments were detected during those flights.

During the enforcement flights in the vicinities of the Main Hawaiian Islands they passed on domestic fishing vessels sightings to NOAA Fisheries to ensure that all longliners had their vessel monitoring systems activated. They did note some vessels that were out on the fishing grounds that were not showing up on VMS and in consultation with NOAA Fisheries Enforcement determined that NOAA's VMS was not working properly and they had informed NOAA Fisheries Enforcement. It was a good check on that process.

The Coast Guard Cutter Polar Star transited through the area, in particular the Howland Baker EEZ, on their way down to Australia for a patrol down there. They did have a helicopter embark on the cutter and were able to do a couple of sorties while they were in that Howland Baker EEZ and no foreign fishing vessel encroachments were detected at that time.

Although it was outside of the reporting period, he noted that the Polar Star returned early from operations in Antarctica and patrolled the Kingman/Palmyra EEZ in February with no foreign fishing vessel encroachments detected. They were actually transiting through that area, as they were returning from Hurricane Olaf assistance down in American Samoa. Pacific Area permission was secured to divert them as they were in route to Hawaii from Antarctica. They had two helicopters embark and were able to get supplies out to some of the islands in American Samoa that vessels couldn't get into. Also had a Coast Guard C-130 from Barbers Point here that was working for FEMA to deliver supplies down there. They were quite happy to be able to assist in the relief efforts going on down there.

Coast Guard Cutter Galveston Island out in Guam has been doing patrol of the Guam EEZ, as well as the Northern Mariana Islands. This process conducted several foreign fishing vessel boardings, mostly vessels that were coming into Guam for patrol and doing some checks of their logs to ensure they weren't fishing in any of the U.S. EEZ.

Coast Guard Cutter Walnut out of Hawaii conducted a law enforcement patrol south of the Main Hawaiian Islands that focused mostly on the domestic longline fleet. Most of the violations noted by the WALNUT were minor, such as no High Seas Fishing Compliance Act permit, expired Protected Species Workshop card and boats not properly marked. Cutter Walnut did terminate one fishing vessel that did not have sufficient lifesaving equipment.

They have commenced active surface and aerial patrols of the Hawaiian Island Humpback Whale National Marine Sanctuary on the 1st of December. To date, no violations have been detected.

In January five Coast Guard personnel from Station Maui assisted NOAA in the recovery efforts in a stranding of a mother and a calf pigmy sperm whale stranded on the beach in front of the Kihei Canoe Club in Maui. NOAA was able to secure the use of a flatbed truck, and with the help of the Coast Guard personnel and other volunteers loaded both whales on a flatbed truck for transport to the Maui Ocean Foundation. Unfortunately, the calf swam off after being released and the mother had to be euthanized as she had been thrashing around in the holding pen.

Although outside of the reporting period, he noted that on February 28th Station Maui also responded to a request from NOAA to assist with a humpback whale entangled in some fishing net south of Lahaina, Maui. Station Maui launched two small boats and transported NOAA personnel and equipment to the scene. They remained on-scene, establishing a half-mile safety zone around the whale while the NOAA personnel were able to work to free the whale. The whale was eventually freed.

Mathers noted that this would be his last Council meeting. He had orders to report to the Coast Cutter Rush in Honolulu. He was grateful to be staying in the Pacific, and certainly would be following the Council and hoped to be patrolling in District 14 waters as much as possible to try to enforce some of the things the Council has discussed.

He thanked the members for the team effort.

Morioka congratulated the Commander on his cutter and thanked him for his contributions to the Council over the years. He appreciated the commander's candor and sincerity that he brought to the table.

Morioka asked the members for questions, having none; he asked if the Western and Central Pacific Fishery Commission and its VMS program had engaged the U.S. Coast Guard in any of their discussion?

Mathers responded that he had been a participant on the U.S. Delegation for both the MHLC process and the Prep Con at its last meeting. VMS, however, is a NOAA Fisheries system, but the Coast Guard has been involved in that process.

The Western and Central Pacific Fisheries Commission is doing the work of VMS, how that will be applied. There is a provision of the Convention, so it will be there. But it has been put on the back burner on the Monitoring and Surveillance Working Group in favor of some other tasks (vessel register, authorization to fish and vessel marking) that need to be done to get the Commission going.

He believed that it would be an agenda item at the next full meeting of the Commission since the week prior to that meeting, the Technical Compliance Committee would be meeting and it would be one of the agenda items. Whether not that they will choose to try to piggyback onto the Forum Fisheries Agency, VMS or do something else on their own, the Convention allows for some flexibility in that area. It was mostly just some technical things they would need to work out.

He also thought some of the smaller countries had questions about who was going to pay for the system, if it was going to be a user-pay type system.

Morioka asked for further questions.

McCoy asked the Commander about a resolution the Council passed a couple meetings ago for the U.S. Coast Guard to have a cutter based in American Samoa. Did he know if any advances have been made on that?

Mathers recalled responding to two different requests for Coast Guard resources to be placed down there over the past four years.

They would love to have another cutter or a station down there. Unfortunately, they do not have the resources at this point. Requests have been made through their Headquarters expressing the need, in particular with this limited entry fishery that will be implemented. They have not been able to secure the resource to put there.

One of the things they are trying to do is have more of the ships that are based here in Hawaii be able to do trips down there. Typically, one of the buoy tenders will go down there at least once a year to do the work on the Aids to Navigation. They are trying to double that, in addition to any major cutter time that is available to get down there.

They are very concerned about the fishery and the safety of the vessels down there.

To the credit of the fishermen down there, they don't typically hear about a lot of search and rescue cases, they do a pretty good job of taking care of themselves. But that does not negate the need for the Coast Guard to share compliance duty.

The marine safety detachment down there, lead by Lieutenant Kostecki has been engaged with commercial fishing vessel safety and trying to ensure their availability for the fishermen to get the checks and decals so they can take observers onboard.

He was sorry to say they did not have a ship or cutter to put down there, but it is something they continue to press on.

McCoy asked about any additional personnel.

Mathers said he believed there were five now and some discussion of two more

That particular detachment actually works for the Captain Scuby of the Port in Honolulu. Captain Scuby and someone from the District staff have recently visited down there. They were made aware of some of the needs, which has helped in their considering whether or not they can put more personnel there.

Right now it will be more focused on the regulatory side or the marine environmental protection investigation type folks. But American Samoa is seen from a Homeland Security, or

Ports, Waterway Coastal Security standpoint. People are needed down there who are able to do enforcement.

They have also been working NOAA Fisheries Enforcement. Special Agent Sagapolu is down there working with them. He believed they were talking about putting another agent down there at some point in the future. When they have flights to go down there, the Coast Guard tries to get her on the plane to help with sighting surveillance.

Duenas mentioned a Guam Reserve and auxiliary units that assist. He wondered if American Samoa can be afforded that opportunity, just to alleviate costs and assist them in their dilemma.

Mathers thought that American Samoa may have a reserve or two. The auxiliary is a little bit different issue. The auxiliary is not able to do law enforcement. But certainly, boating safety and education is well within their purview.

Recently they spoke with the Ambassador from the Federated States of Micronesia about trying to start a Coast Guard auxiliary type program out in the FSM to help with some of the overdue cases.

He thanked Duenas and said it was something they would consider.

They have appreciated the support of the auxiliary both in Hawaii and in Guam. They have been working on some changes within the Auxiliary to get security clearances. While they can't do law enforcement on the water, they'll be able to do different watches on shore and be able to help out. A lot of those folks are still pretty active and have some time and want to volunteer their efforts.

Duenas noted that the Coast Guard Reserve on Guam was very involved in one of the major shark finning cases.

Mathers noted that some of the things required for the Marine Transportation Security Act, some of the harbor patrol activities that the Captain of the Port directs, have resulted in a lot more scrutiny on the docks, transshipment activities or suspected transshipment activities being reported to Al Samuels so he is able to get someone out to check it out. So some of those activities have helped quite a bit.

Morioka moved on to Agenda Item 6.B, NOAA Office of Law Enforcement Activities and John Reghi.

## **6.B NOAA OLE Activities**

Reghi introduced himself as the Assistant Special Agent In Charge for NOAA Fisheries Office of Law Enforcement. He introduced Judith Fogarty, the Special Agent In Charge, and Mark Kline, the Deputy Special Agent in Charge, who were also at the meeting.

## 6.B.1 OLE Report

He referred the members to the Enforcement Report, Item 6.B.1.A in their briefing binder.

Since the last Council report the Office of Law Enforcement has initiated 52 investigations, and approximately 37 percent of those involved violations of the Magnuson Act. In particular, the violations were of a technical nature involving seabird and sea turtle take mitigation measures, deficiencies in equipment maintained on the vessels, as well as not having disentanglement gear and appropriate resuscitation equipment.

With regards to seabird mitigation measures, strategic discard of offal continues to be a complaint that is coming into the Office of Law Enforcement.

There have been a number of logbook complaints referred to them that were either of a delinquent nature or deficient in the reporting of the data that was contained within the reports themselves.

The balance of the investigations was distributed amongst the Endangered Species Act, the MMPA, the Lacey Act and the National Marine Sanctuaries Act.

They are in the process of investigating several Shark Finning Prohibition Act violations. Those investigations are ongoing and unfortunately they don't lend themselves for discussion at this time. But perhaps once those investigations are completed and adjudicated they will be to share some of the content.

They are also looking at the take of several endangered sea turtles and the sale of products made of marine mammal parts.

They are about two-thirds of the way through the Humpback Whale Enforcement Season. There are a number of violations of the approach regulations coming into the office.

In previous years there have been an average of about 60 to 70 complaints that have come into the Office of Law Enforcement that were investigated. If the current trend continues they are not likely to exceed those numbers this year.

They have been receiving a number of complaints of kayakers approaching humpback whales within the Sanctuary. They have received several sailboat groundings that they have investigated in the Sanctuary, three whale strikes and one illegal anchoring and fishing investigation as well.

The Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve is still receiving full support and enforcement. This is one Special Agent in a dedicated position in the role of providing enforcement liaison to the Reserve.

Joint enforcement agreements remain in full force in Guam and American Samoa. They are also ramping up for proper enforcement efforts in the CNMI.

Internally, they are in the process of back-filling the Special Agent position in Guam, trying to add a second one in Guam and an additional investigative position in American Samoa.

They are in the process of relocating to the Pacific Islands Regional Office and will be co-located at the Office of the Regional Administrator. A satellite office will be maintained in the federal building.

Tulafono asked for questions or comments.

Sablan asked Reghi if he had a copy of the waiver for the military to continue bombing on the FDM with respect to the endangered species.

Reghi said he did not, but would look into the matter and get back to Sablan.

Duenas thanked the Office of Law Enforcement for Al Samuels' presence in his region. They are also looking forward to the new agent in charge and the assistant they will be providing in the near future.

Duenas wanted to verify that Customs would be taking over that role until someone arrived.

Reghi replied, absolutely. The joint enforcement agreement remains in full force and effect and the Customs Quarantine and Maritime Interdiction Task Force is assisting at this time.

Duenas asked if there were any plans in the future to purchase the \$4.4 million dollar vessel by the Office of Law Enforcement that was presented at the last Council meeting.

Reghi recalled discussions about the purchase of the boat.

Duenas noted that they were currently using a 28-foot catamaran or double-hull. He wondered if they would have a better vessel out in the Pacific.

Reghi agreed and said that they wanted to assist in increasing the at-sea coverage through the joint enforcement agreement or other funding sources.

### **6.C. Enforcement Activities of Local Agencies**

Tulafono moved on to Item 6.C, Enforcement Activities of Local Agencies. He called on Hawaii to see if they had anything to add to their report.

Oishi said he had nothing more to report.

Duenas said he had nothing further to report.

Tulafono called on CNMI.

Seman wanted to reiterate that the joint enforcement agreement was signed by their Governor in January. He was looking forward to working with the Office of Law Enforcement since there was a lot remaining to be done.

Tulafono reported there was nothing more from American Samoa. He then called on Paul Ortiz to report on Item 6.D, Status of violations.

#### **6.D. Status of Violations**

Ortiz explained that in the first case presented in his report, that he erred in the naming the vessel owner and operator. The case is against a crewman onboard a foreign fishing vessel who tried to smuggle some 30 pounds of shark fin off the boat with a plan to Fed Ex them to the Philippines so family members could sell them in the Philippines.

The cooperation from the local law enforcement authorities was excellent. This case was uncovered by the Guam Harbor Police Department, who turned it over to the Custom and Quarantine Agency, who referred it to NOAA Office of Law Enforcement. This is a great example of several law enforcement operators and agents working together to make a good case.

On the Lacey Act case, involves a foreign fishing vessel operating in other nations' Exclusive Economic Zones and making illegal sets. This is a classic violation. The vessel actually made 21 illegal sets in three different nations, and then they delivered the tuna product to American Samoa, which is how jurisdiction was obtained. When they enter a U.S. port, they are able to prosecute for what was done illegally in another nation's Exclusive Economic Zone.

One of the limitations of the Lacey Act is a low maximum civil penalty, three counts of \$11,000 each or \$33,000. While \$240,000 worth of tuna was seized, only a \$33,000 penalty was issued. Others might want to take the gamble that they won't get caught. So in this case, they are working the U.S. Attorney's Office here in Honolulu to forfeit the catch and impose a civil penalty.

Some of the cases that settled include two cases against the same vessel back in 2002. The key charge would have been the targeting of swordfish. As a result of the litigation over the years, where the set of 2002/2003 regulations were invalidated, a somewhat different position had to be taken on the case and that count was given up.

In January of this year a significant decision was won in federal district court in San Diego. It involved a case called the United States versus 64,695 Pounds of Shark Fins, also known as the King Diamond II case. The King Diamond II is a former Honolulu-based swordfish vessel that gave up swordfish fishing back when it was prohibited and entered into a business plan where they would sail around the Pacific and purchase shark fins off foreign longliners and tried to deliver the shark fins to Guatemala or Mexico.



The Coast Guard picked them up before they were able to enter the port in Guatemala and brought the boat to San Diego, which was the nearest port.

It is against the law for a U.S. fishing vessel to have shark fins onboard if they don't have the shark carcasses, you have to have both. With 64,695 pounds of shark fins there would have to be a million pounds worth of shark carcasses. They had none.

One of the key arguments in the case became whether the King Diamond II was a fishing vessel under the Magnuson Act. This is a vessel that had no fishing gear onboard. The definition of fishing vessel in the Magnuson Act includes any vessel type which is normally used for aiding or assisting one or more vessels at sea in the performance of any activity related to fishing.

The U. S. argument was that with the transshipping at sea, they were aiding a fishing vessel in their fishing effort. The defense argued that they didn't intend to give any benefit whatsoever to the fishing boat, they were just out there to benefit themselves, which was buying product for their own business purposes.

Although the argument did not appear to be a good one, it is the kind that is litigated in court all the time.

In January the decision came out where the NOAA position was upheld that the type of activity is in fact aiding fishing vessels at sea. The court remarked that what the King Diamond had done was brought the international shark fin market to the boat on the high seas, and in doing so aided the fishing vessel in a number of ways.

This is the only published federal court decision that defines what it means to be a fishing vessel, particularly a transshipping vessel. It is a real important decision for NOAA. Mr. Ortiz suspected it would be appealed and he hoped he would be reporting that the Ninth Circuit Court of Appeals upheld the decision.

Tulafono asked if there were any questions or comments.

Martin noted that in the first case Ortiz talked about that there had been public comment regarding whether a vessel owner would be charged for a fishery violation that maybe was incurred while the vessel was at sea by the captain or crew.

Typically not only is the captain charged with a violation, but the vessel owner is charged with a violation as well.

It was interesting to note in their discussion in committee yesterday that there is some discretion on the part of OLE as to who gets charged.

Tulafono moved on to Agenda Item 6.E., F. and G. and called on Alvin Katekaru.

## **6.E. Hawaii's Shallow-set Operational Plan**

Katekaru reported that he was filling in for John Kelly. While the topic was called Hawaii's Shallow-set Operational Plan, it included a broader topic relating to observers.

There are some questions related to observers and the role they play on longline vessels. The primary role of the observer is to record and report incidental interactions with sea turtles and other protected resources, like marine mammals and seabirds. They record fishing effort, information on the fishery, fishing activity, and assist in scientific studies, such as genetic sampling, tagging of turtles for satellite work and biological information.

The issue is a question of observers engaging in compliance versus enforcement activities, a gray area. The observers do want to help the captains comply with the regulation. But certainly, they are not enforcement agents and do not have authority to arrest people.

There is a misconception that NMFS employees can tell a captain what to do or whether or not he can fish.

In situations where if asked or there is an apparent violation, the observer can or will share information on regulations with the captain. However, under no circumstance can the observers interpret the regulations.

In the situation where the lines are gray, the observer can contact NMFS Enforcement or Sustainable Fisheries. Now that observers have satellite phones, it's not difficult for them to pick up the phone, call the office and help the observers and captains comply with the law and not get into enforcement situations.

There are questions related to this issue and the need for improvement. The Hawaii Longline Observer Field Manual needs to be reviewed for observer authority, objectives, guidelines, responsibilities, and, if needed, better clarify the terms of compliance. Secondly, more outreach and education for fishermen through the Protected Species Workshop and also the training program of the observers to get both the observers and the captains on the same page in terms of knowing what the regulations are.

Tulafono asked for questions.

Morioka noted that the role of an observer can be compromised, if he is put in this awkward situation of having to be an enforcement agent also. Has there been dialogue with the Office of Law Enforcement inasmuch as some of the things that were noted on the shallow-set fishery, like dehookers, shouldn't it be the role of an observer to go through those things? Or should it be an enforcement type? Having that type of person on board creates tension and you don't want that kind of situation at sea.

Katekaru replied that there has been discussion and Morioka was absolutely correct, there's sensitivity there.

The program for pretrip checkouts includes a contractor going down to the vessel, partly to check if the vessel is safe. But since they're down there, they're checking on gear requirements, mitigation. The thought was that this would facilitate compliance. This is more preventative action dockside.

The inspection is related to safety, but if they could go through a checklist of other things it would prevent future problems.

Morioka suggested that there need to be an education process which the contractor can do, but there ought to be some notification to the vessel owner and vessel operators that this contractor is now going to be “deputized” by the Office of Law Enforcement to make sure that the vessel is safe and in compliance with all of the regulations that can be observed prior to the trip going out or the contractor will not place an observer on the vessel.

Katekaru responded that deputizing would be something that the enforcement folks might want to respond to. Hopefully, they wouldn't have to do that. Katekaru suggested something more cooperative that would start the observer on a good foot: sensitivity training to avoid getting into enforcement or revising the manual.

McCoy asked if Katekaru thought that too much was expected from the observers and should they have stayed with the collecting of scientific information, to avoid these conflicts? Leave the enforcement to the enforcement people, wherever they may decide to do that.

Katekaru said he thought they were not to get into enforcement. Again, they're not enforcement agents, but they should serve as outreach specialists to help the fishermen comply with the law. But at the same time, if there is a violation, they are responsible for reporting it.

McCoy asked if it was just fishery regulations, what about others like sexual harassment or things other than fishery.

Katekaru replied that as part of the observer program, they go through a rigorous session with debriefers. The debriefers check what actually happened to ensure accuracy of the information, how it was collected. In the course of the debriefing, other issues may come out other than strictly fishing matters because it is part of reporting on the entire activity at sea.

Ebisui asked about a previous slide and deferred to Robinson if his question related to the present topic.

Robinson agreed that it is a difficult issue. In his mind the observer was there to observe. The observer has no role in how the data they provide is used by the enforcement people.

The gray area comes when the observer tries to be helpful. Should an observer remain silent when he sees a violation and just record it, or should an observer advise the captain of what he has observed so the captain has an opportunity to correct it?

What is really clear is that the observers should not become enforcement agents. We don't want them to be in the position of ever taking any kind of enforcement action onboard a vessel. That's for the enforcement folks.

Ebisui asked Katekaru to go back one slide. The observer duties of sharing information on regulations with captain and not interpreting regulations seem to be conflicting. It could raise some concerns about the personal safety of the observer when he or she shares information on regulations with the captain. Secondly, if he looked at it from a defense lawyer's position, having an observer who is an apparent agent of the government giving advice, information on interpretation could be helpful to the defense of the case.

Katekaru clarified that by sharing information; it actually means making available the copies of the regulation or the placard to the captain, and not necessarily having a discourse. It is the captain's responsibility to understand the regulation.

But there are gray areas. So in that sense, the observer can pick up the phone and call the enforcement office.

Martin noted there was a discussion in committee about this and Judith Fogarty explained that common sense is the approach that they like to take.

The information that is submitted by the observer to the debriefer somehow makes its way to OLE. There is clearly a larger role. Is there a methodology for the information to be transmitted to OLE?

Katekaru told Martin that he was correct. During the debriefing session, if there is a potential that something is wrong or a possible violation, it would be transmitted to Enforcement. Enforcement would decide whether to investigate further, specifically what the situation was by discussing the situation with the debriefer.

Martin added that in the committee discussion, Fogarty shared the resources it takes to investigate every one of the incidents reported and how many of them turn out to be a minor infraction.

With regards to the operational plan in the shallow-set fishery, he found it troublesome that an observer placement person can refuse to place an observer based upon his determination of whether the vessel carries all of the proper dehooking and regulatory equipment. It seems somebody who is not in a position of authority is being asked to make a decision that can affect whether the boat will or not be able to go fishing.

Morioka asked Katekaru to comment on Martin's statement.

Katekaru said he would have to research a response. He was not sure what the arrangement between NMFS and the contractor was.

Tosatto added that the intent behind placing that requirement on the observer was, remembering it is a 100 percent observed fishery that reopened with a greater set of rules, which included some additional new equipment. They took the opportunity while implementing the reopening of the fishery to identify where it makes sense to do some things to make sure it got off to a good start.

On the good side, they have never held up a vessel. They have had safety items come through the normal observer type issues.

He felt it was reasonable, since they do not have the resources to be at each departure, to use the observer as a check. If someone didn't have a dehooker or a piece of required gear, hopefully the ship and Fisheries would make the effort to get that stuff available to them so that they are minimally impacted to get on their way. But, they do not hold them up. They have the contactor the task of letting us know if during observer placement when somebody doesn't have all his gear onboard. They deal with that later.

Tulafono asked Martin if that response addressed his concern.

Martin thanked Tosatto.

Tulafono asked for further comments or questions. Having none, he asked Katekaru to go on to Agenda Item 6.F, American Samoa Limited Entry Program.

#### **6.F. American Samoa Limited Entry Program**

Katekaru began by saying the agenda item had to do with the question of having a VMS program when the American Samoa Limited Entry Program is implemented. He asked Fogarty from Enforcement to explain what will happen when the program is implemented.

Fogarty believed the question was how VMS would be placed on these vessels in American Samoa. That question relates to funding.

That decision is at their Headquarters where they are wrestling with the requirements nationwide with VMS. It really is about dollars. It pertains to whether this is going to be interpreted as an extension of the existing fishery in Hawaii or is this a new fishery. Those are some of the questions Headquarters is asking. She did not have an answer yet as to whether NOAA will be able to fund the VMS units for this limited entry fishery. There are numerous fisheries coming onboard with VMS requirements around the country and there is only so much money and some of the VMS funding was cut last year.

Mr. Spurrier was here in March last year and addressed some of those issues with the Council at that time. Those questions are still being asked, and there are no answers yet.

Simonds asked what difference did it make whether it's a different fishery or an extension of the Hawaii fishery, in terms of funds.

Fogarty responded that that was the question she was asking.

She thought that the decision depended on whether NOAA can continue as an agency to buy VMS units for every vessel that's out there.

The Pacific Region, the Northwest has maybe 6,000 vessels coming online with VMS requirements. A starting point for costs is \$3,000 a unit to put them on a VMS. There are other costs that go into VMS that include man hours and the manpower from her to manage a program and the Coast Guard has resources allocated to the program. We do not fund the Coast Guard activities; however, there is an unseen cost with the Coast Guard having people with access to VMS for safety issues. NOAA has access to VMS for enforcement and management issues.

Other costs are the communication cost to the vessel, to the satellite and back to track the boats, all of which NOAA is paying. There will be a point in time where the budget will not continue to cover these costs. NOAA would still like coverage out here, but that decision will not be made at this level.

Robinson added that he thought that if the American Samoa fishery, as a general longline fishery, is considered part of the Hawaii longline fishery, that funding decision has already been made - Agency funds it. If it is not considered part of the same fishery, then it competes with all the other fisheries looking for funds.

Simonds asked that when Robinson said fishery, did he mean the kinds of fish, the gear. American Samoa is part of the Western Pacific Region. She would say they should be funding it.

Tulafono added that he was concerned that something is imposed on the local fisherman realizing that there are constraints in funding at the federal level and the small alia fleet is not being considered for the VMS system. Big boats perhaps could afford it. But the small alias, those are the fishermen that should be taken into consideration with the funding of the VMS system, when this limited entry is enforced.

Hearing no further questions, Tulafono moved on to Agenda Item 6.G.

## **6.G. Bottomfish Fishery Permits and Reporting Requirements**

Katekaru explained that this issue had to do with removing an antiquated regulation or requirement that is on the books. The regulation says the operator of a Hoomalu fishing vessel must contact the Coast Guard by radio, the Honolulu District or the San Francisco District, at least 24 hours before landing and report to port their approximate date and time when the bottomfish will be landed.

He was not sure of the history behind it and surmised that there must have been a reason many years ago when the limited entry program for the Hoomalu Zone was implemented back in 1989. But certainly today, it seems to be not appropriate.

He suggested that the Council do a regulatory amendment and remove this requirement.

Tulafono asked for questions. Hearing none, he moved on to Agenda Item 6.H.

#### **6.H. Update on Electronic Logbook Amendment**

Eric Kingma reported that as Pooley had mentioned, funding for the electronic logbooks and program was not approved by NOAA FIS Program.

The Council made this recommendation to allow the optional use of electronic logbooks and also submission via other data sources in June of last year. It would improve data accuracy and saved time and money for fishermen and the Science Center alike.

Unfortunately, the FIS funding proposal is not going to happen this year. Perhaps in '06 it could be funded. Sometimes these things take a very long time and by the time it is up to performance status, it could be 2010.

The region is thinking of drafting the performance standards and protocols. What needs to happen next is likely a meeting between the U.S. Coast Guard, OLE, PIRO, the Science Center, industry and also the software developer to try to address these issues here regionally so we can get something off the ground because electronic logbooks are a better way to go than the current system.

Tulafono asked for questions. Hearing none, he moved on to Agenda Item 6.I.

#### **6.I. Standing Committee Recommendations**

The Standing Committee on Enforcement and VMS met yesterday morning. The committee heard reports on the U.S. Coast Guard, NOAA Office of Law Enforcement and also from the General Counsel Paul, on the status of violations.

The committee heard three issues that were discussed by Katekaru. There were concerns raised by some of the Council members. There was no public comment in the meeting yesterday.

After lengthy discussion of different issues, the Standing Committee came up with three recommendations for the Council to consider.

Recommendation 1: The U.S. Coast Guard and NOAA Office of Law Enforcement monitor the shortline longline fishery for compliance of the CFR regulation which defines a longline and that the Pelagics Standing Committee help define the intent of the longline definition.

Recommendation 2: PIRO and Council staff work together to find a mechanism to remove the 24-hour pre-landing bottomfish notification regulation.

Recommendation 3: PIRO observer program work with the Council staff in revising observer protocol manual.

Tulafono offered the three recommendations as a motion for Council consideration and approval.

Duenas seconded the motion.

Morioka asked the Council members for discussion, then he would call for public comment.

Martin explained that with regards to shortline longline fishing, the discussion centers around a fishery that has developed and grown in recent years. Shortline fishing is vessels that fish within the EEZ that fish sections of line less than one nautical mile, which by regulation is not defined as longline gear. This is not a federally managed or reported fishery, although the State collects some data on this fishery.

The concern is that there may be limited or no enforcement or attention being paid to that particular fishery, and the recommendation basically is asking OLE and the Coast Guard to at least be attentive to that fishery to make sure that the vessels are in compliance with that regulation, being less than one nautical mile.

The second portion of the recommendation related to defining what a short longline is. Whether it is a nautical mile of line or is it a mile from two geographic points on a chart, which could result in two or three miles of line being laid, but over the course of one mile you compensate for the droop in the line.

This needs to be clarified and perhaps discussed further this afternoon under the Pelagics section. The enforcement folks need to be aware and attentive to it.

Morioka asked if any discussion was given to the shallow-set fishery and its short sets, he had seen some documentation and discussion regarding short-set swordfish fishing.

Martin replied that there was no discussion of that. However, there was some discussion between industry and the PIRO Office as there are methods used in the shallow-set fishery where multiple shortlines are deployed and -- there was a clarification as to whether that was one set.

If you put out two lines, is that one set or two sets. Some of the history involves deployment of a shallow set targeting swordfish. Swordfish tend to float when they're hooked and die. So there were issues related to bird predation; this fish gets chewed up. There are some fishermen who prefer to put shorter lines that have less soak time, which provides less exposure to protected species -- a good argument.



Ebisui wanted to reiterate something that he said in the Standing Committee concerning the second recommendation, about the 24-hour pre-landing notice to the Coast Guard.

It was his recollection that this regulation started in the late '80s. The concern was that there were identified monk seal corridors. The Council by that time had already prohibited longline fishing in the Northwestern Hawaiian Islands. So the concern was that this was a way that the Coast Guard could be notified and they could check the bottomfish vessels to make sure that they weren't carrying any longline gear. He believed that was the origination of that particular requirement.

Morioka thanked Ebisui for the clarification. He called for further discussion by the Council members. Hearing none, he asked for public comments. Seeing none, the Chair recommended to the maker of the motion that the first recommendation from the Enforcement and VMS Standing Committee be held over to the Pelagics so that those two issues can be considered collaboratively and addressed at that time.

He asked that the motion be amended to include Recommendations 2 and 3. So moved by Tulafono and seconded.

Morioka asked if everyone was clear about the motions. He asked Kingman to put the motions on the screen.

Morioka added with regards to Recommendation 2 and 3 that they would be taking them collectively. He asked for issues or discussion.

Farm called for the question. The motion was approved.

Duenas moved that Recommendation 1 be deferred to the Pelagics section of the meeting.

Tulafono seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. The motion was approved.

Morioka adjourned the meeting for lunch and requested the members be back by 1:45.

Morioka reconvened the 126th Council meeting. He began with a correction for the record and called on Palawski.

Palawski clarified that with regards to the Endangered Species Act and FDM that the military was not exempt from the Endangered Species Act, but at FDM they do have an exemption for the Migratory Bird Treaty Act.

Morioka relinquished the chair to McCoy.

## **7.A. Pelagic Fisheries – Bigeye Overfishing Plan**

Frank McCoy began the Pelagics section with the Bigeye Overfishing Plan. This was initial action by the Council after it was notified by the Secretary of Commerce that overfishing is occurring on bigeye tuna in the Pacific. He called on Paul Dalzell to explain further.

Dalzell referred to his slide on the agenda items in their binders that would provide the necessary background on the issue.

Bigeye is being fished at unsustainably high levels in the West and Central Pacific. But the stock as yet is not overfished based on the National Standard 1 reference points.

Fishing of bigeye in the Pacific is above what's called the maximum fishing mortality threshold. Although, that has come down somewhat in recent years it is still above the threshold.

But at the end of the '90s and the turn of the millennium the level of fishing effort was thought to be above that which could be sustained by the bigeye stock in the West and Central Pacific.

Even if the biomass dipped below the MSY point, it still would not be overfished. He noted the reference point at which it would be overfished. But it is still above the level at which overfishing or even MSY would be taking place. However, under Magnuson the Council is obliged to do something about the fact that the reference point has been breached.

In the Eastern Tropical Pacific things are more perilous. The assessment would suggest that the stock is actually overfished.

This is an interesting question, is it one stock or two. Genetic information would suggest that it is one stock. So on one side of the line, the line at 150 Degrees West, which separates the IATTC area from the West and Central Pacific Fishery Commission area, there is a probable situation where the stock would be deemed to be overfished.

On the other side of the line, in our area, it's only overfishing that's going on. It appears the situation is the stock is not yet overfished but overfishing is going on.

The IATTC doesn't do reference points similar to ours in the Eastern Pacific. He pointed to spawning biomass, which is below the level of MSY. That is their current point, and here is where they suggest it will be in the near future. Of course, these are just projections.

The world is split into two international management arrangements, over on the right-hand side, or in the east, IATTC area. That's been established now for over 15 years. On the left there is the new kid on the block, Western and Central Pacific Fisheries Commission. Its first meeting was held last year in December. Its next meeting will be December this year. Before that will be the meeting of the Scientific Committee in August in New Caledonia.

Already on this side of the line there are measures to conserve bigeye. The graphic pertained to longline fishing and because the longline vessels that range out of Hawaii do fish in the Eastern Pacific. They're now subject collectively with longliners from the West Coast to a quota based on the 2001 landings, about 150 metric tons, which is in effect for last year and for this year.

There are also some purse seine measures, some closed seasons for purse seine fishing in that neck of the woods.

Over on the other side, there are yet no measures in place to conserve bigeye. So that's something that will probably be the first order of business for the new commission. It's certainly the most important pressing management issue they have to deal with other than the continuing establishment of the new commission itself.

He showed the trajectory of bigeye catches in the Pacific. The black line with the dots is the total catch. Underneath that is the Eastern Western Pacific, the West and Central Pacific region in red, and in green the Eastern Tropical Pacific. As shown, there has been a steady upward climb of bigeye catches since the 1950s.

This period here is important because this is the point at which the purse seiners began to start catching substantial volumes of bigeye tuna.

In the past, bigeye catches were generally around about 100 to 150,000 metric tons. We have added to that. Certainly, although the volume has now gone down, in the past few years you were catching about 100,000 metric tons in the Pacific for longliners, another 100,000 metric tons from purse seine fishing. It's that catch of purse seiners of juvenile fish which has contributed, he thinks, greatly to the problem of bigeye being overfished.

He showed the number of longliners operating in the Western Central Pacific Ocean. It was stable between the '70s and the '90s, after than an increase.

Again, it was a relatively period of stability for the total fleet; however, the most interesting phenomenon is the rise of Pacific Island longline fleets, which includes the Hawaii fleet.

Dalzell then showed the rise of the purse seine fleet in the Pacific and the increasing volume of purse seining by the Pacific Island Countries, particularly by Papua New Guinea. So there are the two biggest established fishing nations in the Pacific, Japan and Taiwan, and growth of domestic fisheries within the Pacific Islands.

The problem of purse seining is the business of them catching large amounts of juvenile bigeye. This comes from fishing around untethered FADs and tethered FADs, or floating objects.

The bigeye juvenile issue can be split between fishing on unassociated skipjack and yellowfin schools, in which very small amounts of bigeye are taken, versus fishing around

floating objects, whether it's a log or a dead whale, an untethered FAD or a tethered FAD, fish aggregating device.

The deployment of untethered FADs has greatly contributed towards this problem. These things are not simply just rafts which are put on the water. They have a radio beacon on them. They have a fish-finding sonar underneath linked to the beacons. So a skipper can scroll through these various FADs and find out which one to hit for the highest sort of fish biomass on that particular day.

The advent of deeper-setting nets and better hydraulics for net hauling has meant that now the bigeye, which stay down deep and were beyond the range of the purse seine nets, are becoming more catchable. So there's been a problem of catching more juvenile bigeye, which go into cans and don't grow up to be caught by longliners, sold, and become a much more valuable fish for the sashimi market.

The advent of the Japanese fishery was shown, the blue drifting FAD, and the percentage of sets on drifting FADs. The Korean fishery, by and large, stays mainly with unassociated schools.

For a while the Japanese, in common with other fishing fleets, were fishing a fair amount on the untethered FADs in the blue there.

A time series showed the percentage of total sets for the Papua New Guinea fleet, which has grown. They're now a much bigger producer of tuna than the U.S. fleet.

They don't have so many untethered FADs, but they do have a huge number of tethered FADs. If you were to look at some of the country papers that they produce at the Standing Committee of Tuna and Billfish you'll see that the Solomon and Bismarck Seas are literally picket-fenced with thousands of these FADS. So if there are moves in the future to sort of limit the use of fish aggregating devices, there will be quite an amount of resistance from PNG since it is the only thing that would curtail their style of operation.

A lot of their purse seiners come from the Philippines where there's been a long association of net fishing around floating objects.

The Taiwanese for the same period show that burst of untethered FAD fishing in the late 1990s.

In 1999 the U.S. fleet almost entirely set around untethered FADs. Then the economics of that fishery militated against maintaining the use of that style of fishing. The decline was relatively slow.

So that burst of fishing around untethered FADs in the West and Central Pacific boosted the catch of juvenile bigeye in the area from a few thousand tons up to 30, 40, 45,000 metric tons. When added to the 60,000 metric tons that were caught in the Eastern Pacific, and there are 100,000 metric tons of juvenile bigeye, therein lies part of the problem.

Russell Ito provided the next slide that showed the growth of amount of hooks deployed by our longline fishery. There's a particular jump in the number of hooks set after 2001 with the closure of the swordfish fishery and the transition of our longline fishery until April of last year when the swordfish fishery was reopened, to a tuna-targeted fishery, which uses a deeper-setting mainline and a lot more hooks. There is a constant growth in the amount of hooks deployed by the longline fishery here in Hawaii.

Concomitant with that is a general rise in the volume of bigeye being very variable from year to year, from quarter to quarter. In general, the trend has been an increasing level of catch of bigeye in the fishery.

Although the CPUE has generally tended to remain relatively stable, we don't see any sort of major downward trend in the catches of bigeye in the Hawaii longline fishery.

There is an increasing volume of bigeye being caught in American Samoa because of the expansion of their fishery there. But by and large, most of the bigeye caught in the Western Central Pacific by U.S. vessels, not counting the purse seiners here, is coming almost entirely from the Hawaii longline fleet. There's about 250 metric tons in American Samoa, and the same amount taken by the handline fishery in Hawaii.

The number of trips in the offshort handline fishery has been very variable. They reached a peak in 1992, and have declined quite considerably since then. Looking at the catch and effort and revenues from this fishery it has been pretty stable actually over time.

Dalzell showed a slide from the Council's annual report on the website. Usually the data for the most recent year tends to be incomplete. As the 2004 report is done the point will come back up and follow the general trend here.

The catches of bigeye in this fishery are about a million pounds per year and are probably the general trend.

The bigeye catch has been generally increasing in this fishery, particularly since the late 1990s. This is a fishery which has been quick to catch on to the use of FADs.

In general, most of the FADs that are deployed around the State of Hawaii have been put in by the State Government. But there are fishermen putting in their own FADs. The Council has made recommendations pertaining to the classification of fish aggregating devices as FADs.

The bigeye catch has been increasing while the yellowfin catch has been in a general decline.

It is important to note that a lot of this yellowfin that was called yellowfin here was probably bigeye. There have been a lot of problems with the reporting of yellowfin versus bigeye from this fishery. So this increasing trend may also reflect better information on catch composition.

Looking at the CPUEs in this fishery, from the yellowfin, for the fishery as a whole, there is an increasing trend, particularly for the bigeye. This again reflects this fishery, which is based primarily off Hilo, fishing off the eastern coast of the Big Island.

It reflects the transition of this fleet from fishing primarily on the Cross Seamount and the NOAA weather buoys to deploying their own FADs and fishing -- deployment off the eastern coast and fishing offshore.

The Council will be talking later on the agenda about one of the consequences of this, which is the request to expand the current longline closed area. Because what's happening is these boats are now deploying FADs in the same areas where longliners are fishing. There may be some gear conflict there.

The consequences of this FAD deployment are a massive increase in the CPUE pounds per trip of this deployment.

Dalzell reviewed the timeline by which they are working. It began with the June 15th, 2004, annual report to Congress on the Status of Fisheries in 2003. The standing report is part of the Magnuson requirements to provide Congress with a report every year from NMFS which reviews the status of stocks in the U.S. The 2004 report on 2003 identifies overfishing of Pacific bigeye.

The Council received a letter on December 15<sup>th</sup> from NMFS saying it had been determined that bigeye is being overfished and the Council should take remedial action to end overfishing on Pacific bigeye tuna by June 14th, 2005. The Council needs to do an amendment to the FMP.

Because of this overfishing determination, Kitty asked that the Pelagics Plan Team be reconvened in February. It was a special meeting targeted at bigeye tuna overfishing. Recommendations came out of that meeting.

The SSC reviewed those recommendations during its meeting in February. The SSC had no real issues with the Plan Team recommendations, but they added their own spin and twist to them.

The Council will get a chance to see what the Plan Team and SSC recommendations are at this meeting. The Standing Committee has already seen them.

A consultant has been engaged to draft a background document with all the information that we will require to draft an amendment to address Pacific bigeye tuna overfishing.

One of the major points in the letter that was received from NMFS by the Council Directors was that any unilateral action by the Councils will not recover bigeye tuna. There is between two and three percent of the total bigeye tuna catch in the Pacific. This is not going to result in any recovery of the stock.

A document can be developed with a foundation plan that will be part of the amendment to the FMP and take a position on how the IATTC and the new fisheries commission in the west will be asked to address bigeye tuna overfishing. This is for the international scale.

Domestically there are things that can be and should be done. Perhaps the most important one is to look at the handline fishery. Although this fishery may not need any particular regulation per se, information is needed on where it is fishing, what the catch rates are, what the catch composition is or the size of fish being taken. The Council may wish to bring this fishery under federal jurisdiction, which would mean permits, logbooks and observers where practicable.

The documents will generate a draft amendment document, which will then go to the SSC for review. Then in June, the Council would have alternatives and a preferred alternative for initial action, then final action in October. That would be the short term, looking at the big picture, the international scene.

This is modeled with what has been done in the Atlantic with respect to the Atlantic FMP, where they have incorporated the foundation plan to address bigeye, bluefin and swordfish overfishing and the kind of requests and strategies that they would ask to be adopted at the international level so that overfishing could at least be addressed.

This would include things like reference points that may be based on ours or something similar and possibly address fishing capacity, fleet size reductions, and total allowable catches -- anything that would reduce fishing mortality on the stock.

The Council would decide whether to move forward on federal management for the offshore handline fishery.

There are some recommendations from the plan team and some from SSC. Keith Bigelow will present the Plan Team recommendations. Then afterwards Craig Severance will run through the SSC recommendations.

Bigelow explained that the Pelagics Plan Team met on February 10th and drafted five recommendations for the Council's consideration.

The first recommendation deals with the domestic Hawaii issues, where Recommendations 2 through 5 deal with the newly-established commission for the Western and Central Pacific Ocean.

- The initial recommendation takes into account that there are some sectors of the Hawaii fishery that aren't well documented, the catch nor the effort, particularly the offshore tuna handline. So the Plan Team recommends that the Hawaii offshore tuna handline, private FAD, vertical longline and short-line mainline fisheries in the EEZ be federally permitted with logbooks, limited entry programs and observers, where applicable.

- The second recommendation deals with information for the newly-formed scientific committee of the commission. Specifically, the capacity for the longline fishery throughout the Pacific is not well documented and the Plan Team recommends a detailed description of the heterogeneity for the Western Central Pacific longline fleet be drafted for the Commission and a description should include number and size of vessels in longline fleets, depth of set, number of hooks set, hold size, target species and target markets and refrigeration types.
- Within the Scientific Committee last August they drafted 17 different scientific analyses for management options, which will have some scientific progress on this year. Some of them were input controls, output controls or technical measures. So the Plan Team recommends that the Stock Assessment Working Group of the Scientific Committee of the Commission should specifically examine input controls such as limits on the number of vessels, limits on fishing effort, time and/or area closures, and prohibition of FAD sets to be presented to the Scientific Committee in August 2005.
- Fourth, the Plan Team recommends that the Scientific Committee of the Commission should examine areas of high fishing mortality for bigeye and explore opportunities for input controls, for example, time/area closures.
- The last one, the Plan Team recommends that the Commission should make every effort to register and mark with unique identifiers FADS, both anchored and drifting, as fishing gear.

These are the recommendations for the Western Central Pacific. The Plan team also talked about some of the specific issues in the EPO, but didn't make any recommendations toward that.

Dalzell noted that once Severance had read the SSC recommendations pertaining to bigeye, he would ask Russell Ito to talk about the issue of the bigeye quota in the Eastern Pacific; first, because it is important that the Council understand how it works and finally because the Council will be seeing a lot more of it.

## **7.K SSC Recommendations**

Severance referred the members to the last page of Item 7.K.1 in their briefing books. These are the recommendations that refer specifically to the bigeye issue.

The recommendations are:

1. With respect to Pelagic Plan Team Recommendation 1, the SSC believes in principle that all fisheries, both commercial and recreational, within the EEZ be required to provide logbooks to be subject to forms of fishing control and also be required to carry observers on vessels, where applicable. A phased approach is



- recommended, with the first phase being the requirement that logbooks be required for all types of commercial fishing on pelagics fish.
2. With respect to Plan Team Recommendation 2, the SSC recommends that a detailed description of the heterogeneity of Western and Central Pacific longline fleets be drafted and that the descriptions would ideally include number and size of vessels in longline fleets, depth of set, number of hooks set, hold size, target species and target markets and refrigeration type. That is intended primarily to get a better sense of capacity of other fleets taking that much higher percentage of bigeye than we take in our domestic fisheries.
  3. With respect to Pelagics Plan Team Recommendations 3 through 5, the SSC recommends that the Council advise the U.S. Delegation to the Western and Central Pacific Fisheries Commission of the following items:
    - a. That the Stock Assessment Working Group of the Scientific Committee of the Western and Central Pacific Fisheries Commission should give the highest priority to examining input controls, such as limits on the number of vessels, limited entry programs, including transferable quotas, limits on fishing effort, time and/or areas closures, and prohibition of FAD sets to be presented to the Scientific Committee in August 2005.
    - b. That the Scientific Committee of the Western and Central Pacific Fisheries Commission should examine areas of high fishing mortality for bigeye tuna and explore opportunities for input controls. For example, time/area closures.
    - c. That the Western and Central Pacific Fisheries Commission should make every effort to register both anchored and drifting FADs as fishing gear and to mark them with unique identifiers.
    - d. Finally, the SSC recommends that research is urgently needed into the modification of purse seine fishing around FADs that would reduce the catch of juvenile bigeye tunas and other sensitive bycatch species, such as marlins, sharks and turtles.

Dalzell asked Ito to speak on what's happening in the Eastern Pacific on the bigeye quota there.

Ito explained the process of estimating bigeye catches in the Eastern Pacific Ocean by the longline fishery, how the quota was established or how the quota was estimated, as well as what is being done to monitor the situation.

The IATTC's Resolution C-04-09 recognized that the potential production can be reduced by excessive fishing effort. In that resolution it also encouraged the participating countries with large-scale tuna longline vessels to undertake initiatives to reduce their fleet size in accordance with the FAO's International Plan of Action. That resolution also stated that the IATTC was aware that bigeye catch by large-scale tuna longline vessels was still growing in the

Eastern Pacific Ocean. The important thing is the studies that they conducted on yellowfin and bigeye showed that stocks are a level below which produce average maximum sustainable yield. So those issues prompted them to take a look at what they needed to do.

The resolution included other items that affected them:

- The first one established total annual longline catch levels of bigeye in the Eastern Pacific Ocean during 2004, 2005 and 2006 would not exceed the catch level in 2001. They needed to establish what the catch by the longline fishery, whether it be based in California or Hawaii, was in 2001.
- The second item was that each participating country shall provide monthly catch reports to the Director of the IATTC. In addition to establishing a catch level in 2001, the catches in 2004, 2005 and 2006 had to be monitored. So 2004 was the first year they went through this exercise.

The bigeye issue is going to affect more of what they do here because most of their operations in Hawaii occur in this particular area and the IATTC urged the Western and Central Pacific Fisheries Commission to adopt appropriate measures to conserve tuna stocks in the region as well.

Ito referred members to the website address on the bottom of his slide.

The annual longline quotas established by the IATTC:

- Japan, 34,000 metric tons.
- Korea, about 12,600 metric tons.
- Taiwan, 8,000 metric tons.
- People Republic's of China, 2,600 metric tons.
- US quota, 150 metric tons.

The 150 metric tons was what they determined as the harvest level in 2001. They had a preliminary estimate of 100 metric tons, but it was revised after a closer look.

That last bar on the bottom of the slide at 217 metric tons, was what was estimated as produced in 2004. So conserving bigeye stock and the U.S. doing their part meant they needed to maintain our 150 metric tons. That still amounts to about a quarter of one percent with the large fishing nations, because there are other Distant Water Fishing Nations that also have quotas in the Eastern Pacific Ocean.

The IATTC's area of jurisdiction begins from the eastern seaboard of the Pacific and goes out as far as 150 West, and is bordered by the latitudes 40 South and 40 North.

In calculating the monthly bigeye catches in the Eastern Pacific Ocean, they use two data sources:

- The logbook data from Hawaii and California, which gave area-specific catch in numbers of fish but no information on the size of the fish or the volume of the fish. So that was combined with the Hawaii fish dealer data. That dataset included the number of fish as well as the corresponding weight.
- The logbook data was combined with the number of fish caught in the Eastern Pacific Ocean with the average size of the fish caught in that specific area, from the fish dealer data.

It showed the estimated mean weights in the Eastern Pacific Ocean. The scientists felt that the fish size of bigeye tuna was larger in the Eastern Pacific Ocean compared to what it is caught by the Hawaii-based longline fishery.

His next slide showed that in 2001 the largest mean weight of bigeye tuna was 47 kilograms, or about 104 pounds per fish. That's in comparison to the fleet mean weight of bigeye, where it was only about 68 pounds per fish. So it was substantially bigger in the Eastern Pacific Ocean than it is closer to here.

The only exception was in 2002 where the bigeye mean weight was smaller in the Eastern Pacific Ocean compared to the fleet mean weight. His graph showed a substantial difference with the mean weight of bigeye caught in the Eastern Pacific Ocean with the Hawaii-based longline fleet.

The biggest difference is in 2001 when it was 68 pounds here in 2001, versus 104 in the Eastern Pacific Ocean.

The total number of bigeye caught and kept in the Eastern Pacific Ocean was multiplied by the mean weight of bigeye tuna originating from that specific area. His graphic showed what they got in metric tons.

The five-year time series showed that 2001 was near or at the lowest level of bigeye catch by the longline fishery. Using the fleet-wide mean weight changes the estimated amount of bigeye caught. The estimated catch in 2001 was about 147 metric tons using the mean weight of bigeye caught in the Eastern Pacific Ocean versus only 97 metric tons when you are using fleet mean weight, substantial difference.

2001 was a bad year to use as a year to establish a quota because it was rather low. It was a time in the fishery where there were a lot of things going on, with the closure of the swordfish fishery. Boats that transited between California and Hawaii were not allowed to do that because of decoupling their vessels from the limited entry permits. Not all of what we see in this low-level catch may be biological in nature.

The first part of the exercise established a quota of about 150 metric tons.

So the next thing was to track monthly bigeye catches in the Eastern Pacific Ocean. The same data sources were used: the logbook data from Hawaii and California and extracted

number of fish that was caught in the Eastern Pacific Ocean. Fish dealer data was used to calculate the mean weight from fish caught in the Eastern Pacific Ocean.

The total number of fish caught each month was multiplied by the five-year mean weight. This would incorporate the variation in bigeye tuna caught in the Eastern Pacific Ocean over a wider time scale. 29.1 kilograms per fish was the mean weight use, multiplied the number of fish caught in that area provided a five-year average of 86 pounds.

Ito showed the monthly catches of bigeye tuna in the Eastern Pacific Ocean. California was the top row. Hawaii was in the lower column. California had high catches of bigeye in the early part of the year, from January through April, above Hawaii.

Hawaii usually produces a lot of bigeye in the Eastern Pacific Ocean during the third quarter, into October. It peaked at 73 metric tons in August.

This is problematic because the catches ramp up so fast over the course of the year that it is really hard to react to or abide by that quota level with some degree of accuracy and timeliness.

This slide just shows the cumulative monthly bigeye catches in the EPO for 2004. They barely exceeded the catch in August of last year, at about 155 metric tons.

The last slide showed a comparison of cumulative bigeye monthly catches in the EPO in 2003, indicated in the blue bar. 2004 is in the red bar. The same pattern appears. There's a quick ramping up in the third quarter, where 150 metric tons is met and exceeded during that time of the year and it tapers off into the last quarter of the year.

Dalzell put up an Excel spreadsheet and asked Bigelow to add an epilogue to Ito's presentation. There was some work that came out of the Pelagics Plan Team which had to do with this whole issue of the quota in the Eastern Pacific Ocean.

Bigelow explained that one of the recommendations of the Plan Team in October of last year was to consider multi-year averages for the quota in the Eastern Pacific Ocean.

He showed a histogram of the various options for the Hawaii-based fishery. The status quo is the third histogram on the left at about 150 metric tons. On the bottom were the fleet-wide estimates for various years, single years or multi-year considerations.

The multi-year averages showed that there was not very much latitude for increasing or decreasing the Hawaii catch. It went up to about a high of 220 tons or a low of about 140 tons.

Alternatively, looking at the multi-year averages for some of the other fleets, being Japan, Korea, Taiwan and Mainland China, there's a three-year trend from 1999 to 2001 that would represent about a 20 percent decrease in the catch. Furthermore, a four-year time series increases the catch about 10 percent to about 55,000 tons.

There doesn't seem like there's really a whole lot of scope to increase the Hawaii catch, but there could be some considerations to reduce the foreign catch.

The Hawaii catch is pretty minuscule, about one-quarter of one percent. So probably the IATTC is not really upset that this year's catch was 217 tons compared to 150 tons, when you have the foreign fleets catching a lot more than that.

Simonds asked what would happen if just a single year was used? The catch is so small, but we want to do our share in terms of overfishing. What if 1999 were used? Looking at all the data points, in some years you don't really have good information from the foreign countries.

Bigelow understood that the IATTC did not use 1999 data because of the inadequate Mainland Chinese statistics.

Simonds said, right. If our catch is less than five percent of the total catch, why not look at something else, why not look at '99 for us?

Bigelow agreed.

Simonds asked that in terms of the stock assessment, is there one stock or are there two stocks of bigeye in the North Pacific? What is it?

Bigelow explained that they were not real sure of the stock structure. Traditionally what has happened is an Eastern Pacific stock assessment, a Western Central Pacific stock assessment and two years ago, a Pacific-wide stock assessment. The schedule for this year is to do all three of them, starting with Pacific-wide and the Eastern Pacific hoped to be done mid year. Then the stock assessment for the WCPO will be ready by August of this year.

Simonds clarified that they would be doing a Pan Pacific stock assessment?

Bigelow replied that was correct.

Simonds said that is why limiting Hawaii to a certain quota is so weird. The SSC doesn't think that quotas are the best way to manage fisheries. There are other ways to do this like hot spots, in terms of not just the United States but all the other countries. So right now you don't know about the stock, right, whether it is one stock or two stocks? You will know at the end of the year?

Bigelow said that they wouldn't the stock structure at the end of the year, but the assessment of the different stocks will be done.

Simonds asked if they might know next year.

Bigelow replied that there was not ongoing stock structure information and assumptions would need to be made.

Simonds clarified that there needs to be work on stock structure, then?

Bigelow agreed.

Simonds said there's North Pacific albacore and South Pacific albacore and these are different stocks. If we are going to limit our fishery to a certain tonnage or a quota, we should have a better handle on the stock structure. It is really important because we only catch five percent or less of the total catch of bigeye in the Pacific Ocean. How can the Council help?

Bigelow explained that to resolve the stock structure, one interesting point is the tagging program to tag a lot of fish, usually south of Hawaii or along the equator, to see where they go. Do they go to east to the Eastern Pacific? Do they go to the west? Do they stay where they're at?

There's been a lot of tagging in the Eastern Pacific and the Western Pacific, but nowhere really in the Central Pacific.

Simonds asked Kleiber to shed some light on this.

Kleiber explained that the question of stock structure is one that's bedeviled us for a long time, and there's a classic view that a population can be divided into some kind of mosaic of substocks with boundaries between these areas.

The more moderate view is that it is all one population. It's not a two stock thing. It's one population. But it's not uniform. So it's a continuum, and that's the way to think of it.

The fact that we do a Western Pacific analysis or an Eastern Pacific analysis more reflects the data we have at hand at any one time, the people that we have involved at any one time and maybe the questions that we're asking.

Are we asking a question about, what should be done in the Western Pacific? Or are we asking, what should be done in the Eastern Pacific, or for the whole? So we tailor the analysis that way.

But we would recognize if we do just the Western Pacific, that there is a leaking boundary over there. So it's unfortunate that we've had this term, one stock and two stocks.

Simonds said that the whole point is for us to get the best information that we can in order to conserve the stocks. If we take five percent of the total catch, what really should be our share to help in this conservation? If we had better information or why not just look at 1999 for our fishery? We don't have to the same as the foreign fisheries.

Catches are missing from so many years. And we have a highly regulated fishery.

Gibbons-Fly commented on the IATTC issues and the questions that were being raised. We are relying on these regional fishery management organizations to protect this stock, along

with the U.S. share of this stock. The process is an imperfect one. It requires consensus among a number of different sovereign states sitting around the table. Each one of them has the power to say no.

Those that aren't as interested in taking action to conserve the stock can often complicate the debate and turn the discussions into levels of confusion by asking exactly some of these kinds of question; is it one stock or two stocks, and what should we do under these different scenarios. It creates a very difficult and complex dynamic within the organizations.

So while there is concern about what the IATTC did and what the implications are, the delegation to the IATTC was faced with a situation where it was a question of doing something or doing nothing. He felt that in this case, the right decision, even in the face of imperfect information, is to take a first preliminary step.

This was the first time that the IATTC had taken any measure, any conservation measure, with respect to bigeye harvested by longline vessels. Throughout its history, the longline fleet harvesting bigeye and other species in the Eastern Pacific had been completely unregulated.

So he agreed that we need to do as much as we can to get as much information to be able to make the best possible decisions about what our position should be and what we think are acceptable solutions within these organizations. But one of the realities is we have to act without perfect information and we have to be in a position to be able to take positions in these RFMOs, that although imperfect, are a step in the right direction to conserve and manage these stocks.

Simonds noted that while she was in Rome, she had a discussion with Robin Allen. He suggested that if we have recommendations that we should be working on them as soon as possible, and come to the IATTC meeting in June with our recommendations for our fishery. So that's why we wanted to stimulate discussion for the Council members, to get some of their ideas, and for us to have some meetings over the next several months before going to the IATTC.

Robinson remarked that he had never been to IATTC and had a question as to whether the decision had been made for 2004, 2005 and 2006 or if there was any latitude to pick a different year.

Simonds responded that she believed that we can make that recommendation for the next set of years. That is what we would be doing in June.

Robinson agreed.

McCoy asked for further comments.

Martin felt that the Council needed to be intimately involved in developing a strategy. The fisheries are certainly much less regulated in the Eastern Pacific and the Central and Western Pacific, than the fisheries here in the region. The Hawaii industry depends on participating at whatever level they can in IATTC, as well as Central and Western Pacific

management regimes, in conjunction with the Council. This snuck up on us in the Eastern Tropical Pacific with the 100-ton quota that was changed to 150 tons after some recalculation. Certainly, the industry as well as the Council learned a lesson on that one and will probably be much more attentive in the future.

Duenas remarked that the average size of the fish seems to be consistent over the last five years. He wondered where the problem was, was it the swordfish fishery closure and the swordfishermen switched over to catching bigeye and was not as good as the guys that were catching bigeye. Did the guys catching bigeye take a vacation? There are a lot of factors in fishing, especially if you are going to use CPUE as a factor.

He was seeing a 33-kilo average for all five years. All the fish caught in this region are mainly around that number, 35. Only in the Eastern Pacific is there a 29 drop. He asked for Mr. Ito to go back to his numbers on the board.

Ito began by showing that Hawaii accounted for a majority of the bigeye catch in the EPO in the last couple of years. That's been a recent phenomenon by the fleet that tends to do annual maintenance in the third quarter.

The results of our study showed that it ramps up during the third quarter, and that's where the fleet tends to venture out further.

It makes a big difference; the range for bigeye tuna caught in the EPO was as low as 28.6 kilograms to 47.2 kilograms with the five-year average at 39.1.

With the reopening of the swordfish fishery, they tend to catch fewer pieces but they're larger fish, high quality and pretty valuable. So as far as that particular component of the fishery, it may amount to, say, five percent of the bigeye caught in numbers, but it may represent slightly a higher percentage as far as volume and value is concerned.

Duenas agreed, but pointed out that all of '99 showed weights of 34, 36, 31. There's not much of a gap difference in the weight factor. Normally when a fishery is being depleted you see a change in the weight, a shift in weight and sizes.

Ito agreed that when plotted, there is no real pattern as to whether the fish is increasing or decreasing. Pretty much it just tells you that there is a lot of variation.

There's more consistency with the Hawaii longline fleet, as far as the fleet averaging weight is concerned. But it varies substantially in the EPO, and he was not sure what caused that phenomena.

Duenas used the analogy of cattle. He had a large pasture and three herds of cattle. They're all the same cows and bulls, but they all roam different pastures. They don't mix. They roam north and south, east and west. They don't mix their herd unless it's time for breeding season. But otherwise, they're separate herds.



I don't see why there's a difference if we discovered already that yellowfin tuna does take up residence, and Dr. Kleiber has presented some work that the range of the tuna is not that great as we believed it to be, as highly migratory that everybody wants to get greedy about.

Ito agreed with that point, and that's why they went through the exercise in separating all fish that was caught in the EPO, and showing the difference between what the fleet average is. Most of the bigeye tuna is caught near the Main Hawaiian Islands.

Whereas the EPO, the Eastern Pacific Ocean, the environment is different there, the water is a lot colder than it is around here. So there are a lot of different factors that affect the size of fish.

Duenas felt the conservation efforts of this Council and working with the longline fleets and limited entry was working out. Whereas in the other area, there is South America and Central America to deal with, all types of fisheries, there's no limited entry and there's no type of regulation.

But this proves we're doing our job. He commended the longline industry and Ito for coming up with the information like this. He did not really the major problem everybody else was seeing. He was looking at 33.7 kilos as not a problem based on all the numbers on the board. So something is working.

Martin noted that there are a considerable number of differences between the regions being discussed. The Council needed to be sure that these differences allowed for some consideration at the international level.

Robinson explained that when the letter was sent to the Council in December indicating that overfishing was occurring and that the Magnuson Act required some action being taken, NMFS considered a number of options. One of which was to look at the existing FMP, which basically has it right. It says the U.S. accounts for a small proportion of fishing mortality and that international cooperation is necessary to address this issue on a Pacific-wide scale.

It doesn't really satisfy the requirement for a plan to end overfishing.

NMFS also looked at whether we could consider participation by the Council on the U.S. Delegation and in regional fishery management organizations' deliberations as satisfying the Magnuson Act requirement.

In the final analysis NMFS was faced with the bare words of the statute that said that the Councils must take action to do an FMP amendment or regulations within one year to end overfishing. So our guidance back is basically that, yes, looks like an FMP amendment would be appropriate, and in that FMP amendment should contain a plan to end overfishing or strategy to end overfishing.

What it probably should not do is

- one, obligate the U.S. or impose on U.S. fisheries restrictions that would basically attempt to do more than the U.S.'s proportional share of what needs to be done to reduce mortality; and
- two, recommend very specific measures for fisheries beyond the U.S. authority since those will be negotiated out in the regional fishery management organizations and it's difficult to know what the outcome of those negotiations might be.

If those types of specific recommendations were in the FMP, it would probably date the FMP rather quickly if international negotiations took a different tact or something like that.

The recommendation that the Council look to the Atlantic HMS FMP as a general format, although there are differences there because there are no councils involved, but just in terms of the sort of scope and generality with which they lay the foundation for developing U.S. positions in regional fishery management organizations is a good one.

From the standpoint of adopting principles, objectives, strategies, priorities for participation of those RFMOs are appropriate for an FMP amendment and about the right level of detail.

Internally in the Agency we're working on a draft Agency strategy, in consultation with the Department of State. We hope to have it finished in a week or two and be able to provide that to the Council for their comment, and back to us before we would finalize it.

Robinson would hope then that that might serve as a basis for working with Council staff to develop what an FMP amendment would look like for the next meeting in June.

NMFS is certainly willing – Robinson is willing to dedicate staff to work with the Council to develop this amendment.

Simonds noted that for this Council pelagics is the most important fishery. And that those other countries who are fishing alongside of us who are a part of the commission and the Honolulu Convention were former trust territories. We have very close relationships with most of the island nations and with the Asian countries, because our culture is that way. So I just think that we have different relationships and we can work on things a little differently.

It is fine to look at the Atlantic document for information; however, we may come up with something that's different.

We work very closely with Japan. They would like to know what our thinking is before going to the IATTC meeting. So I just wanted to make sure that people have understood where this Council is coming from, and that it's all well and good to look at the Atlantic documents, which we will. But this is really serious business for this Council, because that's what we have, pelagics.

Duenas shared his experience with foreign fisheries on Guam.

Taiwanese operate on a refrigerated saltwater system. They have separate holds for the fish. These boats fish anywhere from 20 to 30 days. So the first catch on the boat normally would be there for about 20 to 25 days.

The thing good about the Taiwanese is that their holds are separate. The fish doesn't stink. So when it goes to the check for export to Japan, transshipment through Guam, the fish that stinks, that is rotten, goes into the freezer and held in cold storage and shipped somewhere in Timbuktu.

The Japanese, on the other hand, their refrigeration is a single hold. It's a refrigerated saltwater system, circulates throughout all their holds. In that case, all the holds get contaminated. That, again, with fish being there for 20 to 25 days, causes a problem as far as decomposition. Then the same, 25 percent gets rejected and sold on Guam and shipped off to Timbuktu.

His point was that the Hawaii-based fishery and the U.S. fishery has been very cordial, very generous, very understanding as to what all the regulations and needs are of this world. We've already set the example and we need to share that example with these other countries.

As Martin said, they use ice, and that's the formula we're trying to use on Guam in our demonstration project. We're just going to use ice, because why waste the product. There's 25 percent of the longline catch of the foreign fleet goes to canneries in Thailand.

So just extrapolate a number of how much Japan catches and how much Taiwan catches, and take 25 percent and throw that in the trash can, and that's how much they waste, before we get criticized here as part of the U.S. involvement in this whole forum.

McCoy asked for more comments. He went on to observe how much he had learned while part of the Council and how the U. S. seems to be the first to react. We were the first with the Magnuson Act and National Standards. We're the first to come right to the table and say, we need to stop this, we need to do this.

Now, unfortunately, until recently we're getting to where we meet with our counterparts that are dealing with these overseas or international issues, which at times it's foreign to us.

But his point was we've been good stewards. But it seems like we always get the wrong end of the stick. We have regulations, our waste is kept to the minimum and when we see a problem, we react to it.

The fishermen, themselves, are very innovating and they're very cooperative to deal with science to answer the questions and the problems that we do have. We need better communication between the State Department, the other people at NMFS, for example, or the higher-ups there, so we can formulate a smooth transition into things like this.

We're getting 150 tons. What is that? We don't have room to grow.

McCoy noted that Item B, Institutional Arrangements was left out and called on Simonds.

Simonds asked that it be done later.

McCoy moved on to 7.C, American Samoa and Hawaii Longline Fisheries and Dalzell.

## **7.C. American Samoa and Hawaii Longline Fisheries**

### **7.C.1 2004 Third and Fourth Quarter Reports**

Dalzell noted that his American Samoa report was for the longline fishery for the third quarter of 2004. Ito would do an annual report for Hawaii for 2004.

The most salient feature of the American Samoa longline fishery in 2003 and 2004 has been its contraction. It expanded very rapidly in 2000 and 2001, flattened out in 2002. This is due to the poor performance of the fishery with respect to the principle catch of albacore.

The blue bars in his graphic represented the longline vessels operating in the fishery in the first to the third quarter of 2004, well down from the previous year, 2003. Although, it's comparable to the long-term average, the average includes the early years of the fishery when there were just a few alia catamarans operating in the fishery. Currently it is made up of alias and larger longline boats.

The same trend showed in the number of sets. In the third quarter, the number of sets was way down compared to the previous year, and even the long-term average in the fishery.

The number of hooks set is more comparable to the long-term average; it is way down on the previous year. The previous year is more typical of the fishery, being that it was principally a large vessel fishery then.

The total catch of all species again is down and depressed, particularly for albacore. The albacore catch in the third quarter is very, very low. The albacore catch CPUE has been pretty miserable. It was miserable in 2003, and it was poor in 2004.

The last stock assessment for the southern albacore stocks was done in '03. There's no reason to suspect that the stock is in any sort of decline. The assessment was very optimistic. There seems to be some sort of local change or regional change in catchability in albacore, which cycles through this area.

There was a very poor performance of this fishery in 1999 when the fishery was predominantly alia catamarans. At that time, they just shifted over to trolling and increased in bottomfish production. We saw the same thing in 2004; more boats went bottomfishing and trolling. These were the alias.

The larger vessels were not able to make that kind of change. They either had to leave the fishery altogether and come fishing around Hawaii if they've got Hawaii limited entry permits, or they try fishing in other parts of the South Pacific. There have been an increasing number of boats fishing in areas like the Cook Islands.

The number of hooks set peaked in the fishery, 2002. A lot of hooks set in 2003. Since then it has been a steady decline in the fishery.

The albacore catch peaked in '02. Since then, it has been variable, but generally a downward trend in the volume of catch. That reflects a change in also the volume of effort.

The albacore CPUE experienced peaks when the fishery started up. There was very high peak in '01, which also coincided with the high value of the catch per ton, from the canneries, which also stimulated more entry into the fishery. While it's been variable, the general trend has been down over the past three years.

The trends in yellowfin, skipjack, bigeye, wahoo, mahi, billfish and shark CPUEs have been very variable over time. The billfish and sharks can be ignored since they're just sort of aggregates.

Of particular interest is the mahimahi, which has been variable, but generally trending downwards; and the wahoo, but it trends upwards. The wahoo trend is comparable with what see in the North Pacific, but the downward trend of mahi is not as in the North Pacific. So there is something different going on down there in the south.

Martin asked if when Dalzell said the American Samoan longline catch, if it included effort that might be in the Cook Islands, for example, in the report.

Dalzell said he believed it included information from all the boats landing in Pago Pago and turning in logbooks, and that would include boats that do fish in the Cook Islands.

McCoy asked if there were any further questions. Hearing none, he asked Ito for the third and fourth quarter reports.

Ito said he had the 2004 report and some quarterly summaries, but more interestingly, he had three complete annual summaries for 2004.

It was done with a lot of hard work from the staff, mainly Walter, the point man; Frederick, our computer programmer; and our key punching staff.

He went through the following slides:

- First slide. Number of active vessels in the Hawaii longline fishery. This is a time series that begins in '87. There was a rapid increase, and then it drops from 141 in '91. It doesn't vary much after that, between 101 and 125 vessels between 1992 and 2004. There were 125 vessels fishing last year, which was up 15 vessels. So there

is an increase from 2002, 2001 and 2002, where there were about 100 vessels, and then the impact of the return of the longline vessels from the California fishery because that was shut down now.

- Number of trips by the Hawaii-based longline fishery, 1,338 trips. All but six of them were directed towards tuna. There were six swordfish trips, the ones that turned in certificates after each trip and were concluded in 2004.
- Number of hooks set by the Hawaii longline fishery, a record 32 million hooks, 17 million of those hooks set on the high seas. So 11 million hooks in the Main Hawaiian Island EEZ. So even with the area closure and the 200-mile EEZ limit, that small area still accounts for a substantial amount of effort by the Hawaii longline fishery.
- About two million hooks in this Northwestern Hawaiian Island EEZ, in the green square, overlaid by the black line, U.S. Possessions, primarily Johnston Atoll, Kingman and Palmyra Reef. These are a result of all their hard effort. The bigeye tuna is the largest component of the catch, indicated by blue lines and blue triangles. A record 142,000 fish caught last year, most of it on the high seas.
- Declining albacore catches from 1997, from 70,000 fish and only 17,000 fish last year.
- Not much variation with yellowfin, about 27,000 fish caught last year.

So bigeye was predominant in the area outside the EEZ, along with albacore. Yellowfin had high catches in the U.S. Possessions.

- Bigeye tuna CPUE by quarter shows a lot of variation in the early part of the time series. The highest CPUE occurred usually in the fourth quarter and continues into the first quarter. About six fish per thousand hooks in the fourth quarter of last year, which is pretty close to the long-term average.
- Albacore CPUE peaked in '97 when there were high catches of albacore. There is a steady decline down to just a minuscule level in the last three years, from 2002.
- Yellowfin tuna had a spike in 2001, 2002, and about one fish per thousand hooks in the fourth quarter last year.
- The highest CPUE for yellowfin tuna was in the third quarter, as is typical.
- Annual catches of billfish with swordfish being the predominant species. Up in 2000, and just dropping to about 4,000, from 2001. About 5,000 fish caught last year. So even though the fishery was open, there weren't many takers. So the catches were relatively low in 2004.

- There was about the same number of blue marlin, 5,000 fish caught last year.
- Striped marlin totaled about 17,000 caught last year.
- The area of capture: blue marlin and swordfish on the high seas, and striped marlin predominantly in the Main Hawaiian Island EEZ.
- Swordfish CPUE by quarter. He showed two plots: the gray dots were by the swordfish fishery, there were no data points when the fishery was closed.
- 13.3 fish per thousand hooks in the fourth quarter last year, and that was pretty close to the long-term average, which is fairly good.
- The tuna swordfish CPUE in the black dots were aligned with the Y2 scale.
- It illustrates that the CPUE by tuna trips are about hundredfold lower than swordfish-targeted catch per unit effort.
- Striped marlin CPUE showed a lot of variation early in the time series, and had a depressed catch per unit efforts from 1997.
- Blue marlin had a lot of variation early in the time series, and a depressed catch rate from '98.
- Shark catches by the Hawaii-based longline fishery were high for blue sharks early in the time series, up to 2000 when the swordfish fishery was open. There was a decline when the swordfish fishery was closed, and it increased to about 60,000 last year.
- Other sharks were low in comparison. The Y2 axis is about tenfold less. So about 6,000 threshers, 3,000 miscellaneous sharks and about 2,000 makos caught last year.
- Blue shark CPUE by quarter. The blue line showed the swordfish trip CPUE for blue sharks. They were about ten to twenty fold higher than tuna trips, indicated in black dots.
- About four blue sharks per thousand hooks caught in the fourth quarter.
- Catch of miscellaneous pelagic species. Record high mahimahi and pomfret catches, about 67,000 fish for each species last year. About 18,000 ono and about 12,000 moonfish.
- Mahimahi CPUE by quarter showed a lot of variation throughout the year. The highest catch per unit effort for this particular species was in the fourth, and continuing into the first quarter.

- Ono catch per unit effort by quarter was fairly predictable. Ono CPUE was consistently highest in the second quarter of each year.
- Moonfish CPUE tended to be a little higher in the third quarter. It seems like there was a lot of variation in the earlier part of the series, up to 2000, and catch per unit effort has been a step lower since that time.

McCoy asked for questions.

Morioka asked with regard to blue marlin, did he hear “depressed” as the description of fisheries after 1981? Or was it a change in strategy?

Ito responded that the CPUE was tuna-targeted CPUE for blue marlin. It appeared from '98, the CPUE was a lot with a lot less variation, as well a lot lower from the time prior.

Morioka asked if there was any analysis done on the decline.

Ito responded there was none done specifically for blue marlin, with the exception of trying to clean the data up and making sure the identification problem was taken care of.

Morioka asked if this was the cleaned-up data.

Ito responded that this was the nominal data. It's been a little better recently. But it doesn't change the catch per unit effort pattern for striped marlin either, both of the species.

Morioka clarified that both of them on a declining trajectory?

Ito responded yes, on a step lower from '98, for both species. So it's not a matter of taking the blue marlin that was over-logged and putting it into the striped marlin category. Although that occurs quite frequently, the pattern for both marlin species were depressed in the last, say, eight years.

Morioka remarked that they noticed an increase in pomfrets. He had heard that there are fishermen now targeting pomfret. So is that a result of that effort?

Ito replied, no. Pomfrets are still an incidental component of the longline catch. It just seems like it's been rather good.

There was a market for pomfrets even prior to this recent increase in pomfret catches. But there have been catches of pomfrets by the offshore handline fishery and the short longline fishery down at the auction.

Morioka asked if this was coming off of like the Hancock Seamount.

Ito responded that he was sure where the area of capture was. It was just my personal observation of being down at the auction. Mr. Ito asked for additional questions.



Morioka asked Kleiber about the blue marlin issue the SSC was looking at, was there any further analysis done

Kleiber replied, no. The last he had done was a re-analysis of an assessment two years ago. The picture still stands, that it seems to be close to fully exploited, right around what could be considered MSY effort. But there's a great deal of uncertainty about it.

It also looked like there has been a history in the recent decades of increasing recruitment.

There was a similar picture for the bigeye, an increasing recruitment, which of course they didn't want to rely on. So it is a concern.

Morioka asked Severance if the SSC was still interested in that.

Severance replied, yes, it was not really an issue in terms of responding to the plan team report in the last SSC.

Morioka asked Martin if he had any knowledge from the fishery side of targeting the pomfrets, monchong, specifically five vessels targeting monchong. He had heard this at the auction one day.

Martin remarked that perhaps Severance had more information, but he knew of at least one vessel, maybe two, which target pomfret on the Cross Seamount or associated seamounts in that area and do quite well.

Severance agreed, that one maybe two vessels targeting pomfret on Cross.

Morioka asked if these were vertical longlines or horizontal longlines.

Severance responded, horizontal.

Martin added, horizontal, less than a mile longline, so shortlines.

McCoy asked for further questions and called on Duenas.

Duenas remarked that he just noticed that increase in bigeye harvest at the same time maybe. If you look at the bigeye and then compare it to the decline of the marlin, could it be the effort on deeper sets for bigeye? Bigeye is a deeper set. So you're not going after marlin. It is not incidental as often as if you are going regular tuna.

Ito remarked that he thought it was a factor. Looking at the past three years, 2002, it was almost a complete transition from some shallow longliners that actually targeted bigeye to exclusively deep-set tuna longline. So perhaps the depressed marlin catches are also a result of that deep-set fishery that exclusively looked at the portion of the fishery in the most recent times.

Morioka asked, rhetorically of the scientists, if they were waiting for the Council to ask questions about perceived trends. The Council meets four times a year. If you wait for the Council to meet, we may miss the boat because it may not be the item of import on the agenda, as indicated by Mr. Severance on the SSC.

He directed his question to Pacific Fishery Science Center Scientific Director, that perhaps there should be some focus on analyzing trends so this type of information is available to all on a regular basis so that we may not wait until the question is asked so that we have an indication of what's happening.

He asked Pooley if that was a fair request.

Pooley said, of course, it was a fair question and fair comment.

The Pan Pacific stock assessment that Simonds talked about and Kleiber and Bigelow reported on earlier, where the SPC group looks at primarily target species, and the same with the ISC, where there is the collaborative international forum, and those stock assessments really are focused on the target species.

The ISC has been pushed in for a harder look at the marlins. And the swordfish stock assessment has been done. But the fact is, the data on the nontarget species is weaker than it is for the target species.

As Kleiber and Bigelow had just pointed out, even with the more comprehensive data, issues such as stock definition, the variable boundaries by which the ecology of the populations and subpopulations occur, the change in fishing strategies, makes even the **target species suspect**.

At the micro level, Chris Boggs spent quite a bit of time around the mid '80s, when the Council was interested in incorporating tuna into the Magnuson Act, looking at localized trends and comparing them with data outside. These are not stock assessments in the advanced calculus world. These are much more in the outbreak world, which most of us understand better anyway.

And Chris spent a lot of time on that, and basically didn't find anything really different from what he was looking at in the big picture. We haven't done that since.

There was a request a number of years ago from PFRP to look at this issue, and John Sibert tried to get the research community to focus on these trends issues, and nobody bit, basically.

They have put all their resources into the calculus side and are considering putting a little more back into the output side of things.

They are looking at some of the localized issues. But there is so much to do in that respect that he was not going to make any promises in that regard, unless they are able to ramp

up the pelagic stock assessment capability dramatically, and that is part of the Region's effort to enhance capability of both Regional Office and the Center, working in the international arena.

Morioka said that he appreciated Pooley's efforts. The focus on the pelagic species and understanding their stock assessment is going to be critical going forward. They are looking at bigeye tuna today and potentially yellowfin. And he suspected that blue and striped marlin would be not too far down the line.

In the Atlantic, the white marlin, which is a cousin of the striped in the Pacific, is in dire need of help and there have been several efforts to include those as endangered species.

He asked Pooley if the work on the calculus side of things, perhaps it would be better directed at PFRP and that kind of analysis?

Pooley replied, no. The PRFP struck out completely on that. They didn't get anybody to do that. This is an area where advances could be made.

One of the things which they rely on is the annual look at the species that the Council plan teams do. It's a nice collection of people from the geographical area that the Council is concerned with, and it provides a lot of insight into what the issues are. While the Council members meet three times a year, the plan team meets once a year.

These changes are not that dramatic. The Council process, in the sense of the Pelagic Plan Team, looking at these trends, raising them to the Council, the scientists bring them back and say, that's an interesting question, let's go look at it. At the moment they are a little short of people who have time to look at interesting questions and are spending a lot more time doing mandated questions. It is important to do both.

Dalzell added that the plan team discussed this and Bigelow did an extensive analysis on blue marlin on the trends. The result was the availability of blue marlin in Hawaii appears to reflect the availability of blue marlin elsewhere by a comparison of the Hawaii trends to the Japanese fishery. Keith with Bill Walsh did this work, and it was presented both to the plan team and to SSC because of the fact that there were concerns about these trends in blue marlin CPUE.

Morioka thanked Dalzell. He explained that he was using the issue as a segway to look the at monchong chart. The charts come up and there are trends.

What he was saying was the scientists should be telling the Council why these trends were occurring, what was causing it before he needed to ask that question.

Morioka said that he was not asking for an answer for this right now.

McCoy called on Katekaru to assist with the Shallow-set Longline Set Definition.

## 7.C.2. Shallow-set Longline Set Definition

Katekaru referred the members to the memo at 7.C.2.a.

Martin had called him with this scenario: there's a captain on a shallow-set trip wanting to use multiple sets on a mainline on a swordfish trip, particularly in an area of high concentration of swordfish. This is during a single operation. The question from this captain was, would each segment of a shallow-set be considered one complete set, and requiring a separate shallow-set certificate.

The fishery is restricted to 1,220 sets; each set must be accompanied with a shallow-set certificate. Here is a situation in an area of high concentration of swordfish, what he wanted to do was have two or three segments of the mainline in the area of concentration, and still be considered one set because of the normal operations.

In the case of the deep-set tuna fishery, there is no restriction. Tuna fishermen can chop up their mainline in numerous segments.

But because of the swordfish fishery certificate program there is a restriction on number of sets. So the captain was asking, can he do that without adding more certificates.

He and Feder reviewed the regulations. It turned out that it's not clear, there is no definition saying what a shallow-set is. They worked with HLA and crafted a definition.

Now, the fisherman wanted to go fishing in a couple days so they were hard-pressed to put this together.

It says a complete shallow-set is a fishing operation beginning with the deployment and ending with the full retrieval of a continuous longline greater than one nautical mile length. That's a normal operation.

They went beyond that saying, beginning with the deployment of separate segments of longline with a combined length greater than one nautical mile, which is the official definition of longline, and ending with one of the following, whichever occurs first in time:

- Full retrieval of all the segments or the deployment of additional longline after retrieval of the sets. What it says is, if you start retrieving, you have to retrieve all your segments that become one complete set.
- Or if you during the course of retrieving your segment and you added a segment, well, that would be another set.

So this is the definition. They asked the Science Center, Chris Boggs, to look at it, and Paul Dalzell for input.

Ebisui asked whether or not Enforcement was consulted.

Katekaru said he didn't recall. He believed they informed them later on. Ebisui asked if Katekaru remembered what their reaction was.

Katekaru replied, he didn't get any reaction.

He went on to explain that they were comfortable because all the vessels have observers onboard. They would be monitoring what was going on. So there's 100 percent coverage.

The rationale for coming up with this definition was the total number of hooks would not increase, because it is a normal course of the operation. It allows a cost-effective fishing operation, good economics.

And if the fishermen wanted to get around this, he could have a number of joined segments with hooks and those without hooks. So he could make a "U" in that area, with hooks, nonhooks, and still consider that a set. But it becomes very onerous for him. It didn't quite make sense to have the fisherman go through that exercise.

The last thing is that it does not change the definition for longline gear, which is still greater than one nautical mile.

Based on what Judson had mentioned, this could be an interim definition by policy. The Regional Administrator can do this on an interim basis. That was why the Memo to File was included in the binder.

They were asking the Council to adopt this interim definition of a complete shallow-set. Or if there is anything to discuss or adjust, this is the time to do that before the next step.

McCoy asked for comments, suggestions, discussion, questions.

Martin agreed with Katekaru's description of methodology for the vessel. One of the motivations for doing it that way was to reduce the soak time because one of the problems in the swordfish fishery is predation on the fish after they've bitten the hook and float. You would be surprised at what a bird might do to a swordfish in the course of a few hours before the gear can be retrieved. So it makes it more expeditious, therefore increasing the value of the swordfish.

The argument could be made that it reduces the soak time, which reduces the exposure to protected species, of the gear being in the water in the first place. It just makes it more efficient.

The industry appreciated the hard work that Feder and Katekaru did in a relatively short period of time. That boat did go fishing and it returned and is back out again, but not fishing.

Ebisui asked the chair for more time to reflect on the proposal.

The number of sets, the certificates, and that whole scheme was something that was worked out with industry not too long ago, last year. Now there's apparently a shift in direction, saying, they want to set shorter sections and cover the multiple sections with the same certificate. He felt the Council should take more time, look at it and think about it before taking action.

Morioka shared Ebisui's concern.

He asked Katekaru and Feder with the advent of some boats being able to carry two reels, was there a chance of one set with two reels of line going out. He would like to see that discussed and understood before more deliberation. He asked if they have given any thought to that.

Katekaru replied, no. He was not aware of the issue of two reels, because he was thinking in terms of a single reel going out. He asked for Mr. Martin to help with this.

Martin responded that there are all kinds of boats that have more than one reel. Probably a third of the fleet carries more than one reel.

The operational aspect of fishing shallow-set for swordfish is that you have to set an hour after dark and you are limited to the amount of time you have in a day, otherwise you end up compromising the following day. So from an operational perspective, someone could figure out how to do something different, that certainly wasn't a consideration when the question was put to the Region.

The rationale of this captain was to get the gear out and to get it back doing minimum damage from predation to the catch. However, if somebody wanted to find some way to skirt and increase his production, he probably could.

Katekaru said that the Council didn't need to adopt it. They would do a bit more homework and get back to the Council.

McCoy asked if it should be put in a form to make sure it is on the next agenda?

Morioka responded that they would deal with it.

McCoy called on Dalzell to report on Item 3 Proposed Changes to Hawaii based Longline.

### **7.C.3. Proposed Changes to Hawaii-based Longline Fishery Closed Area**

Dalzell reported that this proposal was put on the table at the Council's February AP meeting.

He showed a map of the extent of the various longline closed areas in Hawaii, one of them the Protected Species Zone in the Northwestern Hawaiian Islands. The area closure to minimize actions between small boats and longline vessels around Hawaii extends between 50 to

75 nautical miles offshore. There is an outer zone in the north and an inner zone. From October 1st to January 31st is a reduction to within 25 nautical miles around the north coast of the Main Hawaiian Islands in the winter months. That's to take advantage of a bigeye run where the bigeye comes seasonally close to the main islands.

For the offshore handline fishery, that's the time they deploy the private FADs off Hilo.

What's being proposed is that the nearshore boundary be eliminated altogether and the offshore boundary be extended offshore to approximately 150 nautical miles, but that would leave only 50 nautical miles from the southern and east-facing shore from the Island of Hawaii; it doesn't give any actual coordinates for the boundary zone.

The justification for the change is initially the nearshore boundary was established to accommodate several Big Island fishermen who used small vessels that did not venture as far offshore as the larger longline boats. These small vessels, primarily the ika shibi fishery, are no longer in operation. In recent years some conflict between small handline boats and the larger longline vessels fishing within the boundaries have arisen. Moving the boundaries further offshore would eliminate potential for future conflicts.

In accordance with 50 CFR, from the Magnuson Act:

“If a gear conflict does occur the Regional Administrator may prohibit longline fishing in the Hawaii fishing prohibited areas around the islands where the conflict occurred.”

This part of the CFR was cited by the Council AP member who made the proposal.

Whether or not such a change should be made is entirely for the Council to decide. There has been some gear conflicts in this area between the offshore handline fishery, which is moving out into deeper water and deploying private FADs along this part of Hawaii, and the longline fishery, which doesn't have any fish in the area in the winter months.

McCoy asked for questions and called on Martin.

Martin recalled that Ebisui was overseeing the meeting when these rules and regulations were made. Martin was on the Advisory Panel at that time and actually helped draw the lines. There were conversations within the AP and at the public comment period during the Council meeting that as boats got bigger, the lines would need to be reexamined.

From a longline industry perspective, any increase in the area closure around the Main Hawaiian Islands, particularly in light of some other area restrictions, such as the Eastern Tropical Pacific, will squeeze from the industry both directions. This is not based on science but based on some kind of a pure conflict issue.

Furthermore, the request to consider increasing the area closure is coming from a fishery that is not federally regulated or subject to any federal reporting. He was not sure if there was strong rationale to further restrict the longline fleet in their operation.

Ebisui said he was not inclined to support the request to expand the closed areas right now.

Severance reminded the Council that the small boat fishery that is working further offshore is not well documented. There is not a lot of information about how many PFADs there are, how many of them are actually registered with the Coast Guard and how many of them aren't, or whether this is just a single fishermen or a group of fishermen.

This was not brought before the SSC due to a full agenda. But this is the kind of issue that the SSC would need more information advice can be given.

Morioka asked Katekaru with regard to the Hawaii longline fishery swordfish fishing, did he have an update on the turtle interaction situation?

Katekaru replied that beginning from January 1st, the shallow-set swordfish fishery has interacted with eight loggerhead turtles and two leatherback turtles.

This has caused some concern, because the hard cap for these two species, according to the regulations, is 16 for the leatherneck and 17 for the loggerhead. So with eight loggerhead turtles taken thus far, this is cause for some concern.

In terms of rate of sets, the leatherback take is at about .006 turtles per set, and the loggerhead would be .02 turtles per set. According to the BiOp estimated projected take for the year, the loggerhead projected take in the BiOp is .0083, which means that the current take for loggerheads per set is about three times what has been projected.

So based on that it is possible that the limit for loggerhead interactions would be sometime in May. But that really depends on what happens from now.

Since March the 3rd there have not been any loggerhead takes. So it may be possible that this was just an unusual spike and there might be some normalcy during this time of the year.

There are currently 10 swordfish boats on the fishing grounds.

The other statistic that might be of interest is that we're probably around 400 total sets out of 2,021 sets.

Morioka clarified, 400 sets?

Katekaru said he was guessing 400 sets. He normally receives report on the 1<sup>st</sup> and 15<sup>th</sup>. The last report was March 3<sup>rd</sup> and an updated version should be coming today.

Morioka remarked that he had heard there have been some regime shifts in the sea surface and the ocean composition in the traditional fishing grounds. From a science perspective, was there enough information going to the fishery so that they were not putting the



fishermen and the turtles in harm's way by conducting the fishery when there is information that might save some turtles and save the fishermen some heartaches.

Dalzell pointed out on the top graph the chlorophyll front, something that Jeff and his collaborators have discovered in the Pacific. This frontal zone where cold Arctic water meets the subtropical warm water, creates a subduction of warm water mass, and an upwelling of this enrichment. He pointed out the blue nutrient-poor waters to the south and the chlorophyll front.

It's along the edges of this front that you find swordfish. It's also along the edges of this front that you find the turtles. It's a zone of high productivity, which is where you're going to find most of your biomass of fish, turtles, squid, even seabirds.

Black-footed albatrosses tend to track along this frontal system in their migrations.

What we see here is that in March of 2000 the front moved north and south.

The inter-decadal oceanic regime shifts is one of the features of this entire ecosystem. The nutrient-rich waters bathe the northern islands of the Northwestern Hawaiian Islands.

What Dalzell understands is that when the thing is a long way north like this, the turtles are a long way north. Therefore, there tend to be not as many interactions.

There seems to be a seasonal component to the loggerhead interactions, as well. Right now we might be at the point where the interactions are the highest. We hope they trail off and have an average which hopefully will cause what was predicted from the modeling.

When the thing comes along in the south like this, that brings the front, and hence the turtles, closer to the Hawaiian Archipelago, and presumably that's also when the fishery tends to have more interactions.

The two different regime shifts and the two different phases of this frontal migration could be seen in 2004.

Between January to February of this year, the front is a long way south. It's almost down to the Main Hawaiian Islands, let alone the northwestern chain. So it would assume that the turtle migration corridor, which follows this frontal zone, is now down close to the Hawaiian Islands, and also in the area where the longline fishery or where the swordfish boats are fishing.

He asked Pooley if that was essentially correct?

Pooley replied, yes.

Morioka said he did recall Jeff talking about the chlorophyll front and the prevalence of the loggerheads kind of lining up with that chlorophyll front. So how often is this information available, and when is it available to fishery managers?

Pooley said that this information was a download from the CoastWatch station, which pulls remote sensing information from NOAA satellites and puts it out as various kinds of oceanographic products. The data is a continuous stream. Over the last five years or so weekly snapshots have been taken down to the auction. This is not primarily for avoiding the turtle issue so much as it is for fishermen who are interested in where the oceanographic conditions were that would optimize their fishing strategies.

A lot of the highliners have acquired this information in other ways and do their own work, but this is what is made available to the industry by the product from CoastWatch.

This was one of the major inputs during the expert review of the turtle catch back in '98 and '99, the beginning of the lawsuit period. This is the kind of information and one of the major inputs, and Jeff at that time had a small amount of tracking information on the loggerhead turtles, which has increased dramatically.

The conclusion was that using this kind of oceanographic information in a regulatory sense might exceed our grasp and be too complicated. It was a regrettable decision, but we did the best we could at the time. So there were various area closures that occurred.

When it became clear that the number of turtles being taken in the swordfish fishery was perhaps greater than one would hope, although it's important to realize that these are still rare events. In fact, Marti McCracken has just published a manuscript looking at the modeling of interactions between the longline fishery and the sea turtles. She talks about the complexity of the situation.

The question is, what do you do with it? Do fishermen say, oh, we ought to fish for swordfish south of Hawaii because there won't be any turtles? Well, they can fish south of Hawaii, but they're not likely to catch a lot of swordfish.

Should they wait for a month or two? Well, we don't know where this front is going to go. That is a logical strategy, but the swordfish are not likely to wait a month or two.

So this is really the frontier of putting together this kind of information with fishermen thinking about it and trying to figure out how to adjust. This year they plan to make sure the information is available, look at where the interactions are, look at other idiosyncrasies of what's going on and try to figure it out.

The conclusion of having a hard cap was a decision by all the parties involved that this was a reasonable compromise in the absence of information, and this is a good way to get information. The process is working but it is complex.

Morioka thanked Pooley and said he was not aware that this information was made available to the fishermen. So it is a double-edged sword, they know where the potential to catch fish is with the understanding that and do they understand that the potential to interact with turtles and birds exponentially increases with this condition?

It seemed that the fishermen are well advised and the risk is theirs, buyer beware. However, Morioka saw an opportunity for collaborative research. And noted that Dr. Boggs could create a model.

Morioka asked who Boggs was pointing at.

Boggs said he was pointing at Eric. He noted that HLA had asked to get them back on the water and that they would work on other ways to reduce the turtle bycatch if they were given the opportunity to fish.

The scientists are not supposed to say, that's where people are fishing right now and that's where the turtles are being caught.

What you need is an interactive nongovernment approach between researchers and fishermen who have the right, if they want, to share this kind of real-time information amongst themselves.

It's not amenable to a management approach. It's amenable to collaboration.

So if HLA wants to share amongst themselves information on exactly where the turtles are and have a real-time plan for how to get of the way, they really need to develop that. Boggs was not really in a position to do that kind of work.

So that's kind of how they divvied up the plan on how to attack this. They developed a management measure with the circle hooks and the fish, then figure out how to fine-tune it so the fishery has an opportunity to work on that.

Morioka noted that he was the fishery person and ought to be the one doing that kind of questioning and seeing if there is an opportunity for science. He stood corrected and said they had a tremendous opportunity.

He said that if Eric and HLA were working on something like that, this Council would be very interested in learning as to what their experience and effort to date has been.

Gilman said that he was sitting in the backroom and editing the document as they had been speaking. After HLA has had a chance to review the draft, it will be released. The title will be, Reducing Fisheries Bycatch Through Voluntary Fleet Communication Programs with recommendations as far as doing a pilot project with the Hawaii industry. It uses case studies from the U.S. fisheries in Alaska, the North Pacific and on the East Coast.

Morioka asked that Gilman forward a copy to the Council once it is released.

Owens noted that this was the perfect opportunity for the industry to be proactive, or the industry could wait for a conservation move.

For example if the interaction rate is likely to increase, something practical could be done like shorter sets. The industry has to work strategically, work out how to minimize the interaction and go beyond the regulatory requirement. Points could be earned with the community.

Duenas asked if the ten interactions were alive or dead.

Katekaru responded that the loggerheads were all injuries, no deaths. However, there is a mortality based on injury, there is criteria which is applied.

It depends on how injured it is; deeply hooked, throat hooked. Associated with that, we need to capture and follow the mortality rate. So it's important, but so far no deaths.

Duenas asked about the severity.

Katekaru recalled that there was just one hooking in the mouth, and most of it was external.

Boggs added that the very complicated, not peer reviewed Data Quality Act procedure is used for going ahead with new criteria on how much gear was removed, et cetera, to estimate how many must have died according to our policy, it's a little less than projected.

They are not giving any details on it, but it looks like circle hooks are reducing injury about as well or maybe a little better than expected. The observers are removing about as much or a little more of the gear as needed to keep the estimated number to die after release at or below what it was supposed to be.

Duenas asked if in his professional opinion, was it working?

Boggs responded that in terms of injuries, it looks from the preliminary information available like the gear is working. The gear and the observers are working. It is nice to have the observers there to handle the turtles.

Martin added that the report is real-time. So the observers have sat phones and whenever there is interaction, it's reported immediately.

Duenas asked if there was a tagging program or a satellite program that was going to accompany this since it was a perfect opportunity, although the animal may be injured.

Katekaru replied, yes. He believed the observers are working with Yonat Swimmer to put the tags on these turtles.

Boggs said, four so far.

Hearing no other questions McCoy called for a short five-minute break and relinquished the chair to Duenas when they returned.

Dalzell informed the chair that Boggs, who has three agenda items, including the FAO Technical Consultation on Turtles, FAO/COFI, and Ecosystem Modeling would begin the session and Gibbons-Fly will present on Prep Con tomorrow morning when the meeting reconvened.

Duenas asked for any objections from the Council members. There were none.

#### **7.D.4. Sea Turtle Mitigation**

Boggs began with the Japan/Hawaii Sea Turtle and Seabird Experiment. This was a meeting of U.S. and Japanese researchers on turtle bycatch that was held at the Council Offices this last fall. Participants included Far Seas Lab, the Japan Fishery Agency and the Federation of Japan Turtle Cooperative Associations, John Watson and he represented NOAA scientists who've worked on sea turtle bycatch, Simonds, Dalzell, the industry, and Eric Gilman from Blue Ocean.

They began with a review of all the research they had been doing which included:

- research in the Azores that identified that circle hooks were good at reducing injuries for turtles. That research didn't find the trick about using larger hooks.
- The larger hooks were discovered in research in the Grand Banks swordfish fishery where they started using 18/0 hooks and actually saw the turtle bycatch decreasing. So that research is the basis for the management, which is using these bigger circle hooks and also using fish bait, which also by itself was found to reduce turtle bycatch. So in combination with the circle hook, the fish bait, both reduce turtle bycatch and maintain the target species catch, a win-win solution.
- Japan had a number of experiments. They are using mostly research vessels and have started testing blue-dyed squid versus plain bait; squid versus mackerel bait; and a variety of circle hooks versus the Asian Japanese style tuna hook, which is probably the most common hook in longline fishing on the planet, and one that most U.S. research had not yet addressed as an alternative. Most of the results are available for planning experiments, but not available for general release. It needs to be reviewed and published by Japanese researchers before actual details can be shared.
- There were many similarities to the results of the U.S. Atlantic research. One example of the circle hooks were, again, found less often to catch turtles in the throat than the alternate hook, the Japanese tuna hook, finding that circle hook reduced injury.
- There are many other similarities between the research that the Japanese were doing and the research the U.S. folks were doing. We have a draft paper from Hiroshi Minami that is in review, and a good product of the collaboration.
- There are all the kind of hooks that were used by the Japanese researchers. The Japanese style tuna hook is in between a J-hook and a circle hook. He showed additional hooks that were both Japanese and U.S. contract-developed hooks. There were some developed for use in their experiments.

- One of the kinds of things that collaborators agreed on is the need for a standard for all the different styles of hooks, what is the important measure for whether or not they go into a turtle's throat and how to measure it. He showed a table of some of the standards they were working on.
- A variety of other smaller research projects were reviewed. One of the participants, Eric Gilman, has put together a review paper and submitted it to Conservation Biology that very thoroughly covers everything. It will appear in Conservation Biology as soon as one of the other researchers, John Watson's research, is published.
- They reviewed bird work as well as. There is some interest in testing side setting, which is the new Council measure for reducing bird takes in Japan. But there's also concern about how big their vessels are and how adaptable they might be to this process.
- There are new regulations here, and they secured national bycatch funding to try to accelerate the adoption of that method here in Hawaii.
- The Japan's turtle bycatch plans for 2005 are to use their research vessels in more of the same type of testing that they've done before, but using a more limited number of hooks, using squid for bait and testing a restrictive number of hooks that are along the line of the same sizes as we've been testing and using successfully in the U.S. and comparing them to the most common size of Japanese tuna hook.
- Hawaii is evaluating our model fishery, about how many turtles so far, and what injury; evaluating close to real-time how well that's working.
- There are vessels in the tuna fleet using circle hooks, and their target species CPUE is being evaluated to see whether there are any interesting patterns there. Some vessels from that fishery will be contracted to use larger circle hooks this year.
- The other idea that came out was trying to get some input from some of the fishing masters in Japan who work in this fishery which sets shallow without lightsticks to see whether there is anything we can learn from some of the other fishers that have high turtle bycatch without fishing without lightsticks.
- The last idea that's being pursued both in Japan and the U.S. is trying to rearrange the gear in a way that gets the hooks out of shallow water and near the floats where some turtles seem to be caught more often, particularly leatherbacks. So they have this idea that there is a layer where all kinds of bycatch turtles, billfish and potential bycatch and incidental catches get the hooks out of that zone. One way is to take the shallower hooks out of that layer. Another idea that Steve Beverly has been working on with the Australians is using these very long sections of mainline leading to a weight before setting hooks. All the hooks are kept way down below that layer in deep-set fishing.
- In Japan they've also got a method that they're developing, trying to keep all the hooks that are about the same depth by flattening the mainline using mid-water floats to make the line mutually buoyant and then using longer floatlines.

## **7.D.2. FAO Technical Consultation on Turtles**

The FAO Expert Consultation was held last November/December in Bangkok where the U.S. pushed hard to get participation from fishing nations to come together and talk about providing some advice on guidelines for reducing sea turtle bycatch in fisheries.

The U. S. and Japan proposed substantive measures for guidelines on longline fishing, probably because we're the two countries that have done the most research, had some ideas about how it could work, and had some ideas that some of these solutions would not be too hard in the fisheries. They would be win-win solutions.

But all the other countries were strongly resistant to having any very specific guidance at all. What they really said they needed to do their own research. Technical assistance was offered to the countries that said they wanted to do tests in their fishery.

A meeting is scheduled this April 11th to the 14th at the Council offices with positive feedback from Australia, the Philippines, Malaysia, Papua, New Guinea and Spain. Government scientists are going to come to the meeting from all those countries and work on developing turtle bycatch reduction experiments.

There is interest from World Wildlife Fund, other NGOs, Costa Rica, Italy and a couple other places. This is not under the auspices of FAO Government delegations, but still, it's getting things started in those countries.

The meeting will again review the past studies and plan new experiments, and also plan some technical assistance funding to get this going.

One of the agenda items in the COFI meeting was to take up these suggestions for guidelines and try to move them from suggestions to actual FAO guidelines.

## **7.F Pelagic Ecosystem Modeling**

He wanted to remind the Council that for six years, every January there is a meeting on Pelagic Ecosystem Modeling at the Science Center. This is through an NSF grant. James Kitchell from University of Wisconsin, Madison, Tim Essington, Steve Martell, Carl Walters have been among the participants. Pierre Kleiber and Mr. Boggs are collaborating with these ecosystem modelers to address questions that are of interest to the Council.

That group has published about 25 papers on ecosystem modeling over the last six years. He wanted to make sure the Council was aware of that resource.

The modeling is mostly based on Jeff Polovina's Ecopath, which was the famous start of all this, with an adaptation to make that system a dynamic model by Carl Walters. These are models based on the food web. So you have to input what everybody eats of everybody else.

You also need to know what other causes of death are. So you have to have some idea or guess to start with about natural versus fishing mortality, and you put that into a model, along with this idea about the relative magnitude of all the different fleets. So the model has all different kinds of fishing in it, as well as natural mortality that comes from predation and fishing mortality.

Scenarios are generated of what might happen as a result of certain things.

He showed a chart by year where after Year 10 there was a doubling of all the fishing in the model. The results included biomass of many pools go down and sharks and billfish decline.

Sometimes it's slightly less obvious and rather robust; there are a variety of different ways of doing the modeling. There are intermediate level of animals in the food chain, prey organisms increase in abundance in this situation. Mahimahi abundance goes up as a result of increased fishing effort.

Some of the other versions show that it has probably been the case over the last 50 years, that we had more mahimahi with small tunas and sharks than we used to, as a result of fishing or at least that kind of dynamic is a possibility in a realistic simulation.

None of this is intended to be the exact truth of what's going on, but rather an illustration of the kinds of dynamics that should be considered, some of which run a little bit counter to concepts.

Some very specific modeling was done for shark fin. He showed a graph with increases that would come from banning finning and decreases in biomasses that would come from doubling finning. All of the effects are right up there with the sharks themselves. There's very little what we call cascade down the food web into the shark prey species, which is what is usually expected in the scenario is the idea that the sharks are the wolves of the sea, that they're controlling dynamics. So if you remove them, you create trouble.

That wasn't seen in this simulation. But to create it, you can always create a simulation that does show what people are interested in seeing. You can create anything you want in a simulation.

We created a simulation which showed a cascade where banning finning or doubling finning didn't affect the rest of the food chain. That was done by making sharks be more wolf-like than the literature suggested. So this is the kind of question you can address.

A couple of recent papers by the group include one that looks at the effect of having big marine closed areas for pelagics. So they created a model where there were different types of habitats, like the transition zone north of the islands. He showed a graphic with different kinds of closed areas, like the Main Hawaiian Islands and the Northwestern Hawaiian Islands areas closed to fishing, and all the other EEZ. They found that unless these closures are really huge, they make pretty subtle differences. However, if they are really big and cover almost the whole



area of some fishery, that may have effect. There are some interesting effects at the edges of closed areas that this paper illustrates.

Another recent paper from the group deals with rearranging longline gear by removing shallow hooks for blue marlin populations. What happens if the whole fishery of the world switches that way, is that blue marlin come back gangbusters. There's an ecosystem effect on yellowfin tuna, less yellowfin tuna. It makes a lot of money for the recreational fishing industry and there are substantial costs to the international longline fleet.

But here's a simulation of the model where it shows in about 2000 or so there is a policy that removes the shallow hooks and the marlin biomass pops right back up in the Solomons if it impacts all the longline fleets. If just the domestic fleets are involved, there is barely any change.

It does changes how much yellowfin mortality is and which animals are doing it. There is more yellowfin mortality from other billfish and less from sharks as a result of that scenario.

They also take it to the human level. Increasing the CPUE of blue marlin, you will have more effort. That's where there are more trips and more money spent in the recreational fishery as a result.

Duenas asked for questions.

Sablan asked with regards to the turtle studies, if the Japanese longline fishing industry have observer programs?

Boggs responded that the data that they showed all came from the research cruises.

Sablan said he understood that, he wanted to know if the Japanese longline fishing industry, those guys that go out and fish around Japan or around the world, are they taking with them observers?

Biggs said he did not think so, but he was not real up on that.

Sablan clarified that the scientific community in Japan just go out and do all these studies, would they get accurate information without observers in their fishing industry?

Boggs said that they managed to get an agreement at the FAO Technical Consultation that developing observer programs is really necessary everywhere and it should be a guideline.

Sablan replied, correct. So was that part of the agreement with the Japanese.

Boggs said, no. The JUSTSE is not a collaboration with the Japanese Government, per se. It's a collaboration among research scientists.

Sablan asked aside from the United States, what other countries have observer programs?

Boggs responded that it was not his expertise. The Science Center did not run the observer program.

Duenas asked for further questions.

He added that the observer program was done with FFA countries and is facilitated with SPC.

Sablan explained that if we are going to collect accurate information we can't just rely on the scientific research vessels. The fact that the FFA countries have observers is one thing. He understood that those that are deployed in Micronesia are not taking down turtle information.

Duenas asked for comments, questions. Having none he returned the chair to Morioka

Morioka recessed the 126th Council meeting until 8:30 Wednesday morning. The room would be reconfigured for this evening's Fishers Forum, so he begged their indulgence.

They would resume with Agenda Item 7.D.1, International Issues, starting with Gibbons-Fly.

(Meeting adjourned for the day at approximately 5 p.m.)

Morioka called the session back to order and called on Duenas, chair of international issues. Duenas introduced Gibbons-Fly.

### **7.D.1. Final Report of the Preparatory Conference**

Gibbons-Fly stated that he would give a short report on the Prep Con and WCPFC, but noticed that Item 7.B on the agenda had been skipped. He wanted to speak to the paper that was in the briefing book.

Morioka noted that Item 7.B would be at the end of the agenda.

Gibbons-Fly directed the members to the final report of the Preparatory Conference, item 7.D.1.A, and the summary of the first meeting of the Commission, item 7.D.1.

The meetings took place during the week of December 6th in Pohnpei. The meeting of the Preparatory Conference was the final meeting of a process that had been ongoing for nearly four years since the conclusion of the negotiations on the WCPFC Convention.

The role of the Preparatory Conference was to establish the structure and framework of the administrative, legal and financial groundwork for the entry, and the force of the Convention, and the establishment of the Commission. The documents developed over the three-year period

include: the Rules of Procedure; the financial regulations; the initial budget of the Commission; recommendations on the location of the Secretariat, the selection of an Executive Director, monitor and control and surveillance issues. All of these were then presented to the first meeting of the Commission.

The first meeting of the Commission was to accept and ratify the recommendations of the Preparatory Conference, including the recommendation for the location of the organization to be in Pohnpei and the selection of an Executive Director.

Mr. Michael Lodge was recommended for the position of Executive Director. Mr. Lodge has a long association with the fisheries in the Pacific. A former legal advisor to the Forum Fisheries Agency, he most recently was assigned to the International Seabed Authority in Jamaica, was the chief staff to the Chairman of the MHLC negotiations and has been the Secretariat throughout the MHLC Preparatory Conference process.

The key to the meeting in Pohnpei was a resolution that laid out a process by which the Oceanic Fisheries Program and other scientists working in the region would be reviewing the feasibility of conservation and management measures for yellowfin and bigeye tuna and measures with respect to nontarget species, including sharks, seabirds and sea turtles. Information from this process would be presented to the Commission to allow for management decisions at its December meeting.

Scientists have been asked to provide estimates of sustainable catch and effort levels for bigeye, yellowfin and South Pacific albacore; five and ten year projections of total biomass and spawning stock biomass for bigeye and yellowfin tunas under different scenarios; the effects on the stocks of measures to mitigate the catch of juvenile bigeye and yellowfin tunas, including controls on setting on floating objects; and estimates of the mortality of nontarget species with initial focus on seabirds, turtles and sharks.

This resolution resulted from a proposal that was initially put on the table by the United States and prepared by Bill Robinson's staff at NOAA in consultation with other members of the U.S. Delegation, the international issues committee, the Council and others.

It responded to the concerns that were expressed by the Council in its 124<sup>th</sup> meeting on the potential overfishing of bigeye and yellowfin tuna. It provided the opportunity to get the scientific basis in place to consider conservation and management measures.

While not initially on the agenda for this meeting, the U. S delegation was heard and the ground work laid to move forward on these issues.

Duenas asked for questions.

Morioka asked Gibbons-Fly if there was any chance that Pohnpei as the Headquarters was cast in concrete or could be reconsidered given the difficulty in getting there and the challenge of hosting visitors. He asked for discussion among the delegates.

Gibbons-Fly responded that there was a recognition that for the initial meeting there were some logistical challenges that the Government of FSM had to deal with in hosting a meeting of this size. As a result, there were limitations placed on the size of delegations, which he would cover later in his report.

The Government of the FSM has made considerable investment in creating a headquarters for the organization identifying the location for the building and beginning construction. One of the reasons the Pacific Island States wanted to have the Headquarters of the Secretariat was to foster economic development. By creating the Headquarters it would provide an opportunity for increased infrastructure. A rotation of meeting sites or alternate venues was also discussed, especially if logistical challenges continued.

The Government of FSM did an outstanding job of hosting the meeting, despite a shortage of hotel rooms on the island and some transportation difficulties. The meeting was well organized with no noticeable inability of the Commission or any of the delegations to carry out their work due to the venue.

Duenas asked for further questions from the group, then asked if Gibbons-Fly expected the ratification of the U. S. participation.

Gibbons-Fly did not have a definitive answer but noted that the ratification package left the State Department in early January and was forwarded to the White House where it was currently under review. The White House would determine whether or not to forward the Convention to the Senate.

He believed that would happen. Although the timing was uncertain, they were engaged in some senior level discussions to promote the ratification. If it was forwarded to the Senate in the first half of the year, there might still be time for the Senate to act on it. If the Senate completes its review and takes a vote to ratify, the U. S. would still be a member by the next meeting of the Commission in December.

Duenas noted that the territories were part of the delegation as a non voting member. He asked if there were dues required of the non self-governing entities to participate in the Commission and if there were funding requests for the program added to the ratification?

Gibbons-Fly responded that there was no requirement under the Convention for nonvoting entities or territories to make a financial contribution. There was mention of voluntary contributions by territories that might be granted participating status.

Also, the three delegations with territories at the table, of course are the United States, France and New Zealand. There is some discussion of other delegations about whether or not the party is assessed a contribution, whether some percentage of that might be paid by the territory.

They have not had those kinds of discussions within the U.S. Delegation, but it's highly possible. Historically the federal government just paid the U.S. share. He had not heard anybody suggest it should be otherwise in this particular case.

Duenas said that he received a report from our delegate that attended the meeting and it was recommended that a donation or gift to the organization be made. He did not know if that's the same thing for all the other territories. Or is this a goodwill gesture?

Gibbons-Fly was not sure. Certainly, it would be seen as a gesture of goodwill by the members of the Commission. The Commission will need some resources, and in fact the United States is currently considering whether or not a voluntary contribution can be made to the organization this year even in the absence of membership in the organization.

Simonds asked if they would be able to look at this package that is at the White House? When does it become a public document, after ratification or after it leaves the White House?

Gibbons-Fly surmised that once it leaves the White House, once the President has signed off on it and forwarded it to the Senate it becomes a public document. He would check and get an answer before a statement like is included in the record of the meeting.

Simonds asked if the package included the participation of the territories.

Gibbons-Fly said that it outlined the provisions of the Convention that allows the participation by territories. There was some discussion during the preparation of that package as to whether or not it should be included along with that the declarations of participation by territories as part of the ratification package.

But by the end of the day it was decided not to do that not because there was any concern or perceived barrier, but only because that would have required additional review by a whole bunch of new actors and players that had not otherwise been involved. It would have slowed down sending the package to the White House and on to the Senate.

And there was really, from a legal perspective, no need to include those in the ratification package. The Senate will be aware of the provisions for participation of territories. When they provide their advice and consent, prior to depositing the instrument of ratification, they work with the territories to develop the statements of participation.

Simonds asked if those statements should be part of the package when it is at the Senate?

Gibbons-Fly said that they will be part of the package that is deposited with the depository, but they will not necessarily be a part of the package that is reviewed by the Senate.

Simonds said the concern is that there be no glitches because it wasn't included. She wanted to get that on the record.

Duenas called for the next agenda item.

### **7.D.3 FAO/COFI**

Simonds asked Gibbons-Fly if he could give his full report on the FAO Committee on Fisheries (COFI) meeting.

Gibbons-Fly said he did not have a full report and tried to get in touch with some of our folks who were at the COFI Meeting, but they were actually staying on in Rome for an additional couple of days and are probably only back in the office today. So he would not be able to get in touch with anyone to get a report of the meeting.

Simonds said that it was important that in the U.S. statement that the ecosystems approach is mentioned.

The other thing she thought was really important was that the Japanese offered to host a meeting of all the regional bodies in Japan before the next COFI Meeting, get everybody really concerned and to be responsible for all of these management measures that come through the management bodies.

The Japanese felt that things weren't moving fast enough and the regional bodies needed to step up to the plate and be more responsible.

There was also a lot of discussion about the tsunami destruction and all the countries talked about their contributions to help with the disaster.

Gibbons-Fly added that he did not know what the results coming out of COFI were, but one of the goals for COFI with Japan and others, was to seek some procedure authorized by COFI to assess the performance of the various regional fisheries management organizations and to measure them against the benchmark of a number of criteria that are established within some of these global fisheries treaties, such as the U.N. Fish Stocks Agreement, the FAO High Seas Compliance Agreement and to see how each of these regional management organizations was performing when compared against those standards.

The meeting that Japan has offered to host was part of that process. What will be happening between now and then to set the stage for some of that may depend on what COFI authorized in terms of interim measures.

The Chair of COFI this year was an Australian and he's very interested in trying to get a handle on this. Gibbons-Fly was curious as anyone else to see what the results of that meeting were on that particular point.

Duenas asked for questions. Hearing none, he moved on to Item 3.F, IFF3 and Dalzell.

### **7.D.5. IFF3**

Dalzell said that Eric Gilman was supposed to give the report on the Third International Fishers Forum, but could not be there.

Gilman was assisting with the organization of the third International Fishers Forum. This is a series of meetings that were originally organized by the New Zealanders to bring together fishermen to exchange ideas about mitigation between longline fisheries and protected species.

The first one focused primarily on seabirds. The second one, which was hosted here in Honolulu by the Council and other organizations were split between seabirds and turtles.

At that second meeting, one of the recommendations was to hold the third meeting somewhere in East Asia to maximize the participation by the Taiwanese and Japanese, who are the two major longline fleets; and also the Koreans, Vietnamese and Chinese, who have emerging longline fleets.

So originally the date of the meeting was set for mid September. Then earlier this year the Japanese asked if they could move the date up from mid September to early May, which would not provide enough time to prepare for the meeting.

After much negotiation the date is August 25<sup>th</sup>. There is a draft program and agenda. The meeting will be held at the Yokohama Symposia across the bay from Tokyo

Information will be available on the official IFF3 website in the next couple of weeks.

The focus will be primarily on turtles at IFF3, with some attention on seabirds. A small invitation-only meeting will be held at the end of the IFF3 to deal with marine mammal interactions and longliners, and to set up the schedule for the next IFF4 with an expanded agenda to include marine mammal interactions with longliners.

The meeting hosts are the Organization for the Promotion of Responsible Tuna Fisheries, OPRT, Japan Tuna, Japan Tuna Associations, and the Government of Japan, Japan Fishing Agency.

Duenas, seeing no questions, returned the chair to Morioka. Morioka called on Vice-Chair McCoy to continue the agenda with 7.E, Recreational Fisheries, HMRFS Workshop and Stewart Allen.

### **7.E. Recreational Fisheries, HMRFS Workshop**

Allen noted that he was there to talk about a project he had been working on with Nicole Bartlett. Bartlett was here on a three-month rotational assignment from NOAA Headquarters in Silver Spring and she was called back to her normal duties.

He distributed a copy of slides that were given on the HMRFS process to the SSC at its last meeting on February 23rd.

The reason for the Hawaii Marine Recreational Fisheries Survey process, data collection and analysis effort was to address the Council's increasing interest in recreational catch and effort estimates as part of its management regime. The workshop was to review the data collection and analysis processes, increase the familiarity with the data and provide a little more comfort with the way it was being collected.

The impetus for this workshop came out of the Council's Social Science Research Committee meeting last October, at which a number of people expressed interest in learning more about how recreational catch and effort data in Hawaii is obtained. Some progress was made in eliminating some of the perceived black holes in the data collection effort.

The various components of the Hawaii Marine Recreational Fisheries Survey effort that were reviewed included telephone contact with the residents of Hawaii as part of a nationwide effort. There's a random digit dialing telephone survey, which in 2003 contacted about 13,000 households in Hawaii to learn more about fishing effort. Out of those households, about 1,500 of them contained one or more anglers who had been saltwater fishing or shoreline or boat fishing, in the last two months. They were asked to profile their trips. This is how effort is estimated.

Those anglers reported taking about 17,000 trips in 2003. About 90 percent of the fishermen said they never sell their catch. About eight percent said they sell catch, but only to cover expenses. Then about two percent described themselves as commercial fishermen. So those two percent are used to calculate recreational effort, as the recreational expense anglers are.

The second component of the review was a field survey, which is conducted by the State. In 2003 they contacted about 2800 anglers at over 75 sites on Oahu and the Big Island. Maui, Molokai and Kauai have since been added.

About half the interviews were with anglers on private boats. About a third were anglers of charter boats, and about a quarter were shoreline anglers. They were asked about their trips and their catch. If there were fish there to be observed in their whole form, these were typically measured and weighed.

About 43 percent of the anglers contacted reported not catching a fish that day. But of those who did, there were a total over the course of the year about 6,000 fish available to be measured. That represented about 90 species.

Bartlett said this was pretty unique in her experience working nationally to have that diversity of species present.

Of those fish that were not available to be seen whole by the interviewer, there were almost 3,000 of those and about 90 or so species. These were fish that had been filleted or used for bait and in a few cases released.



The telephone survey information and the field survey information goes to NOAA Headquarters. They run it through their program to estimate total catch state-wide annually by species, by mode, charter boat, private boat, shoreline and by area where the fishing occurred; inland waters, state waters or federal waters. Those are the estimates that are available on the MRFSS website, the address for which was listed in the handout. There are some problems with the website, but they are being corrected and an updated version is expected in April.

In summary, the HMRFS program collects a great deal of information in a relatively efficient way about recreational catch and effort. It can easily be tailored to meet additional needs, because it is designed to estimate annual and state-wide efforts there are some analyses that the Council may wish to see that can not be done. You can't compare annual catch out of Hilo with annual catch out the Kona, for example, very easily or with a high degree of accuracy.

But because this process is in place, there is ample opportunity for tailoring it, adding sample, adding field or telephone survey data for different times of the year or different types of species, different modes, shoreline or private boat. The framework is in place to enable the collection of more information at an added cost to increase the sample in the desired direction.

Bartlett and Allen have done a report on the explorations of the HMRFS data, that includes some conclusions and some recommendations clean the program up a little and strengthen it in a couple of ways. This report will be available next month and will be made available to Council staff and to the Council. It will also incorporate a number of useful comments received both at the workshop and from the presentation to SSC. Some actions have begun to try and strengthen the process as a result of the report.

This was really the first time that somebody had taken a step back and looked at these data, because everybody was so busy doing their own job associated with it. The State collects the data and cranks it out and sends it to NOAA Headquarters and NOAA Headquarters just sticks it in its program and nobody had really said, let's take a look at this, see if it makes sense and if how it is collected needs to be revised. The phone and field surveys were done for a couple years in the late '70s and early '80s then reinitiated in 2001 It was time to step back, take a look, and improve it so the Council, the State and others have better information on recreational catch and effort to manage the fisheries.

McCoy asked for questions.

Simonds remarked that councils around the country have complained about this survey, that it doesn't provide them the information that they need. So this is a step in the right direction.

The preference is to have regional surveys done and telephone calls made from here. That has always been the goal.

Allen said that was one of their recommendations, and something that looked like it was a possibility from NOAA Headquarters, was to concentrate more of the collection and analysis effort in the Pacific.

Duenas was pleased that the burden of all this fishery information is not being placed again on the fishermen. He hoped that this project works out well and meets all the programmatic needs of the Council and everybody who wants this information. He has always objected to the idea that fishermen have to slip the government piece of paper every time they go fishing whether they catch a fish or not.

He had read “purely recreational” in the report. He asked if that meant they tag and release or does it include subsistence fishing or is it one general category?

Allen said the way it was defined for this study was that commercial fishermen are people who sell their catch or part of their catch for income.

Recreational fishermen, including subsistence fishermen would be those either who sell part of their catch sometimes but only to cover expenses, and people who never sell their catch.

Duenas suggested that subsistence be added as a way to identify the needs of the indigenous or nonindigenous people who rely on fishing for food or to sell to purchase food.

Allen said that brought up another issue that in the phone survey or the field survey there is no information on ethnicity. That might help to address Duenas’ concern.

Morioka said he had a similar suggestion to ensure that the socio-economic component of the survey be reviewed and expanded to collect the necessary data in a format that would be the most beneficial to this Council and least intrusive to fishermen.

He asked Oishi about the new coordinator for the HMRFS Program and perhaps he could be at the next meeting so the Council could meet him.

Oishi said he would be happy to do that.

Allen said that NOAA has not helped them in this effort because his office has been hiring away NOAA coordinators and coordinator supervisors. They would try to stop doing that.

McCoy moved on to Item G, Sea Turtles.

## **7.G. Sea Turtles**

Gerke explained that she worked for PIRO in the Protected Resources Division. She would be providing an overview of the reinitiation of ESA Section 7 Consultation for the Hawaii-based pelagic deep-set longline fishery. Following this presentation, she would talk about the State incidental take permit application.

The objective of this presentation is to describe why formal consultation is being reinitiated for this fishery, to go over the scope of the consultation, the process and the preliminary timeline for consultation.

### **7.G.1 Biological Opinions and Section 10 Permits**

There was a biological opinion prepared for the Western Pelagics FMP in February 2004. That biological opinion included a statement to take sea turtles incidental to fishing activities. In that biological opinion the incidental take statement broke out the takes that were authorized for the deep-set and the shallow-set fishery. Different take levels were set for the deep-set and the shallow-set fisheries and other fisheries.

A table was presented of the sea turtle takes that occurred in the fishery in 2004. These estimates are based on observer data from 2004 for the deep-set fishery. The table showed the take and mortality levels that were authorized in the incidental take statement in the 2004 biological opinion. The take of olive ridley sea turtles in the deep-set fishery exceeded that which was authorized in the incidental take statement. And as required, reinitiation of formal consultation has ensued. The scope of this consultation will be limited to the impact of the deep-set fishery on sea turtles.

The approach to this consultation, especially with a new region, is to make sure it is an open and transparent process that will work closely with the Council and the Science Center in the Region and with the Applicant, which is the Hawaii Longline Association for this consultation.

A team concept is being used so that people can understand what their role is, know where they will be included during the process, where they would have opportunity for input and where they would be expected to contribute to the consultation. Steering members will provide suggestions and input to facilitate active management throughout the consultation process. They would also be informed of any changes to the timeline. The steering members for this consultation include the Regional Administrator, the Assistant Regional Administrator for Sustainable Fisheries and Protected Resources, the Director of the Science Center, applicant representatives from HLA, Council representatives and also their legal counsel. The Action Applicant Team will provide information on the action and the effects of the fishery on sea turtles using the best available scientific and commercial data that they deem relevant to this biological opinion. That team, as defined by the Endangered Species Act, are identified as the Action Agency, the Service, which is the expert agency, who conducts the biological opinion or conducts the consultation. In this case, the Sustainable Fisheries Division is the Action Agency and the Protected Resources Division is the Consulting Agency. The members of this team are the Sustainable Fisheries Division staff, Science Center staff, representatives from HLA and the Council representatives.

The consultation team is comprised of members from the Protected Resources Division in the Region and from the Fishery Science Center. Their role is to devise an analytical approach for consultation and to prepare the biological opinion. They will also identify reviewers. The schedule provides an opportunity for the preliminary draft biological opinion to be reviewed and then released. The draft will then be released to a broader group, just so that any issues that might arise can be resolved before the biological opinion is finalized. The specific reviewers would consist of Section 7 specialists outside of the region, a sea turtle expert, additional legal counsel and experts on fisheries regulations and implementation. Agencies are not identified as

reviewers, but it could include members from those agencies that we identified. They want to make sure the document gets a very thorough review.

Where we are in the process is that the Action Agency has requested reinitiation of consultation due to the events of olive ridley takes in the deep-set fishery. The Office of Protected Resources in Silver Spring has delegated signature authority for this consultation to the Regional Office. So it is the expectation of the Office of Protected Resources that the Region will be signing and bearing the full responsibility for the conclusions of this consultation.

There are some things the Region needs to do to ramp up the Section 7 program in order to be delegated signature authority for all consultations. This is a good test to see how we do. Protected Resources requested additional information in order to complete the initiation package. They received information on permitted take of sea turtles incidental to the 2004 fishery and the 2004 deep-set longline fishing effort. Formal consultation was initiated on the 17th of February.

The consultation period is a 90-day period from the date of initiation as specified by the statute. There is some flexibility in this timeline if there are circumstances which require that the timeline be extended. They are aiming to complete the consultation within the 90-day time frame, and if necessary to use an additional 45 days to complete the biological opinion, which is also specified in the statute. The consultation period can not be extended beyond 150 days without concurrence from the Applicant.

The proposed timeline began when Protected Resources reinitiated formal consultation in February after receiving data from the Science Center. There were meetings with the Action Agency and Applicant to discuss the process, the scope of the consultation, types of information and to get everyone on the same page on how to go about this consultation. In March, individuals who would be working on the consultation were identified. Protected Resources and the Science Center will be working on finalizing the analytical approach. At the same time, the Action Agency and the Applicant are working to put together more information and doing analyses of effort projections in the fishery and various types of information about the fishery.

In April, they will meet with the Action Agency, the Applicant and Council staff to discuss the analytical approach and to again review opportunities for the Applicant and Action Agency to submit the best available scientific and commercial data. They hope to receive some of the data in April to incorporate into the biological opinion and initiate drafting the BiOp in April.

A preliminary draft BiOp will be distributed internally to the Action Agency, Applicant and Council staff in May. The comments received will be appropriated into the next draft. The 90-day consultation period concludes on May 17th. In June another Draft BiOp will be distributed to the wider group of reviewers. It will go back to Headquarters at that time and another iteration will be completed. The comments from that draft and will be incorporated into the final draft probably by July 2<sup>nd</sup> which is the 145-day deadline. After that point we'll meet to discuss the analysis and findings in the final BiOp.

In summary the objectives for this consultation are to have an open and transparent process so concerns can be addressed early on. They are aiming for an absolutely procedurally correct consultation process and to complete in the amount of time that is appropriate with the scope of the action and the issues identified. The timeline can be extended but only if it is warranted by the scope of the issues. The objectives for the biological opinion is that it be based on the best available science and commercial data, biologically accurate, legally defensible, and adequate for an extended period of time so the same situation does not occur in ten months.

McCoy asked for questions.

Morioka asked what the current assessment was with regard to the olive ridley turtle stock.

Gerke replied that in the biological opinion the current status and trends would be assessed, which probably has not changed much since the last biological opinion in February. The olive ridley stock is divided into an Eastern and Western Pacific stock. The Eastern stock, which is listed as endangered under the ESA, is showing signs that it is headed towards recovery. There is protection of eggs on the beaches, which appears to have been really effective. The Western Pacific stock is threatened, and that population is still in a declining trend.

Genetic samples from interactions with the fishery show that more than 70 percent of the interactions with the fishery are from that increasing Eastern stock, and somewhere around 24 percent are from the decreasing Western stock. The genetic samples on the observed take in the 2004 fishery show it unchanged.

Morioka asked if the position of the Agency had changed to include this management body as part of that process. (Robinson indicated, no.)

Feder noted legally the position of the Agency is that the Regional Fishery Management Councils would not be treated as applicants under the law. He thought that Bill Hogarth and Laurie Allen have been very amenable to working closely with the Fishery Management Councils. The Agency is becoming increasingly sensitized to the importance of working with Fishery Management Councils on a less formal level in consultations regarding fisheries under council jurisdiction.

Morioka said that he strongly felt that the councils be part of the process especially since the Council has deliberated some of these things and developed fishery management plans that are subsidiary to the process. He wanted that to be part of the record.

Robinson said that while from a legal standpoint, the Council is not recognized as the applicant, they have tried to include the Council in the process and treat the Council and HLA as if they were a co-applicants.

Feder noted that other parts of the county the Agency has not been treating industry representatives as an applicant either. This is a unique situation that HLA is being treated as an applicant in this consultation.

Morioka said that in a past ruling by a federal judge there was some sense that that judge interpreted that fishers and the Council ought to be applicants in the process. However, the Council can't sue the government, where HLA and the fishers can.

But he appreciated Robinson's comment of taking a more open approach and being more inclusionary. It is important for the Council to be part of the mix and not downstream from the process.

Martin said the industry is an applicant at a very expensive cost. He noted that from an industry perspective, the working relationship has been very beneficial in this consultation. He thought it was going extremely well and was very anxious to produce the objectives stated by Gerke.

He asked if there was any discussion about an incidental take that might be more than one year in this consultation rather than an annual take statement.

Gerke said that they were not that far along yet, but it was something that could be considered through this consultation.

#### **The State Incidental Take Permit:**

In 2002 the State applied an incidental take permit in order for the State fisheries to be in compliance with the Endangered Species Act. Without an incidental take permit any recreational or commercial fisher, who has interactions with turtles or seals, is not currently covered under the Endangered Species Act.

As part of this process, NOAA has been contracting to have an EEZ developed, and a Draft EIS was just delivered in March to NOAA for internal review. There were scoping meetings held beginning in the fall of 2003 for the EIS. The alternatives were developed and finalized in early 2004. The drafting of the EIS was completed in the summer/fall of 2004 and recently delivered to the Agency.

In September of 2004, Milani Chaloupka completed a turtle stranding analysis based on the State's stranding database to get an idea of the exposure of turtles, primarily green turtles because they are the primary species that have interactions with the State fisheries. This was to see how many interactions could be expected with those fisheries and the level of impact so the State could be assisted in developing a conservation plan.

The next steps for this process are to hire a JIMAR assistant, who has been selected and will be starting in May. NOAA is now reviewing and commenting on the preliminary Draft EIS. This summer there will be a full public review of the Draft EIS and public meetings held to receive public comment in the summer and fall this year.

McCoy asked for questions or comments. Having none, he called on Irene Kinan for Items 2 through 7, Results from the First Year of Conservation Measures.

## 7.G.2. Results from First Year of Conservation Measures

Kinan presented an overview of the turtle program and the results of the first year's implementation of the Council's conservation measures.

Their mission for turtle conservation is to use appropriate practiced technology in our fishery and to transfer that technology to the international global fleet as well as integrating conservation measures.

There are five conservation measures, three leatherback projects, two loggerhead projects: War-mon Beach in Papua - a leatherback nesting beach project; Kei Islands, Papua - a leatherback foraging grounds project; Kamiali, PNG - leatherback nesting beach project; Baja, California - a loggerhead foraging grounds project; and Yakushima, Japan - a loggerhead nesting beach project.

War-mon Beach is located in the second half of the Island of Papua. It used to be called Irian Jaya. The conservation goal was to conserve 90 to 100 percent of the beach that had previously been unprotected, and to help conserve about 1,000 nests. Achievements after the first year include the establishment of a remote field camp, education and outreach initiatives with the local community, 100 percent beach protection and over 2,000 nests were laid that year. The beach is a more important beach than first thought. A graph was presented on the number of nests they thought they might be able to conserve versus what they actually got in 2004.

The Kei Islands are small islands in the southern part of Indonesia. The goal, a little more difficult, was to conserve 100 leatherback turtles that were being consumed by the local indigenous harvest. First they needed to identify the harvest baseline. This last year they documented 29 leatherback turtles harvested. This was much different from the initial 100 turtles they thought were being harvested. It is going to be up to the managers and the modelers to determine how the 29 consumed fits into the population models, and the relative threat this imposes on the population.

In Kamiali in PNG, the Council supported a community-based nesting beach management project. The goal was to conserve 1,000 nests and provide 90 percent beach protection. The greatest success was a declared moratorium on egg harvest by the local community. No egg harvesting occurred at Kamiali making it a very important index beach. Seventy one leatherbacks were tagged. They did not count nests because there was some miscommunication, but this next season there will be a different data collection protocol.

In Baja California, Mexico the project was kick-started by two workshops for fishers in the communities of Puerto Magdalena and Lopez Mateos. The objectives of this project are to reduce poaching and reduce gillnet fishery bycatch to conserve 300 juvenile loggerheads turtles. The key is the Hawaii-based fishery interacts with the same stock and life stage of turtle. It's believed that about 1,800 animals are caught in the gillnet fishery per year. Thus it is important not to just conserve them in the Pacific Northwest and then let them go over to Baja just to be lost in the gillnet fishery. There is a 45-kilometer stretch of beach where strandings are counted. At this time, stranding rate is the only means to measure the performance of the project. There

were 58% fewer strandings this year compared to last year. However, the Council's Turtle Advisory Committee advised that the project needs to identify a better way to measure success for this project.

This was the case for the foraging ground projects. It's hard to have a baseline to measure success of people stopping to eat or harvest turtles, or not catching them in their fisheries. Whereas at a nesting beach the number of turtles nesting and number of hatchlings leaving the beach can be counted. At nesting beaches, the number of nests conserved can be quantified, but at foraging grounds it is difficult to quantify how many turtles are conserved.

In Yakushima Island the conservation goal was 1,600 nests. They achieved their conservation goal, and after the first year over 2,000 nests were laid. Hatchling success ranged between 30 and 78 percent and over 157,000 hatchlings were released. The Japanese are incredibly meticulous in their efforts and work. The fact they can actually count how many hatchlings that left the beach is incredibly successful.

### **7.G.3 Vision for the Future**

The Council's turtle program's goal or vision for the future is to: continue to transfer best practice technology; incorporate some additional nesting beaches; look towards hiring an anthropologist or two, because their skills are going to be different depending on where they work; look into the opportunity to implement endowment funds to maintain funding for programs into the future; and continue education and outreach.

There is a project in Ecuador working to transfer best practice technology of the circle hook and mackerel bait. The Ecuadorian longline fleet has 10,000 artisanal longline vessels. There is preliminary data showing that circle hooks have decreased interaction rates by over 60 percent. The primary bycatch species is olive ridley. Although the Council does not have a specific conservation measure for olive ridley turtles, fishery mitigation work is proving to be very effective in conserving olive ridley turtles in the East Pacific. For next season, the goal is to expand the Ecuador circle hook project to other countries of Latin America.

### **7.G.4 Report of Sea Turtle Workshops: Loggerhead Turtle , Bayesian Belief Network and Fibropapilloma Workshop**

Recent workshops included a Fibropapilloma Workshop, a Loggerhead Turtle Workshop and a Turtle Advisory Committee meeting that all occurred during the first week of March 2005.

The Fibropapilloma Workshop was not the typical workshop. It used Bayesian Belief Networks to explore the possible causes of fibropapilloma in green sea turtles. Dr. Milani Chaloupka directed an expert working panel of veterinarians and sea turtle biologists on possible causes of FP. It's a very complicated issue. A final report would be coming out soon and circulated to the Council if there is interest.



The North Pacific Loggerhead Workshop, like last May's Leatherback Workshop, was a forum to consolidate researchers from Japan, Baja California, Mexico and Hawaii involved in the conservation of the North Pacific loggerhead turtle. The Japanese and Mexican participants were involved in the conservation projects, presented their results from the first year, and were then critiqued by the TAC.

#### **7.G.5 Second Turtle Advisory Committee Meeting**

The second Turtle Advisory Committee meeting spent two days reviewing the Council's Turtle Program, all of the projects and the visions for the future. They had some very useful suggestions including trying to find measures of success for foraging ground work, a most difficult task.

They reviewed the regional tagging database that the Council hopes to have available for distribution by the summer. They reviewed the recommendations from the previous workshops and they developed future recommendations which focused means to strengthen the existing conservation measures for leatherbacks and loggerheads.

McCoy asked for questions.

Duenas said that he loved Kinan's reports because they showed the progress of the Council. He asked if the 29 leatherbacks harvested have already laid their eggs.

Kinan said most of them were juveniles. They were harvested on the foraging grounds, not on a nesting beach.

The biggest effort at the foraging grounds, especially in the Kei Islands, is education and outreach. She asked the members to imagine living on these islands in the middle of nowhere and having always eaten turtles. Until somebody comes to tell you that this population that you're eating is going extinct and your harvest may be detrimental to their future survival, you wouldn't know any better. You would probably just continue to eat turtles until there were no more turtles.

Duenas said that given the route of the loggerheads, if there were any studies or research on the Japanese U.S. Loran station in the Marianas along the route.

Kinan said she was not aware of any.

Duenas said he just wondered since they don't just go from Point A to Point B.

Kinan explained that there are 30 nesting beaches or so in Japan. Her graph included the five biggest nesting beaches. She did not know if there were any nesting beaches in the Marianas.

Duenas said the Oscar Sette was coming out in October and maybe they could do some exploration on the shoreline or asked to go to the furthest island. He suggested that she ask the

Japan Government to create a Marine Sanctuary of that island since it was not being used for anything.

Kinan said, okay, they could look into it.

Martin clarified that in the Mexico gillnet fishery, Kinan indicated that they had a harvest of 1800 turtles. Was it a directed harvest, incidental harvest or is it for consumption?

Kinan clarified that it was bycatch, not harvest. They do have direct harvest for turtles, greens and loggerheads that are poached for Easter or Christmas dinner. Just as we like turkey for those dinners, in Mexico people like turtles. It is a problem, but part of our grass-root efforts in Baja is working with enforcement officers that want to conserve turtles, want to do their best, but do not have all the resources they need for enforcement. For example, they have a truck, the badges, and the enforcement ability, but they don't have the gas to get to the isolated areas where poaching is occurring. One of the project's components is to provide a gas station with money for agents to fuel up and go patrol the hot spots. They know that this has made an impact of reducing poaching at some of the hot spots.

Sablan asked Kinan if her idea with Ecuador was to let them know of the conservation of turtles.

Kinan said, right. They are working with the IATTC and Martin Hall in Ecuador. Their project started off initially with a one-on-one hook exchange; you give us your J hook, we'll give you a circle hook, to inundate the fishery with circle hooks. It seems the fishermen like these new circle hooks they are stainless steel that can be used again, the fishermen are not needing to replenish their hooks every year, and they are catching fewer turtles. A win win situation.

Sablan asked if there were observers onboard to collect the data.

Kinan said that there were observers on a select number of boats involved in the experimental component of the project.

McCoy asked the Council members for questions.

Owens noted that Kinan talked traditional and indigenous people taking turtle because they eat them. In Australia and through Indonesia, it is a food security issue. These people are impoverished. Turtle, apart from being a traditional part of their food, they simply need it because it's something they have to eat. He asked how she worked with those types of turtles where catching a turtle is not an incidental thing, it can mean the difference between eating and not eating.

Kinan said there was a long background to all of these projects. When it comes to the Kei Islands, that project was brought by WWF Indonesia that has been trying to work with this community for a long time. They had heard of the harvest and went into the Kei Islands and documented approximately 100 turtles per year being harvested in this area. So WWF Indonesia

wanted to start to get a handle on that harvest. WWF approached the Council last year and asked for assistance to start working with these communities and provide education and outreach.

In some ways it was a pilot project to understand, first, is this 100 turtle harvest correct, is this what's really going on. They got somewhat of a baseline for that first year, identified harvest parameters on each of the nine islands, why each island community is harvesting and at what time of the year. The role is to better understand, provide education and outreach, and help them do what they need to do to better manage their resources. They are not hands-on in terms of telling them not to eat the leatherbacks. But they are looking at alternative livelihood incentives, things which the communities have asked for. Each of the communities has asked for different things, such as shellfish harvesting, sea urchin harvesting, fresh water supplies. So there are things the community is requesting in exchange for harvest.

Kinan agrees that it was really aggressive to say the Council wanted to conserve 100 turtles. We have had to step back and take a different approach.

McCoy echoed Owens' appreciation of Kinan's fine work. He called on Dalzell and Marine Mammals.

## **7.H. Marine Mammals**

Dalzell referred the members to the analogue of the Western Pacific Council Marine Mammal Advisory Committee in the binders including the CVs for its members.

He showed a slide of the false killer whales in captivity on the Big Island. The animals have been interacting relatively rarely, but enough to be a problem in terms of their interactions gauged against the estimated size of the stock of the animals around the Hawaiian Islands.

Last year the longline fishery has been elevated from Category III to Category I under the Marine Mammal Protection Act. As a consequence, NMFS may ultimately have to form a Take Reduction Team, but the capacity does not allow them to do it right now. They've encouraged the Council to form a Marine Mammal Advisory Committee which will look at the issue of interactions of these animals and also possibly others, such as short-finned pilot whales, with the Hawaii longline fishery.

We have a committee that comprises:

- Robin Baird from Cascadia Research, who is an experienced researcher on cetaceans, both here and on the mainland. He looks specifically at the abundance of false killer whales and pilot whales around the Hawaiian Islands.
- Geoff McPherson, from Australia, who has researched this issue of false killer whales and short-finned pilot whale depredation of pelagic longlines off Australia using acoustic technology and also looking at ways of nonlethal and nonharmful ways of discouraging these animals from taking tuna off the line.

- Marilyn Dahlheim from the National Marine Mammal Laboratory, a very experienced cetacean researcher who has looked at depredation of demersal longlines in the Pacific Northwest and in Alaska.
- Tamra Faris, who is in charge of the Office of Protected Resources in PIRO. Bill Robinson in Standing Committee reported, that she may be substituted by Chris Yates, who is now going to take charge of marine mammal issues from PIRO.
- David Johnson is the new cetacean researcher for the Pacific Islands Fisheries Science Center.
- Russell Ito from the Pacific Islands Fisheries Science Center, who will be on the committee as the front guy for all the longline data.
- Irene Kinan and himself from the Council staff. Kinan has an extensive background in marine mammals. She's actually spent more years working on marine mammals than turtles.
- Karin Forney from the Southwest Fisheries Science Center. She's engaged in looking at the abundance of marine mammals and does the estimates of takes versus the strategic stocks of these animals. Jay Barlow may be her substitute.
- Paul Nachtigall, who is a marine mammal researcher from the Hawaii Institute of Marine Biology.

They have scheduled a two-day or one-and-a-half day meeting on May 11<sup>th</sup> and 12<sup>th</sup>. The focus of the committee will be to try and look at methods by which we can minimize these relatively few interactions, which are an order of magnitude less than turtles. They are challenged to get a very small number even smaller. The Australians have a much bigger problem; some of their research may bear fruit.

Later in the agenda, the Council will be asked to approve this committee and its membership.

#### **7.I. Petition to List Black-footed Albatrosses Under the ESA**

Dalzell stated that last year a petition was sent to the U.S. Fish and Wildlife Service asking that the black-footed albatross be listed under the Endangered Species Act. The petition also asked for an emergency listing, arguing the case that this species was in imminent danger primarily from takes by longline vessels.

The petition was made in September. Fish and Wildlife Service issued a letter in December saying that an emergency listing was not warranted, but that they would look at the issue of whether black-footed albatrosses should be listed ultimately under the ESA in the future. Palawski has indicated it will be added to a list of a large number of animals that are currently under review by Fish and Wildlife Service for consideration for listing.

There is a letter which the Council wrote on this issue to Fish and Wildlife Service, which reviewed the available information on trends and populations of black-footed albatross. It noted in the Northwestern Hawaiian Islands, black-footed albatross populations as judged from nesting counts were either increasing, particularly on Midway, or stable on islands such as Lisianski or Laysan.

There are marginal populations on the Japanese islands, those populations too were either stable or increasing. This is important because if an animal is contracting, you will see that its range begins to shrink. And that's not happening. In fact, the range of the animal is beginning to increase. He believed that there were some animals nesting on Kauai.

At-sea observations conducted by researchers from the University of California also indicated that there is an increased number of sightings of black-foots from California. The conclusion was that the population seemed to be in reasonable shape. However, that is only based on sightings or counts.

The Pelagics Fisheries Research Program at the University of Hawaii is supporting a project where two groups of modelers will look at the tagging or banding data for black-footed albatrosses over the next year, and will produce a more definitive assessment of the population. This will be one of the key pieces of information that the Fish and Wildlife Service will need when it finally gets to considering whether this bird should be listed or not.

McCoy called on Simonds for Item 7.B, Institutional Arrangements for Pelagic Management in the WCPO.

### **7.B. Institutional Arrangements for Pelagic Management in the WCPO.**

Simonds noted the agenda indicates it is for the WCPO, it is really for all the international arrangements because international organizations are making decisions that directly affect our fishermen.

There have been fits and starts in the past. For the IATTC arrangement, the Council was never notified about what was going to be happening or included on conference calls for delegation meetings. In fact, not even a delegation meeting at that meeting made this decision about bigeye catch for longliners.

Since the Honolulu Convention is now an established commission there should be some formal process so everybody knows who is going to be included, and people are included from the very beginning in terms of notification of consultations. We may not go to some of these consultations because some of them are government-to-government. But at least we would have our input. This is really important because the pelagic fishery is the largest fishery for this Council. The two longline fisheries are the only U.S. longline tuna fisheries in the Pacific Ocean.

The proposal has been read by the members and discussed at the Standing Committee.

McCoy asked for questions.

Gibbons-Fly offered to tell the Council about the IATTC process, but noted that the paper related to the WCPO.

Noted that he had been involved in the process for a number of years and has been in charge of the process for the last few years and wanted to comment on the statement that had been presented.

He felt the best way to respond to the statement was to describe for the Council exactly what the process has been for the last few years and also describe how it might evolve and change as the Convention enters into force and they become members of the organization.

The process is informal in that they do not have any legislative or regulatory framework within which to operate as they have been engaged in the negotiations in the Preparatory Conference process. They have been operating under negotiating authority granted to whoever has been the head of the U.S. delegation by the Secretary of State through the negotiations, and that authority continues on through the Preparatory Conference process.

The process that they have been operating under has been the same one that's been operating since the beginning of the MHLC negotiations. They have a list of contacts of all the individuals who we are aware are interested in participating in the process. They have a number of individuals who are interested in participating from a single organization, they seek to identify a single contact or one or two people in those organizations and rely on them to keep the rest of the people in that organization apprised of what is going on, at least in terms of the information flow.

In advance of the meeting, an agenda is received. The agenda is sent to the contact list with the expectation that an individual representing an organization will forward that on to the other members of the organization.

Then we will convene a series of conference calls. Participants are spread all over the Pacific, California, Washington, D.C. Anyone is invited to participate in those conference calls, there is no limit on participation from the public, from industry, or from NGOs. There is a dial-in number that is provided and people are free to call in and participate and share their views on the issues that are in play.

The group goes through the agenda. We identify the issues that we think are going to be the key issues for the meeting. We lay out for the participants on these calls what we think the U.S position on these should be based on internal assessments. We take additional information and input and we factor that input into our decisions in advance of the meeting. If subsequent calls to get additional input are required, we arrange for that to happen.

The next step is trying to decide who will be a participant on the delegation to each individual meeting. It is unfortunate that they are not able to accommodate everyone who wants to be a member of these delegations. Once requests for participation on delegations are received,

they strive for the best possible balance between participation from government, industry, councils, territories and NGOs.

Pohnpei provided a fairly severe constraint on the size of the delegation, simply by virtue of the fact that there were a finite number of hotel rooms on the island. Bill Robinson and he needed to make some hard decisions about who was going to participate on the delegation. They ended up leaving off people from their respective agencies that very much wanted to participate and had participated in this process from the outset because they recognized the importance of allowing participation from all the interested constituent groups; the councils, the territories, the industry and the NGOs.

The U. S. Delegation at Pohnpei meeting included the federal participants and representatives from HLA, the U.S. Tuna Foundation, the United Tuna Cooperative, the Western FishBoat Owners Association, the World Wildlife Fund and the Audubon Society. They would have welcomed additional NGO participation because they like to have the proper balance.

Before the meeting starts, they have a delegation meeting in which they sit down with everyone who is there and go through the agendas. Copies of prepared statements are provided, comments are taken and the statements are revised based on input from the members of the delegation before they are put on the table. During the course of the meeting the delegation meets on a daily basis, usually in the morning, to run through what happened in the afternoon and what is on tap for that day, what is expected and what the position will be. Input is taken.

Gibbons-Fly was surprised by the assessment that the process was opaque and allowed for limited public participation. He disagreed with that assessment.

He did think there was a need for more structure. The delegation is evolving as it moves forward through the implementing legislation and membership in this Commission. The process is now in transition. The State Department has had the lead through the negotiations in the Preparatory Conference process because that is the process through which the Convention, the underlying legal framework of this organization, is negotiated. They are responsible for the Preparatory Conference process in that it is how the organizational structures are created.

Once the U. S. is a member of the organization and responsible for managing the resources, the lead shifts from the State Department to Bill Robinson. The State Department continues to be involved in an advisory capacity with respect to some of the foreign policy and institutional concerns.

Implementing legislation that will be passed will provide for an advisory committee to the Western and Central Pacific. This is a group of private sector individuals and is a formal process to which private sector input is provided to the U.S. delegations. There will be a selection process for participation in that advisory committee. In working with Mr. Robinson and others, they seek to ensure that the best possible balance of representation is in that particular group.

Simonds suggested that the title be broadened and more structure be added. She felt that the industry, the Council, the states and territories should be on the Listserv, whether or not they wanted to participate.

They were going to have a meeting on March 30<sup>th</sup> with PIRO to discuss how to include this process. They needed the opportunity for input into everything that impacted the fisheries, even if it is a consultation that is government to government.

But in terms of the other international organizations, there needs to be some kind of process, and the Council would be happy to be involved to develop something that works for all. Everything is on a fast track that some structure in terms of information distribution is the crux of this whole thing.

Robinson agreed there was a need for a formal process to consider issues, prepare for meetings, and disseminate information especially since some of the responsibilities will be transferring over to the Department of Commerce and NOAA for representation in the Western and Central Pacific.

It was not something that could be delayed. There is an IATTC advisory meeting in early May, followed by the annual meeting in June. The March 30<sup>th</sup> meeting should include preparation for the IATTC advisory meeting and the meeting in June. Except for the ad hoc meetings that come up during the year, there is a good idea when the meetings are going to occur. He thought they could sit down and develop a schedule and a process for doing exactly what is being suggested.

Gibbons-Fly added that the IATTC is an organization where the Federal Commissioner's representative for the Department of Commerce heads the delegation. The State Department remains very much involved in that. The advisory committee is appointed through the process he had just talked about and the best balance sought for the participants.

There was a lack of appreciation on the part of the folks who have been working in the Eastern Pacific of some of the linkages between the fisheries out here and the fisheries in the Eastern Pacific. The folks involved are very much working to correct that. The different parts of NOAA and the different participants from his office were communicating more closely on that.

He thought that the comment about the albacore meeting in Tokyo was valid. That meeting was driven largely by the interests of the West Coast Pacific albacore fleet, and the State Department had been responding to their concerns and their interests, perhaps not as aware of the interests of the HLA out here, which they were now very conscious of.

There are ways they could improve the system and maintain a better flow of information and he was looking forward to working with Mr. Robinson and the members to try to do that.

Morioka thanked Gibbons-Fly for recognizing that. Morioka asked him to recall some time ago at a previous meeting when the need for his presence at the Council to understand the



magnitude, the breadth, the depth of the dealings with the fisheries. And here's an example of perhaps not being sensitive to the extent of the fisheries that may have created this glitch.

Given the fact that the Pacific Council and this Council deal with similar issues, there needs to be some consideration going forward to create some linkage so that both Fishery Management Councils understand roles, the stocks and species that are involved in this joint regime, especially when dealing with pelagics.

He thanked both Robinson and Gibbons-Fly for their comments and support in moving forward and engaging Regional Fishery Management Councils in this processes.

McCoy said he appreciated the inclusion of the Council in the allocation, who is their only friend in the region. There are many decisions that are made, very little that they are part of it. It's done by those who don't know the realities of where they are, how they live, and the cultures. They need the cooperation and better communication so that the Council can continue to do that for them. Their Governor's office has communicated no direction so apparently there has been no contact there either.

They are new in this game. Over the 100 years of association they have gone from a calling station to what they are now. They have just become something on Washington's radar screen, but need to be seen and heard. The oceans are all they have, nothing else but each other.

The only avenue to voice concerns on international issues is the Council. For example, if the canneries find it to be an unprofitable situation, they'll get up and go someplace else where somebody higher up has already joined them in negotiations for a better deal. The resources are getting depleted and the people are being put in a position where they believe in a false economy. Then when it ends, what happens?

He was looking a little further ahead and hoped someone was listening.

Gibbons-Fly reiterated that with respect to the WCPFC, every effort has been made to include the councils, the territories, the industry out here, affected industries, and the constituents, every step of the way. Since he began participating in the fourth session of the MHLC, there have been four subsequent sessions of the MHLC and seven sessions of the Preparatory Conference. Every step of the way the Council was at the table along with the Territories and the industry. He did not want to leave folks with any misconceptions of the extent to which they have included people in the process.

He suggested that they all continue to work together to better formalize the process and make sure as they move forward they continue to maintain those contacts and continue to have input into the process.

Duenas suggested a listing of all the activities the State Department is participating in on an international level that identifies who is on the list to participate and who is not. AT least that would provide an opportunity for review.

## **7.J. Plan Team Recommendations**

McCoy asked for further comments. He noted that the plan team recommendations had been heard yesterday and he would move on to the SSC recommendations with Severance.

## **7.K. SSC Recommendations**

Severance referred the members to page 2 in 7.K. He explained that the SSC made the following recommendations regarding institutional arrangements:

- One: NOAA Pacific Island Regional Office be the head of the delegation to the Western and Central Pacific Fisheries Commission and the Interim Scientific Commission, and the Pacific Islands Fisheries Science Center be the lead for science issues concerning these international fishery fora.

During Standing Committee a question was raised about why ISC was being included. Another SSC member noted that it was because ISC is dealing with the northern stocks, particularly swordfish, marlin, albacore, and those stocks are of concern.

Simonds added that the ISC is a science group, and Dr. Robert Skillman, who is the Center's scientist for the international organizations really should be the person going to that or being head of delegation.

Severance agreed and said that Dr. Skillman had explained some of this at the SSC. He asked Robinson for his comment.

Robinson concurred with Simonds and said it was also a suggestion he had made at the Standing Committee meeting, that the head of delegation should rest with the Pacific Islands Science Center because the ISC was a delegation of scientists.

Severance moved on to the additional recommendations of the SSC:

- Two: The Regional Administrator for the Pacific Islands Regional Office be included on the delegation to the IATTC because of the mobility of pelagic fishing fleets and highly migratory species.
- Three: Pacific Fishery Management Councils have membership in the Western and Central Pacific Fishery Commission and IATTC delegations and SSC chairs or their designees be on all science committees.
- Four: The Council should be responsible for establishing domestic implementation of all international management actions regarding catches and effort for tunas and tuna-like species.

- Five: Domestic fishing regulations resulting from international negotiations be implemented through the Magnuson Act with accompanying analyses and processes.
- Six: A formal process be implemented for communication among U.S. Delegation members before and after meetings of international fishery arrangements, including review of draft position papers and other documents.

He continued with the quarterly reports under 7.C.1

- With respect the Hawaii longline fishery, the SSC notes the continuing increase in number of hooks set by the Hawaii longline fishery, therefore recommends that the Pelagic Plan Team review the number of hooks that was projected to be deployed under the Hawaii longline limited entry program, as it was capped at 164 vessels, and that this number be compared with numbers of hooks currently deployed.

Moving on, with respect to the longline sociological study presented by Amy Gough and Stewart Allen.

- The SSC recommends that further analyses be conducted on industry perceptions of observers and vice versa. This may also include perceptions of the effectiveness of the existing fisheries management regimes.
- The SSC also reviewed the Science Center's Economic Research Plan, a fairly long list of research priorities. The SSC recommends that the Pacific Islands Fisheries Science Center prioritize the diverse range of research topics in the Economic Research Plan.
- Then moving on to shark tagging. With respect to a project proposal to assess the hypotheses about the shark viewing just outside state waters, the SSC recommends that the project supervisor be invited to submit a full and complete scientific proposal detailing project design, complete statement of hypotheses to be tested, appropriate control protocols, time frame of tracking, et cetera. A note there that it looked like there was some opportunity for some research funding from the Humpback Whale Sanctuary as well.
- Then there are the Plan Team recommendations followed by the SSC recommendations done yesterday.

## **7.L. Standing Committee Recommendations**

McCoy noted that the Standing Committee met yesterday at 10:30 and he chaired the meeting on Pelagics, Domestic and International.

He noted that Dalzell presented the committee with the background letter in regards to the bigeye overfishing issue and the deadlines for the Council to respond. They discussed the regulation of fishing effort both by longliners and purse seiners.

The issue was brought up over the past decade that bigeye tuna catch by purse seiners had risen from negligible amounts to thousands of tons as a result of technology. Nonetheless, longline catches still exact the greatest mortality on the bigeye. The level of quota was brought up and the formula by which it was calculated.

Dalzell also went on and explained that any regulation of juvenile bigeye may impact the Hawaii offshore handline fishery. Then Keith went through the Plan Team recommendations and Craig went through the SSC recommendations.

He has the chair if he would like them read?

Morioka said that they had been reviewed sufficiently.

McCoy presented them to the Council for action.

#### **7.M. Public Hearing**

Morioka opened for public comments with regard to the bigeye overfishing plan. Hearing none, he called on the Council members for discussion.

#### **7.N. Council Discussion and Action**

Martin felt SSC recommendation 3 was redundant in recommending that the Pacific Council be included or have membership in the IATTC delegation since the Pacific Council Regional Administrator is the lead person for the U.S. Delegation. They are already well represented unless the SSC is representing the scientific section.

Ebisui wanted clarification if the term "Pacific Fishery Councils" meant the North Pacific, the Pacific and the Western Pacific Council.

Morioka noted that in this context he believed the term was used to include the Pacific Council and Western Pacific Council, inasmuch as the North Pacific Council does not have currently a pelagic fishery.

Morioka noted that under two, the recommendation was to have the Pacific Island Regional Office Regional Administrator be part of IATTC, inasmuch as Rod McInnis already sits on there. He asked Robinson to talk more about the arrangement.

Robinson noted that he had spoken with Bill Hogarth, Rebecca Lent and Rod McInnis and they are more than welcome to have him be a member of the government delegation to IATTC as an advisor to the U.S. Federal Commissioner, which is Rod McInnis. He intended to do that.

If the Council desires to also be a part of that delegation and participate, he would welcome that. However, at the highest level of these science committees sometimes there's only one scientist per nation. So it might not be possible based on the structure of these different science committees to have an SSC chair on all of the committees. He did not want to discourage the Council from having SSC chairs participate in the science process as members of various working groups, possibly, and attending or participating. But, he wanted to be clear that the word "all" in the recommendation wouldn't work out.

For recommendations four and five, Robinson suggested that they include language that the councils should be responsible for establishing a domestic protocol and they should be implemented through the Magnuson Act. He could see instances where that would be the case when the delegation comes back after making a general commitment and need to figure out how to implement among U.S. fishermen or within a particular council's jurisdiction or how to reduce effort.

He could also envision the United States making a commitment in an international organization, which the Council participated in as a member of the delegation. The timeliness of implementation would make appropriate the implementation of regulations under the authority of the implementing legislation to the treaty. Where there is a need, it would be appropriate to use the council process.

Morioka asked the group if there was any further discussion on the bigeye overfishing plan, which was the current topic on the table. They had heard the Plan Team and the SSC recommendations. The Standing Committee recommendations adopted the SSC's version of the bigeye tuna.

Duenas clarified that this was in reference to the bigeye tuna.

Morioka asked Dalzell to begin with recommendation number six, the one that began "with respect to the Pelagics Plan Team recommendation, the SSC believes in principle that all fisheries, both commercial and recreational, within the EEZ". He sought a motion and a second for discussion.

Dalzell read, "The Council believes in principle that all fisheries, both commercial and recreational, within the EEZ be required to provide logbooks, to be subject to forms of fishing control and also to be required to carry observers on vessels where applicable. A phased approach is recommended with the first phase being the requirement to provide logbooks for all types of commercial fishing on pelagic fishes.

Morioka asked for discussion.

Martin was concerned about the term "in principle". He felt that if the Council believes it, that the wording would leave a loophole.

Morioka had the words "in principle" deleted and asked the maker of the motion and the section if they accepted the change. There were no objections.

Morioka asked for further discussion.

Duenas asked if the motion covered regarding bigeye only.

Morioka clarified that it was all fisheries.

Duenas was a little leery as to why bigeye was even an issue.

Morioka stated that ultimately what would happen is that they would have to deal with yellowfin and other stocks. If they set a framework that covers all of these fisheries, then they would have the necessary data to respond to whatever requirements would come up. So the term "all fisheries" may be the proper wording.

Duenas noted that the issue of commercial and recreational was an issue for him.

Martin added that the recommendation suggests a phased approach for the first phase of providing logbooks to all types of commercial fishing on pelagic fish. So the SSC and Standing Committee recommendation is not requiring federal logbooks on recreational boats at this time, but to phase-in the commercial sector first.

Duenas said that he understood that. What they were saying was they needed this data although there was the telephone survey and voluntary data collection programs. So why even exercise calling and collecting data?

He felt that if the data collection was required, then require it. But he was not comfortable that Pacific Islanders would need to ask the federal government permission to go fishing was the right way to approach it.

Simonds wanted to remind the group that how to get the information has been a discussion for years. In terms of American Samoa, Guam and the Northern Marianas, the Council decided that they would begin first with a voluntary program. So that is in place.

She thought the first phase-in really was the handline in Hawaii, that was what was discussed at that SSC. This does not change the voluntary approach that has begun in the Territories and the Commonwealth.

Ebisui also had concerns because the impact would be on the small troll boats and how often do they troll and catch bigeye. If bigeye was the primary impetus behind this, not very many bigeye are caught trolling.

Morioka reiterated that this same issue would come up with the other stocks. He believed the plan team and the SSC also viewed it to be very narrow, and in anticipation of

issues in the future, it would behoove the Council to be in a position to have data from the first phase, for all types of commercial fishing on pelagic fish.

There is a segment of the pelagic commercial fishery that is now unknown to us.

Simonds added, “and quite large.”

Morioka asked Severance to provide some input, but first Feder.

Feder noted that as drafted the resolution just says, required to provide logbooks, does not specify federal logbooks or state logbooks. So as drafted, this is quite flexible. It does not necessarily show that the Council is proposing to federalize existing logbook systems.

Severance reminded the Council that the SSC works by consensus. There was a sense that yellowfin was right behind bigeye. Because, in fact, two years ago the stock assessments made yellowfin look in worse shape than bigeye. There was a sense that being proactive now would not replicate the Atlantic experience.

Oishi added that along the line of what Feder just recommended, “to be provided federal logbooks” should read “be required to be provided.” Right now the Fisheries were providing the logbooks.

Feder suggested that the wording be “The fisheries are required to submit logbooks.”

Ebisui asked if this had been discussed in public meetings or scoping meetings.

Simonds said she thought so for the last ten years.

Ebisui asked, but specifically this?

Simonds noted that they talked about getting recreational data at several public fora over the last ten years.

Recently there were two fora where they talked to the fishermen about how they would have requirements to collect data. Public meetings were held on all the islands about the collection of information from recreational boaters, as well as small commercial fishermen. There are written documents on this.

Because to have this bigeye situation come so swiftly and not have any information from the handline fisheries that fishes a lot of bigeye catch is a problem. The number of fish or the pounds is almost equal to the longline catches.

So, when the SSC discussed bigeye, they started talking about all the other fisheries.

Ebisui said he understood but was concerned about the net that was being cast about all types of commercial fisheries on pelagic fish. It includes the Cross Seamount fishery, but it also includes a whole bunch of other fisheries, including the troll fisheries across every island.

Morioka said that this started the process for socialization to develop these kinds of requirements. He suggested possibly an amendment to the motion.

Simonds thought that a document detailing the whole process for the plan team and the SSC and the Council to review would be helpful.

Ebisui said that he thought there was some urgency around the bigeye tuna due to some statutory deadlines that had to be met.

Simonds said it would be good to get that information especially if the international organization was going to determine quotas.

Morioka said they would be coming to more specific bigeye tuna-related issues in this process.

Duenas said he was very disturbed by this exercise and asked that Guam be left out of the picture.

Simonds asked that the issued be tabled until tomorrow.

Duenas had no objection to that suggestion.

Morioka tabled discussion and action items for the Pelagics until tomorrow. He then called a 15-minute recess.

Gibbons-Fly clarified if they were postponing discussion of all the recommendations on Pelagics until tomorrow or just the one with respect to logbooks. He would not be present due to a meeting in Tonga and had a comment on one of the recommendations.

He suggested that for the SSC recommendation 1.6.E.I that begins with, “formal process be implemented” be changed to “a process be formalized for communication among delegations.”

Morioka clarified that this was on page 4.

Gibbons-Fly said, yes.

Morioka appreciated Gibbons-Fly situation and noted that Robinson would also not be present tomorrow. He asked Robinson for comments with regard to Pelagics.

Robinson said he had nothing to add to the Pelagics discussion, but wanted to reiterate his commitment with regards to international activities



Morioka said that was very much appreciated.

Gibbons-Fly seconded Robinson's remarks.

Morioka wished both gentlemen good luck with their endeavors tomorrow. He resumed the meeting with Agenda Item 9, Insular Fisheries and called on Mr. Ebisui.

#### **9.A.1. Insular Fisheries, CNMI Bottomfish Management**

Ebisui noted that the first item had to do with the CNMI bottomfish management. While the agenda said Jack Ogumoro, he was not present so Ebisui called on Mark Mitsuyasu.

Mitsuyasu said he was going to speak on the CNMI bottomfish fishery management options. They have been developing this over the past year and a half. He would provide an overview of the CNMI, the area, the background of the fishery, what brought them to this point and the management decisions that under consideration today.

The CNMI area is a long archipelago and includes the main islands to the south and a string of islands and atolls that go up north. To the west of those islands there is an offshore series of banks, which are important for bottomfish fisheries.

Couple of years ago when the issue came up with regard to the Guam fisheries and potential large vessels entering the fishery, harvesting bottomfish in the southern offshore banks of Guam, the Council had considered management action regarding creating size limits and area closures for large vessels and also reporting requirements. Because at that time the large-scale vessels were landing, there was one large-scale vessel landing fish at a commercial port which was not included in the creel sampling program creating a data gap.

So the Council took action to create a 50 nautical mile closure around Guam to vessels larger than 50 feet. It also put in place permit and reporting requirements associated with those larger vessels.

When the Council went through this process with CNMI issues came up with regard to possible transferred effects where vessels larger than 50 feet. While they can't fish in Guam's EEZ or the banks around Guam, the most likely logical place would be up north, in the Commonwealth of the Northern Mariana Islands. In the Mariana Islands, unlike the Guam fishery where there was one active vessel, CNMI had a large-vessel fishery fishing in the Northern Island area for a number of years. Over the past several years the vessels who have participated in the fisheries fluctuated from four to eight boats.

Like Guam, CNMI's traditional bottomfish fishery includes mostly small vessels, less than 30 feet. These vessels typically do day trips or overnight trips, targeting both shallow-water and deep-water snapper species. The fishery includes subsistence fishers, recreational fishers, small-scale commercial fishers. Based on CNMI's creel program, there are about 50 or so boats.

That includes commercial, recreational and subsistence fishers. Commercial vessels range below 20 boats. They are fishing around the main larger islands on the southern half of the archipelago.

A number of hearings and public meetings were held with our advisors and fishermen. The concerns that came up primarily focused on what the status of the resource around CNMI was; was it endangered, was it healthy.

Right now there is no stock assessment for the resource. But based on the plan team's monitoring of the fishery, the resource in the Northern Island area is believed to be healthy.

There are also issues that came up regarding gaps in the data collection program. CNMI has a creel program and a trip ticket sales receipt program. However, participation in these programs is voluntary and has been intermittent.

Another concern that was raised was the continued participation of the small-scale fishery in-house traditionally made day trips around the main islands of CNMI.

Some of the FMP objectives in the bottomfish plan deal with

- ensuring adequate data and information, which in this case relied primarily on voluntary data collection programs done through the local fishery office.
- protecting opportunities for small-scale boats, which the majority of the fleet in the area fall into this category.
- sustaining community participation because they are local boats fishing in local waters.
- encouraging consistent availability of local fishery resources.

When brought to the Council at the last meeting final action was being considered and the alternatives were developed through a series of public meetings, at the plan team meeting, SSC meeting, and the Council considered it a couple of times.

The three alternatives include:

- federal permit and reporting for large vessels. At that time the alternative included large vessels for vessels that are 30 feet or larger, area closure in the southern half of the Northern Marianas Island Archipelago; federal permit and reporting for all vessels and gear restrictions, limiting number of gear that have been used; and limited entry.
- The preliminary preferred alternative of the Council at the time was vessels 30 feet or longer would have to have logbooks and permits; sales reporting for the large-scale vessels, which is related to the trip tickets that are ongoing and voluntary at this time; area closure would extend from the southern part of CNMI from Rota up to Alamagan, which is about half of the EEZ; and to monitor the closure, VMS is suggested.

This presentation was done at the last Council meeting and the issue was raised regarding taking the preferred alternative to the public one more time for discussion. That was done in November with Council advisors, public and fishermen participating and providing more comments on what the alternative would look like.

Based on those discussions and issues that were raised, a revised alternative was developed.

It would include federal permits and reporting for all commercial vessels targeting bottomfish. So in the past it was commercial vessels 30 feet or larger targeting bottomfish, but now it would be required for all commercial vessels. Commercial vessels over 40 feet would also provide sales information. It would prohibit commercial vessels over 30 feet from targeting bottomfish species within the closure, which are going to be modified. The closures would extend from Rota, the southern part, to above FDM, which is about half the distance of what the original closures proposed. But they also wanted to include a ten-mile closure around Alamagan, which is the island where the Council's CDP, Community Demonstration Projects Program, is ongoing.

The demonstration project involves a remote fishing station -- small vessels fishing the area and then the fish is brought back to CNMI in either receiving vessels or a larger vessel. Receiving vessel activity would continue. And VMS would be used to monitor the closed area.

He showed a graphic on the area closure from the southern part below Rota up to halfway between FDM and Anatahan. That area closure would be for vessels larger than 40 feet in length. All commercial vessels within the area closure and also fishing in the northern area would have to report their catch.

Ebisui asked for questions, having none he asked Mitsuyasu to continue through the next two items.

### **9.A.2. Bottomfish Final EIS**

Mitsuyasu said that they have been developing the EIS for a number of years now for the bottomfish fishery. The EIS was released in draft last year. Comments have been received and they were working with the National Fisheries Service to respond to the comments. The final responses to comments were drafted and sent to PIRO. Once they have identified and made the final changes it would be forwarded to Headquarters.

### **9.A.3. Status of Guam's 50/50 Measure**

Mitsuyasu said that last month, the Council took action on the Guam 50/50 of August 2003. Comments were received last December and in February. At this point they have a number of comments, but haven't been able to respond to those comments. They need to identify somebody to help with making those revisions, because of the workload.

Part of the problem is because of the delay in the review process, the document itself becomes outdated. There is new information regarding the annual report and new material that needs to be incorporated.

Duenas asked how much more delay and would it still go to PIRO for review.

Mitsuyasu said that since it's an amendment, it is sent to PIRO to officially begin the review process and a time frame in which the review should take place. They are getting the document to be reviewed for completeness now so that they can start the clock. They are trying to get the revisions done in April since they were going to be gone for the next two weeks.

Duenas asked what the delay was, was it in the submission to PIRO or the other way around?

Mitsuyasu said they had transmitted the document in late 2003.

Duenas asked Robinson if he had any comments on the delay.

Robinson said it was part of the backlog because of the staff shortages and other Council actions that were being reviewed. He was pleased that they were finally able to get comments to the Council staff and was hopeful that since being more staffed up in Sustainable Fisheries, they would not see these kind of delays again.

Duenas said he noticed CNMI had a 40-foot limit. Since they were looking at a Marianas-wide type management regime, could the length of the vessel become uniform with CNMI. He offered to bring that back to Guam and have a discussion with the fishermen on the issue.

Ebisui asked if Duenas was talking about the bottomfish plan as it pertains to Guam.

Duenas said he meant to amend Guam. Since CNMI owns most of the water, it might be good to be uniform instead of confusing people as they transit through the different zones.

Ebisui said that the Committee discussed the matter of consistency between Guam and the CNMI EEZ. However, the bottom line was not to stall the CNMI amendment.

Duenas said, no, he did not want to stall the CNMI. But he did want to revisit the size and since they were stalled already it might make sense. He was not asking that CNMI rescind theirs, he was looking to amend Guam's.

Ebisui clarified that he was asking to possibly revisit the Guam one and whether or not that would affect the processing and timeline?

Duenas said, right.

Ebisui said he did not know and called on Robinson.

Robinson said that Mitsuyasu might be able to answer this better than he. However, if there was substantial redrafting that already needed to be done, he did not know how much additional analysis would be required with a change of vessel length or not.

But certainly, the Council would have to schedule it for consideration at a subsequent meeting, and then redraft the documents and go from there. So it would delay the Guam amendment even further, no question about it.

Loerzel said that if the redrafting were necessary, they were given indication in the Standing Committee that there may be a notification that the bottomfish fishery in Guam is being overfished. So if they were going to have to revisit this issue anyway, would it make sense to just pull it back and kind of address it all at once?

Ebisui asked Mitsuyasu if he would like to comment.

Mitsuyasu said that in addition to revising the document, making those changes, it would have to go back out to the public. So there would be a series of public meetings that would need to take place.

With regards to the overfishing, that was where Guam's fishery was going to fall out and he did not know how that would be addressed.

The plan team is going to meet next month. The plan team has had recommendations regarding some of the issues with regards to the new control rules. But in terms of specific actions on what can be done to address that, no discussions have taken place with regards to the Guam fishery. If they wanted to address all the issues, he was not sure what the timeframe would be.

Duenas said that the Guam overfishing issue came out in the last Council meeting and he had mentioned that the data on Guam was being co-mingled with inshore fishery data, and then say that is overfished, he did not see that problem on the offshore. He saw the problem within the territorial waters rather than the offshore. That's not purely overfishing, because they have five marine preserves and still have not addressed the land-based problems. That's a separate issue.

But on the overfishing part, I'm excited to go home and speak to the plan team representatives from Guam and actually figure out what information or data they're collecting, because based on their catch data he received, he did not see a problem. At least he wished they would slow down because the catch rates are still being maintained.

We ask the fishermen for information then use it against them. That scares him because he has to deal with those people on a daily basis. So whatever this Council makes as a recommendation, impacts him on a greater scale than anyone in this room.

Robinson said that from the standpoint of full disclosure, based upon the stock assessments that have come through the system, the Agency prepares an annual stock status report to Congress where those stocks that are approaching an overfished state, or where overfishing is considered and are now overfished.

Based upon the existing stock assessments, he had not really looked at the underlying data and could not comment on the solidity of the assessments. But they do seem to indicate, both the Guam bottomfish fishery and the Hawaiian Island bottomfish fishery as overfished. So that's something the Council should be aware of and perhaps something that should be discussed at length. Because if both of those occur, that triggers the requirement for the Council to take action within one year to end overfishing.

Ebisui clarified that the clock had not started yet on that, but it would soon.

Robinson said, yes. The clock would start with the publication in their report to Congress, putting them officially on the list. The clock would not start until then. But that report is in preparation and it's not too far away.

Duenas asked by what assessment was this judgment being made.

Robinson said he did not have the details but turned to his staff or Mitsuyasu to answer.

Mitsuyasu said that as part of the annual report they are required to include a status on overfishing, overfished for the species that are managing. The Council produces its annual report when the plan team meets.

The information is from the plan team members, from Guam, who participate on the plan team and provide the data. So the data is coming from the local creel programs.

Duenas said that the local creel program is inshore.

Mitsuyasu added, and offshore.

Duenas said, yes. So the data is being confused, which is what he was saying. He did not believe there was a problem yet, and that was why they were taking these preventive measures with the 50/50 closure. But on the inshore there is an existing problem, which the government has not addressed, and he did not appreciate the Government of Guam using this as a venue to solve their problem.

He receives the same reports that the plan team received. It does not identify any offshore activity. It says, red-gilled emperor, X amount of pounds. It doesn't say, red-gill emperor from Galvez Bank. He filled out the reports, 98 percent of the data comes from him. He would know if there was overfishing. He suggested that the Guam plan team members be given a little education.

He suggested that Robinson review the information thoroughly for its completeness before a judgment call is made. There would be a big problem if the fishermen of Guam are told they are not going to be able to catch fish. He did not appreciate that kind of judgment call when he did not see a problem.

Guam is taking preemptive measures. He asked that Robinson check with Dave Hamm to find out if the information was true.

Robinson said this was only recently brought to his attention. They would look very carefully and ask a lot of questions about sources of the data and how the data is used and reliability before final conclusions are made.

Duenas noted that there was no baseline on Guam for anything. No one has gone to any of the banks and started a baseline. He believed NOAA sponsored a program with the Aquatics Division about ten years ago to do surveys of the banks. They had asked for that report recently; it was never compiled and completed.

Ebisui said that Robinson had committed to scrutinizing the data and being reassured of its accuracy or applicability.

He called on Severance to continue with the agenda.

#### **9.A.4. SSC Recommendations**

Severance said that the SSC heard a similar presentation to what they had just heard and discussed that revised alternative.

The recommendation was that steps be taken to integrate management of archipelagic fishery resources:

That catch reporting be required for all commercial bottomfish vessels in the Marianas Archipelago. Here the Marianas Archipelago obviously refers both to Guam and CNMI.

Data question aspects. The SSC therefore supports the permitting and reporting requirements proposed under Alternative 2.D.

The SSC further recommends that research be conducted to estimate sustainable fishing effort for bottomfish within the Marianas Archipelago.

The SSC notes that the management regulations for Guam and the proposed regulations for CNMI are inconsistent with each other, i.e., vessel size limits and reporting regimes. The SSC recommends that steps be taken to integrate management of archipelagic fishery resources.

Ebisui asked for questions.

Sablan noted that unless the mandate issue comes up in 60 days they would not know whether they have state water or if everything else is federal water. But if in fact they still have state water up to three miles, then this statement needs clarification because if these guys go up to fish around the islands less than three miles out, which most of them do right now, then they are not required to provide federal reporting on the logbooks.

Ebisui said he thought so and said that Sablan's concern was about the appeal process on the CNMI case and the ultimate result of the appeal.

Sablan said, yes, and because it is still in limbo, they would continue to have three nautical mile state waters. So this statement is saying that all vessels over 40 feet going up north of the area closure must submit data on the federal logbooks.

Ebisui said, yes.

Sablan said that his question was if they fish within state waters are they required to submit data? This would defeat the purpose of getting mandated data.

Ebisui asked Sablan if he was asking that the Council defer action on the proposed amendment for CNMI pending outcome of the appeal?

Sablan said that he was asking the Council to keep in mind that they were in limbo. He called on Feder to comment.

Ebisui asked to hold the questions to Feder and called on Morioka.

Morioka noted that the first recommendation was to prohibit commercial fishing vessels over 40 feet in length from targeting bottomfish from zero to fifty nautical miles. It did not say three to fifty miles. Was it the desire of the CNMI for zero to fifty miles, or three to fifty miles?

Seman said they were not changing anything. They were just inquiring what happens if a boat, outside of the closed area. In other words if they fish within three miles, are they still required to submit the federal logbooks.

Morioka said that was the way it reads, all EEZ waters, surrounding the CNMI.

Sablan said, three to two hundred.

Morioka said that zero to two hundred is the EEZ. But was it the desire of the CNMI to be zero to fifty around only the Islands of Rota to FDM, and ten nautical miles around Alamagant?

Feder said it was the position of NOAA and the federal government that under current law the EEZ goes from the shoreline out to 200 nautical miles. The stay in the CNMI case



affects the ability of the Government of CNMI to enforce its local laws from zero to three nautical miles.

If that stay continues in effect, that only applies to implementation of local territorial CNMI law. There won't be a hole. In other words, this will work to regulate fishing and required reporting all the way to the shoreline around Pagan, out to Saipan and everywhere.

In the future, there might be a time when the Territorial Submerged Lands Act applies to the CNMI, and if this zero to three nautical miles is transferred to CNMI, in which case, there would not be authority under the Magnuson Act to require reporting from zero to three. That has an effect on jurisdiction under the Magnuson Act.

Seman said that was what Sablan was referring to, that earlier Feder had indicated that possibly they still have recognition of the zero to three miles.

Feder said, right. But that is for the purpose of enforcing CNMI law. At the same time, the EEZ still goes to the shoreline.

Ebisui suggested that they just stay the course, if because of the appeal, or whatever, circumstances arise in the future, there is a need to reassess and do something else, they could do that.

Sablan asked if they could.

Ebisui said, yes. Rather than again deferring action on this amendment.

McCoy suggested that they work "pending" into the language.

Ebisui said he did not know how to do that since they did not know what the U.S. Supreme Court was going to do. Feder said it doesn't matter, it will work either way. And his proposal was to stay the course and take action on the proposed amendment. And if something does happen that requires them to revisit, they would.

Sablan asked his colleague from Saipan to stay the course, get this amendment passed through the Council. Whatever changes are coming in the future, they would deal with it.

Ebisui said there was an overriding critical need for the data, which this amendment will provide. So it doesn't help to delay this further.

### **9.A.5 Standing Committee Recommendations**

As he briefly summarize the Standing Committee report he asked Mitsuyasu to put the recommendations up and read the recommendations and he would put it in the form of a motion.

Mitsuyasu said that he converted the Standing Committee recommendation into a Council Recommendation for the action memorandum. He would just post that.

Ebisui explained that the Standing Committee met on Tuesday at 10:30. Mitsuyasu presented the same material they had just heard. Severance also presented the SSC recommendations. The Council had some discussions regarding potential conflicts with existing pending management actions, including the Guam Bottomfish Amendment. It was the consensus of the Council that even though these matters may cause some complications, that should not delay Council in taking action on the proposed amendment for CNMI.

Mitsuyasu said that regarding bottomfish, the Council recommends that staff prepare the final amendment incorporating the preferred alternative. The wording on the screen should be identical to the wording in the Standing Committee report:

- prohibit commercial fishing vessels over 40 feet in length from targeting bottomfish species in waters from zero to fifty nautical miles from the southern boundary of the EEZ around CNMI south of Rota to the north latitude 16, 10, 47, which is halfway between Farallon de Medinilla and Anatahan and 10 nautical miles around Alamagan;
- require federal permits and reporting for all commercial vessels targeting Bottomfish Management Unit Species within the EEZ waters surrounding CNMI;
- require federal sales reporting of BMUS sold in CNMI from commercial vessels over 40 feet;
- require VMS on all commercial vessels over 40 feet; and
- allow receiving vessel operations within the closed area closures.

Ebisui so moved, and turned the meeting over to Morioka.

Sablan: Second.

Morioka asked the council members for discussion.

Farm expressed concern about the 40 feet for reporting. Were their receiving vessels going to be over 40 feet?

Sablan said that all of the receiving vessels are going to be more than 40 feet.

Farm clarified that they would get the data from all the small boats. He did not want to miss all the small boats up there.

Morioka asked for further discussion.

Mathers noted that in the first paragraph it said “targeting bottomfish species.” In the later paragraphs it said “Bottomfish Management Unit Species.” Did they want to be consistent in the first paragraph?

Morioka replied, yes.

Mathers noted that Item 5 said “operations within the closed area, within.”

Morioka said that while that was being done he would open for any public comments with regard to the CNMI bottomfish measure.

Feder said that in paragraph one and two, there's a reference, targeting Bottomfish Management Unit Species. Is there going to be ambiguity there in determining which vessels are targeting Bottomfish Management Unit Species? And if so, shouldn't there be a criteria.

Morioka asked, harvesting?

Feder said did it mean any vessels that harvests one Bottomfish Management Unit Species is then required to submit reports?

Morioka replied, if it is a commercial one.

Feder asked that even if it was not targeting in a common sense way, even if it ends up with a small incidental catch, was that targeting? Where is the line drawn?

Ebisui replied that he did not know how to catch bottomfish if you're not targeting it. It's a very unique fishery that you're either going after them or you're not. If you're not going after them, you're not going to catch them. You're not going to catch opakapaka or onaga on the surface.

Feder asked, or any Bottomfish Management Unit Species?

Ebisui replied, yes.

Feder said, then maybe it should be changed to harvest.

Morioka said, harvest would be a proper word.

Feder said, any catch at all.

Mitsuyasu said targeting was put there because a similar term was used in the Hoomalu and Mau Zone fisheries. But harvesting could be used as well.

Morioka asked either Duenas or Sablan if mafuti was included in this particular bottomfish?

Sablan said that was correct.

Morioka asked if mafuti could be caught trolling?

Sablan said, not on the Northern Islands. Mafuti is caught inshore, but they are not the red-gilled kind.

McCoy agreed with Mitsuyasu's comment.

### **9.A.6 Public Comment**

Morioka asked for any public comment while they were having this side-bar discussion. He called on Feder for legal guidance.

### **9.A.7 Council Discussion and Action**

Feder said he was continuing the discussion with Mitsuyasu about whether there might be vessels that take species that are Bottomfish Management Unit Species that might not be the traditional deep-water Bottomfish Management Unit Species, and if this would cut too broadly if it said harvested. He did not have an answer, that in implementing decisions like this, the Council would need to make the decision.

Farm asked if the ulua jacks were BMUS.

Mitsuyasu did not know.

McCoy said, but if it was not targeted at that particular moment.

Farm retorted with, but if they go and harvest?

McCoy said, yes.

Morioka asked for the pleasure of the Council.

Sablan suggested that both words, targeting/harvesting be used. Because any time you troll and you catch ulua up there, or papio, he would like to see it in the record.

Morioka asked the maker of the motion to amend.

Ebisui said he would amend and the second accepted.

Feder asked for a clarification about the receiving vessel operations. Did it allow any vessel, even large vessels, to offload at sea in closed areas harvest of bottomfish? What does this exactly cover?

Sablan said that they envisioned that the larger vessels over 40 feet would bring their own small skiff. They will put it onboard and go to FDM. The smaller skiff will bottomfish and would be allowed to bring it over to the larger 40-footer, or greater, and the 10-footer boat will receive their catch. They wanted that permitted.

Morioka asked for further discussion. He noted that the change the Commander had suggested was within, W, slash, I-N. He confirmed it with the Commander.

Morioka noted that the motion was on the board and called for the question. The motion was approved.

Morioka moved on to Observer Programs, Agenda Item 8 and called on Eddie Agae, followed by Kevin Busscher and John Kelly.

## **8. Observer Programs**

### **8.A Report on the Native Observer Program**

Agae introduced himself as the Program Manager for the Indigenous Observer Preparatory Training Program with Alu Like, Incorporated.

Whenever Alu Like develops a program it has economic value to the State of Hawaii, the Native Hawaiian communities and to the indigenous people and it complements their primary project, which is the Observer Preparatory Program.

They attended the Consortium on Hawaii's Maritime Industry and met Captain Kaipo Pomaikai of the Waianae Maritime Training Academy. Alu Like had several discussions with them about collaborating and providing an Alternative Career Pathway to our observer applicant students. In December they conducted an Alternative Career Pathway class with the Waianae Maritime Training Academy. These were for students that had either been waiting for a long period of time for observer training program that was aligned with additional training through NMFS.

Twenty three students completed the Alternative Career Pathway class. All 23 graduated and all 23 are employed. Of the 23, 17 are working in the maritime industry. Seven major employers lined up to await the graduation of this class. The need is tremendous need in the maritime industry. Of the six who are not working in the industry, the majority of them could not get over the sea sickness part of it. They all returned to either their previous industry or the jobs they were in.

In November they attended the Fourth International Fisheries Observer Conference. There were observer program representatives from 21 countries. It was very stimulating being exposed to so much going on throughout the world and seeing observer programs and meeting observers from Third World Countries, who were making it happen, to the power countries, who had extensive experience in this. An Australian observer noted that a problem isn't a problem if you know what the solution is.

They came away looking at their program through a new set of eyes. There has been a longstanding issue with trying to align their program perfectly with NMFS schedule. So they decided to develop a two-to-four-day refresher program depending on the need of the individual and how much time had elapsed from when they received their Observer Preparatory Program and when they needed to go into the NMFS Observer Training Program.

The also discovered some in these training programs but funding precludes them from incorporating these in their program. They did come away with a conflict resolution module to integrate into their training program. They felt that the module was misnamed and have modified it a bit to suit their program under communication and education. It teaches the observers to be able to recognize what could be an explosive situation reading a captain, a fisherman. It is really educating the observer on how to educate the crew, the captain.

He recommended it to the Council members of the Trust Territories that are looking to embark on an observer program. The conference is every two years, so the on is next year. He offered to forward any information he received about that.

In December at the last Council meeting there was information about American Samoa possibly embarking on an observer program in the first quarter of this year. Alu Like went down to American Samoa to do some pre-screening and recruitment. They want to get their name back out since it had been three years since they were there. However, when they went to American Samoa, they found that the observer program was not starting. They did bring one individual down for the observer preparatory class that was concluded last month. The individual was not able to stay and they hope to bring him back if American Samoa does embark on their observer program.

They plan to schedule three observer prep classes, one each in the remaining quarters. They are working to develop a Safety-at-Sea Training Program with the University of Hawaii's Marine Option Program. There is a tremendous amount of safety training with some of the programs. Their Life Raft Marine, Inc. and POP is a fairly good safety training program, but they are also exploring a program from Eureka, California. That program includes a simulation of the flooding of a ship, setting it on fire and smoking out the entire crew and the observers.

The majority of these crews are non-English-speaking individuals. A lot of them do not have any training at all regarding safety. There was an incident about a month ago where one of the observers that came through Alu Like's Training Program saved a crew member who went overboard. It was because of the training that he received.

The crew actually was a detriment to the whole life saving process. When they finally got him onboard, the crew charged the individual, thinking he needed mouth-to-mouth and life resuscitation and the observer had to fight everyone back and call them off, since he was fine. The observer stayed with the individual until the boat got back.

They are going down to the Trust Territories in the second, third and fourth quarters for information sessions and some pre-screening. They would like to work closely with the American Samoa Council members and any observer team that is put together to discuss when would be a good time to come in and begin any work on recruitment down in American Samoa.

Their just completed observer preparatory class provided eight students to the NMFS training class. Upon their completion, if all eight successfully complete the NMFS training that will put us at 25 percent of the observer population being a local-based group. They know the contractor is dealing with some issues of whether or not they have enough observers.

He also mentioned to the American Samoa Council members that they saw the Woodshole, Massachusetts Observer Program dealing with these smaller fishing vessels. However, they did not know if American Samoa intended to put observers on the alias.

Morioka asked the Council members for questions.

Martin asked if the 17 graduates who were with the maritime industry were all placed observers or were they in other fields of the maritime industry.

Agae replied that they were all in other fields of the maritime industry. In some instances there is a tremendous amount of sitting and waiting. They come in, get pre-screened, and then tested. Then they decide either to go through the observer preparatory class or wait for one that aligns with the NMFS Observer Training Class. If it is too lengthy a time period, some of them will opt to attend our Alternative Career Pathway.

Martin asked if any of the graduates were employed in fisheries other than within in the region.

Agae said, no, just in the State of Hawaii.

Martin congratulated Alu Like on a successful program.

Morioka called on Busscher to report on the Northwestern Hawaiian Islands Bottomfish Observer Program and the Hawaii Longline Observer Program.

## **8.B Report on the NWHI Bottomfish Observer Program**

Busscher introduced himself as the Operations Coordinator for the Observer Program for PIRO. Their program staff included Program Manager, John Kelly; Training Coordinator, Joe Arceneaux and eight debriefers. There are 40 observers that work with the contractor.

For program funding, they have approximately four million for the fiscal year of 2005, which includes swordfish, bottomfish, the deep-set longline and also for American Samoa.

They had 20 observers go through longline training back in October. They just started training on Monday, March 14<sup>th</sup> with 17 observers in that training; eight of those are Alu Like trainees. For bottomfish, five observers went through training in July. They are planning bottomfish training for May of 2005 with ten observers. They use observers that have already been trained for longline for the bottomfish.

They had 24.6 percent coverage for longline coverage for the deep-set in 2004 which was 320 observed trips out of 1344 departures. So through March 5<sup>th</sup> of this year they are at 19.9 percent, which are 53 trips out of 267 departures.

For the bottomfish coverage, last year was 18.3 percent, which are 13 observed trips out of 71 departures. So far this year, they are at 40 percent with two observed trips out of five departures.

Protected species for the deep-set trips last year, for sea turtles, they had three leatherbacks, thirteen olive ridleys and one green sea turtle. The leatherbacks were released injured. The olive ridley and the green sea turtle were dead.

For marine mammals, for the deep-set, they had six false killer whales, one humpback whale and a short-finned pilot whale. These were all released injured, except there was one dead false killer whale.

For seabirds last year, they had two Laysan albatross, four black-footed albatross and two unidentified shearwaters. Those were all released dead. For this year, through March 15th, for the deep-set, they have had five Laysan albatross and seven black-footed albatross, all released dead.

For the shallow-set for longline last year, they had one loggerhead, one leatherback and one Laysan albatross. This year through March 15th, they have had eight loggerheads, two leatherback sea turtles, one Laysan albatross, one black-footed albatross, one Risso's dolphin, and one Bryde's whale. All were released injured, except one black-footed albatross, which was dead.

For the protected species for bottomfish last year during bottomfish operations, there was one black-footed albatross that was entangled. For bottomfish trolling, they had two unidentified boobies and one Laysan albatross, one brown booby. These were either hooked or entangled when trolled in between bottomfishing. For this year so far, they have had one Laysan albatross that was hooked in the wing during bottomfish trolling.

### **8.C. Report on Hawaii Longline Observer Program**

Busscher reported that for longline research projects this year, they collected two marine mammal DNA samples and 32 lobster phyllosomas for the Science Center. Then 17 DNA samples for sea turtles, 18 albatross specimen for the U.H. and the U.S. Fish and Wildlife Service and 47 DNA samples from sharks, 86 juvenile swordfish for the Science Center, 30 various species of fish for outreach programs of the Science Center and 58 tuna stomach samples from the Pelagic Fisheries Research Program. That project has been concluded.

They had 18 fin clips from marlin and pompano dolphin, which is a new project going on for the Science Center.

For bottomfish, they don't have any research projects being conducted at this time.



## **8.D Report on the American Samoa Observer Program**

For American Samoa, they expect to begin placing observers during this year once the proper regulatory authority is in place. It was going to be as early as June, still has to be confirmed.

They have office space in the Pago Pago Plaza, and a house down there for the observer program staff. They will be sending debriefers down there.

Busscher heard that the Coast Guard and NMFS Enforcement have been working with the vessels down there to get them current with their inspections. They need to have the Coast Guard registration before observers will be placed.

Morioka asked the Council members for questions.

Martin noted that from an industry perspective, the Observer Program certainly is working well. There have been a couple exceptions, but he wanted the Council members to know that although having an additional person onboard is sometimes a burden, generally the Observer Program has done a good job of communicating to their people and the contractor. This reflected on Busscher as well as the contractor that they really do make every attempt to get along.

The one exception was an incident where an observer took it upon himself to cause the boat to come home by communicating with the Coast Guard with the EPIRB. All that does is highlight that things aren't perfect, and no matter how well you do at training, in this instance the observer wanted to go home real bad and there were several agencies that ended up getting involved.

Busscher explained that the observer turned on his EPIRB because they were transporting crew from another vessel and he was allegedly suffering from carbon monoxide poisoning from the stacks on the boat, which has not been proven. But the observer was going to be placed on another vessel and decided not to go out on that vessel, and resigned. So they do stress the importance of using the EPIRB only in the case of an emergency.

They were only supposed to use the EPIRB if the vessel was sinking or a similar emergency occurred. However, the Coast Guard they said if the observer suffers an assault or something like that on the vessel, that was also are reason to turn their EPIRB on. They have not had to deal with that yet.

Martin noticed that observers are now equipped with satellite phones. So if they had a similar situation, where it may not be life threatening, they would have an opportunity to speak with someone.

It was an expensive proposition. While they do not want anyone to be sick or endangered, it did result in significant economic impacts to that particular vessel. They had to

turn the boat around and come home. And the apparent cost of a week of fishing could make all the difference.

Busscher said that the satellite phones really worked out well. They have been able to report the protected species on the day they happen, which is really important to the shallow-set trips. And, if an emergency comes up, sometimes it's hard to get the radio working for long range. So they can call the Coast Guard Search and Rescue themselves. However, if anything like that comes up, they would be expected to phone the office. They have people that are available on weekends, and if not them, the contractor can deal with this type of situation if they have to evacuate.

Tulafono asked Katekaru what the time frame was for the observer program in American Samoa.

Katekaru said that the final rule would take effect for the American Samoa Limited Entry Program on August 1st, and that was for the permit program. October and November would provide the time to get the permits and vessels. If the final rule got published on time, they should have this observer program on board.

Haleck asked Busscher when he would be able to set up an office space in Pago Pago and send some staff down.

Busscher said that they had the office space. There was not a need for staff there until the program started and they are placing observers. They would probably send one or two debriefers to start out. The office would run much the same as the Honolulu office in that the contractor puts the observer out to sea and once they come back in, they go into debriefing, and enter their data,

Haleck clarified that there would be about two to five staff members down there.

Busscher replied no, for the observer program, probably not more than two. In comparison with their program doing four or five percent here, the volume of trips required one or two people running the program up. That did not count the observers, just the debriefing staff people that are on land. Depending on the amount of activity down there, but maybe not more than eight observers starting out, coming in and out of there. One or two debriefers can handle that volume of trips.

Morioka noted that Agenda Items 9.B and 9.C would be done tomorrow. The Council meeting would resume at 1:30 with 9.D, which is Ecosystems and Habitat. But prior to that, they would hear Allen Tom with an update on the Pacific National Marine Sanctuaries, and also the GIS update.

He recessed the meeting until 1:30.

Morioka reconvened the 126th Council meeting of the Western Pacific Region. He called on Mr. Allen Tom.

## 5.A.2 National Marine Sanctuary Program

Tom explained that the Sanctuary Program in the Pacific Region includes Fagatele Bay in American Samoa, which is a partnership between the National Marine Sanctuary Program and the Territory of American Samoa; the Hawaiian Islands Humpback Whale National Marine Sanctuary, a partnership with the State of Hawaii; and the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, which is currently under Proposed Designation for Sanctuary Designation.

A Sanctuary Advisory Council has been approved for American Samoa. The Charter has been approved by NOAA. He noted that copies were available and the Federal Register Notice had been published. They were currently soliciting Council members to participate on this advisory council.

The first meeting is May 16th in American Samoa. The goals of the Advisory Council are to help Fagatele Bay go through its management plan review. The management plan review is over 20 years old. It's about 12 pages long and overdue to be re-examined.

There are not going to be more than eight voting members. I know the Council has a seat on both the Northwestern Hawaiian Islands Reserve Council and the Hawaiian Island Humpback Whale Sanctuary Advisory Council, which are very large bodies. They have more than 25 members. But this advisory council will be small.

It will include five governmental representatives: Department of Commerce, Territory of American Samoa, Department of Marine and Wildlife from the Territory of American Samoa, a nonvoting seat for National Marine Fisheries Service, a nonvoting for the Sanctuary Program, and a seat for the Sea Grant College. There are five nongovernmental seats, which will be voting and includes West Pac as a fishing seat.

The Geographical Information Systems, GIS Program, has been going on in partnership with the Fishery Council. The Maritime Archeology Program is also in process. Other partnerships include a Memorandum of Agreement with the Hawaii Institute of Marine Biology, University of Hawaii, University of Hawaii Hilo, for a Native Hawaiian Internship Program. This summer the National Marine Educators Association is having their annual meeting on Maui July 11th through 15th.

The Council has sponsored or is being asked to partner on various activities including

- the Marine Debris Workshop in the year 2002;
- the GIS Program with Evan Weinberg, who is a cost-share person between the Sanctuary Program and the Fishery Council;
- MOUs are in place with other Sanctuaries and other Fishery Councils in the Atlantic and in Florida;
- educational research projects that he hoped the Council would develop in the next few years that the Sanctuary Program can partner with;
- one final project is looking at possible new marine sanctuaries in the Pacific Region.

The Sanctuary Program will be looking at possible new locations for the next five or ten years, but certainly would like to have the Council involved in that process, as well as partners in the Territories and the State waters, to see if there are other areas for consideration.

Hearing no questions, Tom turned the presentation over to Susan Vogt, the Regional GIS Guru. Evan Weinberg was not able to make the presentation.

Vogt noted that Evan Weinberg is a GIS analyst that the Council is helping to fund. He came onboard in October.

In the last four months, Weinberg has come up with an up-to-date computer and data storage system and plans for the plotter and a technician. The software is the industry leading software, a suite of ARC tools. The extensions allow for anything you would want to do with GIS and are all the tools needed.

One of his first tasks was to sort through all of the old data and make it useful by putting it into a logical structure. He has secured data from other sources including bathymetry data that exists but was not on the Council's system and has created in-house data as needed.

The data structure he created easy to understand and logical. Any analyst should be able to come in and utilize this data structure and will not have to go through the whole data-mining process again.

Vogt showed some of the data updates and maps that Weinberg has been working on. She also showed a video clip using IKONOS imagery that the GIS software is able to support. It included fly-bys of the French Frigate Shoals, zooming to the Hawaiian Archipelago and then going up the chain to present a graphic display of the bathymetry in the area. This was all done with existing data and software, nothing extra was purchased to create this.

The actual underlying bathymetry data is quite useful. They are working on merging different datasets together to be able to do more detailed analysis, like benthic characterization, using the existing and the data that is continuing to be collected.

They will continue to increase database, content is an ongoing issue for GIS and responding to mapping needs. It has been a wonderful partnership and she hoped the Council would continue to fund the GIS position.

Morioka asked how much longer the initial stage would be.

Vogt responded that for Weinberg it would be running out fairly soon, the next few months.

Morioka hearing no questions, moved on to Agenda Item 9.D, Ecosystems and Habitat and turned the chair over to its Chair, Richard Seman.

## **9.D Ecosystems and Habitat**

Seman reported that Northwestern Hawaiian Islands Sanctuary Fishing Regulations was proposed for final action. He called on June Firing to present ten years of shipboard data on Hawaiian Ocean Currents.

### **9.D.1 NWHI Sanctuary Fishing Regulations**

Firing noted that there have been a number of investigators who have noticed and examined the effects of the westward flowing North Equatorial Current as it intersects the Hawaiian Ridge.

Shipboard, the acoustic doppler current profiler measurements made during monthly cruises to the Hawaii Ocean Time Series Station Aloha at 22:45 minutes North and 158 West averaged over five years show a mean west northwest current between Kahuku Point and Station Aloha with a maximum mean current speed of 17 centimeters per second at 22.2 Degrees North. The mean current was named the North Hawaiian Ridge Current.

A group of other researchers at U.H. also detected the North Hawaiian Ridge Current in a mean analysis of the available surface drifter buoy dataset funded by NOAA's Pelagic Fisheries Research Program.

The effect of the intersection of the North Equatorial Current with the Hawaiian Ridge causes the flow to split forming two branches. The North Hawaiian Ridge Current moves along the northeast side of the archipelago as a western boundary current and it goes up to Kauai and lee of Nihoa, and seems to continue as a westward flowing current. The southern branch of the flow rounds South Point and rejoins the North Equatorial Current.

The North Equatorial Current is a very weak variable feature. It is often overwhelmed by mesoscale eddies. The mean current at times is absent due to interannual variability. The mean flow itself is very variable with standard deviation that is only slightly less than the mean transport that this long-term average provides.

The mean velocities from the two best years of the hot site sections based on number of sections for 1991 and '92 were very different. The North Hawaiian Ridge Current in 1991 had a mean stronger than the five-year mean at the peak speed of 25 centimeters per second, while in 1992 the Northwest Hawaiian Ridge Current was absent.

Recently, due to investigation of ocean mixing in the Hawaiian Archipelago funded by the National Science Foundation's Home Project, the historic dataset of ADCP data that the Townsend Cromwell collected over the past ten years was processed.

One of the most interesting and important findings for the Northwestern Hawaiian Islands is that in the long-term mean the North Hawaiian Ridge Current flows west through the channels between Oahu and Kauai, reaching the lee of Nihoa and Mokumanamana. This flow, though at times absent or reversed, may provide an infrequent mechanism for transport of larvae from the

Main to the Northwestern Hawaiian Islands, especially when there are eddies present in the channels. However, the windward flow of the North Hawaiian Ridge Current would also tend to preclude the transported larvae to the windward sides of Kauai and Oahu.

She presented two figures showing long-term mean vectors averaged over ten years of data of sections going up and down the ridge. The one on the left showed the mean velocity, which looked invisible since the graphic was not showing. But the ellipsis shows the standard error to the mean. In the plot on my left, most of the vectors extend beyond the ellipsis, which signify that there's significant flow going on there.

On the right-hand side was the mean velocity with the standard deviations of the means. A little arrow shown in the ellipsis reflected the confidence in that value, everything beyond the ellipsis was not meaningful.

Another graphic showed the long-term mean vectors over ten years, going all the way along the ridge. On top of that was three years of drifting buoy tracks. While not as visible as she would have liked, she wanted to show an instantaneous or synoptic time frame of the ocean. They would not find these vectors shooting through the pass between Kauai and Nihoa, they were more like to find eddies and lots of wiggles. The nice, big red vectors reflected averages over a long period of time.

Morioka asked with regard to those periods when the current is absent, what is the duration of a null period versus a period was it 50/50, 80/20.

Firing replied that most of the time there is some presence in the mean of the North Hawaiian Ridge Current. But there are some years, maybe due to Pacific decadal oscillation, that it just isn't there in that whole year.

Morioka asked if there was a reverse flow during that period or was it just null.

Firing replied that to make it null, you would have to basically put a stop to the North Equatorial Current, which is impinging on the ridge. She thought there was still flow; it may not manifest itself as it did in the picture.

Sablan asked if there was any upswelling current that has been discovered on the islands.

Firing responded that with the instrument is used; the shipboard data provides north, south, east, and west and gives a vertical velocity. She didn't believe that anyone in the group has done an analysis of what the vertical velocity is. Vertical velocity in the ocean is relatively small, except in the places where it is more frequent. When they processed the data, they look for fish because the fish will move up and make you think you've got upswelling. You'll just see there's a velocity going forward. But she did not believe anyone has done an analysis on that.

Seman called on Bob Moffitt.

Moffitt said his presentation had been done for the Northwestern Hawaiian Islands Symposium last November. He showed a long time series of research lobster trapping information and how they can detect impacts of the trap fishing on the community structure.

The target fishery was spiny and slipper lobsters.

He showed a slide with the amount of effort spent in trap nights, both in the research and commercial fisheries, since the onset in about 1976, when both the research and commercial fisheries started. For the first few years of the commercial fishery they did not have the actual number of traps set, but they have been relatively small. At that time, it was a live lobster product in conjunction with bottomfishing. So a small boat would go up and do about ten days' worth of bottomfishing and lobster fishing, bring back maybe as much as 2,000 live lobsters per trip. The peak in 1986 for commercial at 1.3 million would be the real peak.

In 1983 logbooks were required so that number was not complete since the logbook program started mid year. He suspected that 1983 was not 64,000, but probably more in line with the '84 number.

Their research has been incrementing up in general. This is year 2000 they set more traps than they probably should have. They did one 30-day trip each year. The traps used, since the beginning of the fishery back in the '70s, were the California two-chambered traps. It is a wire trap with a two-by-four inch mesh. In the mid '80s the commercial trap shifted over to a two-by-two inch mesh. Now it's essentially a one-by-two inch mesh. On the commercial trap, there are escape vents that are required. There are four escape vents, on each side of the trap, about three to three and a half inches that are cut out.

For the research trip, the vents were not cut out because they wanted a full-sized range of individuals in the catch. So in speaking about both the bycatch and the lobster catch, since their traps had no escape vents, the catches are probably higher than it would be in the commercial fishery.

The area that this long-term research information is from is Necker Island. He showed in red bars the areas that they had been returning to each year since 1986, with some fishing earlier than that, some as early as '76.

In areas in their blocks, where there are deep-water and shallow-water areas, they try to target both. The shallow water is 10 to 20 fathom and the deep water, maybe 25 to 35 fathoms. On occasion they have set traps as deep as maybe 100 fathoms and still catch lobster. But the 20 fathom and less is the prime spiny lobster habitat. If you go over the edge of the bank to the 25, or 35, 40 fathoms, would be the prime slipper lobster depths. If you get a bit deeper, 50 to maybe 75 fathoms would be the prime depth to the ridge-back slipper lobster, which is not a particularly wanted species.

The other area is Maro Reef. Necker and Maro are the big areas that have been visited frequently over the past 20 some-odd years.

Possible impacts are estimated using the catch data and trying to see what would happen. The possible impacts would be damage to the ecosystem integrity, either through direct damage to the habitat such as the traps dragging over the bottom, altering the bottom or a reduction in biodiversity. This could either be due to habitat destruction or due to removal of large numbers or large components of the ecosystem.

On a more individual species basis, they are looking at reductions in abundance. These could be either due to removal or even for those that are put back, discard mortalities or direct catch. There would also be indirect changes in abundance of the species. If a prey item is removed, then the predator species could suffer. If a predator is removed, then prey species can expand in numbers. Or if one species is removed, the habitat is released to other competitors. Then you would expect the competitors to increase. The direct damage to the habitat, however, was not a real part of this study.

He showed the typical bottom in the lobster depths, between 10 and 20 fathoms at Necker Island. It is, in general, a hard limestone pavement with some sand channels and a light dusting of sand. Live coral and even coral rubble is not very common nor very high relief.

Each year they set two to three thousand traps and do not bring up very many pieces of black coral. Commercial fishers tend to haul their traps straight up and bring up even less in coral pieces. Using a large research vessel, there is more drifting as traps are pulled. So while researchers try to be more careful, the slight damage they cause is still greater than commercial fishers.

They also fished on a fairly coral-rich area off Lisianski. With a couple hundred traps, their total catch of lobsters was two or three individuals. A live coral area is not an area where a commercial fisherman would fish. Not only would he damage his traps more, experience some gear loss, but there aren't any lobsters there anyway. Open coral bed areas are the richer areas for lobster.

The catch using the old California wire traps was 80% of the target species, spiny lobsters, another 10% were slipper lobsters. The top ten species there attributed 98 percent of the total catch. Very clean fishery.

Based on weight, bycatch items were smaller than the lobsters. This compares to the shrimp trawl fishery, where 10 percent of the catch is target and 90 percent is bycatch. In our years of wire trap fishing, it covers 82 taxa total.

For plastic traps with the smaller mesh more small individuals and slipper lobsters are caught that were not caught with the wire traps. The number of spiny lobsters caught was equal with the plastic trap catch. The target species account for 90 percent of the catch. Ranked in order of catch, the remaining top ten species included: Two hermit crabs, a box crab, a swimming crab, an eel species, pennantfish (especially juvenile pennantfish), a Kona crab and a very small species of filefish.



In total, there were 258 taxa in these traps. Many of them are represented by very small numbers. You see here, 24 percent are represented by one individual that was caught in the 18 years of fishing that this covers. Fully, 70 percent were 18 individuals or less. Or on the average, one per year, covered by their survey, most of the species caught are very rarely encountered.

Whitetip reef sharks sometimes come into their traps. They wonder how they get in and showed a picture of one that was halfway in. They are a species of shark that is able to sleep in a cage, and they'll come out alive. Not necessarily kicking, but they're alive. Octopus is a very rare occurrence, but they are caught.

Looking at the total community, the biodiversity index for the various areas, shallow is less than 20, that's fathoms. The next grouping is 20 to 50 fathoms, which is the same at Maro, shallow or deep.

If the traps were damaging the ecosystem from a biodiversity aspect, there would be a decrease in biodiversity. That was not experienced and there was actually an increase. It is increasing because there are a number of species that are increasing in all areas. Species caught matches very well with the amount of traps set. The more traps that are set, the more of these rare-occurrence species are caught. So bottom line, diversity has probably not changed much over time.

Evenness is another component of diversity index. It is the abundance of each species within. They catch 250 some-odd species. If they all had even numbers there would be a very even mix. However, where lobsters dominate, there is low evenness. And there is not much change in evenness over time.

He showed a graphic of the spiny lobster catch in wire and plastic traps over time. Prior to 1990, catch rates were relatively high, two individuals per trap. It has dropped since that time dramatically. In a fishery you expect the catch rate to drop and the abundance to drop for the target species. Fishing at MSY, maximum sustainable yield, the abundance of the target species would be expected to be at about one-half of its original value. And, the catch rate would be about one-half of the original value.

At Maro Reef there was a crash in the spiny lobster populations occurring right at about 1989. He showed a chart with good catch rates until 1989, and then they dropped dramatically, precipitously, and stayed such throughout. For the last two years, 2003 and 2004, they have been inching up slightly. They have also seen some new, very small lobsters and are encouraged that perhaps recruitment has started to return to Maro Reef. They need more years of data to say there really is a recovery occurring.

At Necker there was a decline in the target species over years, particularly for the spiny lobsters. The slipper lobster has been fairly even for quite some time. This was for the plastic traps only, because they do have different catchability than the wire trap.

As spiny lobsters are decreasing, there are increases at Necker in box crab, Calappa, the swimming crab, Portunid, the hermit crabs and whitetip reef sharks. The whitetip reef sharks have increased only over the last few years. It started increasing from '99 and thereon. He had no feeling as to why that would be.

For the other nontarget crab species she suspected that it was opening up habitat, competitive release. If you get rid of the spiny lobsters there are more resources for the other crustaceans.

For the pennantfish and the moray eels at Necker, there is no significant trend over time. Using a catch per unit effort index, it is not 14 individuals per trap, but rather it was for the 14 years, since 1986: it was 14 times the normal catch of moray eels. He did not have very much confidence in that number because there were only a few traps set.

For the pennantfish, different than the moray eel, there are sporadic spikes, which would probably be recruitment spikes.

There was no trend either similar or opposite in spiny lobster.

At Maro Reef there were negative trends for the spiny lobster and perhaps moray eel. However, there was one spot early in '86 for the moray eel that was based on a very few number of traps, maybe 20 traps or less. Most of the other points are based on close to 1,000 traps. Spiny lobsters definitely have declined. Moray eels haven't continued to decline at all.

Positive trends include the Portunid crab and whitetip reef shark showing increases at Maro Reef. Unlike Necker, there is an increase in the slipper lobster as well. For the whitetip reef shark there was no idea why there was an increase in the last few years. Competitive release, the releasing habitat resources for the slipper lobsters and the Portunid crabs seems to be the reason for their increase.

There were no consistent trends for the box crabs, hermit crabs or pennantfish at Maro Reef. Pennantfish did experience a couple real big spike years that were probably very good recruitment years for these species.

Since octopus is very rare in their catches, the numbers were combined for all the banks in less than 20 fathoms. Index 1 would be the medium value over time.

For the deeper sets, spiny lobster showed a significant decline over this period of time but, slipper lobsters and octopus do not.

The best catches of octopus were maybe eight individuals in 1,000 trap sets. Expanding that to the 1.3 million sets by the commercial fishery at its peak and assume that these octopus average about one pound, 60,000 pounds of octopus were caught. This is being quite generous because in the research they counted fundamental size octopus, as well as the three-to-five pounders. In general, they're much less than one pound. Just in Kaneohe Bay they catch over 30,000 pounds on an annual basis, and that has been sustainable. A much larger area like the

Northwestern Hawaiian Islands, even if grossly expanded, would the catch of octopus be unsustainable.

Seman asked if there were any questions for Moffitt.

Morioka asked with regard to ECOSIM, ECOPATH modeling, did anyone do that modeling with the lobster to see what would happen. How about the box crabs or slipper lobsters?

Moffitt said he was not aware of any modeling, but it could have been done.

Morioka asked Moffitt to define “decadal shifts in productivity” in layman's terms so they could appreciate the scientists' view of what the phenomena are.

Moffitt explained there may be decadal or maybe even larger-scale fluctuations in climate that allow certain species to recruit more heavily over time. The papers out show lobster, reef fish, and monk seals having a decadal or ten-year type of a cycle where there were good years followed by a bad series of years.

Unfortunately for the lobster the fishery and research started in the late 1970s, good years that stopped right around the 1989 period where the lobster stock was recruiting to the Northwest Islands. The whitetip reef shark increases over the last few years might very well be a decadal or larger shift.

Sablan asked if the metal trap in the Northwestern Hawaiian Islands self-destructed if they are lost on the bottom.

Moffitt explained that the ones used early on in the fishery before regulations would not. They would stay for a good long time. But, if Sablan was worried about ghost fishing, experiments at the lab using the plastic traps, which is a better catcher of lobsters and other critters, showed the animals could go in and come out as they pleased. Lobsters came in when there was bait in the trap. They would stay because it's kind of a hale or a shelter. But if they wanted to, they could leave. Even empty traps would see lobsters would come in, go out, and come back on a daily basis.

They don't appear to be ghost fishing, as far as they could tell, nothing died in the traps.

Sablan said in the CNMI they've started shrimp fishing. They do not have those kinds of traps and he was concerned about the impact of that kind of activity, particularly on saltwater shrimp.

Moffitt asked if this would be done in deep water.

Sablan replied, yes.

Moffitt said that they did not do ghost fishing studies on heterocarpis.

There have been occasions where gear has been recovered that had been out for well over a year and the one that I remember had one shrimp in it when it came up. There was no evidence of mass die-offs. There was one shrimp, a little pelagic-type shrimp, live and kicking. He did not think it was a problem at that depth, but he could not tell for sure. Certainly there wouldn't be much draw to the trap once the bait was gone.

Sablan recalled seven, ten years ago when they had these deep, bottom shrimp fisheries in the Marianas. Traps were lost and are still down there.

Moffitt said it was a hard fishery to avoid losing gear and very deep.

Seman thanked Moffitt and returned to 9.D.1.A, Process and Alternatives and Marcia Hamilton.

### **9.D.1.a Process and Alternatives**

Hamilton explained that the National Marine Sanctuaries Act provides the Council with the opportunity to prepare draft fishing regulations for the Proposed Sanctuary and, if consistent and compatible with the purposes and policies of the act and the Goals and Objectives of the Proposed Sanctuary, these regulations will be issued as proposed regulations and will represent the preferred alternative in the EIS prepared for the Sanctuary. This is according to statute and what they have been told by the National Marine Sanctuary Program.

At the 124th Council meeting three new alternatives were added, two of which were the modifications for the bottomfish fishermen and one that would prohibit bottomfishing in the Main and Northwestern Hawaiian Islands. On October 28th, a letter was sent to the National Marine Sanctuary Program with comments on their document. There has not been a response to that.

October 29th, following up on the Council's recommendation from the 124th meeting, there was a meeting at the Council office with interested parties. The objective, as directed by the Council, was to form a working group and try to reach consensus on a preferred alternative. However, NOS said they couldn't participate in that kind of working group or working to reach consensus. So that was just a one-time meeting.

Then the Council, also at the 124th meeting, directed that an EIS be prepared for review before final action.

November 24th, the Council was informed that NOAA would only support NOS' EIS and they would not support the drafting, publication or issuance of an EIS by the Council on this topic. As a result of that response an analysis document containing the same basic information was prepared but is not titled an EIS. It does not contain the level of detail that one would hope to see. The salient, most important aspects have been included but if a Magnuson Act process had been used, it would have been a more complete analysis.

In January, public hearings were held around the State on the alternatives and the analysis, to get input from stakeholders and anybody who showed up. More details would be provided on those meetings in another report.

At this Council meeting final action will be taken on whatever the preferred alternative is. The NOS has given an extension. So on April 4th the Council is to send the regulations and recommendations to NOS along with an explanation of why these are consistent and compatible with all the Goals and Objectives.

The next step in fall 2005 NOS will prepare a Sanctuary Management Plan and a Draft EIS and issue that for public comment. They did not have any information on what would occur after that.

She briefly covered the Purposes and the Policies of the act, as well as the Goals and Objectives for the Northwestern Sanctuary. For the purposes and policies:

- First identify and designate National Marine Sanctuaries;
- Second, provide authority for comprehensive and coordinated conservation and management of the Sanctuary in a manner which complements existing regulatory authorities. The Council can only regulate fishing. The Sanctuaries Act can regulate cruise ships, oil drilling and other protections from nonfishing activities;
- Third, maintain the natural biological communities and, where appropriate, restore and enhance natural habitats;
- Four, enhance public awareness, understanding, appreciation and wise and sustainable use of the marine environment. The Sanctuaries Act really does talk about sustainable use. It wasn't designed for closing off and not letting anyone in. It's about a balanced approach, consistent with protecting the area;
- Five, support, promote and coordinate scientific research and long-term monitoring;
- Six, facilitate to the extent compatible with the primary objective, all public and private uses. Again, it is about sustainable use. The concerns of the Sanctuaries Act were unregulated oil drilling and extraction. There was not a mechanism at that time for protecting especially valuable areas from these kinds of threats.
- Eight, create models and incentives for ways to conserve and manage these areas, including application of innovative management techniques. She thought this spoke to adaptive management, a variety of techniques, not just closing areas. This was in the letter that was sent from the Council. There are a myriad of regulatory mechanisms in between total regulation or total closure that one can use to control and regulate fishing, as the Council has done in the Northwestern Hawaiian Islands.
- Nine, cooperate with global programs encouraging conservation of marine resources.

Turning to the Goals for the Northwestern Sanctuary, at the 124th meeting the perception at that time was a focus on Goal 7 only, which was about fisheries. Since that time they were informed that the Council needs to be consistent with all the Goals and Objectives for the Northwestern Sanctuary. Each goal has five to seven objectives. She briefly outlined the Goals:

- Goal 1, for the Northwesterns as proposed by the National Marine Sanctuary Program, protect, preserve, maintain and where appropriate restore the natural biological communities, et cetera, as a public trust for current and future generations;
- Goal 2. parallel with the Sanctuaries Act, provide for comprehensive and coordinated conservation and management, recognize and complement existing jurisdictional boundaries and management regimes and involves stakeholder communities. The Council process has provided a lot of those opportunities;
- Goal 3, seems to conflict with the Sanctuaries Act, which talks about allowing these uses except where they're assumed to be damaging. Goal three reverses that and talks about only allowing uses that do not threaten;
- Goal 4, enhance public awareness, understanding and appreciation of the marine environment and the resources there;
- Goal 5, support Native Hawaiian cultural, religious and subsistence practices that are consistent with the conservation and protection goals;
- Goal 6, support, promote and coordinate research and long-term monitoring that improves management decision-making;
- Goal 7, the fishing regulations talked about at the 124<sup>th</sup> Council meeting. The Council members felt that some of these were overly prescriptive and didn't leave much room for Council decision-making. So at the 124th Council meeting the Council adopted revised goals as fair goals for the Northwestern Hawaiian Island Sanctuary. Very similar, but not so prescriptive and more generalized. Along with the new goal, the Council also revised the objectives that accompany it. Again, they're not so prescriptive. They talk more about an objective versus a method. Not prohibit crustacean fishing, but for example, protect the substrate of the Northwestern Hawaiian Islands ecosystem, for example, from damage from lobster traps.

The question that has come up several times is: do the ultimate fishing regulations have to be the same as what is in the EO? NOAA's web page for the Northwestern Hawaiian Island Sanctuary says no - additional information gathered during the Designation Process may result in a Sanctuary that is different in some ways from the existing Reserve. However, despite those differences, it still must result in long-term comprehensive protection and conservation.

The web page goes on to say that NOAA can analyze and propose a Sanctuary that has different management measures than the EO. Again, as long as it is consistent, provides that long-lasting protection that the EO calls for.

The alternatives as previously discussed include:

- Alternative 1A is the FMP status quo. The Reserve includes what is in place right now as the Reserve status quo. There have been endless arguments about what's the real status quo, or will the FMP continue but the EO has a sunset. So they are both in there and get equal time. The FMP status quo says that management continues under existing FMP measures, the regulations for fishing in the Northwestern Hawaiian Islands under each fishery management plan;
- Alternative 1B calls for a lot of closed areas for bottomfishing, and then crustaceans, precious corals and coral reef, it would close those fisheries. Pelagics would be subject to the area closures as well;
- Alternative 2 is Council recommendations to date. As you recall, the Council has taken final action on a number of measures for the Northwestern Hawaiian Islands, but the National Marine Fisheries Service has declined to process those recommendations as they felt the situation was in flux due to the EO. However, these are recommendations that have been made by the Council regarding fisheries in the Northwestern Hawaiian Islands.

For bottomfish, these consist of suspending the use-or-lose requirement. Right now folks are required to make a minimum amount of bottomfish landings to maintain their permit. Fishermen have said they are being forced to fish and think it would be better if that requirement was taken away. If they take time off from fishing, they are giving the resource a break and shouldn't be punished for that by losing their permits.

The Council recommended for bottomfish, Mau Zone new entry criteria and the CDP Program. Again, there is the use-or-lose program in the Mau Zone at this time, the permits are not transferable. The idea behind that was permits would revert to the government, and there is a point system for the Hoomalu Zone.

What it means is the permit doesn't go to the person who can pay the most money for it; it goes to the person who can show the longest history of fishing. The Mau Zone doesn't have a mechanism for new entry. The Council recommended a similar point system based on historical participation. The next person with the most landings, obviously it won't be from the Mau Zone, because they don't have a permit yet. It would be from the Main Hawaiian Islands. They could document their landings. The longest history of participation, they would be on the top of the list for getting the next available permit under this recommendation.

This recommendation also includes criteria for letting in CDP permit holders. That's the Community Demonstration Project. That's a mechanism in the Magnuson Act

that allows the Council to give preferential access to indigenous people, in this case, Native Hawaiians. So the Council has recommended a mechanism for implementing that program and allocating those permits. But that has not been processed either.

Finally, also within Bottomfish, and across all FMPs, because this came from the Coral Reef Ecosystem FMP, it is a series of no-take and low-use MPAs of the Northwestern Hawaiian Islands. These would affect all fishery management plans.

For crustaceans there are no pending management measures except for those no-take and low-use MPAs. So, it is the FMP, when science allows.

The lobster fishery in the Northwestern Hawaiian Islands has not been open for several years. It was closed when the scientists began to see results that they thought contradicted some of their population assessment information and they did not have confidence in that model anymore. The way that model worked was the scientists would estimate the exploitable population. Then they had done a risk analysis which they presented to the Council. They told them the risk of overfishing at various levels of harvest. The Council accepted what the scientists using that model said; if you harvest 13 percent of the exploitable population it should give you no more than a 10 percent risk of overfishing.

Under the new model, those relationships could change, and the Council may act again. The scientists present that range of trade-offs, that is what that means when it says, FMP, when science allows. Once the model is finished and the scientists feel confident in their population assessment, the Council will choose the new harvest level associated with an acceptable risk level.

The Precious Corals Amendment had a full series of recommendations. Some of the most important ones would establish a Mega-Refugia, or an area in which no precious coral could be harvested in the Northwestern Hawaiian Islands. This was to provide a baseline of information. Also, there is no harvest of gold coral. This was because information at that time showed that monk seals may like to forage in gold coral, that they found a lot of eels and other prey species there. Since then, further research has shown that this may not be the case. The abundance of eels and fish inside gold coral beds and adjacent to gold coral beds and in other areas was equal. Anyway, that recommendation was based on information at that time, that precious gold coral beds may be important foraging areas for monk seals. There are also low-use and no-take MPAs.

For the coral reef ecosystem, the recommendations to date were the whole FMP for the Northwestern Hawaiian Islands. In that instance, NMFS did process it. However, they disapproved the portions that would apply to the Northwestern Hawaiian Islands. These measures would prohibit destructive gears, require permits and reporting and two types of permits and for little-known species or vulnerable species, it would be permits issued on a case-by-case basis.



For pelagics there are no outstanding recommendations beyond what's in the Coral Reef FMP, which is those low-use and no-take MPAs;

- Alternative 3 and 4, these are modifications of Alternative 2. The modifications consist of putting in additional no-take MPAs.

For Alternative 2, the recommendations to date include continuing the limited entry programs, the harvest quotas, the minimum sizes for precious corals and the prohibition on longline within 50 miles around the Northwestern Hawaiian Islands. The lobster area closure will continue out to 20 miles around Laysan with a smaller one around French Frigate Shoals.

Hamilton showed a graphic with the Mega-Refugia for precious corals that would be put into place. State waters were from zero to three around each emergent island, in general. This Council does not have authority over State waters. So what they were talking about would not apply within State waters.

The low-use MPAs would go from zero to ten fathoms around each emergent island. In some cases, zero to ten will be completely within State waters. No-take MPAs only apply within federal waters. The low-use MPAs would be from 10 to 50 fathoms around each of the emergent islands, with an exception for Midway, Kure and part of French Frigate Shoals.

Alternatives 3 and 4 as discussed at the 124th Council meeting, concerned bottomfish fishermen thoughts on areas appropriate for closure. The fishermen did not feel there was any scientific basis to close any of these areas, but they felt they were in a corner and they would have to give up something. She showed a graphic of what the fishermen said they could live with.

At 177 latitude there would be no take for all fisheries. No fishing up there and around French Frigate Shoals. That is where there is a monk seal colony that has not been thriving and green sea turtles go to nest.

The lobster fishermen, on the other hand, do not think there is any science to support the proposal of enlarging no-take areas around each of the atolls and refused to play the negotiation game. However, they accepted the area the bottomfish fishermen agreed to.

Alternative 3 versus Alternative 4 shows a larger no-take area in the north for Alternative 4. The lobster fishermen said no and entitled these areas precautionary.

The precious corals mega-refugia, the low-use and no-take MPAs around each of the emergent islands are as recommended by the Council in the Coral Reef Ecosystems FMP.

- Alternative 5 was the alternative that the Sanctuary Program described in their September 20th document to the Council.
- Alternative 6 came up at the 124th Council meeting and prohibited all bottomfishing in the Main and Northwestern Hawaiian Islands.

The recommendations go from least restrictive to most restrictive and encompass a wide range of alternatives.

The Sanctuary Program provides for some restricted use areas, no fishing areas and would allow bottomfishing in certain areas.

Seman asked for questions and hearing none moved on to Impact Analysis.

#### **9.D.1.b Impact Analysis**

Makaiau noted that the Council members had the Draft Comprehensive Analysis and copies of the draft summary were in the back and were also available on request.

In 2000 when President Clinton issued the Executive Order he recognized the Northwestern Hawaiian Islands were a healthy and near pristine ecosystem of national significance that should be considered as a National Marine Sanctuary. For that reason he issued two Executive Orders which essentially did two things, one is to initiate the process to consider establishment of the area as a National Marine Sanctuary. Second, he put into place some management measures that he felt would be appropriate pending the designation of the National Marine Sanctuary that would in effect keep the levels of human activity at the same levels as when he issued the order.

NOAA's position is that the ultimate Sanctuary can be different from the Executive Orders. The highest goal would be to maintain or provide for long-lasting protection of the marine environment of the Northwestern Hawaiian Islands. So the analysis was done with the goal of long-lasting protection and looking at the nine Purposes and Policies of the Sanctuaries Act, the Goals and Objectives.

In particular, Goal 7 was to maintain ecosystem integrity, limit fishing to areas where interactions with protected resources are minimal and to minimize socio-economic impacts.

Alternative 1A was the FMP status quo. The regulations that are codified in the Code of Federal Register maintained the condition that President Clinton recognized when he issued the Executive Order. These are assessed in all of the Council documents, repeated through the comprehensive analysis, and are what there presently is in the fishing regulations.

The Reserve status quo, Alternative 1B, was also assessed following the Executive Order. There were some difficulties in determining the exact effects that it would have upon the socio-economic aspects of the Northwestern Hawaiian Islands, partly because some of the management measures, particularly the caps, were not clearly defined. All of these alternatives would provide

long-lasting protection to the Northwestern Hawaiian Islands. Some of the alternatives are more precautionary and more restrictive in nature. All of the alternatives propose regulations to restrict fishing primarily through area closures. Some of the alternatives preclude certain fisheries outright.

The alternatives were compared to the baseline condition in terms of the resources, jurisdictions, and socio-economic impacts.

The anticipated impact of Alternative 2, which is the Council's recommendation targets stocks of coral reef, bottomfish, crustaceans, precious corals and pelagics. Beginning with the condition that the President recognized as healthy marine ecosystems, but implementing additional no-take Marine Protected Areas would provide a potential positive impact or effect for the coral reef ecosystem resources primarily through the no-take MPAs, and reporting requirements if and when such a fishery develops or is allowed, pending the designation of a National Marine Sanctuary.

For bottomfish, suspend the use-it-or-lose-it provision would likely reduce effort to the Northwestern Hawaiian Islands bottomfish stocks as fishermen are no longer forced to make a mandatory trip in order to retain their permits. If that use-it-or-the-lose-it provision is removed, then fishermen don't fish if they don't have to.

The Mau Zone entry criteria will enable the issuing of permits for programs like the Western Pacific Community Demonstration Project Program, which is reserved for indigenous communities of Hawaii.

The new entrants of the fishery could have a potential impact to the fish stocks. However, because the fishery is limited to a total of 17 vessels, 10 in the Mau Zone where the permits would be effective, would have minimal impacts to the target stocks as presently the estimates of standing stocks are at least 50 percent or 60 percent of the maximum sustainable yield.

The crustacean fisheries, where additional no-take MPAs would be implemented, would have minimal impact to the stocks. However, the current stock condition is being studied. There have been declines over a period of years. So implementing new MPAs would not have a negative effect to the stock, but recognizing that fishing has been closed since 1999 due to uncertainties in the population which established those controls, such as bank-specific quotas.

For precious corals do not have a fishery at present. No-take MPAs and a large mega-refugia would be implemented from west of Necker Island through French Frigate Shoals and a bank west of French Frigate Shoals. This is expected to have a positive effect on precious coral stocks. If a fishery is allowed, there will be some controls. At least with a refugia, it would be allowed. A moratorium or prohibition of the harvest of gold coral stocks would have a direct positive correlation.

For pelagics the implementation of no-take MPAs would have very minimal impact as pelagic fisheries are primarily well outside the areas that are being considered for closure.

Regarding protected species, direct interactions between the fisheries and protected resources are rare. There have been some documented sightings of monk seals around boats. But the direct take of a hooking is not documented. So implementing alternatives to propose additional MPAs would provide additional protection. Especially in areas where monk seal colonies are considered high, such as near French Frigate Shoals and Laysan Island.

For the fisheries a process was begun in 1995 to look at effects that these alternatives. The alternatives would have minimum impact on the fisheries in terms of the socio-economic aspects. Removing areas available to fishing would have some impact, but would not be detrimental to the continuation of the fishery. It would be positive in terms of having fishery participants keep away from certain areas, where there are further concerns about interactions with habitat and protected resources.

Alternative 3 includes all of the recommendations in Area 2, plus precautionary measures to close the area up in a portion of Kure and Midway and extend area closures around French Frigate Shoals, which is a very sensitive area for protected resources, monk seals and turtles.

Alternative 4, extends the closed no-fishing zones further are reflective of the Magnuson standards of equitable allocation. So all subsistence, all commercial fishing, all recreational fishing, all activities that remove fish from the ecosystem or have a potential of impacting various habitats, species, would be prohibited in the area.

The anticipated impacts of Alternative 3 and Alternative 4 are additional protection, especially in those areas that are closed to fishing. Kure, Midway, Pearl and Hermes Reef would be closed. There would be no negative impacts associated with that in terms of targeted stocks. There would be positive impacts to protected species, as no one would be allowed to go there to interact with those resources.

The long term data set for the fishery the substantial amount of bottomfish fishery resources taken from those areas could preclude future utilization of stocks there and could affect potentially one or two fishery participants working in the area.

The Hoomalu Zone, which is the further zone of the two bottomfish fisheries, there are four people operating in that area. Removing a substantial proportion of that area could potentially affect some of the members there. As Ms. Hamilton had explained the fishermen were willing to compromise this and forego all future fishing opportunities in order to do their part in protecting and maintaining that portion of the ecosystem.

Alternative 5, which is the Sanctuary's recommended alternative, is very detailed. There are large Ecological Preservation Areas under the Advice and Recommendations Document where there will be no commercial fishing. The Sanctuary Preservation Areas, as defined by depth contour and radius from the geographic centers of the islands, would encompass certain ecological parameters that are considered important in terms of what the Sanctuary felt was maintaining ecosystem integrity.

In relation to the bottomfish fishing in the Mau Zone, Nihoa and Necker, almost all of the existing fisheries are going to be allowed in some fashion with minimal restrictions. The areas within the zone know as Sanctuary Preservation Areas is where no fishing is allowed with the exception of Native Hawaiian subsistence uses. Commercial fishing including trolling for pelagics, handline for pelagics and bottomfish fishing is going to continue to be allowed; recreational catch and keep, and catch and release is all allowed in that area.

He showed a second area where commercial fishing would be prohibited, but sustenance uses allowed. Throughout the Sanctuary, except for the Sanctuary Preservation Areas, sustenance fishing is allowed.

He showed another area where commercial bottomfish fishing and pelagic handline and trolling would be allowed, but subject to caps and species ratios for at least the beginning of the Designation. The impact of this would be positive for target and nontarget stocks, particularly crustaceans, coral reef and precious corals because harvest would be prohibited. At present, no one is harvesting. Implementing a prohibition would likely result in the current status of the healthy coral reef, precious coral and crustacean stocks. There would be no change from the current levels.

Bottomfish fishing would be difficult to assess. Minimal impact is anticipated for the bottomfish fishing in the Mau Zone fishery. Their operations will be allowed to continue. There may be some impact in terms of caps or species ratio, which means they have to catch the same number of pelagic species in relation to bottomfish species that they had in a subset of years preceding the Executive Order.

This could lead to what is called high grading. In the bottomfish fishing catch is multi-species; onaga, opakapaka, several jack species. Each species brings a different economic return with onaga having the highest market value. With a species ratio, there is a concern that fishermen may decide to throw back the lesser value fish so that they would not count against their cap. Because certain species that are coming from the deep-water areas are often dead, whether they are caught to keep or return creates a mortality.

The Hoomalu Zone fishery, previously available, allowed the fishermen to spread their effort over a large area and to rotate around certain banks. By condensing the fishery to nearly one-half of its original available area, there is potential negative impact to the fish stocks within the open areas as the market demand for fish, especially the bottomfish will continue. It could potentially elevate the assessment of stocks from 50 percent to 60 percent MSY or a fully utilized stock in that open area.

For alternative 6, the effects of various management alternatives on the bottomfish stock would have to be considered. By prohibiting all bottomfish fishing in the Exclusive Economic Zone surrounding Hawaii, which includes the Main Hawaiian Islands the availability of fresh bottomfish provided by the State of Hawaii would be reduced. The direct ex-vessel value is approximately \$1.8 million a year. It would have a significant impact and could close the bottomfish fishery in the State of Hawaii with ancillary effects to support industries, such as

retail, restaurant industry markets, some of the fishery providers and shops. More detail of this is included in the Comprehensive Document.

Seman hearing no questions, asked Makaiau to continue with the Report on Public Meetings.

### **9.D.1.c. Report on Public Meetings**

Makaiau noted that in January of this year public hearings across the Hawaiian Islands on the draft fishing regulations proposed to the National Marine Sanctuaries. He showed some of the dates and locations. The hearings covered every island except Molokai and Lanai. Based on sign in sheets there were about 200 people, however there were more people who did not sign in.

The comments and questions could be categorized into four areas:

- General comments and questions asking about the Northwestern Hawaiian Islands, different aspects of the fishery and the Sanctuary process.
  - o There were a significant amount of comments on Native Hawaiian access and use for the area, not only the Northwestern Hawaiian Islands but for the Main Hawaiian Islands as well.
  - o There were comments on what people thought fishing did to marine ecosystems, whether fishing should be allowed or shouldn't be allowed and also some specific comments on the fishing alternatives.
  - o Many people said that there should have been more public notification. Notices were done through various newsprint media, on six radio stations, sent to a mailing list, and sent to the State of Hawaii and other agencies to assist us in the distribution of the announcements.
  - o There were questions on the Sanctuary Process and whether or not the Council had the legal authority to engage in preparing draft fishing regulations. The public felt that the Council should not be drafting the fishing regulations although the Sanctuaries Act provides for that.
  - o People questioned whether any regulations that the federal government or even the state government developed were enforceable. They felt that enforcement was very weak, in terms of resource protection.
  - o There were questions about the health of the Northwestern Hawaiian Islands. People felt the near pristine marine ecosystem is worthy of the Sanctuary status.
- There was support for strong protection to the Northwestern Hawaiian Islands.
  - o With respect to Native Hawaiian use, protecting Native Hawaiian rights to access and uses provided the most comment received at that time. People were concerned that if Native Hawaiian access is allowed, they should not be restricted or required to get a permit from anyone, especially the federal government, in order to tell them what to do in terms of traditional and cultural practices. They felt that it was their right to do as they please

- according to their tradition and cultures, and not subject to any permit requirements, whatsoever.
- They also had questions in terms of traditional, cultural, subsistence and sustenance uses. All those terms were defined while conveying the Sanctuary alternative. In particular the questions centered on taking resources from the Northwestern Hawaiian Islands to the Main Hawaiian Islands.
  - Jurisdictional issues and the legality of the United States jurisdiction over the Hawaiian Islands. A lot of people emphasized that the Kingdom of Hawaii is still in existence and should be recognized as such.
    - Comments on whether or not fishing is sustainable within the Main Hawaiian Islands and Northwestern Hawaiian Islands. Some of them advocate for sustainable fishing, some opposed.
    - Questions and comments on past and present fishing activities; how many boats are fishing in the Northwestern Hawaiian Islands, what kind of gear they are using, how are they regulated at the present time.
    - Comments that no one should be up there, to they should be allowed to fish in the Northwestern Hawaiian Islands with regulations in place.
  - The participants of the hearings that were the Northwestern Hawaiian Islands bottomfish fishermen and a large group of Main Hawaiian Island fishermen wondered about bottomfish permits and how they would be affected.
  - There was support for the maximum protection possible, including no one being up there.

Concurrent with these hearings was a written comment period that extended from January 17th to February 18th. Nearly 15,000 comments were received from individuals in the form of letters, faxes, e-mails, and petition testimonies.

Of those comments, 14,800 of them were in form letters, some 100 form letters from 520 to 530 individuals. There were 32 original letters, handwritten faxes, e-mails from individual people expressing their individual opinions and comments. The written comments were specific and were from people who were well-informed of the issues. They set up criteria to categorize the written comments:

- Form letters were defined as letters, faxes, e-mails or petition testimonies which contain identical or near-identical language, points of concern, and questions with little or no variation. Essentially the content of the letter was the same.
  - Form letters generally in support of continued protection of the Northwestern Hawaiian Islands through the present Council management regime.
  - Form letters generally in favor of the strongest protection possible consistent with the Executive Orders, the National Marine Sanctuaries Act and the Goals and Objectives of the whole Sanctuary.
- Unique letters for the continued protection to the Council's regime.
- Unique letters generally in favor of the strongest protection possible to the Executive Order, National Marine Sanctuaries Act and Goals and Objectives of the Proposed Sanctuary.

- Another category was very unique letters on fishing, nonfishing activities, concerns about the Northwestern Hawaiian Islands and those expressing Native Hawaiian views and points of concern.
- Place of origin was another category. The Sanctuary prides itself with letting the people of the area who the Sanctuary will affect to have the strongest voice.
  - o There was one letter from the U. S. Mainland for continued protection of the Council's management regime.
  - o No letters from foreign entities or foreign individuals.
  - o Emails from 419 people in Hawaii in favor the strongest protection possible;
  - o 15,600 e-mails from individuals in the U.S. Mainland (name and address available on the email) that were in favor of the strongest protection;
  - o 339 foreign emails expressing points similar to the U. S. Mainland emails;
  - o Of the eight unique letters favoring continued Council protection, none were from the U.S. Mainland, foreign entities or individuals.
  - o 15 unique letters from Hawaii, one from the U.S, Mainland and no foreign unique letters favoring the strongest protection.
  - o Eight unique letters expressing thoughts about fishing, nonfishing activities, Native Hawaiian points of view were from Hawaii. None were from the U.S. Mainland or foreign entities.

A summary of the mailed in comments showed:

- 534 from Hawaii generally in favor of continued protection through Council management;
- 440 from Hawaii favoring the strongest protection possible through the Executive Order, Sanctuary Goals and Objectives; and
- Eight other unique comments, the U.S. Mainland and foreign entities are represented there.

He provided the Council a copy of the comments at a public forum held the prior evening. He noted the comments were divided with respect to the Northwestern Hawaiian Islands, in favor of the MPAs, not in favor of MPAs or having altering opinions and miscellaneous issues.

Seman hearing no questions, moved on to Northwestern Hawaiian Islands Science Symposium Report and Gerard DiNardo.

### **9.D.2 Northwestern Hawaiian Islands Science Symposium Report**

DiNardo said the Third Symposium at the Hawaii Convention Center in Honolulu was held on November 2 through 4, 2004. The symposium was sponsored by NOAA Pacific Islands Science Center, Pacific Islands Regional Office, Western Pacific Regional Fisheries Management Council, National Ocean Service, in particular the National Marine Sanctuary Program, U.S. Fish and Wildlife Service, the Hawaii State Department of Land and Natural Resources, and the University of Hawaii.



The purpose of this symposium was to provide a forum for the scientists who have been conducting the research in the Northwestern Hawaiian Islands to present their findings. The last symposia of the Northwestern Hawaiian Islands were 20 years ago.

During the three-day event scientific advances in ecological, biological, oceanographic and resource assessment in the Northwestern Hawaiian Islands were highlighted, as well as, identifying gaps and future research needs.

There were approximately three hundred participants at the Scientific Symposium, fifty-three scientific presentations, twelve posters and five exhibits.

At the conclusion of the Scientific Symposium an expert panel was convened to address a series of questions that the Steering Committee had put together. The expert panel was made up of Sheila Conant, from the Department of Zoology at the University of Hawaii, Bruce Wilcox in the Division of Ecology and Health at the U.H. Medical School, Jim Parrish from the Hawaii Cooperative Research Unit, Jeff Polovina from the Pacific Islands Fishery Science Center and David Fluharty from the University of Washington.

The panel was asked what would be required up in the Northwestern Hawaiian Islands in terms of research, not only the research currently being conducted but what is required to fulfill the mandate of what needs to be done, if there were any cycle opportunities for research in the future and the possibility of a multi-agency research approach.

Proceedings from the symposium will be published in December, 2005. There will be a special issue of the Atoll Research Bulletin. Fifty papers have been submitted and are under review.

On Wednesday, November 3, a public exhibition event and reception was hosted. It started with a video about 40 minutes long. There were a series of short videos presented, the first being a piece of work that NOS put together, *In the Wake of Canoes*, giving the history of the Northwestern Hawaiian Islands.

A short five-minute presentation of different types of research in the Northwestern Hawaiian Islands followed. The videos were followed by a two-hour reception and exhibit some of the expensive equipment used in the field.

The public exhibition was attended by 400 to 450 participants; approximately 20 of them were scientists. There were twelve poster sessions and nine exhibits that were presented at the reception.

He recognized the Steering Committee that helped to put this symposium on. It included himself; Frank Parrish from the Science Center; Walter Ikehara from DLNR, now associated with the Pacific Islands Regional Office; Joanne Leong from HIMB; Alan Friedlander, Beth Flint, Ricky Grigg, Jarad Makaiau from the Council, and Randall Kosaki from the Sanctuaries Program.

He recommended that it was best not to wait for another 20 years for the next symposium. It should be part of an overall research program.

### **9.D.3 Hawaiian Archipelago Research Program**

DiNardo noted that quite a bit of research had taken place and is currently taking place in the Northwestern Hawaiian Islands. One of the criteria for accepting papers was the connectivity between historical research, recent research and also connectivity between the different disciplines in research. It was hard to find some connectivity between different research programs that were going on.

Working within an ecosystem, you want to see some multi-disciplinary research and cooperation amongst the different scientists. There is not a lot of connectivity but it is emerging with some of Rusty Brainard's programs. He does have a very nice integrated program.

His presentation, Conducting Multi-disciplinary Research in a Multi-agency Management Setting, and a Possible Framework for Success, talked about supporting multi-agency management through a cooperative or collaborative multi-disciplinary research program. There are a number of stewards that are involved in the Northwestern Hawaiian Islands: the U.S. Fish and Wildlife Service, the State of Hawaii, NOAA's National Marine Sanctuary Program, the Fishery Council, and NOAA Fisheries.

Each one of them has different mandates including the Magnuson-Stevens Act, the Marine Mammal Protection Act and the Endangered Species Act. Associated with each one of these mandates is potential research that needs to be done.

The management needs that he saw by looking at the various mandates include:

- quantification of risk includes the risk associated with ecotourism; fishing, not only commercial and recreational, but subsistence take; the impact of marine debris up in the Northwestern Hawaiian Islands; and the military.
- protection, restoration and sustainability. You need to look at the rebuilding of overfished stocks; if extraction or ecotourism will be allowed; the protection of the habitat; protection invasive species.
- evaluation of management options. There are a suite of options being proposed including MPA, which needs to be evaluated to see if it works and is a valuable tool; seasonal closures, there are a number of them the need to be assessed to make sure they are working; interdiction of marine debris is a possible solution; community-based management, another option that needs to be evaluated.
- management tools and models. An ecosystem approach requires ecosystem indicators or metrics. How to gauge the ecosystem, is it ecosystem health, ecological carrying capacity. Ecosystem decision support tools are needed, tools that allow the

managers to look at what the risks are of different options of policy analysis including impact analysis.

The types of management needs can be categorized into topics of research: a monitoring approach; biological research; ecological research, understanding the physical oceanography; systems level approaches, to look beyond individual species and building an ecological model and look at the entire system; first model development to facilitate that systems-level approach.

A few years ago at a meeting in Washington, D.C. the Admiral said, "If you really want to start doing ecological research, ecosystem research, you have to show an economic benefit. If we're going to focus just on the Northwestern Hawaiian Islands, it's difficult to show economic benefit. But if you increase the scope and look at a Hawaiian Archipelago research plan, you bring in tourism to the whole issue." That was when DiNardo came up with the idea of a Hawaiian Archipelago Research Plan.

Some attributes of that plan included a multi-agency approach due to the number of stewards in the area; it has to be long term it can not be done on an annual basis anymore, formal reviews of the research done to make sure we do not go down the wrong path.

Research attributes of this plan would have dual paths. One of them would be issue-driven or applied research; that would be the research that's addressing the needs of managers. Ecosystem science must be advanced using existing scientists and capabilities. The dual path process, while at first it may seem separate, but with time there is going to be this crossing over. That is where the seeding of this theoretical or advancement of science into the applied side. So these two paths do complement each other with time, and that will be a nice attribute to have in this research plan. That was what was presented at the Science Symposium back in November.

At the conclusion of the symposium the Pacific Island Fishery Science Center drafted a letter asking for folks to participate in such a process. They have had two meetings, one in January 2005 and the other in March of 2005. The idea was to make it multi-agency and invite agencies and institutions that are responsible for research and management in the area. There was wide endorsement at the first meeting for such a plan as there was at the Science Symposium in November.

A mini-drafting team was organized to put some ideas down on what this plan would include. The members of the team include Charlie Alexander from NOS, Joanne Leong from HIMB and DiNardo. They decided that by April 4th of this year a complete proposal for the research plan would be done and they want to finish the plan 12 to 18 months later.

There are two phases to the plan. The first phase is to identify a full drafting team of six to members. Those members will be senior scientists in different agencies and institutions. The recommendations for the will come within the next two weeks to Sam Pooley at the Science Center. Once the team is confirmed the first product is the proposal that is due on April 4th. Within that same phase, the next step would be identifying at a high level the type of research that would be necessary in the Hawaiian Archipelago.

Phase 2 will identify some of the types of specific research that is going to be needed and who should do it. The idea is to build on a current infrastructure and use the capability already there.

A review and approval of process is built into the plan. At each step review and approval will be sought to make sure they are on track. It is important that people stay engaged and committed to the whole process. They will need the support of managers and higher level positions, like the Admiral for National Marine Fisheries Service.

An MOU would be created to get buy-in from the different agencies and would be used for the final research plan to say it is the best way to go for conducting the research in the Hawaiian Archipelago.

Step 6 of the plan would involve the funding that is currently estimated at 10 to 20 million dollars a year for a multi-agency, multi-disciplinary research plan.

Seman hearing no questions moved on to Status of the Northwestern Hawaiian Islands Reserve and Sanctuary Designation and Mr. Allen Tom.

#### **9.D.4 Status of the NWHI Reserve and Sanctuary Designation**

Tom began with status on the DEIS development, Draft Environmental Impact Statement which is scheduled to be completed at the end of this year or early next year. The schedule has slipped because of the extension for the Council and the data to be collected. Public hearings will probably be early next winter, an FEIS by the summer, then a decision on the Sanctuary by the end of '06.

Within the National Marine Sanctuaries Act Reauthorization of 2000, the Sanctuary Program within five years will present to Congress an update of the Designation Process. They will be working on that and by October provide to Congress an update including an update on the DEIS.

Regarding the DEIS, they are waiting for the Fishery Council to give alternatives regarding fishing. They are continuing to develop other aspects of the DEIS including discussion topics such as general access, research, maritime heritage, education, restoration, management, Hawaiian practices and access, and how they work with partners at the Department of Interior and the State. Those were some of the topics that have come up in working with their partners including the Council staff.

There are three cruises with the Hiialakai, the NOAA ship. It is currently at Pier 1 and will be leaving in a week and a half. It is a coral reef ecosystem cruise. Scott Ferguson from the National Marine Fisheries Service is the chief, looking at the three islands, Nihoa, Mokumanamana and French Frigate Shoals, and definitely mapping the boundary around Nihoa.

In May a 25-day cruise will look at coral reef health. This one will be done with a variety of different biologists, including the biologists from the Hawaii Institute of Marine Biology. Some of this data will be used in the DEIS.

In September, the rapid assessment cruise is with Rusty Brainard's group from the National Marine Fisheries Service, the Fish and Wildlife Service, and a State biologist will be provided on the ship.

The first week of May the Hiialakai ship will be going through the Main Hawaiian Islands and have a variety of school groups and daily activities on all Main Hawaiian Islands. The Humpback Whale Sanctuary is the lead for that.

Seman asked the Council members for questions.

Morioka asked with regard to the scientific research that has been going on in the Northwestern Hawaiian Islands, would it be specifically reef habitat-type research or will they be doing any deep-slope stuff.

Tom deferred to Brainard.

Brainard said the mapping would be primarily, Nihoa, first the boundaries, as much as of the deep-slope area as they are able, then some of the summits of Nihoa, Necker and French Frigate Shoals.

Duenas asked if their research included a no-man area, like the Great Barrier Reef, where two percent will be designated a real Sanctuary, where no one could go.

Tom said that in their alternatives they have the Sanctuary alternative. They have a variety of no access alternatives including Alternatives 7 and 8, which closed off completely, the whole swath of area.

Duenas clarified that he meant a smaller scale, such as the two percent that the Great Barrier Reef gave.

Tom asked if he meant within the preferred alternative, which completely closed down the area. He believed that involved the SPAs and called on Wilhelm to respond.

Wilhelm clarified that there is no preferred alternative yet. In the drafting of the management plan they anticipate that regardless of which alternative was selected, one strategy is the idea of complete closure as well as where such activities might occur later on, like in a five-year management plan review.

However, except for on the large scale as Tom described, the alternatives being considered don't have smaller, absolutely no-people areas just yet. Public comment would be sought during the DEIS phase.

Tom noted that their proposals are three nautical miles out. Zero to three is the State and the Fish and Wildlife Service. So there are the islands in those immediate areas that are not their jurisdiction.

Martin said that in looking at the map for Alternative 5, there was no reference whatsoever to any State jurisdiction. He saw the State waters went away on that map and did not know if that was in error, or if the State is deferring all of their authority to the Sanctuary, or the Sanctuary is suggesting that.

Tom deferred to Wilhelm but added that their alternatives were not looking at the State waters, and some of them actually do have State waters as an alternative. He was not sure which alternative had State waters and DOI waters included.

Wilhelm said she was also not sure, but regardless it was not a federal taking of State waters. It would be, if State waters were included in the boundaries of the Sanctuary it would be a co-managed situation, but jurisdiction remains in the hands of the State.

Tom added it would be up to the State of Hawaii to decide whether or not.

Martin said it made sense as long as the State is comfortable with it.

Tom added it would be up to them to decide at their convenience.

Seman moved on to Ecosystem-based Fishery Management and the Update on Ecosystem Research with Dr. John Sibert.

## **9.D.5 Ecosystem Based Fishery Management**

### **9.D.5.a Update on Ecosystem Research**

Sibert said that two of the prerequisites needed to do ecosystem-based management are defining the boundaries of the ecosystem being managed and trying to define some kind of index of the status of the ecosystem, which is something done out in the field and have some hope of measuring.

Ecosystem-based fishery management is simply ecosystem management; fishery has been dropped out of the term. Internationally the U.N. Agencies prefer to use the term "ecosystem approach to fisheries," as it translates into languages other than English better. Ecosystem-based management is place oriented rather than species oriented.

There are some schemes for dividing up the ocean into areas where measures can be reported in a meaningful way. It makes no sense, for instance, to report the chlorophyll concentration of the ocean as a whole based on averaging in coastal areas and deep ocean areas.

There are two approaches. The most promising one is based on Alan Longhurst's study on biogeographical provinces where he identified regions of the ocean based on their physical

oceanographic properties and on their content and primary production. He identified some 70 different zones in the ocean. These span coastal areas and high seas areas.

In terms of Hawaii, the biogeographical provinces actually divide the Hawaiian Archipelago into two distinct regions. Including human activities in the ecosystem, would probably divide the Hawaiian Archipelago into three distinct ecosystems.

Another approach to defining ecosystem boundaries has been conducted by NOAA. They have created a system called Large Marine Ecosystems around the world. It's a global concept. However, looking at the maps of these things, these ecosystems are neither large nor marine. They are moderate-sized coastal ecosystems. Under that category, the Hawaiian Archipelago is one uniform ecosystem and that is not correct. Under that classification, there are no classifications for any of the other jurisdictions for which this Council has responsibility.

Sibert continued that ecosystem is place-based rather than species-based. He showed a map of the Longhurst biogeographic provinces and the Hawaiian Archipelago divided in two by a vertical line. While the position of that line was probably not accurate, the point is to define areas in the ocean which are relatively homogeneous based strictly on their oceanographic characteristics.

He showed the same geographic regions with Large Marine Ecosystems. They were not very large and not really marine, they were coastal. For most of the areas of this Council's jurisdiction there is no well-defined ecosystem boundary.

He showed ecosystem boundaries overlaid with some political jurisdictions, and they did not correspond well. Other kinds of boundaries correspond even less well. The point was that some work would have to go into defining appropriate boundaries from ecosystems in order to try to assess them. What that means is defining ecosystem indicators.

Last year there was a big symposium sponsored by UNESCO where they reviewed a lot of scientific research by a number of teams around the world who attempted to define ecosystem indicators that could be measured with the hope of also defining some reference points that would tell whether the ecosystem was overfished or not.

The kinds of indicators they discussed included chlorophyll productivity and zooplankton, which are easier to measure than others. Others are difficult and expensive to measure. These are probably leading indicators in the sense that it will show what the ecosystem might produce.

Additional ones are more aimed at impact. There are measures of species diversity, species richness and less well-defined notions, such as ecosystem integrity and resilience. There are some size-based indicators, including trophic structure where they use size as a proxy and spatial distribution.

At the conclusion of this symposium, he felt that none of the indicators were really suitable as an indicator of ecosystem impact to fishing. For instance, some of the species

diversity indices showed inconsistent behavior across ecosystems of the same type. They looked at upswelling ecosystems. The species diversity changed in ways that were inconsistent in different ecosystems.

The most promising he felt, especially for nearshore coral reef ecosystems, is the size-based indicators, where the size spectrum of all the animals in the ecosystem is studied, both in the catch and the environment. It is an expensive undertaking to do that, but it is feasible on an interval of five to ten years. There is some promising work in the South Pacific on that.

He showed an example of a size-based indicator taken from one of the publications in the North Pacific Council. This is the Bering Sea/Aleutian Groundfish Fishery. This is the abundance of all the animals they catch in the trawl plotted against size over time. They have a trawl fishery there with lots of observers and they can measure everything that comes across the gunnel.

This fishery started out at the beginning of the declaration of the 200-mile Exclusive Economic Zone when it was overfished by foreign trawlers. Most of the animals are small and the abundance of large animals was low.

Because they have exercised cautious management, the abundance of large animals has increased and the abundance of small animals has actually decreased. This was an example of how a size-based indicator might work, in terms of overfishing.

In the example the area was overfished and the line was very steep. At a later time, the area was not so overfished and it is not as steep.

In terms of pelagic fisheries, they could try to do that. He showed a graphic of the size of tunas caught in the Central and Western Pacific Ocean. One line showed the model prediction of what the size spectrum would be in the absence of fishing. Another line showed the size spectrum in the presence of fishing. There was not much change up until the 1980s when they began to hammer it pretty hard.

Part of the impact was masked by the skipjack in the catch. Taking the skipjack out, the impact was clearer. Not much in the '50s through the '70s, but in the '80s and '90s, that abundance of large fish has decreased, and the mean size has also decreased. That is consistent with the current thinking that overfishing is going on for bigeye. So that is how ecosystem indicators might work in the Western Pacific.

Seman hearing no questions moved on to Update on Council Ecosystem Workshop and Paul Dalzell.

#### **9.D.5.c Update on Council Ecosystem Workshop**

Dalzell noted that the NOAA Ecosystem Research Review Panel was obsolete with actions in the SSC. He began with the Council Ecosystem Workshop and its draft agenda in the binder.



The workshop was a series of meetings held at the Council. The first two were two stock assessment workshops on bottomfish and on coral reef fish. This meeting looked at ecosystem-based management in the broad scale and ecosystem-based fisheries management in a more focused scale.

An expert panel was convened and a list of participants and observers were invited. Like previous meetings, there will be a set mixture of plenary sessions and breakout groups.

There are four kinds of pillars that underlie the ecosystem-based workshop: data, models, indicators and policy. There is a great deal of talk right now about the ecosystem-based approach to resource management and ecosystem-based approach to fishery management. Nobody has clearly defined it yet. Part of this meeting is aimed at trying to define it and to help guide the policy, which NMFS is going to have to do in the future.

It's very likely when the Magnuson Act comes up for Reauthorization it will incorporate ecosystem-based principles within the statutes. In fact, there is the skeleton of that already within the Magnuson Act in terms of National Standards for bycatch, focus on Essential Fish Habitat, as well as the National Standard 1 for overfishing.

The expert panel is primarily ecosystem fishery modelers mixed with policy experts, such as David Fluharty. The workshop is being put together with the assistance of the Fisheries Science Center and Gerard DiNardo and Charlie Alexander from NOS, National Ocean Service, who is out here on assignment to the Sanctuary Office.

Dalzell shared a draft agenda. Sam Pooley, the Director of the Science Center, would chair the workshop. Steve Murawski, who is the head honcho for this whole ecosystem-based approach for NOAA Fisheries and Mike Fogarty, who is one of the major guys looking at indicators for ecosystem-based management, again from NOAA Fisheries, would be attending.

The workshop will focus primarily, on archipelagic ecosystems. They know that the most difficult task will be to integrate all of the demersal or coastal FMPs; Precious Corals, Bottomfish, Coral Reef, Crustaceans, into geographically-based Archipelagic FMPs. Then there would be one for American Samoa, one for Guam and NMI, one for the Hawaiian Islands and one for the PRIAs. The Pelagics Ecosystem FMP, which will be derived from the existing Pelagics FMP, will be an easier process given that the Pelagics FMP is already a de facto Ecosystem FMP.

Modelers will be asked to show models of not what just worked, but what didn't and why it didn't.

Data is going to be a key and crucial issue in the short term and will set the program of the Science Center for Hawaii and for all the other island areas.

The workshop will look at what indicators will be used to monitor the ecosystem. The monitoring of fisheries is very much single-species based and create a need for things like

National Standard 1. But what else can be incorporated in terms of indicators to tell whether the ecosystem is healthy or not, whether changes are anthropogenic, i.e., created by man, or just natural cycles of the ecosystem. The movement of a frontal system, the Subtropical Convergence Zone, over a decadal scale is going to create orders of magnitude changes in productivity in the Northwestern Hawaiian Islands. So whether changes there are entirely due to man-made effects or to natural effects is something that needs to come from indicators, their sensitivity, and their utility.

Then lastly, with workshop will deal with how to translate all of this into policy, how to change the statutes, and how to create guidelines.

It is hoped that the workshop will provide good guidance and input for NOAA Fisheries so they can go back and craft guidelines and guidance so that when they finally come down to Reauthorization, the shock will not be too great and response will be adequate for the changes needed in policies and FMPs.

The meeting is on the 18th to the 23rd of April. They are in the last stages of organization and have confirmed the participant list, which includes some high caliber people including the modelers and ecosystem scientists.

Seman hearing no questions, moved on to the Update on the Marianas Archipelago Fishery Ecosystem Plan Pilot Project and Paul Bartram.

#### **9.D.5.d Update on the Marianas Archipelago Fishery Ecosystem Plan Pilot Project**

Bartram referred to a handout in the binders and noted that they would have the completed first draft of this FEP for their decision-making at the October meeting. The table of contents looked like fishery management plan chapters, but they will see some new things.

There were two types of alternatives. One was a fairly high level of alternatives related to the restructuring of the fishery management plan for those two areas, Guam and CNMI, into an FEP. That was going to be covered in detail by the next speaker. He was going to talk about the lower level of alternatives.

The communities in Guam and CNMI are really interested in ecosystem management because it gives them an opportunity to strengthen their role in management. There is a lot of interest in the Guam boating community for developing a co-management system for Guam's offshore banks. Alternatives are being explored for that. They have partnerships that have been started with several shore communities in Rota, some of the northern islands of the CNMI, and also on Guam.

At the June meeting they would see a full range of alternatives, then in October the complete first draft.

Seman hearing no questions moved onto the Update on Programmatic EIS for FEPs and Eric Kingma.

#### **9.D.5.e. Update on Programmatic EIS for FEPs**

Kingma stated that the transition into fishery ecosystem plans made it necessary to comply with the National Environmental Policy Act. To do this a Programmatic Environmental Impact Statement will be developed. The NEPA document will serve as a broad-scale planning tool for how the Council will proceed with ecosystem-based management in the region.

Public scoping meetings were conducted in the fall of 2004. Some of the more pertinent comments were on how the Council was going to work out inter-jurisdictionally with not only the State and Territories, but also in the international arena with ecosystems. The full scoping report was included in the briefing books.

The Council staff is reviewing the relevant literature and they would be developing the EIS in-house, or maybe adding staff resources to help in this effort. The Programmatic EIS would be completed in October of 2005 to coincide with the Marianas FEP.

The composite alternatives will be drawn from various categories such as ecosystem delineations, species managed, environmental indicators and the Council process. The list includes various options and the Council will likely choose its preferred alternative from that list.

For an archipelagic ecosystem delineation, the Council could choose what species would be managed. The Council could go with all species, to target or associated species and the spectrum in between.

Key to the effort is information derived from the Ecosystem-based Workshop.

Seman hearing no questions, moved on to Draft MPA Objectives and Criteria and Tony Beeching.

#### **9.D.5.f. Draft MPA Objectives and Criteria**

Beeching recalled that after the MPA Working Group developed a MPA policy document, they said they were going to develop something more dynamic. The contents have not been reviewed by the working group as yet, so he wanted to talk about the approach they were taking.

First of all, the document was not a new permitting system, an additional layer of administration and not a textbook. One of the biggest problems in dealing with MPA issues is the sheer volume of material that is turned out every month. They did not want to create another piece that regurgitates everything found in other documents. They intend this to be an easy-to-use guide for Council family to use. It comes from a Council perspective. It's a checklist of factors to be considered when establishing, monitoring and evaluating MPAs. It follows existing processes, the Magnuson-Stevens Act and the NEPA process. It will include reference material, definitions, a bibliography, and maps. The MPA matrix is a very large table showing Council-supported MPAs. The term "dynamic" means it will be continually updated. Not just the current

science, but also the information in the final document, the matrix, which is going to be used or could be used as a reporting form.

The document structure includes an introduction, a flow chart, possible or potential MPA goals with objectives, then criteria. He reviewed one of the items on the checklist - baseline social cultural surveys. It had a great, but not huge description and that data should include levels of effort, catch, market value, subsistence fishing. It is a reminder. Most think of the impacts and consequences within the MPAs and not always the impacts to neighboring communities.

The entire list is going to be very long. It's not just socio-economic and cultural issues, it's also biological issues. In the back would be reference material, acronyms and abbreviations, bibliography, the Council policy document. There would be maps of Council-supported MPAs and it would be one consistent group of maps to refer to and show exactly where all the MPAs are that the Council supports.

He showed an example of the matrix. The first column described which FMP it related to. The second column gives location. The third column is the habitat type. The fourth is date enacted. The fifth is duration, how long it's been in place, how long it's planned to be in place, the area it covers. Then goals and objectives, the actions that were taken, evaluation monitoring, then finally, whether or not the goals were achieved.

This could be used as a reporting tool. If anyone wants to know what the status is for the Council-supported MPAs, they can go to the matrix. Beginning with location of the MPA to see just what's happening; is it being monitored, isn't it, is it achieving its goals or not.

They still have to add more content and should have a draft for the Council to review by the next Council meeting in June.

They plan to include an appendix which expands the limited bulleted text. So each of the criteria could be further explained in the document where inquired.

In the Reports and Actions Section it is suggested that the matrix be used to provide monitoring information for managers. However, the matrix needs to be accurate and up to date.

Then finally, they will prepare the standardized maps with Council MPAs. He was not sure if they would have that for the next meeting, but the main body and text of the document would be completed.

The SSC at their last meeting approved the general approach, application and structure of the document. They were seeking Council support for what they were doing and if they were headed in the right direction.

Seman asked for questions.

Morioka said that he did not see closed areas or areas closed for security in the document and were there mechanisms to start to include those kinds of areas into an MPA process.

Beeching responded that the group had not considered that point. But he saw no reason why a second matrix, detailed those MPAs or de facto MPAs could not be included.

Duenas noted that on Guam, the Air Force worked with the local government to establish an MPA outside of the zone. He thought that the checklist could work with those two groups.

Seman asked Beeching to go on to D.6, Shark Viewing.

McCoy explained that they had a national park that encompassed quite a piece of water on the north shore. He asked if that could be designated or would that be a completely different process.

Beeching said it was something the Council would have to consider. He was unsure how that fit into the scheme of things since it was within American Samoa waters and they were not listing all the State MPAs. The only reason that they would be interested was if they extended to federal waters. He felt it would be a mammoth task to try to bring details of all MPAs in the region into this document.

#### **9.D.6. Shark Viewing**

Beeching noted at the 86th SSC meeting the SSC was uncertain as to whether or not shark viewing really came under the purview of the Magnuson-Stevens Act. If it did, then they said that they would support a scientific investigation into whether or not such an operation would have any substantive impact on shark behavior or Essential Fish Habitat.

Since that meeting, Feder provided an opinion that shark viewing did not fall under the Magnuson-Stevens Act. However, the Council was not satisfied with that, and they wanted to test that opinion. So in the 124th Council meeting they directed staff to further investigate shark viewing activities in federal waters adjoining the State of Hawaii off Haleiwa and to develop regulations as appropriate.

He had not invited the operators to that particular meeting because it wasn't down as an action item and he wrongly assumed that the Council wouldn't proceed because Mr. Feder had suggested that it was outside of MSA purview. After the meeting he phoned the operators to advise them on what was happening. One of them was extremely irritated and through lawyers requested information about how the decision-making process was accomplished.

In his view, any public hearing, because that research could be scoping, would be detrimental to his business. Under the Magnuson-Stevens Act the Council is obliged to find out what the public believed.

Staff were invited to participate in the shark viewing. Two staff members went. Staff reported that Galapagos and sandbar sharks were in the area when they arrived. They were

already there and at the surface. During the trip a very small amount of chum was introduced into the water. There was no antipathy or bad feeling at the docks when they came ashore, but the only other fishermen were crab fishermen. There was no real conflict between the crab fishermen and the shark viewing operation.

The question that really arises was what happens to sharks between visits of the viewing boat. Do they stay there? Do they go inshore? Do they go and harass fishermen? From the Council's perspective, a good, solid scientific answer to those questions is needed.

Following the visit to the shark operation, there was a conference call with the State, PIRO and the University of Hawaii. The consensus was that they really didn't want to see a proliferation of shark viewing operations; they really need to find out what's going on in terms of shark behavior.

Kim Holland from the University of Hawaii wrote an outline proposal. The idea is to attach acoustic tags to sharks, monitor eight sharks for periods during the year. Tiger sharks would be tracked on an opportunistic basis, if they were located. The entire project duration would be two years. A university student would do the work under the supervision of Kim Holland. Kim Holland would provide his time for free.

That proposal was put before the SSC. The SSC wasn't entirely satisfied with that because it didn't meet the objectives of the very first SSC recommendation. The proposal would not provide good controls nor would it show what was happening to sharks that were perhaps around the crab boats, nor sharks around the fishing boats. So they're asking for something a bit more substantial.

A more substantial survey would cost a lot more money. Kim Holland felt that if the question was what happens to those sharks that are actually at the viewing site -- do they stay there or do they go away -- then he felt this proposal could answer that question, but maybe not the more complex question that the SSC was proposing.

The options are to take no action, accept Feder's opinion that shark viewing doesn't fall under MSA. Or, recommend that the State take action to limit or restrict the number of permits issued to this type of business. That would certainly eliminate the concerns about proliferation. Or, pursue scientific research and find some funding for the proposal that Kim Holland put forward for 43 grand. Or look at the possibility of funding a more complex, more extensive proposal.

At the SSC meeting there was a member of the Whale Sanctuary present. He suggested he could help support funding for a more complex project if he felt that that was also going to be of value to the Whale Sanctuary.

Despite the concerns raised by the operator, if public scoping is the right way to find out what people think in the area, there could be public scopings.

Seman asked for questions.

Ebisui noted that the reason that only a minimal amount of chum was necessary to draw the sharks is that the operator had already chummed them before the customers arrive. They go out real early and they chum just before the first tour. That was why the sharks were there when they arrived. Those sharks have associated people with food, which is real dangerous. It is not the brightest thing in the world to be doing.

Secondly, with all due with respect to Feder's opinion, all one needs to do is to take a look at footage from Ben Wong's show, Hawaii Goes Fishing, they have filmed the sharks. There are a lot of hooks and monofilament in all of the sharks. So these activities have encouraged hooking of the sharks.

He ventured to say that in the not-too-distant future there would be a shark fishery operation, sport fishing shark fishery. It is easy money. Board a boat in Haleiwa, go out two and a half miles, not beyond the three mile State waters. Use light tackle and hook sharks. He guaranteed that would happen.

But it is the human safety thing that really concerns him. A scientific study is good but this is one of those situations where intuition and just common sense says this is not a good thing. That's why the State banned it.

He supported the research, but that should not be the sole course of action. He felt they should press on with regulations banning and scope the thing. Go out to the public and get their input.

Beeching responded that during the conference call with the State, PIRO and the University, two of those people had been out on the shark viewing experience. They felt that there wasn't really a safety issue. They weren't opposed to having two operations, though they were really opposed to having an uncontrolled proliferation.

Also, they felt that perhaps there should be some control of what was happening at the moment, for instance prohibit chumming. There could be limitations and restrictions on what they do. The State originally came over really very much opposed to this operation outside of State waters. But they revised their opinion.

His first response to the Council's move to do some research and make regulations was to find out what was going on in the area and do some scoping. And, after receiving pretty irritated feedback from the operators, they held off until now.

Ebisui said he noticed that the species of preference were Galapagos and sandbar. He preferred any tracking be done on the more aggressive species, like tigers and Galapagos.

Beeching understood from the operators and others, that they do occasionally see tigers. Indeed, they use that as a way of advertising their business because it's interesting when people see tigers. It is mostly early in the morning when the tigers are observed and they go out during the day. When the tigers come, the other sharks disappear. There have been reports of white

sharks come over to look at the cage, but those white sharks, or at least one of them, were following some spinner dolphins originally.

During their tour, Beeching witnessed a hook and trailing line on one of those sharks.

Ebisui asked Owens if he had anything to add, what their experience has been with great white tour operators.

Owens responded that they did have concerns about that in the Great Barrier Reef, particularly. It is happening outside their area, in the Coral Sea. They felt it was a dangerous activity. There are dive fisheries out there, and the fact that tiger sharks attracted in by this activity, are now attacking fishermen.

Where they do have these types of activities, the fish feeding and shark viewing activity, there are very strict controls around it. The general view of the population is it's dangerous because you cannot control the types of sharks that come in and it's against the principle of the management of marine parks, which is a natural system. It is bringing apex predators into areas of concentrations where they probably will not normally aggregate, and against the natural system.

Beeching responded that the operators would say that the sharks were already in the area because it is a crab potting area and the crab potters used to throw the waste from the pots. So the sharks were already there. It's not a feeding operation in the sense that people go down with the wire mesh and then feed the sharks. This is a cage operation. They do also say that if they didn't feed the sharks the sharks would still be there. But nevertheless, they do put chum out.

He asked Owens if that was the sort of operation they had.

Owens thought it was a matter of scale. It is a commercial activity and people are making money from the activity. They're going to advertise the activity. So they guarantee people can see sharks. Businessmen being businessmen, they'll find ways to attract more and bigger sharks into the area to provide the experience.

Their experience was that it interferes with public safety and ought to be the first concern. Then it starts to interfere with the ecosystem and it can affect other fishermen. Generally, they would discourage it.

Seman said that in the interest of time they would move on to Item 7, Coral Reef Plan Team Recommendations and called on Makaiau.

#### **9.D.7 Coral Reef Plan Team Recommendations**

Makaiau said that in January of this year the Coral Reef Ecosystem Plan Team met primarily to discuss the development of the annual report and progress on the implementation of the Coral Reef FMP. The Northwestern Hawaiian Islands Draft Fishing Regulations were also discussed at this meeting.



The plan team expressed concern that implementation of the Sanctuary alternative to substantially restrict bottomfish fishing through ecological preservation areas and Sanctuary Preservation Areas in the Hoomalu Zone would concentrate fishing within a smaller area. This may result in adverse ecosystem impacts such as localized depletion of bottomfish stocks and other unwanted ecosystem effects within the area that remains open to fishing.

The second recommendation notes that the plan team is concerned that implementation of the Sanctuary alternative would result in significant socio-economic impacts. They reviewed the Goals and Objectives to minimize the impact and the implementation would result in significant socio-economic impact to the Hoomalu Zone bottomfish fishery as nearly 50 percent of the Hoomalu Zone would be closed to commercial fishing by area. This may have the effect of making bottomfish in the Hoomalu Zone economically unfeasible.

In fact, this was the first opportunity for the team to review the Advice and Recommendations Document. They went through it, and then discussed Table 12. It seems that the way the table was set up, closing areas is associated with protecting habitat, or a certain amount of habitat protection by closing areas, where in fact the habitat could not be affected even with fishing present. It had the correlation that if you close this, you protect a certain amount of habitat. So the plan team essentially had a little concern with that, and it caused them to believe that it could be misrepresented.

They referenced Chris Kelley's study, which was a study on two banks looking at impacts of both habitat and fish stocks. Kelley's study is presently in review. But essentially what it says is that he doesn't believe that the amount of fishing presently in the zones that he was looking at had any adverse effect on stocks or habitat.

Regarding the Northwestern Hawaiian Islands, the team came up slightly modified versions of Alternatives 2, 3 and 4, and came up with their own. After discussing the issue with some fishermen and hearing the points, particularly with bottomfish and lobster fishermen, they also added another modification.

Essentially, they said they would support Precautionary Modification 2, which is the area that would close Kure, Midway and Pearl and Hermes. But at the same time they wanted to expand no-take Marine Protected Areas to 15 fathoms as a maximum for all fishing, with the exception of the lobster fishing, which should remain at zero to ten fathoms and twenty nautical miles around Laysan. The reason why they did that is after discussion with the lobster fishermen, anything further than ten fathoms would essentially not let them fish. The difference between ten-fathom and five-fathom is a significant amount of habitat for them. Again, they wanted to expand closed areas.

He showed Modification 2 that had Kure to Pearl and Hermes complex closed to fishing along with French Frigate Shoals. The plan team's recommendation was to increase this area. They want to expand the whole closure around French Frigate Shoals to the outer boundary of the Marine Sanctuary, and at the same time expand it both east and west and encompass both

banks that lie east and west of it. They pulled the closed area just a little bit further to encompass another bank, which is east of the Pearl and Hermes area.

Makaiau shared some notes supporting why they made the decision about bottomfish fishing. They recognize there are uncertainties in the ecological impacts of fishing. Some things are known about the condition of the stock and about the habitat that the fishery is operating in. But largely, there are uncertainties that may or may not ever be known.

The implementation of the no-take zones, if they expanded to zero to fifteen fathoms would substantially affect the lobster fishermen. The plan team stressed further research on potential impacts on habitat and monk seal foraging by the lobster trap fishery. The correlation between whether or not lobsters are an important staple for monk seals. The study is ongoing. The fishermen encouraged continuation and further funding for research into that aspect of monk seal foraging interactions.

The primary focus of the plan team meeting was the Coral Reef FMP. They have not addressed this issue since the whole Northwestern Hawaiian Island issue has been ongoing.

The Coral Reef FMP was implemented in 2004 and it affects most of the island areas outside of Hawaii; Guam, CNMI and American Samoa. The way it was implemented was clear. A special permit is needed to fish for a certain species. There is a specific list for species where a permit was not required.

This caused some problems in the outer island areas where people are fishing for reef-associated species, not particularly targeting a specific fish in itself, but a family, snapper, groupers or emperors. They occasionally catch other fish which they retain and keep. Unfortunately, it's not a substantial amount of fish that they keep.

However, under the clear-cut FMP implementation rules, they need a special permit to retain it. So the plan team was concerned that a number of individuals in the outer island areas were being required to get permits where the information on what they're catching is already being collected by the data creel surveys.

It is a burden issue on both the fishermen and the data-collecting entities which lack manpower, resources and time to fill out logbook forms with all these additional burdens.

So the plan team tried to come up with something that was a little bit more realistic. The recommendation was to get away from the list and everything in the Coral Reef Ecosystem will call for Ecosystem Management Unit Species. Now, fishermen can fish in this area. The data-reporting mechanisms that are already in place will collect the information. But the specific controls on certain types of species, such as those that are infrequently harvested, are considered rare, and are considered a foreign-trade species or a potential bioprospecting species, those are the species that the plan team wanted a little bit more control through a special permit.

To let fishermen continue to harvest food fish because the specific species are caught in just small quantities without having to fill out all these permits and reporting forms, because the data collection program is already collecting that information.

With regard to West Pac FIN staff funding and resources the plan team has recommended increased funding. As the newest fishery, their requests are behind the requests for pelagics fisheries and the larger bottomfish fishery although they are the newest and the most complex, in terms of species and gear types and analyses that need to be done. There is not enough staff and resources to get everything done that needs to be completed in terms of the annual report. In addition, there are additional creel surveys that are being implemented in both American Samoa and CNMI which exacerbates this problem. The funding will help increase and strengthen fisheries data collection programs by island governments and the federal entities.

Seman hearing no questions moved onto the SSC recommendations and Dr. Severance.

#### **9.D.8 SSC Recommendations**

Severance referred to the recommendations on the screen.

“Whereas the SSC believes that current levels of bottomfishing, which are well low MSY levels, pose little risk to the ecosystem integrity due to the small-scale nature of the fishery and its existing regulations, the SSC recommends that:

- A, bottomfish fishing should continue to be managed under the Council's management regime as recommended to date;
- B, pelagic trolling and pelagic handline fishing should also continue to be managed under the Council's management regime as recommended to date and that the pelagic longline fishing continue to be prohibited within 50 nautical miles in the Northwestern Hawaiian Islands;
- C, a moratorium be established for all other commercial, recreational and sustenance fisheries with the exception of Native Hawaiian subsistence use in the Northwestern Hawaiian Islands until a science-based ecosystem management plan for the Northwestern Hawaiian Islands is developed;
- D, the SSC recommends that an inter-agency research program for the Northwestern Hawaiian Islands be established by the Council, by the National Marine Sanctuary Program and the National Marine Fisheries Service, the Pacific Islands Fishery Science Center to develop an operational definition of ecosystem integrity and expand and coordinate studies to objectively evaluate ecosystem integrity of Northwestern Hawaiian Islands ecosystems;
- E, a memorandum of agreement be established between the Council and the National Marine Sanctuary Program to coordinate activities regarding the Northwestern Hawaiian Islands Sanctuary;

- The SSC is also concerned with the potential introduction of alien species in the ecosystem to the Northwestern Hawaiian Islands and, therefore, recommends that the Council assess the effectiveness and feasibility of requiring that the hulls of permitted fishing vessel be cleaned as are NOAA vessels before entering Sanctuary waters;
- The SSC supports the MPA Working Group approach to developing a document on criteria for establishing and evaluating MPAs;
- The SSC looks forward to the results of the Ecosystem Science and Management Workshop, which will be held in April 2005, which should provide direction for research in ecosystem management in the Northwestern Hawaiian Islands and recommends that the Council sponsor a complementary workshop focused upon the human dimension of marine ecosystems and the contributions of social science to ecosystem-based management;
- Regarding the Coral Reef Ecosystem Plan Team recommendations, the SSC supports the plan team recommendations except the recommendations pertaining to the proposed Northwest Hawaiian Islands National Marine Sanctuary. Those are recommendations 1 through 5 in the plan team report;
- A final note with respect to shark viewing operations and proposed tagging experiment, the SSC recommendation on that was read that morning.”

Seman asked for questions.

Martin asked about the recommendation regarding the potential alien species issue and asked if there was a report or something that the SSC reviewed or did some one just think of it. He had not heard an issue with alien species there or in the Main Hawaiian.

Severance said that the idea came from a member of the audience. However, there has been some discussion of the State Task Force on alien species and there was some material that the SSC had looked at a couple of years ago. There was no specific new report that was looked at.

Ebisui asked if the SSC recommendation regarding the fishing regulations for the Sanctuary area was a variation of the alternatives or a new alternative.

Severance explained that was more like the FMP status quo alternative with a couple additional things thrown in, particularly proposed moratorium on the other types of fisheries. It was noted that those are fisheries do not have much information on, but they were fisheries that have been discussed in the Sanctuary document.

Ebisui confirmed that it was not one of the alternatives discussed earlier.

Severance responded that Ebisui was correct. The SSC recommendation was the status quo recommendation with the FMP for bottomfish fishing and then a moratorium on some of the other fisheries and the status quo for pelagic handline and trolling as it occurs with bottomfishing transiting the area and status quo with the longline exclusion area.

Morioka referred Ebisui to page 4, item 8.D.A.

Ebisui said he was confused with the matrix that is provided with this document, where it lays out what he thought were all of the alternatives. Obviously, this isn't all of the alternatives because here was another one.

Severance responded that the SSC did review all of the choices and then based upon its view of the apparent condition of the bottomfish fishery, chose to make its recommendation.

Robinson clarified that this was a new alternative. The wording "as recommended to date" really lined up with Alternative 2, in which case under bottomfishing it would be what was currently implemented under the FMP, plus the elimination of use or lose, and the Mau Zone entry requirements.

Severance confirmed that was his understanding. He added that when the Mau Zone Task Force was convened to develop that limited entry program there was a large number of latent unused permits. It was unclear how fast that would decrease to the number of potentially active permits that fit within the economic analyses of that fishery because it was not a major concern about the stock conditions at the time. The concern was more about economic conditions in the fishery. The number of permits decreased, then fell below the limit and nothing was done about the use-it-or-lose-it provision.

Seman moved on to Standing Committee recommendations.

#### **9.D.9. Standing Committee Recommendations**

Seman said that the Standing Committee met on Monday and went over various issues with regard to Ecosystems and Habitat. There was some new information that the committee felt the full Council need to go over. That information had been presented.

The Standing Committee by consensus agreed to defer final action on the Draft Fishing Regulations for the proposed Northwestern Hawaiian Islands National Marine Sanctuary to the full Council.

He recommended that the meeting continue with the public hearing and go back for Council discussion and action.

Morioka asked if he was proposing to come back to do these other items that are not related to the Northwestern Hawaiian Islands following the public hearing.

Seman said, right.

Morioka asked that all those wishing to present testimony to fill out one of the yellow cards. The Chair called a five-minute recess in order for those wishing to provide testimony to provide those cards.

Morioka reconvened the 126th meeting of the Western Pacific Regional Fisheries Management Council.

#### **9.D.10. Public Hearing**

Morioka asked those wishing to provide public comment to step forward, give their name, affiliation and speak. He called on Owens.

Owens introduced himself as the fisheries manager from the Great Barrier Reef Marine Park. He stated (verbatim)

“One of the things that struck me, and it's been talked about and around, and I really don't see how you can do this exercise without having the State onboard, without talking about the State waters, State issues. I appreciate this is federal. But you're about to put a marine protected area in. The fish don't know the boundaries between the State.

A lot of what you're talking about from what I see, you are talking about a lot of shallow areas. Clearly, that process has to come together somehow. I think it's got to come together. I don't know how NOAA works, but it's got to come together and it's got to come together with the Council and you've got the bulk of your population out there in State water.

Also, I've listened to the people from NOAA. I heard the question asking about the zoning intentions. I think it's a fair question. I think that really people need to understand what the probable zoning intentions are of NOAA, the types of uses that they see happening in that area and how they might zone those activities. I'm not just talking about fishing. There are other activities out there. There is tourism. There are a number of things. But how you intend to manage those activities will have an impact on the way you might think about how you manage fishing.

I'd also like to comment. This whole session has been around ecosystem-based management fisheries management. Listening to the discussion, it's a huge topic. But I think there are three fairly simple ways you can look at fishery management:

- The first one is the effective method of take with the gear on the bottom, on the habitat. Now, you've got damaging gears, but that's the first thing that affects an ecosystem. The trawl net, destructive fishing gear, dynamite, whatever it is, clearly has a big effect on an ecosystem. Spearfishing in certain areas might also have a big effect on an ecosystem because it can take out some of the very deep fish;
- The other thing, and this is a fisheries management thing, is effective removal of a type of catch, how much, is the sort of stuff you are dealing with;
- But the other area, the one we don't look at very much, and this is I know what we're trying to focus on in Australia, is the change in fish behavior. That's then a

composition of what is left, how the balance changes. What's the size frequency? What is coming in to take the place of what you have taken? How is that changing system? I think that is the sort of thing we've got to start looking at and focusing more on.

That actually brings me to the point with the purpose of instituting a marine protected area. We're looking at conserving habitat. I guess one of the things we do in the Great Barrier Reef, what was done, we've probably looked at zones and corridors where animals are in natural abundance and natural size frequency. Now, fishing changes that. There's no way basically you can get around that. You can fish certain size.

What we are looking at in protection of areas, having them big enough, having them wide enough, or whatever. We have a natural abundance and a natural size frequency of animals. That's a safety margin. I think that is one of the things in any area where you are looking at putting in a marine protected area, that's how you are looking to protect. You talked about biodiversity. That is biodiversity. How you look to protect that.

You are taking out the damaging things. Then you're looking at leaving areas that are big enough where you have a natural sort of population and the natural frequency, and it becomes a point that you can measure, it becomes something you can look at, well, this is what it would be like if we weren't fishing and if you weren't doing all these types of things. Then you've got a comparison with the other areas. It gives you a comparison to see how you're going.

I also just wanted to comment briefly on the lobster fishery. I hear a comment -- my background is with lobster fisheries. I know in West Australia, I know the fishery in West Australia has done an awful lot of work with seal interactions with lobster fisheries. Interactions are very small, but there was a feeling that it was high.

The other thing that we did an awful lot of work on pot drops. There is over a million pot drops a season there, over a three-month season, and the work they did revealed that the effect of those pot drops on our coral reef environment is virtually not measurable. So I'd just like to raise that. I think that's an interesting point with the lobster fishery. I think you have problems with your fishery for different reasons. But that work, I don't think you need to reinvent the wheel with that work. That work has been done in Australia. I know elsewhere it's been done, but it's certainly been done in Australia.

From my scribbled notes here, I guess that's about all I would like to say. Just come back and reinforce that I don't believe -- and I don't know the American system, but I don't believe you can talk about something of the scope that you're talking about without understanding how it's going to relate to the State or how the State is going to relate to the federal. To me, it's pivotal to the argument.”

Morioka asked Owens to clarify the term he used, pot rock.

Owens clarified that he said pot drops.

Morioka called on Mr. James Cook.

Cook introduced himself as a Northwest Hawaiian Island permit holder. He has been a recreational fisherman since he was very young and a commercial fisherman here for approximately the last 40 years.

He stated: (verbatim)

“I've had the great privilege to fish in the Northwestern Hawaiian Islands in my younger days. I've had the experience to fish there before the Council began to manage the area. A lot of people here don't recognize that in those times past there was no Magnuson Act and there was no Council.

In that time when we fished out there it was beautiful, as it is now. But there was coral dredging going on. There was trawling going on in the banks northwest of Midway Island.

Times have changed considerably since then. There is far less extractive activity there. There are managed fisheries there. After 25, 30 years, whatever it's been, of this Council's actions in the Northwestern Hawaiian Islands we have still a near-pristine ecosystem. I congratulate you for that work. I think it's absolutely marvelous.

I can't believe how much things are changing here in Hawaii. I read recently that ten out of ten of the top-rated restaurants in Hawaii have local island fish dishes as their signature dish. I hope that is something that can continue.

In my family, New Year's has always been a time of sashimi, fireworks and onaga. I think that has been the way many of you who are local here have grown up. I hope that continues to be the way we've grown up.

Over 50 percent of our bottomfish currently comes from the Northwestern Hawaiian Islands. The pressure that will be put on the Main Hawaiian Islands if it ceases is going to be very, very significant. This fishery is hugely valuable. Today it is selling at prices from four to eight dollars a pound on a very regular basis. It is something that our culture wants. It's something that our visitors want. It's something that really desperately needs to continue.

Now, you guys have been going on all day long and I know you are tired, but I'm tired, too.

I was outside and I was consulting with some consultants about  haiku. In case you didn't know, haiku has five syllables, then seven syllables, then seven syllables. So I went Punahou so the balance is not right. But this is called, Our New Hawaii.

Silence at New Year's.  
Memory of cultures past.  
Eating soft tofu.



Now, I hope that you, our governor and our congress people do not let this happen to us. Please. Thank you very much.”

Morioka called on Linda Paul.

Paul said (verbatim)

“Thank you very much for giving me a chance to put my two cent's worth in.

First a couple of preliminary comments. I'm very happy that the SSC did acknowledge that there may be an alien species infestation problem in the Northwestern Hawaiian Islands.

I serve on the State's Alien Species Task Force. We have completed the ballast water rules. We are about to work on the hull encrustation rules. Preliminary research shows that contamination and spreading of things like alien algae is -- about 80 percent of it is due to hull encrustation.

The Main Hawaiian Islands, as most of you know, has a severe problem with this spread. Over 350 alien aquatic species have become invasive in State waters, and they've spread about the islands by the inter-island large barge system.

There are alien species already up in the Northwestern Hawaiian Islands. The NOAA ships are scrubbed before they go up there. If an old-and-established owner of fishing vessels up in the Northwestern Hawaiian Islands is not aware of a problem, I think that illustrates the problem.

The second preliminary comment I would like to make is that you have in your briefing books comments from last night's Fishermen's Forum. The comment period for Council's consideration of making this decision closed on February 18th. Those comments should not be in your briefing booklet and they should not influence your decision in any other way.

I hope you can understand the reasons for that.

I've often been asked, since I'm one of the people that advocate maximum protection for this area, why nine fishing boats matter. Well, first of all, who is to say with the status quo why it will remain nine fishing boats. You have out there seventeen bottomfish permits. There are lobster fishing permits that are on hold at the moment. We're not really talking about nine fishing boats. We're talking about a lot more fishing boats.

The idea that these vessels will come down into the Main Hawaiian Islands and impact a fishery down here, which is already over-stressed, that has 4,000 boats, is a strange argument to me.

With regard to the economic study that was done recently with the Waikiki restaurants and chefs, as many of you know the results of that study were that chefs preferred Main

Hawaiian fish first, because of freshness. They preferred imports that could be brought into the island; it's flown in less than seven days, as the second choice.

The Northwestern Hawaiian Islands bottomfish came in a third place because those fish have to be kept on ice for anywhere from one to two weeks, depending on where they were caught along the Northwestern Hawaiian Island Chain, which as you know is a great distance from here and it takes time to come back down once you catch those fish.

Finally, and most important, the National Marine Sanctuary Program involves federal waters that are probably less than half a percent of the nation's waters. The rest of those waters are managed by the Magnuson Act. They are open for the most part to fishing.

We're not talking about restrictions here on the fishing industry. The Northwestern Hawaiian Islands are an extraordinarily unique place. It is estimated that in about 40 years about 70 percent of all the coral reefs in the United States will be gone because of global warming and other human impacts. That makes these reefs all the more important. The socio-economic impact of restricting fishing in that area is absolutely minimal compared to the importance of this area.

We have a chance to make a difference here. This area is the second largest in size to the Great Barrier Reef. The United States should be stepping forward and set an example that we know how to protect rare resources. That is truly what these are.

So I urge this Council to choose the maximum protection they can find in their hearts to choose for this very, very special area. Thank you.”

Morioka called on Tim Timoney.

Timoney said, (verbatim)

“Thank you, Mr. Chairman, Council members. I promise I'll be real quick. I know it's late.

Last night's forum was quite instructive. We learned that the Great Barrier Reef has managed to have effective protection and healthy, profitable fisheries.

In looking at the turnout to discuss MPAs, I think if the Northwestern Hawaiian Islands were closer to the Main Hawaiian Islands we might not even be having this discussion this afternoon.

The breakdown of public comment that Jarad told us about has been pretty interesting, too. I appreciate the concern held for this special area by the folks from the mainland, but can they really understand what is at stake for the fishermen here without seeing the maps that are presented or the presentation given by our Council staff? Do they get it about such a big area being fished by so few? Or where the fish are compared to where the coral actually lives.

My husband, Tim, and I were trying to think of a new way to tell you what the different alternatives mean to us in the Hoomalu Zone. We thought comparing closures by linear miles would be effective. So Tim did the math and here are the results. For each different alternative:

- The Executive Order would leave us with 77 percent of the available fishing grounds still intact;
- The Council's first FMP, the status quo as it is now, is about 98 percent;
- Council's Alternative 3 would be 85 percent available for fishing;
- The Council's Alternative 4 is 79 percent;
- The Sanctuary's proposed alternative leaves us with 28 percent of our normal fishing ground available under those closures.

As all of the fishermen have told you before, the ability to fish in the widest area is the cornerstone of a sustainable fishery. Besides the closed areas the individual harvest caps that are called for in the EO and the Sanctuary's alternative would be extremely detrimental to three-quarters of the Hoomalu fleet.

Just one last comment. My prices at the auction are not that much different than the Main Hawaiian Island prices. So those buyers are pretty savvy. They're not going to pay me a lot of money for something that they can only sell for a little bit more.

Thank you for this opportunity to comment.”

Morioka called on Hannah Gillian.

Gillian said (verbatim)

“Thank you for the opportunity to speak. I will be brief as I'm suffering from a fever.

I just wanted to say I work with the Marine Conservation Biology Institute, which is a science-based institute. We have no members of the public. We're not like a lot of the other organizations that speak for the public. We speak more for the science.

Our perspective on the Northwestern Hawaiian Islands is that this is our Marine Yellowstone. As such, it needs to be managed as the national parks are managed. Commercial extraction should not be allowed, period.

The National Marine Sanctuaries Act, which has been referred to several times today, said that use should only be facilitated as is consistent with the primary purpose of protection of the resources of an area.

Our position is that contrary to some assertions made earlier today, the Northwestern Hawaiian Islands are a fragile area. As Miss Paul said, it's the northern-most coral reef area in the world. It is under increasing stress from invasive species, global warming and a variety of other threats. Adding commercial extraction to these threats may put the area over the edge. We don't know.

We heard a lot today about unknowns. Unknowns in the lobster fishery. Unknowns in the bottomfish fishing. Unknowns are unacceptable when managing to protect an area's resources.

Again, we feel that this means the only alternative is to prohibit commercial extraction. We encourage all of you to be visionaries and protect this unique resource.

Thank you.”

Morioka asked if there were any other persons wishing to provide public comment. Hearing none, he moved onto Agenda Item 9.D.11, Council discussion and action.

### **9.D.11. Council Discussion and Action**

Seman said he would present the seven recommendations offered to the Council regarding the Ecosystem and Habitat.

- Recommendation 1: that Council staff prepare draft fishing regulations and supporting documentation for transmittance to the National Marine Sanctuary Program by April 4, 2005 for the following preferred alternative:

- A, Northwestern Hawaiian Islands fisheries will continue to be managed under the Magnuson-Stevens Fisheries Conservation and Management Act;
- B, bottomfish fishing will continue to be managed under the Council's Fishery Management Plan modified by the Council's recommendations to date with respect to the Mau Zone new entry criteria and the Community Demonstration Program, suspension of the minimum landing requirements and the measures in the CRE FMP related to bottomfish;
- C, pelagic longline fishing will continue to be prohibited within 50 nautical miles from the Northwestern Hawaiian Islands. Northwestern Hawaiian Islands pelagic trolling and pelagic handline fishing will continue to be managed under the Council's FMP as modified by the Council's recommendations to date regarding pelagic fisheries as described in the CRE FMP. In addition, Northwestern Hawaiian Island pelagic troll and handline fisheries will be subject to a federal permit and reporting logbook requirements;
- D, a moratorium will be established for all other commercial, recreational, subsistence and sustenance fisheries in the Northwestern Hawaiian Islands until such fisheries are covered by a science-based fishery ecosystem fishery management plan developed by the Council in consultations with the NMSP and implemented by NOAA Fisheries;

- E, additional Native Hawaiian subsistence use will be allowed by Native Hawaiian communities eligible under a Western Pacific Community Development Program.
- Recommendation 2: the Council, National Marine Fisheries Service, Pacific Islands Fishery Science Center, the U.S. Fish and Wildlife Service, the State of Hawaii and the National Marine Sanctuary Program develop an operational definition of ecosystem integrity for the Northwestern Hawaiian Islands and expand and coordinate studies to objectively evaluate ecosystem integrity of the Northwestern Hawaiian Islands ecosystem;
- Recommendation 3: a Memorandum of Agreement be established between the Council and the National Marine Sanctuary Program to coordinate activities regarding the Northwestern Hawaiian Islands Sanctuary;
- Recommendation 4: that the Council Marine Protected Area Working Group continue with its current approach to drafting a Council's Guidance Document, MPA Goals and Objectives and criteria for establishing, monitoring and evaluating MPAs;
- Recommendation 5: encourages the Coral Reef Ecosystem Plan Team to continue development of the first annual report for coral reef ecosystem fisheries in the Western Pacific Region;
- Recommendations 6: recommends that the plan team develop a background paper describing in detail the proposed framework adjustment to redefine the Management Unit Species for the Coral Reef Ecosystem FMP, including the criteria which will be used to determine the species which require a coral reef ecosystem special permit to harvest;
- Lastly, recommends Council staff assess the effectiveness and feasibility of requiring that the hulls of permitted fishing vessels be cleaned, as are NOAA vessels, before entering Sanctuary waters.

Morioka asked Seman if he was offering these as a motion.

Seman said, yes.

Duenas seconded the motion.

Morioka asked for discussion and called on Young, representing the State of Hawaii.

Young said that it was asked what does the State care about this.

He was surprised because the State is a neighbor to the federal waters and what happens in the federal waters can impact what happens with the State and what happens in State water

can and could impact the federal waters. So for that simple reason there needs to be a discussion and an agreement on appropriate protocols in this special area.

The Executive Order established the process of the Reserve and then set up a process directing action for a Sanctuary, the President directed the Secretaries of Commerce and the Interior working cooperatively with the State of Hawaii and consulting with Western Pacific Fishery Management Council to develop recommendations for a new coordinated management regime to increase protection of the coral reef ecosystem in the Northwestern Hawaiian Islands and provide for sustainable use of the area.

The State of Hawaii was asked to participate by the President and to work with others on this plan. So if there is any question about whether the State has a right or an interest to deal with what happens in the Sanctuary that was put to rest in 2000 when the Executive Order was first signed.

The Executive Order says the Secretary shall initiate the process to designate the Reserve as a National Marine Sanctuary pursuant to some statutes. In doing so, the Secretary shall supplement or complement the existing Reserve. The Secretary shall in consultation with the Governor of the State of Hawaii determine whether State submerged lands and waters should be included as part of the Sanctuary. So there's a second entry in the Executive Order that clearly directs discussion between Sanctuary and the State about whether the State will or will not include State waters within the Sanctuary. The State has not made a final decision about involvement in the Sanctuary.

The State is very interested in participating in a co-management of this Sanctuary just as the State is a co-manager in the Humpback Whale Sanctuary.

It was clear that based on the presentations today and discussions that have happened in the past, the Fisheries Program is trying to have the Sanctuary adapt to its priorities rather than the Fisheries adapting to the directive of the Sanctuary Program. The State is not here under a Magnuson-Stevens Fishery Management Plan, but because there is a proposal for a Sanctuary and there needs to be proposed fishing regulations as it relates to the Sanctuary.

An Executive Order was signed and directed others to follow a Sanctuary process. The purpose of this Executive Order is to ensure the comprehensive, strong and lasting protection of the coral reef ecosystem and related marine resources and species, parentheses, resources, of the Northwestern Hawaiian Islands, period. That is the purpose of the Executive Order. That is the purpose of setting up the Reserve and also calling for the investigation to proceed towards a Sanctuary.

The principal purpose of the Reserve is the long-term conservation and protection of the coral reef ecosystem and related marine resources and species of the Northwestern Hawaiian Islands in their natural state, period. The principal purpose is not the economic benefit of fishing. The principal purpose is not to protect a fishing protocol. The principal purpose is the long-term conservation and protection of the coral reef ecosystem.

Another statement in the Executive Order says, to the extent consistent with the primary purpose of the Reserve the Reserve shall be managed to support, promote and coordinate appropriate scientific research and assessment and long-term monitoring of Reserve resources and the impacts or threats thereto from human and other activities, to help better understand, protect and conserve these resources and species for future generations.

Again, the purpose of the Reserve that ultimately is to move to a Sanctuary is not the protection of an existing or historic or anticipated fishing protocol, but it is to preserve this coral reef ecosystem.

The State of Hawaii and representatives of the Sanctuary Program have had ongoing discussion and dialogue about what would be appropriate. As indicated in the presentation, there is a proposal, at least a recommendation from the Sanctuary Program, which the State supports.

In that support, there has always been a little caveat, a little extender, saying that there is a need to fine-tune some of the provisions because it is still in general terms. The State of Hawaii is very clear that participation in any vote relative to any fishing regulations is in the context of attempting to come up with reasonable fishing regulations that are appropriate in a Sanctuary that is established for the protection of a coral reef ecosystem.

This is not a discussion about a Magnuson-Stevens sustainable fishery plan; it is about appropriate fishing in an area that is designated as a Sanctuary. The State supports the Sanctuary recommendation and that has been a consistent position of the State for several months.

Morioka asked for any other comments.

Ebisui said there was another statutory piece that wasn't discussed, and that is the National Marine Sanctuaries Act and the 2000 amendment. He has read those provisions several times to get a good grasp of it and the interplay between that and the Magnuson-Stevens Act, MSA.

It seemed that they are not really in contention with each other. The Sanctuary Act says, to the extent consistent with the Goals and Objectives of the Sanctuaries Act, the Council, is given the first opportunity to prepare regulations for the Sanctuary to the extent it doesn't conflict with the Goals and Objectives of the Sanctuary Act. The Ten National Standards in the Magnuson-Stevens Act are to apply.

It was his belief that you just don't throw away the Magnuson-Stevens Act and everything has got to be pursuant to the Executive Order and the National Sanctuary Act to the exclusion of Magnuson-Stevens. When the Sanctuary Program did its own analysis and accorded the two fisheries, the bottomfish fishery and the pelagic longline fishery, a ranking of plus three, which is a very high ranking. What it says is that the bottomfish fishery as conducted presently is totally consistent with the Goals and Objectives of the Designation, and also the Act.

It also says that the recommendation from the Sanctuary group is that pelagic fishing ought to continue on a limited basis.

He did not believe there was much of a gap between the positions, except under the FMP type, under the Council plan type of arrangement, the reaction is quicker and there is an ability to make the fine-tuning that's necessary to carry out the purposes and the objectives of the Sanctuary.

He did not believe any one around this table was opposed to the designation of the Sanctuary. There is just a difference in how to implement it.

Young stated that the National Marine Sanctuaries Act says, in preparing the draft regulations a Regional Fisheries Management Council shall use as guidance the National Standards of Section 301(A) of the Magnuson-Stevens Act to the extent that the standards are consistent and compatible with the Goals and Objectives of the Proposed Designation.

He recalled there was a suggestion of changing the goal for the Sanctuary, that the Fishery Council wanted to change the goal because the goal says, maintain ecosystem integrity by limiting and controlling fishing activities using an ecosystem-based management approach.

It is the Sanctuary goal that is the guide. The regulation fits to that.

Duenas said he was here because of not because of the Sanctuary Act.

His second issue was that without the Council, for the last nearly 27 years, there would be no pristine Northwestern Hawaiian Islands; there would not be a place to call a Sanctuary. So give the Council a little credit; it is not the enemy; it wants to work with the State.

He put on his hat as a Pacific Islander. He asked that those from the mainland not make up for their mistakes in the Pacific.

Seventeen boats with only nine operating, the Council could have said fifty boats, go do what you want to do. But the Council is trying to do its share. Work with the Council.

There are representatives from the State here and from the territories that are the Council. Let's work together please, and let's finish this.

Morioka called on Regional Administrator, Bill Robinson.

Robinson thanked the Council for all the hard work and effort that went into preparing the analytical documents and for holding the different public hearings and sessions and making a real effort to engage the Council.

NOAA is respectful of the 304(a)(5) process and eagerly anticipates receiving the recommendation on April 4th and have an open mind.

In September when NOAA provided the advice to the Council with the preferred set of fishing regulations, that recommendation was developed and put forward as an example of a set



of fishing regulations that met the higher standard that Mr. Young talked about. Not the fishery standard, but met the standard, in NOAA's view, that related to the Purpose, the Goals and Objectives for the Sanctuary.

At the same time that doesn't necessarily mean there aren't alternatives or mixes of alternatives that might also meet that goal. But whatever the different mix or the different alternative is, the Purpose, Goals and Objectives are a higher standard. So the burden is on the Council to support its recommendation in terms of how it satisfies fully the Purpose, the Goals and the Objectives for the Sanctuary as opposed to the Magnuson Act standards, which it has to meet also. There's just this extra level of higher standards. That would apply to the bottomfish and pelagic longline fishing recommendation.

The recommendation on the moratorium, if adopted, would mean that NOAA would propose regulations that would prohibit those fisheries within the Sanctuary boundaries until such time as the Council develops, in conjunction with the National Marine Sanctuary Program, and the Secretary approves and implements regulations governing fisheries within the Sanctuary.

That was his understanding of what it says, he wanted to make sure everybody else understands that.

Morioka asked for further discussion.

Martin noted that 132,000 square miles of resource or something that U.S. citizens own and in theory share might be a small portion percentage-wise, but certainly it was not a small portion to this Council. There is a pristine area that is a Sanctuary that is seven times the total of all the other sanctuaries in the U.S. It is a valuable resource that the Council has managed over the 32 year of its existence, and is being called pristine.

The Sanctuary people by rule were required to develop Goals and Objectives for this area. They then developed an alternative that the Sanctuary people think is the only way to achieve their Goals and Objectives. That results in the displacement of many of the fishermen who have been responsible for keeping the region in that pristine state.

There has to be some common ground. He was not suggesting that the Sanctuary is a bad idea. It is a given and a good idea. But he did believe there is an opportunity for continued management of fisheries that won't result in a draconian result for many of the people who are there. It is not a hospitable place. But it certainly is a valuable place to the people who have for all these many years been involved in activities up there. He encouraged the Council members to stay the course. He disagreed when people say that the Council has done a poor job. The proper course is to continue to do the job of managing fisheries while achieving the Goals and Objectives that the Sanctuary requires as well.

Young did not want his comments to be misinterpreted that the State of Hawaii does not want to work with the Council and others, nor that the State does not appreciate a lot of the activities the Council has done. He was suggesting that this decision is not a Magnuson-Stevens sustainable fisheries management plan. This is a fishing regulation for a Sanctuary. It needs to

be looked at it differently because there is a responsibility not for what is now but for generations to come, to make sure that that area continues to stay the pristine area that it is.

Morioka asked for further comments.

The Chair would normally reserve comment; however, Morioka needed to share his feelings.

In the transmittal letter that the Chair received from Basta with regards to engaging the Council in this process, Mr. Morioka noted that the National Marine Sanctuaries Act requires that in preparing draft regulations with the consideration to the extent that the standards are consistent and compatible with the Goals and Objectives of the proposed designation. So it doesn't say it's a higher standard. It recognizes that the Council has a responsibility.

In his letter dated the 20th, Basta had indicated, quote, key considerations that emerge for evaluating fishing activities include -- so he's acknowledging that fishing activities will occur there -- the need to protect resources while allowing ongoing access, the need to consider and mitigate when possible adverse socio-economic impacts allowing only existing fishing activities to continue, prohibiting new fishing activities that have not recently taken place in the region and the need to establish regulations and zones that are easily understandable to user groups and are feasible in terms of both management and enforcement, end quote.

In that framework staff has been directed to develop a recommendation cognizant of all of these requirements, fulfilling both the Council's responsibility to Magnuson, which is implied in the direction from Director Basta, given the constraints of the National Marine Sanctuary proposal for the Northwestern Hawaiian Islands. He agreed with Ebisui, we are really close and are playing with words right now.

The whole package will be reviewed by the Secretary of Commerce, and it will be his decision whether or not to accept the Council's recommendation and whether or not the Council had considered and included the standards that are consistent and compatible with the Goals and Objectives of the proposed designation.

That was the way he wanted to frame the discussion and the Council's consideration of the motion. He noted there was a motion on the floor with a second and called for any further discussion.

Palawski noted that the Fish and Wildlife Service sits on the Council as a nonvoting member and also on the Reserve Advisory Council as a nonvoting member. He pointed out to the Council language in Item B and C was stated earlier about the State in terms of complement and supplement, it does not appear in the language that the Department of Interior is considering in this consultation and in complementing and supplementing existing regulations for Midway Atoll National Wildlife Refuge and the Hawaiian Islands National Wildlife Refuge.

Because as it is written, it does not say anything about the Department of Interior in terms of consultation and following the need to make sure that the Council is not proposing legislation

that could affect it down the road. So as the Council develops these regulations and puts them forward to the Department of Commerce, the Council needs to think about how to word that and include the Department of Interior.

Morioka said his point was well taken.

Simonds amended the motion to add the Fish and Wildlife Service on the consultation.

Duenas had no objection.

Morioka said that it would be under D.

Simonds, said, yes, where it said consultation and confirmed that it was B.

Morioka said, B and C.

Palawski said that under Item B, it said trolling and fishing will occur, and there have been quite a few discussions regarding the Coral Reef Ecosystem FMP and how that FMP applies to other applicable laws, in particular the National Wildlife Refuge System Administration Act. He wanted to bring that to the Council's attention if in the process of submitting it back to the Department of Commerce, Mr. Feder or others could provide advice on ensuring that all applicable laws will be complied with.

Simonds said, right. It has been included in the EIS and in the Coral Reef FMP; the language will be the same. But she was talking about adding the Fish and Wildlife Service to the consultation part of D.

Morioka asked Palawski if that was okay.

Palawski said it was what they had been working on within the refuge boundary, the Fish and Wildlife Service through the Department of Interior had the first crack at preparing those fishing regulations within the boundary. So it's not exactly consultation.

Morioka said that this dealt with the moratorium on all of these other fisheries. He called on Feder.

Feder was not sure the U.S. Fish and Wildlife Service needed to be referenced because they were already on the Council.

Morioka agreed.

Feder added that whereas the Sanctuary Program is not. So it made sense to add consultation for the Sanctuary Program.

Robinson added for the record that NOAA does believe the bottomfish fishery is an activity that is compatible if regulated appropriately with the Goals and Objectives of the Sanctuary.

Young said that the State also recognized the bottomfish fishery, and that was included in the Sanctuary proposal.

Morioka asked for further discussion. Hearing none, he called for the question. Young said, nay. Robinson abstained.

Ebisui asked about the shark viewing.

Simonds said that would be taken that up in Pelagics tomorrow because they needed to write it up.

Morioka said there was a technical issue, and it would be reviewed. He adjourned the meeting for the day at 7:10 p.m.

Morioka reconvened the 126th meeting of the Western Pacific Regional Fishery Management Council.

Morioka asked Owens to read a paper he had submitted. Morioka thought the insights were of great relevance to the deliberations yesterday, especially from some one outside the Council's universe.

Owens' letter read:

“If Council's recommendations as expressed at its 126th meeting yesterday for the future of fishing in the Proposed Northwestern Hawaiian Islands Sanctuary are supported and complemented by NOAA and the State of Hawaii then a future base level of protection for the Northwestern Hawaiian Islands Archipelagic Ecosystem will be achieved that exceeds the level of protection afforded to the Great Barrier Reef Ecosystem by the recent rezoning of the Great Barrier Reef Marine Park.

Effectively, destructive fishing gears will be banned, a capped and low level of line-based bottomfish effort will be allowed to continue and substantial areas of the Northwestern Hawaiian Islands will be closed to fishing of any kind other than sustenance. That, in itself, will be further controlled by a permit system.

I doubt that the impact of the level of bottomfishing effort proposed could in fact be measured, particularly if any such measurement or evaluation were taken and expressed against the scale of the Northwestern Hawaiian Islands ecosystem.

If the lobster fishery or precious coral fishery were to proceed at a future time and at a suitable ecosystem sensitive level of effort in select areas I have no doubt that suitable

management arrangements could be developed to simultaneously conserve stocks, an ideal intent in the Proposed Northwestern Hawaiian Islands Sanctuary.

If NOAA and the State support the Council's recommended strategy by appropriate measures and complementary zoning, then lasting protection for the Northwestern Hawaiian Islands Archipelagic Ecosystem will be achieved for the benefit of the Hawaiian people and the broader community.

Council has also effectively limited pelagic fishing. However, the effect of this is not so certain in terms of the Northwestern Hawaiian Islands ecosystem. I say this not because Council has failed in its duty, but because unless a marine protected area are on the oceanic scale of the Pacific it's doubtful what can be achieved in terms of protecting highly migratory oceanic stocks.

I appreciate the Council is working on this at another level and it is attempting to achieve positive outcomes in a global political fishing environment.

I'm well aware that the Northwestern Hawaiian Islands and the outcomes taken there are being compared against actions taken in the Great Barrier Reef. I find it unfortunate the term "sanctuary" is used. In the Australian context sanctuary means an area of no extraction and no human interference.

In the Great Barrier Reef we have a marine park with a very small, less than 0.3 percent, sanctuary area. The marine park is a multiple-use area and it's a multiple-use concept that encompasses a diverse range of managed fishing and other activities. Extractive activities are not allowed in approximately 30 percent of the Great Barrier Reef Marine Park.

However, there is a very important difference to the Northwestern Hawaiian Islands. The difference is the Great Barrier Reef is subject to a high and continuing level of fishing and other human activity.

The Northwestern Hawaiian Islands are not, and if recommendations are accepted, never will be. This is a critical difference.

I stress that these are personal opinions.

Although I work for the Great Barrier Reef Marine Park Authority, my statements should not be taken as an official Marine Park Authority position. However, I have sufficient experience in both marine protected area management philosophy and fisheries management to be able to have a sound basis to support my comments.

I support the Council for the position it has arrived at in what has clearly been a difficult decision-making process. I suspect it will achieve the marine resource outcome and enduring benefits for future generations. Thank you."

Morioka thanked Owens for sharing his thoughts and insights. He noted that they had some distinguished visitors this morning. He called on Sablan to begin with Fisheries Rights of Indigenous Peoples.

## **10. Fishery Rights of Indigenous Peoples**

Sablan called on Ka'ai'ai to present Community Demonstration Projects.

### **10.A. Community Demonstration Projects**

Ka'ai'ai recalled for the council members in 2002 they did the first solicitation for the Community Demonstration Project Program and selected four projects. He had invited the four projects to present reports and introduced Paepae He'eia.

(Hawaiian chant)

#### **10.A.1.a. Paepae He'eia Kea Project**

Mahina Paishon, Executive Director of Paepae He'eia, spoke briefly in the Hawaiian Language thanking the Council for their interest and support of the project and the opportunity for Paepae He'eia to present about their work.

Paishon thanked the Council for the opportunity to share their project. The He'eia Fish Pond Demonstration Project was the title of this project, but they also adopted a secondary name, Ka'ai Kamaha'o, or the Wondrous Sustenance of the Land to add the concept of 'aina or the land base.

She added, "Also in the Hawaiian concept, in Hawaiian thinking, land is not just the island, per se. But it also encompasses up to three miles out, the entire ahupua'a, and even further out. 'Aina not only refers to a natural resource, but it also speaks to the relationship that we, as indigenous people, have to our kuleana and our kupuna, ancestor. So in that sense, we regard our island, our fishponds, our loko i'a, or the days that we fish and subsist as not only a place to gather food, not only a place to learn, but a place in which we worship and we communicate with our ancestor."

She introduced a participating school, Halau Ku Mana and asked the two students to introduce themselves. One was Ulae Kaanoi and the other Piolo Opi from Waianae.

Paishon introduced herself as the Project Manager. And introduced another school, Ke Kula Makau and have approximately 35 students that they've committed to the project from Grades 1 through 12. They are Hawaiian Language emergent students.

Keli'i Kotubetey was there to assist and administers the fiscal portion of the project.

Hakipu'u Learning Center a charter school participated in the project and 200 families from the Punana Leo, a school that's committed to the revitalization of the Hawaiian Language, are also participating.

She continued, “Again, Ka'Ai Kamaha'o speaks of the land, the wondrous sustenance of the land. We at He'eia Fish Pond, we are inspired by this saying because it reminds us that we have a responsibility not only to ingest those through the physical sustenance, that the fishpond, He'eia fishpond, gives us in forms of limu, algae, fish and crabs, but also to partake, enjoy the sustenance that is available through spiritual form and intellectual form.”

The purpose of this project is to demonstrate that Hawaiians can regain control of our natural resource and manage in a sustainable manner. By control Ms. Paishon meant they are in service of the 'aina.

The goals of this project are to strengthen cultural identity, Hawaiian cultural identity, and improve family cohesiveness through the context of Hawaiian fishpond management.

The fishpond is located in He'eia. It is Ku'olaupoko District adjacent to Kaneohe on the Island of Oahu. Funding was made available through NOAA, NMFS and West Pac Fisheries.

The benefits of the project include enhancement of traditional indigenous fish farming practices, to provide a venue for families to pass on cultural knowledge and to also improve fish rearing and limu cultivation capacity. Sponsors are Paepae o He'eia, Kamehameha Schools and Alu Like.

Kaanoi added that He'eia Fish Pond is located in He'eia Uli Ko'olaupoko and is an 88-acre pond. Its wall is about 1.3 miles long. Its pond community encompasses the fish types of papio, kaku, limu. Some of the threats include mangrove, siltation, invasive algae and other types of humans, as well as fish.

During the summer of 2004 there were a small amount of groups that came down to the He'eia fishpond to construct these little pens, about four one-fourth acre pens. The pen designs were put into a larger set of pens. This was to control the smaller amount of limu and fish and crabs in the larger pens.

The second step is to collect baseline data by beach seining inside the pens that were created this past summer. Water quality tests are taken and species caught. The samples are examined and tested.

The beach seine net is in the shape of like a hukilau net. They go out to other beaches around the East Coast and collect more fish and different types of limu just so that they can compare them to the ones that are in our pen. Those that are caught they try to cultivate in the pond. The ones that aren't ready are put back.

He showed some of the species caught inside the pens at He'eia: talapia, papio, kaku, o'opu hue, o'io. Some of the crab types are mo'ala and kuhonu, and ala'eke. The limi are Gracilaria salicornia, Kappapycus and Acanthophora.

Water quality activities encompass salinity levels, dissolved oxygen, to see how much oxygen is in the water to make sure our fish survive, and the temperature. They try to adjust so the fish have a better living environment.

Paishon said that one of the experiments is a study of the influence of nutrients on the growth of manaua loloa. This was done by the Learning Center.

Each school has one quarter-acre pen to care for. It's their kuleana, so they are called kuleana pens. Within the pens are three cages to better understand and control the different parameters that affect limu growth and fish range. For the manaua introduction, cage one included nutrient tablets, cage two introduced fish and cage three was the control to measure the differences and the survivability rates.

The limu cage construction activity includes math, specifically, a lot of problem-solving, team-building skills, which is all crucial to fishpond management, and in a broader context ahupua'a management. The approach they take is to make the activities as relevant and rigorous as possible, to set a platform for the students to take on the kuleana of caring for these fishponds when they become old and competent enough.

For the beach seine net they have a permit with the State, DLNR, to collect. Their trips to different shorelines around the Ko'olau coast provide a good laulima activity. Again, not only is it scientifically relevant to acquire data of a substance like this, but it's also culturally relevant because it is a perfect mechanism to live the values of laulima, kuleana, and malama 'aina.

The students measure the fish by fork length. If the fish is not adequate, they put it back and they understand why. So they try to infuse that into everyday living.

Preliminary results show that aholehole, moi and ama ama are the best species to introduce within their environmental parameters at He'eia fishpond.

They gave also invited different researchers from U.H. Manoa, Leeward Community College and HPU to help the students understand the limitations and barriers from achieving cultivation success.

Opi explained that Ka Ha'awina Maka'ala, environmental monitoring, is practiced in two ways: the kupuna's way or ka hana a na kupuna, Ka'ike lonoa or sensorial knowledge is use to observed the a'ina and feeling the land and through modern technology and materials to use different types of instruments to calculate what is going on inside the pond.

The sensorial knowledge includes nana ka maka, which is to look with the eyes and to see what is going on; ho'olohe ka pepaiao, which is to hear with the ears; pa'a ka waha, which is to shut the mouth and pay attention to what's going on; hana me ka lima, which is to work with



the hands on the land and see what's going on with what you can feel; ka ho'opa ana, which is to touch; and ka honi 'ana, which is to smell, which is sometimes very not good.

For modern technology they use refractometers, and the anemometer, which contributes to figuring what is the speed of the wind in miles per hour, how much salt is in the water and the temperatures in which the fish are growing.

It is so important to work with the two methods, as a Hawaiian, he thought by learning both it maintains the connection to the kupuna and how they used to learn to take care of the 'aina, and to learn the modern way, which is using all the refractometers and stuff to better know ways of what is going on.

Paishon explained that the family program takes place every third Saturday. The participants are preschoolers from three to four years old and their parents, who learn how to care for the fishpond. They have seen a lot of success with the family program where the students learn the traditional environment and the families participate and become the kumu, or the teachers, the educators, within an environment that is close to home.

There is success in charter schools and other founding programs noted in the level of participation. They have seen improvement in quiz scores, in attitudes and in participation. They know this in both quantitative and qualitative levels.

She shared a slide show of a typical day at He'eia fishpond.

Paishon thanked the West Pac Council for their leadership in those matters that affect policies; Clark Fields at Alu Like, their CEO; Mervina Cash-Kaeo, Eddie Agae for all his support; Scott Bloom at NOAA; and Dan Namur for his guidance in this effort.

Sablan asked the group to wait a few more minutes for any questions or comments.

Morioka thanked Paishon for sharing their experience. The Council does not often get to see the fruits of other people's labor and today was a very rewarding experience for him. He congratulated them on their effort and wished them the best moving forward.

Ka'ai'ai asked Kelii Mawae to come up and talk about his project, the Molokai Aku Project. He was the one that asked to address the Council, so that was how the presentations were set up.

#### **10.A.1.b. Moloka'i Aku Fishing Training Project**

Mawae introduced himself as a fisherman from Molokai, at 69 years old; he had been fishing all his life.

He brought the Molokai Times that had an article about his project. Because he loves the ocean and fishing, his project teaches kids aku and ahi fishing on a 24 foot, 700 horse-powered boat. He teaches them the technique of fishing, the bait, the hook, the pole and hooking the fish

over the side so you don't strain your body. He also teaches them the Japanese technique of using the hip to land fish.

He brought some bait with him that they raised on a fishpond. It included milkfish.

The aku industry is decreasing and he wanted to bring it back up not only in Hawaii, but in Samoa, Guam and the Mariana Islands.

They were doing a video on the project that he promised to bring with him next time.

Sablan thanked Mr. Mawae and asked him to stay at the podium for questions.

Farm asked Mawae to give him advanced notice the next time he would be in town, he wanted to share mana'o. Farm hoped the good work would continue.

Sablan asked Ka'ai'ai to continue.

#### **10.A.1.c. Guam Longline Fishing Experiment**

Ka'ai'ai said the third project, the Guam Longline Fishing Experiment and the Mariana Islands have had a lot of difficulties with the weather. So both projects have been somewhat delayed. He asked Duenas to talk about the longline fishing experiment.

Duenas said that they received funding for the project back in June 2004. In July 2004 a request was sent to Scott Bloom for an extension on the project due to difficulties in acquiring a vessel. Two years prior to receiving funding there were about seven or eight vessels available. Three of them were for free. One was available for 90,000 fully equipped for longlining, another available for 35,000, another for 60,000 and two were available for 30,000, all capable vessels. They decided to work on one vessel due to logistical problems on the Guam. It is a demonstration project.

Guam has no fishing facility or boat amenities for larger-scaled vessels. Either you're a big ship or you're a small boat. Unlike the harbors here, there is not enough draft or bottom to clear any type of larger vessels.

They looked at an Alaskan troll boat for the project, but the draft was nine feet and the Guam marina is six feet. The boat they selected has a draft of about five and a half. So they use high tide to get the boat in and out of the marina.

It took about five months to get the vessel from Apra Harbor area to the Agana Boat Basin, which is roughly about four miles of coastline. Due to the rough seasonal weather, the vessel owner did not want to take a chance on losing the vessel.

They purchased the vessel for a total package of \$15,000, no engine. It had been available two years before that for \$35,000 with an engine, but the time delay caused the owner to change his mind.

It is a 60-foot live bait well vessel. It actually goes into the water about another foot deeper. It has 15 holds in the front that actually fills up with water to keep the fish or squid alive.

They had problems with documentation because of the 50/50 Guam proposal. So everyone that came into Guam, which made the Coast Guard kind of look at it, too, all of a sudden had vessels under 50 feet. This was registered at 48. They measured the boat at 60. He thought that the Coast Guard should look into the registration of some of these vessels.

They anticipated about four to five months of retrofitting on the boat, but are trying for 60 to 90 days. This posed another problem since any vessel over 50 feet on Guam must be dry docked at the ship repair yard or at a purse seine company, there are no amenities on Guam. This demonstration project is showing all the problems to develop an industry of this sort.

He felt he had done all his homework for the project, but when the boat turned out to be over 50 feet, he had to be honest about it. They were given 10 days to get a special request from the general manager of the Port Authority to extend her dry dock 90 days, a total of 120 days with 20 to cover any unforeseen delays. They are hoping to be done May 1 and launch on June 1.

This is a Japanese boat. Being Pacific Islanders, it was rather difficult trying to fit into this vessel. Even for the pilothouse, they were bending over, it was tight quarters.

He showed a slide of the forward section and the engine compartment. The compartment is about ten-plus feet deep, so they are going to chop that down and place the spool there.

The hatches run the full width of the boat. The boat has a 15-foot beam so the boxes are roughly anywhere from six to five feet long, about two feet wide and pretty deep.

It is all foam-filled, Fiberglas construction. The only wood are the posts, which were taken out because of termites. The stringers are wood, but they're still in real good condition.

She's a very sea-worthy boat. Several people familiar with the larger vessels survey said they don't see any problem getting her underway.

They are anticipating the arrival of the engine. He was glad they had secured funding over the 125 mark to get the operation underway; the CDPP funds were inadequate for this type of demonstration project. They are also investing a lot of our time and money into this project due to the shortage of funds.

All the windows and exposed door areas are being replaced for more suitable weather conditions.

There are about 24 hatches, 14 compartments, and each compartment is an individual cell. So she's very sea-worthy unlike the regular boats where you have bulkhead after bulkhead.

Her bulkheads are two or three feet apart and she has a center divider right across. Each compartment is water tight.

The boat is not designed for an extended stay on the ocean. She has two bunks right below the pilothouse. In the back section experiment area, they will be enclosing it to make it more comfortable amenities for the crew. They are expecting a crew of three people and one captain to operate this vessel.

The dry weight of the boat is 18 tons, once in the water, 22 tons. He showed the crane that put her into dry dock. If that did not work that would have had to go to CASAMAR, which would have cost nearly the price of the boat to dry dock.

Duenas thanked Bloom for his patience during the project and appreciated the Council's effort in this.

Seman asked the name of the boat.

Duenas said the temporary name was Gulf One. But they are thinking about calling her Delight.

#### **10.A.1.d. Remote Island Fishing Station**

Sablan said he would not wait for Charles to call him up. He would present the report for the Remote Island Fishing Station in the Northern Marianas.

He showed the following slides:

- A boat similar to Duenas' is the kind of boat that they hire to hitch a ride up to the Northern Islands, to this island called Alamagan. Originally the project started with Anatahan. But, of course, Mother Nature decided to blow her top off, and she's still blowing today. So that project is cancelled in Anatahan. It's about 76 miles north of Saipan. Alamagan is a little bit farther, about 120 miles north of Saipan and about 3.3 square miles;
- The terrain is not as pleasant as Hawaii, Saipan or Guam. This place is a god-forsaken, there are no sandy beaches, just volcanic boulders for beaches;
- Inclement weather makes fishing very difficult on those beaches, they are very cautious in approaching during inclement weather. The projects have been extended because of weather and the topography of these islands;
- The grant award was received in March 2004 for \$90,000. It was originally more than that, but it was cut down because of the Anatahan problem. As of today, the total project balance is \$48,526;

- Funds were used to purchase a solar pasteurization, fishing gears, fishing supplies, communication equipment, freezers, boats, ice coolers, weight scale, small engine of 15 to 25 horsepower and charter vessel. The charter is used to take the project up north;
- They use small aluminum boats, 12 to 15 foot, 15 horsepower. You have to jump the reef to get on the boat. Ice chests and other items are extremely difficult to transport in inclement weather;
- On three occasions they brought up roofing tins to build the houses for the fishermen and the project. They were all returned to Saipan three times because they can't get up on land;
- Accomplishments to date include three houses constructed for fishermen, purchased needed items and started facility for equipment and food processes;
- When the volcano acted up on Alamagan, the residents had to be repatriated to Saipan. They are trying to organize the people from Alamagan to go back and establish a fishing community;
- Barriers contributing to the project included those boulders that will crush legs during inclement weather; inclement weather; and landing difficulties because there's no dock, no beach only cliff-line type landing;

Next steps:

- get the fishermen, particularly from the original people who were once in Alamagan;
- negotiate with vessel owners;
- complete facility for food processing;
- work on nonprofit Charter for Incorporation;
- obtain a canoe. There's no gas station, no facility to repair a small engine and no facility to repair an aluminum boat. So they need a canoe;
- secure a generator and the equipment for solar energy. There is no power plant.

Duenas said if they happen to go up there, Sablan could charter his boat.

He wanted to assure the Council and the Northern Marianas Islands Government that the Fishermen's Cooperative CDPP Project would recognize the 50-mile closure given on Guam to the CNMI. Even though there is no closure for longlining in CNMI, they would recognize that zone and anywhere they visit to maintain the integrity of that area.

McCoy commented that they had better hurry up and settle it before someone makes a rock museum out of it.

Sablan said he would suggest that to the Mayor of the Northern Islands.

### **10.A.2. Second Solicitation**

Ka'ai'ai said that Bill Hogarth has signed off on the projects that were submitted for the second solicitation. That solicitation closed October 29th. We had five projects up for approval: the Ewa Beach Limu Project, the Samoa Niche Marketing Project, the Samoa Freezer Project, the CNMI Fishing Cooperative and Traditional Fishing Education in CNMI.

### **10.A.3. Third Solicitation**

Ka'ai'ai said the third solicitation was supposed to have closed the 15<sup>th</sup>, but an extension to April 4th was received.

He was encouraged by the third solicitation since he had taken more calls about this solicitation than he received for the previous two combined. They did eight workshops; one in Guam, one in CNMI, one in Samoa and five in Hawaii. There were 80 participants in those workshops. He had four calls yesterday asking about the closing date. He thought there would be some good proposals coming in.

## **10.B. Update on the Guam Community Development Program**

Ka'ai'ai referred the Council members to the report in their binder. He said that the Community Development Project was proposed and has been developed over the last three years. The project has been in operation for about a year.

The purpose was to capture the fishery data that was not being collected by the ongoing creel survey. The additional data would provide a history of the catch and participation at all levels for any future allocation. It would also assist the Council in developing sensible regulations for that area. They wanted to see if they could collect data without requiring permits and the subsequent reporting requirements that would come with the permits.

There is no license or permit requirements for any fishing sector by the Government of Guam. Longline fishing in the Guam EEZ is governed by the Western Pacific Regional Fishery Management Council and there's an amendment to the Western Pacific Bottomfish Fishery Management Plan that relocates vessels over 50 feet in length to 50 miles offshore.

During the 118th Meeting of the Western Pacific Regional Fisheries Management Council Guam advisor proposed a voluntary program to gather fishery data as a community development project. The primary motivation for proposing the voluntary reporting of fishery data by the small-boat fleet was the desire of fishers not to have federal management of the fishery through a permit and mandatory reporting system. The secondary motivation was to

create awareness on the part of the fishers that international negotiations might result in the establishment of quotas for each fishing nation.

So the Guam Fishermen's Cooperative Association was established in the late 1970s. They volunteered to spearhead the Western Pacific Fisheries Management Council program with technical assistance from West Pac FIN and Department of Aquatic and Wildlife Resources.

The Guam Fishing Community Development Program Review Committee is comprised of representatives from West Pac FIN, the DAWR, the Council and the Guam Fishermen's Cooperative Association.

West Pac FIN set up the data collection requirements, including the creation, development and funding of the Fishing Community Survey and the Volunteer Fishery Data Collection Survey Forms. They are responsible for staff training on the data collection process, both the surveys and the process and making recommendations to improve the process.

The Council provided coordination in the preparation of a working document, set up a Microsoft Access database for the Guam Fishing Community Survey and continues to assist in monitoring the process. The Council also provides funding for one technical assistant to work with DAWR, administrative services and education and outreach.

He showed the forms used in the process. When visiting Guam the forms were found everywhere in restaurants, in facilities and services near the water. That is a good outreach effort.

As a direct result of the Council's Guam Advisor's recommendations for a CDP project, the Guam Fishing Community Survey and the Guam Voluntary Fishery Data Collection Survey were developed by West Pac FIN with input by the Guam Fishing Community Development Program Review Committee. The two programs comprise the Guam Volunteer Fishery Data Collection Pilot Project.

The Guam Fishery Community Survey is utilized to collect data to be used to establish the size and activity of the Fishing Community relative to the population of Guam. It provides profiles of local fishermen and the fishing community. The Community Survey is a completely volunteer effort from fishermen.

The fishermen who fill out the Fishing Community Survey also attend meetings and workshops where they learn about the project and are asked to volunteer to participate. They also learn to follow the data collection process as noted on the Volunteer Fishery Data Collection Survey form and are informed of future meetings and workshops. Fishermen are encouraged to return both the Community Survey and Trip Survey forms in a timely manner and encourage others to participate. The Survey is utilized to collect fishery catch data from volunteer fishermen, augment the creel survey data, maintain education and outreach for local fishermen and provide an opportunity for fishermen to participate in the data collection process.

Prior to the volunteer data collection pilot project there were three processes set up by West Pac FIN. These processes were the creel surveys, inshore and offshore, vendor data collection surveys and the foreign longline vessel fishery data reports. The information collected in the Volunteer Data Collection Project Program will augment current data collection processes. The current volume of the creel surveys show that the majority reflect those fishermen who use the trolling fishing method. More data increases the accuracy of the expansion of the data. Education and outreach is ongoing for the local fishing community.

He showed a graphic of the population participation and said they were working with John Calvo, Guam Island Coordinator, to get a better graphic representation of the kind of information that the Council needs to make their decisions.

Duenas stated that the graphic represented the number of people in the village, the number of participants. The interpretation of that would be each village's participation and the peaks are the larger villages. So it coincides with the population density.

Ka'ai'ai continued through the graphics:

- number of launches at each site per month;
- number of fishing hours by gear type;
- number of times gear type used by month;
- number of discard fish by condition;
- total number of fish harvested by month. In December there was a spike;
- in January fishermen noted they kept a total of 80 pieces of fish of all types and had an estimated combined weight of 655 pounds. There were 65 pieces weighing 506 pounds and 508 pounds. Five shallow bottomfish weighing five pounds and ten deep bottomfish weighing 142 pounds;
- In February fishermen reported they kept a total of 88 pieces of fish of all types with a combined weight of 799 pounds. There were 75 pelagic fish and 13 shallow bottomfish weighing 23 pounds;
- the catch separated out by gear type;
- the landings by pound per month separated out by gear type again.

For the CDP Program, education and outreach continues to be a challenge to encourage new participants and keep volunteers motivated to participate in the project. The continued work with the incoming village mayors to recruit participants provides promise to expand the project accordingly. Weather, being an unknown variable, will continue to affect the level of participation in the project. However, good fishing conditions may also increase the number of surveys turned in.

After many hours of fishing at sea, fishers are busy securing the fish, vessel and gear and many forget to fill out the survey forms. To remedy this type of situation, the staff at the Guam Fishermen's Cooperative Association was requested to assist fishers with the filling out of the forms.



Guam's current infrastructure problems with its power and water resources may also affect the level of participating in the project. This issue goes towards the proper handling and storage of fish. The Guam Fishermen's Cooperative Association has worked to educate its members on the importance of proper fish handling and storage.

West Pac FIN is working on a FoxPro program to provide for the data entry of the species level data to coincide with other current data collection programs.

Sablan asked for comments, questions. There being none, he moved on to FAO/SPC/Council Coastal Fishery Management Workshop.

### **10.C. FAO/SPC/ Council Coastal Fishery Management Workshop**

Ka'ai'ai noted that the proposed agenda for the workshop was in the binders. The workshop was scheduled for April 4<sup>th</sup> through 8<sup>th</sup> at the Pagoda. All of the territories have been invited to send two participants for this workshop. The FAO and SPC countries have been included. There are currently 32 registered participants for this workshop.

They are still working with the agenda to introduce those activities that support the Council's initiatives. SPC and FAO have different initiatives and issues of importance. They are trying to get together, work on the agenda, work out the problems collectively and see if all can go forward and have more collaboration like this.

Sablan asked for questions. He noted that coastal fishery management and SPC were also called artisanal fisheries. He asked if these were in State waters.

Ka'ai'ai responded that these were in State waters, but with the Council moving toward ecosystem-based planning the communities in the fishery management plan need to be included. They wanted to develop strategies that would include the communities into the Council's area of authority and responsibility.

Sablan asked for questions. Hearing none, he moved on to American Samoa Conservation Plan.

### **10.D. American Samoa Conservation Plan**

Ka'ai'ai said the American Samoa Conservation Plan was in the binder. The previous conservation plan would expire in April. There was an effort last year to present a Samoan Marine Conservation Plan for the 124<sup>th</sup> meeting, but it was not ready.

Between that time and this meeting their marine conservation plan was received and is up before the Council for approval. Once the Council approves the marine conservation plan, a letter would be sent to the Governor of Samoa notifying him of the Council's approval and recommending that he forward the marine conservation plan to the National Marine Fisheries Service for Secretarial approval.

Sablan asked American Samoa for any comments. Having none he moved on to Standing Committee recommendations. He asked if Mr. Ka'ai'ai' had copies of the Standing Committee report.

Ka'ai'ai' responded that he did not.

#### **10.E. Standing Committee Recommendations**

Ka'ai'ai' wrote the recommendations in the form of an action memo:

- With regard to the Fishery Rights of Indigenous People, the Standing Committee recommends that the grants workshop on April 5, 6 and 7th be made available to people from the island areas and that National Marine Fisheries Service and the Council assist the island areas to send people to attend the GMD PIRO Grants workshop, which has been scheduled by PIRO for April 5th, 6th and 7th. This comes right in the middle of the SPC workshop;
- The Standing Committed requested island coordinators attend and be trained at the April 5, 6, 7th grants workshop. They have asked the Council to bring in the island coordinators, Fini Aitaoto of American Samoa, John Calvo of Guam and Jack Ogumoro of CNMI, to attend this workshop. The important thing about this workshop is they will talk about online grant applications, which is the direction that NOAA is going with all of their grants. You apply online;
- There was a request that the federal program officer review the guidelines on the disposition of property and capital items in excess of \$5,000, i.e., deal with as Department of Commerce property and provide a written response and explanation of the policy to the Council. There is a policy that when grant funds are used to purchase equipment and capital items, that those items belong to the Department of Commerce.

Through discussion, what the Standing Committee wanted to find out what the policy was regarding these items, that all of the equipment also in the Northern Islands project belongs to the Department of Commerce. Guam's fishing boat belongs to the Department of Commerce;

- The American Samoa conservation plan be approved and that the Governor of American Samoa be notified and that the plan be transmitted to NMFS for Secretarial approval.

Sablan returned the chair to Morioka.

Morioka asked if Sablan would like to make that in the form of a motion.

Sablan so moved. McCoy seconded the motion.

Morioka called for public comment and asked Ka'ai'ai' to make a written copy for all council members so they can deliberate. He called on Mr. Nephi Ohai for his testimony.

#### **10.F. Public Comment**

Ohai said he was representing his father in his testimony. (verbatim)

“He's concerned about the native Hawaiian fishing rights in the proposed area of the Sanctuary. I just want to recognize that the Native Hawaiians are disadvantaged economically. For years Hawaii has always depended up fishing for a living. We live right on the ocean. It's hard to find jobs. Fishing has been a major part of the means for sustaining the Hawaiian family.

We believe that all Native Hawaiians should have a right to fish in State waters.

The definition that has been adopted for subsistence we feel should be changed. According to the present definition of subsistence fishing, it's for fishing in this area, the Sanctuary area, and it must be eaten there and it's not primarily for commercial use.

Now if a native Hawaiian is going to fish, and going to go all the way up their in their waters, Hawaiian waters, surely he must bring fish home to feed his family.

But the rules for subsistence require that it only be eaten there.

If lobsters are -- had always been one of the primary foods for the Native Hawaiians, it's not included in what they can catch there for subsistence. But it should be included. It's mentioned that the Hawaiians should be permitted to use -- to fish in the area for religious and cultural purposes, but only if it's done there, then, only by residents of Kauai and Niihau. We feel those things should be changed and all Native Hawaiians from any island should have a right to fish in Hawaii State waters and in the Sanctuary for subsistence use and it should include lobsters.

Personally, I don't use lobsters for religious reasons except when I bless the food at home. I bless the lobster. Maybe I might point it to the Northwestern Hawaiian Islands when I eat it. But I think we have to open up the -- and change the ruling and the definitions such that all Native Hawaiians will have a right to fish in native waters, and it should include fish and lobsters. Also, we believe it shouldn't be subject to seasons because if we are using it for religious reasons, we worship. As for subsistence, we eat anytime of the year and any time the weather permits us to go there and fish.

So we're asking for this consideration, to allow Native Hawaiians to fish for lobster and fish in the Sanctuary anytime that they're able to get up there and to include all Native Hawaiians, not just Kauai and Niihau.”

Morioka asked if there were any other members of the public wishing to make a comment. He asked Mr. Mawae to come forward.

Mawae said, (verbatim) “I used for work for the dad, akule. I used to be the driver. The boat was Kaimiola (phonetic), the old boat. It was all Hawaiians, big Hawaiians. Tuna and all these guys. I was about 18 years old at that time. I never know his name. That's where I made my money. Retired. Leo Ohai, selling the fish, and learned a lot of good things about fishing.

Like I say, the Native Hawaiians, I think we have the right to for fishing in the Northwest Pacific Islands. I hope they don't make Sanctuary. They can make Sanctuary, but they got to leave one space for the fishermen like us to go up there.

I never like that word "Sanctuary" too much. Leave an easement for the fishermen in Hawaii to get a chance to.

But I know this guy for many, many years. 19 years old. Now I'm 69. Still fishing.

Here is my good friend. Thank you very much.”

Owens added, (verbatim) “If I could just for a moment, just the way we deal with this issue in Australia, from what we're looking at and from a conservation perspective we sort of draw three lines in the sand, if you like.

First is conservation comes first, to the resource.

Second -- and we're working on this, it's not perfect, but indigenous people have a right to the resource. They're next on the list, barring that is commercial and recreational.

One of the ways that we sort of think about how indigenous people might be able to take fish not at a commercial level, we talk about barter and exchange. I guess the line that that we draw is they can take, and they take protected species and they can hunt. But what is taken is only meant to be shared amongst your community. But we had a number of our indigenous people are identifying their sea country -- what they call the sea country.

We have -- I guess it's different here, the areas I work with, we have sort of 27 different indigenous groups that sort of have -- just on the Great Barrier Reef Coast, we have 27 sort of sea countries, if you like.

But the way we are trying to work in agreement and a thing called Traditional Use of Marine Resources Agreement with indigenous people is that we allow them to take in that area and to take for their domestic purposes, to feed their families, and as long it stays in that community and it's not traded outside of the community, we don't count that as commercial purposes. If they then want to get the experience and gear up to sell, to become a commercial entity then they require licensing like any normal commercial fishermen, it is treated as a commercial enterprise.

But we make that clear distinction that they can go to an area. They can bring marine resources home with them, and that is distributed as it's been done for centuries, amongst their community. So that's the sort of distinction we are trying to make in Australia.

I say we are trying to make because it's not universal and it's a problem in Australia as it is in other places. But that's how we are dealing with it at the Marine Park Authority.”

Morioka thanked Owens and said that the Council really appreciated his sharing the processes that he has explored and implemented in his region and help them to continue to learn and find alternatives to their limited experiences.

Sablan asked Owens if he recalled that he asked him about the role Australian aborigines played in the marine park. He would like to know the right the aborigines have to see if there is any contrast between the nations.

Owens said under Australian law they have the Native Title Act. The way it works is indigenous people who can demonstrate a continuing connection with the country can claim a Native Title Right to that country.

It sounds good. However in practice, Native Title determinations, a lot of lawyers have gotten wealthy and it has been tied up in the legal system.

The way the Native Title has been set up, there are a number of Native Title Representative Bodies. They know through the Traditional Owners Act in their areas has not gone to a court for determination.

Under their regulations is the Traditional Use of Marine Resource Agreement. They go to the Native Title Representative Bodies, generally seriously disadvantaged people. The Native Title Representative Bodies say that this is their sea country and these are the sorts of things they would like to do. They come by the boundaries and those are recorded.

They verify with the Native Title Representative Body other people able to “speak for country”. There are a lot of other people who claim tribal hunting rights and other things. So if a Native Title Representative Body says, these can speak for country, they will make an agreement with other people about how they are going to hunt protected species in both waters in those areas and how they're going to fish.

The objective in doing this is to get an understanding on the level of take. In their conservation role they have to factor that in against commercial fishing against recreational fishing and against anything else that's hurting the resource. If they think it is too high, they have a mechanism to come back to the indigenous people and negotiate what that might be.

But the first thing is to understand the level of take and work with the people.

Not everybody in Australia believes that indigenous people should have a right to do these things. His agency believes that they had the right and legislatively support it; that becomes a powerful enforcement tool.

One of the issues with enforcement and compliance in these areas is that until they establish who's got sea country, their compliance people have to go out and find indigenous people fishing, and/or hunting, which is very difficult to deal with.

Indigenous people also have an issue with poaching whereby people from other areas come into their country and they take their resources. This agreement enables them to determine in an area who can and can't. The traditional owners in area will support them in a court process if needed. So they can prosecute the people, who may be other indigenous people that have come into their sea country claiming hunting rights they don't have. That's important.

The other thing that gives them is the ability then to go out to the wider community and say they have spoken with those indigenous people. They understand what is being claimed and have come to an agreement that they can ask the rest of the community to respect and they can enforce.

But it's a negotiation. He surmised that the first step is to work with the people "on country" and determine what they see as their right. You can negotiate up or down. But it's a terribly complex area."

#### **10.G. Council Discussion and Action**

Morioka asked the Council members if they had all received the printed copy of the recommendations and had a chance to review it.

Ka'ai'ai noted that they were wording the recommendations with Feder and making some corrections.

Morioka reminded staff that these things ought to be done in advance so that time is not wasted. He called on Tosatto, then Secretary Seman.

Tosatto commented that on the third solicitation the Council process is to convene an Advisory Panel who will send to the Council a number of recommendations. Before PIRO can get the list and start the processing they need all the Council members to approve the AP's recommendation.

Round 1 took several years. For round 2, the longest step unfortunately was the post-AP-to-PIRO connection. Getting the Council approval took about two months.

The deadline was extended to get the grants workshop in and PIRO has a June 30 deadline from Grants Management Division to assure award in '05. So he asked the Council's attention to the AP's recommendation.

Morioka confirmed with Ka'ai'ai that there would be a special Council meeting to address that.

Ka'ai'ai said, yes, they planned to have, if necessary, a special Council meeting.

Morioka asked if the maker of the motion would review that and accept the changes and if the person who seconded the motion also accepted the changes.

Sablan said he would like to know where the changes were.

Ka'ai'ai said they had not changed substantially, the changes were more grammatical. He read them:

- With regard to the Fishery Rights of Indigenous Peoples, the Council invite people from the island areas to the GMV PIRO Grants Workshops scheduled for April 5, 6, 7, 2005, and request NMFS to assist the islands areas to send people to attend the workshop;
- Two, direct the island coordinators to attend and be trained at the April 5, 6 and 7, 2005 grants workshop;
- Three, request the federal program officer of PIRO to review the DOC policy on the disposition of capital items purchased with federal grant money and value in excess of \$5,000, and provide a written explanation of the policy to the council;
- Four, approve the American Samoa Marine Conservation Plan and notify the Government of American Samoa and transmit the plan to NMFS for Secretarial Approval.

Seman suggested that one and two be merged.

Sablan suggested that "and, direct the island coordinators; be added.

Morioka said that as a point of order, he would wait for the person making the motion to accept the amended language, the person seconding, and then have discussion on merging.

Sablan, as mover of the Standing Committee recommendations, accepted the changes.

McCoy as the second, accepted the changes.

Seman restated his suggestion to merge number two into number one since it's talking about the same grants workshop.

Sablan said he had no problem with merging one and two, and accepted the changes.

McCoy said, as the second, he accepted the changes.

Tulafono asked if the last portion of the recommendation number one, and request NMFS to assist the island areas to send people to attend the workshop, was that assistance financial assistance.

Morioka said that was what the chair is assumed.

Ka'ai'ai: (Shakes head).

Sablan said that was the correct assumption.

Morioka said he would hold the question. He apologized to the gentleman in the audience that wished to make public comment. He did not see his hand. He asked him to come forward.

#### **10.F Public Comment (cont'd.)**

Kaapana said his name was Moses Kaapana and he was there on behalf of his families and friends. All of live through the ocean and many of die and return to the ocean.

He continued: (verbatim)

“I just want, I guess, ask you to keep in mind that we governed ourselves for many years, yeah. You can look at the Hawaiian language newspapers during the era in which we were quite literate and see that fishing kapu, or regulations, were posted in the newspapers to let everyone know how to manage the fisheries and what was allowed and what was not allowed to be taken. So I would like to put to you that as indigenous people we are quite capable of managing our resource. If we were not, when we were happened upon by the white haole we would have been in a different situation, yeah.

Instead, we had many large fisheries that were capable of sustaining many people. Understand that conservation is in fact a necessity and that we need to plan for the future as many native or indigenous people will recognize, right, that myself owe it to the generations who came before me to ensure that those fisheries and those resources are available to those generations that will follow after me, but that we should be included in the process.

If that means having to become licensed or having to demonstrate something to someone, well, then that may have to be. But I do want to, again, urge you to remember that we were and are quite capable of managing our own resource.

And that we should be included in the process and that this is something all of us take seriously, not just native peoples. I guess I was more concerned about the radio blurbs about the shoreline fishing, I guess that's not your kuleana, per se.

But I understand that the conservation methodology that you chose does allow for native rights. So I do want to thank you for making that effort in a time when it may or may not be appropriate to recognize indigenous rights in America, the Akaka Bill notwithstanding.

Hawaiians are in a very odd place. So I want to thank you for taking this time to support us as Natives, and really validate that this is the right move and that you can trust Native Practitioners, because again, there wouldn't be a resource if we didn't know how to manage it.



But I do know that it needs to be managed because many times it's the most recent immigrant who comes here, and then they don't necessarily respect the land. So they pull the limu out by the roots, which are actually against the law, right. They harvest potential yields. So I recognize that we do need to regulate the resource, but I do really urge you that you will be cutting off peoples' lives. I guess not so much you as the State, if they were to stop shoreline fishing. Many people do actually continue to subsist and live by the practice, whether they are hunting pig in the mountain or fishing for the fruits of the sea, that these are necessary considerations to make for us.

Thank you, again.”

Morioka noted that the Council was mindful of its heritage. If you look at the composition, they are mostly Pacific Islanders, and because of that they very sensitive to indigenous rights and the sensitivities therein.

He invited him to become a member of one of those advisory bodies and share your mana'o and your thoughts and feelings. They're very important for this Council to hear.

## **10.G Council Discussion and Action**

Ka'ai'ai explained that they combined one and two together and made some other grammatical changes in the recommendations.

They read now:

- With regard to Fishery Rights of Indigenous Peoples, the council invites people from the island areas to the GMV PIRO grants workshop scheduled for April 5, 6, and 7, 2005 and request NMFS to financially assist the island areas to send people to attend the workshop, also directs the island coordinators attend and be trained at the April 5, 6, 7, 2005 Grants workshop;
- Second recommendation, the Council requests the federal program officer of PIRO to review the DOC policy on the disposition on capital items purchased with federal grant money and valued in excess of \$5,000 and provide a written explanation of the policy to the council;
- Item 3, approves the American Samoa Marine Conservation plan and directs staff to notify the governor of American Samoa and transmit the plan to NMFS for Secretarial approval;

Morioka asked the maker of the motion if he accepted the changes.

Sablan accepted the changes. McCoy seconded.

Morioka called for the question.

Seman wanted to bring up another issue with the recommendations.

Morioka asked if he wanted to add another one.

Seman said, no. Number two, with regards to the review of the DOC policy, maybe they want to include GSA, in light the federal government, when it comes to capital property, it's not the aid department, but rather a unified federal agency, which is USGSA.

Morioka said the point was well taken and called on Feder and asked if the DOC policy would be cognizant of the GSA policy, or is it all inclusive.

Feder said that was not his expertise. However, the DOC policy must be in compliance with the GSA policy. But he thought this was specifically about the DOC policy, not a GSA policy per se.

Seman said it was his familiarity with federal grants. They are audited every year and get grants from DOC, U.S. Fish and Wildlife. When it comes up to Compliance, it is the OMB that controls the guidelines, and it is GSA that has the sets of those policies.

Ka'ai'ai suggested that it be called federal policy.

Morioka asked Feder if he was comfortable with that language.

Feder said, Federal policy, yes.

Sablan suggested, "Federal and state policy."

Morioka said that no state policy was involved, it was federal.

Sablan noted that on the Island of Saipan, the local procurement and supply have a tendency to regulate those items.

Simonds suggested that the problem with his local authorities be dealt with later. They needed to deal with the federal part of it. The Council needs to ask the question and get some information.

Morioka asked the maker of the motion if he so amended.

Sablan said, so amended. McCoy, the second, agreed. The motion was carried.

Morioka called a ten-minute break, then reconvened the 126th meeting. He called on Committee Chair Frank Farm to bring them up to date on Precious Coral Fisheries.

## **9.B. Precious Coral Fisheries**

Farm said that the Precious Coral Committee met on Monday at 1:30.

### **9.B. 1 Update on Black Coral Research**

Farm reported that Tony Montgomery from the State presented an update on black coral research that the State is doing. He showed his dives on the Au'au Channel between Molokai and Maui. The dives were to reconfirm the finding of the dives that Ricky Grigg did from 1975 and 1998. Bottom line is they run a close parallel. The survey showed that Grigg's 2001 methodology was acceptable in estimating the changes in the preharvest age structure. Also, preliminary results that he had come to with regard to a continuing decline in the older colonies of black coral.

They are still trying to extract more information from the data and will provide a better presentation when the final analysis is complete. Farm asked him to present that at the next Council meeting.

He asked Oishi if he had any comments from the State of Hawaii and is very familiar with the black coral research activities, including making dives in the submersible in that area.

Oishi said he had nothing to add.

### **9.B.2 Precious Corals Draft EIS**

Farm reported that the other item on the agenda was the Precious Corals DEIS update. He was sure Tosatto was going to expedite the Precious Coral Draft DEIS.

Tosatto signaled with thumbs up.

### **9.B.3 SSC Recommendations**

There were no SSC recommendations.

### **9.B.4 Standing Committee Recommendations**

Farm said there was no public comment in the area and the Standing Committee thanked Tony Montgomery and asked him to continue the good work he is doing. They are getting a lot more information in greater detail. In addition to reconfirming Ricky Grigg's work, there would be some conclusive data coming.

The Standing Committee strongly recommended that NMFS PIRO work with Council staff for the expeditious completion of the Precious Coral DEIS.

### **9.B.5 Public Comment**

There was no public comment.

### **9.B. 6 Council Discussion and Action**

Morioka asked if he was making that motion. Farm so moved. Tulafono seconded the motion.

Morioka asked for discussion. He repeated the motion:

The Council strongly recommends NMFS Pacific Islands Regional Office to work with Council staff for the expeditious completion of the Precious Coral DEIS.

The motion was carried.

### **9.C. Crustaceans Fisheries**

Oishi called on Gerard DiNardo to provide an update on the research.

#### **9.C.1. Update on Crustaceans Research**

DiNardo reported that the Lobster Resource Survey was one of the longest surveys in terms of fishery independent surveys and began in 1984, up to 1989. There was a hiatus in 1991, but has continued since.

They use a standardized protocol in terms of its fixed site design. They fish 160 traps per day and record morphometric information for all the lobsters that are catch, the species does not matter. Everything is recorded on every lobster that comes up, in terms of tail width, carapace length, the sex, whether or not they are berried.

All the bycatch is recorded by species name, but, they do not record any kind of morphometric information. They also collect samples for monk seal fatty acid and bottomfish lobster and stock structure analysis.

This last year the bottomfish and lobster structure analysis was being conducted in conjunction with HIMB, trying to look at stock structure in the Northwestern Hawaiian Islands.

There is a June cruise planned with the survey starting June 6<sup>th</sup> and going for 30 days. They will be visiting Necker Island and Maro Reef and will employ the standardized protocol they have in place. They will collect samples for the monk seal fatty acid analysis, as well as the bottomfish and lobster stock structure.

The tagging program is a cooperative research program with the local industry here. It has been going on since 2002. They did some tagging in 1998 but due to funding problems it fell through then picked up again in 2002. They charter two vessels and visit Necker Island and Maro Reef and employ some of the same standardized protocols used in regular surveys. They tag all animals and release them, none are retained. They are released on the bottom using a

caged release device that has been documented over time via video. The animals are getting back to the bottom with no mortality associated.

From 1998 to 2002 a ribbon tag was used. The tag is a three-inch piece of plastic on a needle. It is threaded through the animal between the tail and the thorax by pulling it a little apart, exposing some of the meat, and threading it through.

After 2002 a PIT tag has been used because it gets better retention. They found the ribbon tags, while they weren't being lost when the animals molted, they were being chewed on by other lobsters. With time, it was difficult to find the individual number on those tags.

The PIT tag is basically injected into the animal and there's no chance of it being chewed on by other animals. It is like a small microchip and the same technology used by the Humane Society. They are a little more expensive, but very successful.

DiNardo showed a map of where they have done tagging during the 2002 survey. Areas include the southern portion of Necker Island with wide coverage of the bank. The different colored dots on the map were indicative of the different number of animals released, going from zero to seven for the first colored circle, up to 31, up to 164. At each one of these banks we were tagging both slipper and spiny.

He showed the tag and release history for Necker Island spiny lobsters. It showed the year, number of tagged animals that were released during that event, the type of tag, and the recaptures by type of tag. There are about 35,000 spiny lobsters that are tagged on Necker Bank now.

He showed similar data for Maro Reef. Initially, they went for slipper lobsters, and then in 2004 they extended it to all animals, including spiny lobsters. They have been out there for two years and have around 8,000 animals that are tagged. They had a recovery of 457, or 17% last year, which is quite good. Normally, recovery of five to ten percent is good. This is quite a bit higher and should give some really good information regarding movement and growth with time.

Funds have been secured for the 2005 tagging program for 2005. The funding has been decreased a bit, but they would still go through with the survey. They have secured funding to stay at the present level indefinitely from the National Cooperative Research Program.

This last year was the final year for the three-year contract and they would have to develop a new contract this year. They are looking for a request for proposal, an RFP, to be published in April 2005. He was in the process now working with WASC to get that done to make charter selections in May of 2005.

The charter dates this year are mid July to mid August. It is a bit sooner than last year because they want to take advantage of the higher catch rates of slippers earlier in the year. Surveys done in September have not produced high catch rates of slippers at Maro Reef.

Spiny lobster growth parameter estimates are being developed using some of the tagging data from the program. They went back to some of the historical growth data that Craig McDonald had on his tagging programs back in the late '70s and early '80s and re-estimated it using the same estimation procedure used for the 2002 and the 2003 data to give us some way of comparing the datasets both temporally and spatially.

He showed a graphic of the growth rates for spiny lobsters at Necker Island, Kure and French Frigate Shoals for those different time periods. A cluster of lines higher on the graph showed the growth rates from French Frigate Shoals and Kure from the '80s, late '70s. The three lines on the bottom were the present growth rates from Necker Island. It showed the growth rates are very different today the past. They are not sure exactly why that is, but there is very little growth at present at Necker Island for spiny lobsters.

One possibility is the timing of the tagging with the molting of the lobsters or the tagging itself causes some kind of trauma in the lobster that retards growth. But they have not experience any issues with tagging in the Kure or French Frigate Shoals data using the same type of tag.

It really could be environmental and a real decline in growth rates. There have been decadal shifts out there that have affected productivity and it will affect growth.

Or it could be due to fishing. Fishing does remove some of the fastest growing segment of the population, particularly when there is a minimum legal size fishery. When that magic size is achieved the animal is harvested, and you are taking those that are genetically engineered to grow faster.

Those are all possibilities. More tag returns are going to be needed to really get at the issue here.

Tagging and recapture data show the movement of spiny lobsters. When analyzed by sex, the Necker Island females tend to have a lot more movement than the males.

The initial hypothesis of the decline and switching species dominance had attributed it to environmental factors. A basin-wide scale event creates a regime shift that drops the system productivity. There has been some work on that by Jeff Polovina showing that when he tracked the abundance of a number of different species seabirds, bottomfish, monk seal, lobsters over time. They all showed the same consistent pattern, which indicates that it was probably a large-scale event, in most cases driven by environmental factors.

There is also some on a local scale that are also impacting the lobsters out there. Polovina's data has shown that there are some differences in locations and those differences in location will affect recruitment all based on ocean current patterns. Maro Reef was found to be very different from Necker Island, in terms of recruitment patterns.

There's some supporting evidence to that in the consistency and trends of other species that Jeff worked on. The statistical correlations on some of his seminal work that he did on

local-scale events showing that there are relationships of recruitment with local currents and spatial definitions. Low recruitment in Maro Reef was shown while at Necker Island it didn't seem to be occurring. He also found there was no measurable decline in recruitment at Necker Island, and that was based on the commercial catch data.

A graphic of the age structure of slipper lobsters and spiny lobsters at Maro Reef showed between 1988 and 1990 there was a removal of a lot of the spiny lobsters. The slipper lobster age structure and abundance has continued to grow over time.

In addition to that, he used information from Laysan. Laysan Island was not fished at all. But yet, over time there is this removal of spiny lobsters from the bank. It would appear that this may be connected somehow to environmental conditions.

The depressed spiny lobster populations at northwest of Maro Reef and the hiatus of fishing up in that area for ten years, from 1988 to around 1998 when the fishery was forced to go up into those areas there and do some fishing from spatial management that was in place. Over that time period there was really no change in the spiny lobster population in that area. So there really wasn't any kind of rebuilding or anything up there, just the same structure.

A recovery was expected in 2001 and 2002 but it didn't occur. Some of the local populations remained depressed, and that's what was seen at Maro Reef.

There are increasing spiny lobster densities throughout the Northwestern Hawaiian Islands. Slipper lobsters are reaching high levels never seen before, particularly in some of the shallow habitats that were spiny lobster habitat.

Also in the past another problem was that there was spatial structure being ignored. The Northwestern Hawaiian Islands were viewed as homogeneous populations. With time and with more information gathered through research, that probably was not the best approach.

Other nagging observations seen at Maro Reef between 1988 and 1990 was the population of spiny lobster being cut down? It was difficult to come up with some kind of an environmental factor that would have that kind of an effect on the population. This is seen in areas that have a cold snap, but this was a tropical area.

As they ramped up their research they were able to construct a time series of recruitment at Necker Island. They assumed that it was based on commercial data, commercial information, catch rates that were constant, what they saw was it was declining over time, contrary to what they thought in their initial models.

They found metapopulations; the local populations were connected and very different from the way things were viewed in the past. So the banks are separate populations but are connected larval drift. That means what is happening at Maro Reef can be affecting what's going on at Kure and vice versa. That was a critical advancement in terms of understanding of the population up there.

The concept of metapopulations goes beyond just lobsters. It is everything – bottomfish, corals and even monk seals.

They were able to do some larval transport simulations, which show the importance of the connectivity between these different islands. In terms of metapopulations, they went back to some of the historical information we had from the late '70s, early '80s during the Tripartite Agreement to come up with this idea here. They found that while every bank was sampled during the Tripartite arrangement, there was a little corridor between Maro Reef and Necker Island that was an important source and sink for spiny lobsters. That area was getting very good recruitment from all the other banks. It was all falling down in that area and it had to do with current structure and the oceanographic structure. But it was also important to seeding the other banks. So the seed and the recruitment at Kure were dependent on what was going on in that corridor.

In reviewing some of the Maro Reef extraction history, they realized that the local depletion best explained the observed decline. There was an increase in some of the fishing pressure in 1989. Not only in the legal catch, in what was being brought back and landed, but also in the berried critters and as well as sublegal. Then in 1990 there was a tremendous crash in numbers. Super-imposing effort on top the decline, effort was increasing significantly during that time period. So at Maro Reef, there is an indication that depletion may be the result of excessive fishing pressure at that bank.

Interviews with some of the fishermen indicated what was going on during that period. There was a fair amount of discard mortality going on with the sublegals and berried animals. So it was not an environmental event. If it was an environmental event, it would manifest itself in the earliest stages, then start to work its way through the population. At Maro Reef, it affected all ages at one time.

DiNardo showed a series of graphs showing some of the work done in the simulation modeling. For spiny lobsters, they looked at two recruitment scenarios and population structure scenarios.

The first simulation assumed that there were spiny lobsters at every single bank throughout the Northwestern Hawaiian Islands and that the densities of lobsters there were similar to historic levels in the early '80s, before there was any kind of heavy exploitation.

They randomly chose 10,000 animals, seized them, weighted them and associated them at different banks throughout the Northwestern Hawaiian Islands based on the density structure experienced. They were released them and allowed to float around for one whole year based on the oceanography and the current patterns for that year. The red dots on the graphic showed where they landed one year later.

For the second simulation they took 6,000 animals because they saw a significant drop in density between historic and present. The animals were released at the banks where there were populations of spiny lobsters. No animals were released from Maro Reef on out because not too



many spiny lobsters are out there. Again, they were allowed to float around and distribute themselves as a transport model for one whole year.

For the first scenario, there were lobsters at every single bank and good recruitment throughout the bank there. For the second scenario there was very little recruitment with most of it on Necker Island and Nihoa. So the model actually verified some of the current information collected on the survey.

They did the same thing with slipper lobster. Slipper lobsters only have a three-month larval phase. So in the first simulation, 10,000 animals were released for three months. Because there was no reduction in density between the two time periods, the second simulation released 9,000 animals. The results showed good recruitment throughout the entire archipelago, which is what was being experienced. Their short larval phase gives them an advantage over the longer larval phase that the spiny lobster has.

So they concluded that the impact comes from a combination of environmental and anthropogenic factors, anthropogenic being fishing.

Then next set of slides would show that the decline probably would have occurred despite the increase in fishing. That by removing fishing as a factor, there would have been a decline in spiny lobsters due to the environment.

And that explains probably why there is a difference in life history traits; why spiny lobsters have a year larval phase compared to slipper lobsters with three months. There's a competitive advantage for one and then the other, depending on environmental conditions. Maybe fishing itself made it happen a little bit faster, but it would have occurred anyway.

Fishing impact can be basically classified as two types, direct and indirect. Direct being perhaps what we're seeing at Maro Reef where we actually do see some kind of excessive fishing there and really a clear-cutting of the population there.

The indirect effects include connectivity. Laysan was a good example of what was thought to be caused by environmental conditions, if viewed in terms of metapopulations where these banks are linked to each other, it is possible that the fishing pressure in other areas could have contributed to what was happening in Laysan because Laysan was getting seed or getting recruitment from all of the banks, and the other banks were being fished and those populations of spiny were being depressed. So what was seen in Laysan could have also been a combination of not only environmental, but the anthropogenic factors.

In 2001 there was a workshop that brought together some experts to look at the issue of spatially-structured population models. They came up with a blueprint of where to go next.

The development of a spatially-structured model, using MultiFAN CL as the engine, allowed them to structure the Northwestern Hawaiian Islands into six areas instead of looking at it as a homogeneous area. They incorporated all the data they had, which was a monumental

task. The model was a single-species model for spiny lobsters, but they are moving towards a multi-species model.

The data in the MultiFAN CL model included all the commercial data, all the survey data, and all of the tagging data. The survey data and the tagging data were never brought into the previous assessment models.

They had to make assumptions about the series of parameters that were being estimated. For catchability and selectivity, they're fishery specific and time and variance, which mean there was no difference. The same with growth parameters and natural mortality, they assumed that they were constant over time. Fishing mortality is believed to be fishery specific and age specific and that was built into the model. The model did not assume dispersal at all, but captured some of that in its recruitment.

Some of the results of that model:

- Combining the biomass over time for the adults and sublegals show what the population would have been doing if no fishing had occurred. This population would have declined anyway, regardless of the fishing. That matched up nicely to the catch data;
- Looking at fishing mortality by fleet, estimates of growth and estimates of natural mortality shows an estimate of natural mortality somewhere around .4. So the model is capturing some of the assumptions of what was thought to be the actual parameters that were estimated in other ways.

For 2005, the spatially-structured population model is in the process of being configured. They postponed an expert panel review on this model because one their expert panel members for the lobster review was also being asked to participate in next month's ecosystem workshop here. So the panel has been scheduled for September.

In that same time, some modifications are being made to the model to try to incorporate the most recent tagging data to give it better variance estimates with their parameter estimates. The model will also be expanded to slipper lobsters then multi-species. They are starting to get some information from the tagging data on slipper lobsters that would enable them to move toward a slipper lobster model.

Lastly they are going to look at the potential ecological impacts of the bycatch from the Northwestern Hawaiian Islands lobster fishery. Is the removal of bycatch from that fishery having any kind of significant impact. That was covered by Bob Moffitt during yesterday's Ecosystem and Habitat session.

Moffitt concluded is that habitat destruction is not likely occurring up there based on where the fishermen fished and what the bottom topography looks like. And the biodiversity was not declining overall. There were some declines in abundance and that is the spiny lobsters,

throughout the chain, and slipper lobsters at Necker. Moray eels at Maro Reef also showed a slight decline.

Increases in abundance include the slipper lobster at Maro Reef. The catch rates and estimates of abundance are higher than recorded. There have been some increases in nontargeted crustaceans. And there has been a change in the observed octopus abundance that may have been linked to monk seals. But additional data shows that there has not been a change in octopus abundance.

Oishi asked for questions.

Morioka thanked DiNardo for his excellent PowerPoint presentation. The visual impact makes the information stick in the mind and provides a document. Mr. Morioka also appreciated the analysis and said it was what the Council has needed for years. He hoped to get similar analysis that incorporated anthropogenic as well as biotic on impacts of fisheries to the ecosystem.

Farm asked DiNardo to restate what he said about releasing the animals during research being that it's no take; and more importantly, what the survival rate was.

DiNardo responded that the new cage device developed through collaboration between one of scientists and one of the fishermen during one the early tagging charters back in 1998 allowed the catch to be released easily. Basically it's a chicken wire device cage about three or four feet high. As they get tagged animals or even animals brought in on their survey cruise, they just release animals on the bottom as part of the standard protocol.

The cages are all kept in running water. When they are finishing processing the animals, the cage is dumped over the side back in the general vicinity of where the animals were caught. It goes down to the bottom. Then when the cage hits the bottom the trap door is opened and the animals scurry out and find some habitat.

It has been videotaped numerous times and on every videotape there is no mortality associated with it. They have released these things in the midst of sharks and uluas and not one of them has ever been eaten by any kind of ulua or shark. They were quite confident that there is probably 100 percent survival when releasing them. Another piece of evidence that supports that is the fact that a day or two later they will be fishing out and catch some of the released animals that were tagged.

Videotaping it came out from a second collaboration. Basically, the camera is put in a plastic milk carton and tethered to this device, and it just records it over the side as it's going down. There's no video link that goes up to the surface.

Duenas clarified that the average recaptures per year was 17%. The number of traps used for each trip was 165?

DiNardo said that for the tagging, it was a bit more. The tagging charter used 1,500 traps per day.

Duenas noted that based on a 15 or 20 percent average recapture rate, 80 percent have not been recaptured over the last five or six years. And, this gives Mr. DiNardo an idea of the population density or an idea of what if the fishery were to be put back into place how much can actually be taken out of the fishery and not affect the entire ecosystem.

DiNardo said it took a number of years to get data to do that. A higher recovery rate paints a worse picture because it shows that there are not many animals down there. Basically, everything that is available is coming up in your trap.

The average recaptures over time with the fact of a 50 percent recovery rate will help get to what the actual population numbers are. Then you could determine the impact of any kind of extraction, which is the direction everything is going in.

DiNardo said that in terms of whether more effort could be put out, it would have to be in the form of more vessels, not more effort on a single vessel. Fishermen can fish 1,000 traps per day, but scientists can only keep up with 300 traps per day, given the number of animals that are coming over the side. Trying to tag these animals and measure them takes time. So 300 traps is about all the scientists can deal with in a single day.

Duenas clarified that he has said that some spiny lobsters are slower growing than other spiny lobsters in different areas, but yet they transit to different areas. Was that correct?

DiNardo said that as in any natural population, there is a variation of growth rates.

The transit found between different banks will not be in the form of migration with an animal moving or swimming to another bank. It takes place in the form of larval drift and larval transport. So the connectivity between the banks is during the larval phase where the animals, when they reproduce and they release their larvae may get transported to Kure and then they'll settle there.

Duenas noted that on Guam they have the spiny and there's a different type of spiny that's pinkish in color, were these the same?

DiNardo asked if one was in shallower water.

Duenas said the brown one is in shallower water, the pink one is deeper water.

DiNardo remarked that it may be the green spiny that they have out here.

Duenas said that the ones they are looking at are the deeper ones.

DiNardo said, yes, the deeper one, marginatus.

Duenas said that was what he was looking for. Those are more transient than any.

DiNardo noted that those were the same types of lobsters in the Caribbean that make those long migrations in line behind each other. Those have not been seen out here.

Martin asked DiNardo if he would comment on the recovery in the longline fishery of some lobster larvae. The other question he had was on the protocol for the tagging charters at Necker, in looking at tagged animals over the last three years of the charter, it was 11,000 animals, 14,000 animals and then there was a significant drop to 7,700 or 7,400 animals.

In talking to some of the vessel operators he thought there was a change in protocol there, where the sites were two years ago, there was a period during the course of the tagging study where the chief scientist allowed the fishermen to go and target an area that he thought was going to produce lobsters. Whereas last year was the third year of the charter, all the sites were established by the chief scientist. He wondered what was being accomplished by changing the protocol and where was that going in the future.

DiNardo responded that they actually catch the pluera stage, which is the larval phase of these lobsters. It is just this gelatinous creature that is floating in the ocean. They'll get caught on a longline gear and folks will bring them in. They hold them with the idea of perhaps at some point HIMB can do some genetics work on it.

With regard to the change in protocol, there were a few things that happened over time that would explain that drop. Not only did the scientist take more control of where the sample would come from but the idea was to get more spatial coverage of the bank, not necessarily at that point worrying about getting as many as they could.

Because at Necker Island, there are a fair amount of animals tagged already. So they do take control of that and direct more of the direction in terms of where they sample.

In the future, it will have to be some kind of communication again with the fishermen to work that out. He would like to get the full spatial coverage but also make sure they tap the knowledge of the fishermen, that's the whole idea of a cooperative program. The new charters will be worked on that.

The amount of effort was reduced at Necker Island and they went to Maro Reef. That was the major drop. Then that second vessel was moved to Maro Reef and that was what that large drop was. They felt they had enough of an inroad at Necker to then move to the next bank.

Owens commented that in the West Australian lobster fishery the critical point of survival of the undersized, sublegal animals, was that they go back close to where they are captured, and then survival is very high.

It is a management strategy by also putting no size limit on because the big ones, the females, are highly fecund. It is critical to the survival of those if they went back close to where

they were captured. All the work showed if you put them back preferably quickly and in the area they were captured from, no predation or minimal predation.

But if you took them away, even half a nautical mile away from where they were captured, predation was high. So in terms of increasing egg production, which is what they did in their fishery to increase the breeding stock, is the oversized animals go back where they were caught. It means slowing your fishing operation down, but it means you increase survival of your stock.

DiNardo said, absolutely. The beauty of the whole release-cage device and its development was that initially there was not a whole lot of buy-in from the industry. They were saying it would take a lot of time, this and that, and they weren't sure it would work.

That's changed. That attitude has changed. Getting them involved and being a key player in the development of it and actually seeing how it works and actually viewing the videotapes, they've become a proponent of it. It does add a bit more time to their fishing operation, but it is well worth it.

Oishi called on Josh DeMello and the report on the Crustaceans Draft EIS.

### **9.C.2. Crustaceans Draft EIS**

DeMello said as in precious corals, they did not have to go over this because it was discussed in bottomfish.

Oishi asked for questions and hearing none he moved on to SSC recommendations.

### **9.C.3. SSC Recommendations**

Severance said there were no formal SSC recommendations on this item.

Oishi said the Standing Committee met on Monday and heard information on the status with regard to research, the DEIS and the SSC recommendation.

### **9.C.5 Public Comment**

There was one member of the public who commented during the public comment in the standing committee, Leo Ohai. That was detailed in Report 9.C.4. He summarized Ohai's comments.

He made two comments. First, it was in his experience that the diet of the monk seal did not include lobster. Or if it does, it was a minimal component of the monk seal's diet based on his fishing experience.

The other point that he made was that he believed that the lobster traps that are currently in use, these black plastic traps, retain more of the bycatch that are important to the seal's diet

than the wire mesh traps that he was more used to. It was his recommendation that this be considered.

#### **9.C.4 Standing Committee Recommendations**

With regard to recommendations from the Standing Committee, there are two. They're pretty different in subject matter.

The first is in regards to the Crustaceans Draft EIS, the Standing Committee strongly recommends that NMFS Regional Office work with the Council staff for expeditious completion of the Crustaceans DEIS.

#### **9.C.6 Council Discussion and Action**

Morioka asked if that was a motion.

Oishi so moved. Farm seconded.

Morioka asked for discussion. He noted that this could be rolled up with the other EIS as one recommendation NMFS Pacific Island Regional Office.

The motion was carried.

Oishi said that the second recommendation of the Standing Committee with regard to Crustacean research, the Standing Committee recommends that the Council suggest that the NMFS Science Center consider using traps with other mesh sizes, for example, Mr. Ohai's recommended two-by-four inch wire mesh trap, in their upcoming 2005 Northwestern Hawaiian Island Lobster Resource Survey and Lobster Tagging Cruise to determine if there is a difference bycatch CPUE.

He moved to accept this recommendation. Sablan seconded the motion.

Morioka asked for discussion.

Martin asked DiNardo if, as the chief scientist related to crustaceans, was interested in the recommendation and would accept it.

DiNardo noted that the information was presented yesterday by Bob Moffitt when he looked at the comparisons of catch and bycatch with the wire traps relative to the trap used now, the black plastic. It does show that there is a difference in bycatch.

The wire traps that they used were the California traps. He was not sure how that compared to the California wire traps that used to be used. He was sure that was something they could look into if not this year, then next. But he wanted to see what they look like and if it was something they could live with.

Martin wished that DiNardo could have been at the Standing Committee. The difference between the California trap and the trap that he was demonstrating was very clear. It had to do with the orientation of the mesh, which way the mesh went, how the trap was actually rigged so that when it was retrieved by the vessel the orientation of the trap changed as it was coming up.

He thought it would be a very interesting exercise to step back 20 years and take a look at something that had proven to be effective prior to the introduction of the new fishing gear.

That was how the recommendation that the Council encourage them to take a look at it and figure out a way to incorporate it into one of the two research activities that they have come about.

Farm added that he did not think the intent was that it be done en masse'. Maybe just some traps interspersed in between the California traps. Then a comparison could be made with the adjoining traps.

DiNardo agreed that it would be interesting. And, he would like some volunteers for the cruise.

Morioka asked for further comments. Hearing none, he entertained public comments. Seeing none, he called for the question. The motion was carried.

Farm noted that his reason for asking for a restatement on how well the release thing worked was because of the retain-all fishery in this lobster fishery. They keep the berried animals and also some of the smaller, which would be considered illegal in the Main Hawaiian Islands.

If these release methods are 100 percent, 90 percent or even 80 percent, then the Council should seriously look at amending the FMP to consider changing this from a retain-all fishery to the more basic, conservative method of allowing the berried animals to go free in that area.

The industry at that time was saying it was very difficult in their operations. At least some of them are very acceptable and they were pleased with the results. So it might be easy enough to make this change and have industry go along with it.

If they say it interrupts their fishing method because of all the traps they do and they cannot take the time to segregate and release the berried animals or the small ones, that's too bad. They would have to figure out a way to integrate the release of these animals in their fishing techniques. If it's going to take a little longer and they cannot rapidly accomplish the completion of their hauls, then maybe they have to have a break in between hauls. He strongly urged the Council to consider this.

He had difficulty buying out on the idea that the lobsters are blind when they go on deck. He had asked for papers in this area, knowing that they don't go blind, from personal experiences. And if the fishermen have to release quicker, that would be part of their ability to fish in that area if they want to.



He passed this on because after 20-something years, this would be his last term on the Council. He wanted them to follow up on this to try to be sure that these types of regulations get incorporated to further preserve that fishery.

Simonds stated that fisheries management is always a work in progress. As Ohai came and spoke before the committee about changes, the Council told him that all of these regulations would be reviewed as the Hawaiian Archipelago Ecosystem Fishery Management Plan was developed and the crustaceans plan would be folded in.

Morioka called on the Standing Committee Chair, Pelagics, McCoy.

## **7.L. Pelagic Standing Committee Recommendations**

McCoy said he would present the ten Standing Committee Pelagics recommendations as a motion.

The Council made the following recommendations regarding institutional arrangements for the management of Pacific tuna:

1. The Regional Administrator of NOAA Fisheries Pacific Island Regional Office be the head of U.S. Delegation to the Western and Central Pacific Fisheries Commission and the Director of the Pacific Islands Fisheries Science Center be the head of the U.S. Delegation to the Interim Scientific Committee, and to be the lead for science issues in these international fishery fora;
2. The Secretariat of the ISC be located in Honolulu;
3. The Regional Administrator for PIRO be included on the delegation to the IATTC because of the mobility of the Pelagics Fishery Fleet and Highly Migratory Species;
4. Western Pacific and Pacific Fishery Management Councils be included in the WCPFC and the IATTC delegations and the SSC chairs or their designees be on science committees as appropriate;
5. The appropriate regional councils make recommendations with respect to fishery management measures that implement international management actions regarding catches and effort for tunas and tuna-like species;
6. Domestic fishery regulations resulting from international negotiations be implemented through the Magnuson-Stevens Act;
7. A process be formalized for communication among U.S. Delegation members before and after meetings of international fishery arrangements, including review of draft position papers and other documents.

Morioka asked if that was in the form of a motion. McCoy so moved. Ebisui seconded.

Morioka asked for discussion.

Feder noted that with respect to one, little six, domestic fishery regulations resulting from international negotiations be implemented through the Magnuson-Stevens Act, he wanted to be on record as pointing out that there is somewhat of a disconnect between this and the legislation implementing these international arrangements under which NOAA is obligated to follow through on binding international resolutions from these regional fishery management organizations and they do not provide for implementation through the Magnuson Act.

That said, of course, the United States can use whatever statutory authority it has to implement resolutions of international organizations, and the Magnuson-Stevens Act might often be an appropriate tool to use.

It was his opinion that the way this is drafted was somewhat narrow and somewhat misleading because there will be instances where the Magnuson-Stevens Act doesn't provide sufficient flexibility and won't be quick enough in order to fulfill the obligations to implement these international arrangements. He recommended the Council soften this a bit.

For example, added words such as, as appropriate.

Simonds asked if he had an example of a situation where this has occurred with fisheries.

Feder said that on the context of the IATTC where the IATTC meets in June and adopts a binding international resolution that the purse seine fishery in the Eastern Tropical Pacific Ocean be closed in the months of November and December, it would be difficult to go back go through the Pacific Fishery Management Council, go through the FMP process to adopt a closure like that that needs to be implemented in four months.

Simonds asked, what about the emergency provisions of the Magnuson Act?

Feder said she was right and he agreed. An example like that, which is a real example, would not be impossible, it would just be difficult. And in the end, NOAA would be responsible to ensure that the resolution is implemented. So if there was a snafu in the Council process, the Fishery Services would have to follow up under authority of the Conventions.

Simonds agreed.

Duenas asked if they would have to do a consultation.

Feder said that would be a more reasonable, which was not the right word.

Simonds added because the legislation for the WCPO has not been drafted yet.

Feder said it has been drafted.

Simonds said that it has not been shared with the Council.

Feder said it was undergoing review in the Executive Branch.

Simonds said that she thought they had asked to at least review the package.

Morioka asked the maker of the motion if he would consider adding the words, “as appropriate.”

McCoy said he did.

Morioka asked the second if the amendment was acceptable.

Ebisui seconded the motion.

Simonds asked Feder if adding “as appropriate” was okay.

Feder said that he thought that would be appropriate.

Morioka clarified that “as appropriate” would be at the end of the sentence.

Simonds said she thought it was better at the end.

Feder agreed.

Morioka called for the question and asked if there was further modification. He heard none. The motion was carried.

McCoy moved that the Council notes a continuing increase in number of hooks set by the Hawaii Longline Fishery and therefore, directs the Pelagics Plan Team to review the number of hooks projected to be deployed under the Hawaii Longline Limited entry program currently capped at 164 vessels and that this number be compared with number of hooks currently deployed. Ebisui seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. Motion carried.

McCoy stated recommendation three, Council recommends that NMFS conduct further analysis of industry perception of observers, and visa versa. This may also include perceptions of the effectiveness of the existing fisheries management regime. He so moved. Ebisui seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. Motion carried.

McCoy offered as a motion recommendation four, the Council recommends that PIFSC prioritize a diverse range of research topics in the economic research plan. Duenas seconded.

Morioka asked for discussion. Hearing none, he called for the question. Motion carried.

McCoy offered as a motion recommendation five, the Council recommends that Council staff develop a plan to address bigeye tuna overfishing in the Pacific Ocean, and that contains the following elements and recommendations for the domestic and international fishery:

- Domestic: that the Hawaii offshore handline tuna private FAD, vertical longline and shortline, mainlines under one nautical mile, fisheries in the EEZ be federally permitted fisheries with logbooks, limited entry programs and observers where appropriate;
- International: that includes the best scientific information from PIFSC, SWFSC and international organizations on the level of fishing harvest which would not result in overfishing of BET, bigeye;
- That the PRFP prepare a detailed description of the heterogeneity of the Western and Central Pacific longline fleets, and that to the extent practical, the descriptions include number and size of vessels in longline fleets, depth of sets, number of hooks set, hold size, target species and target markets and refrigeration type;
- That the Stock Assessment Working Group of the Scientific Committee of the WCPFC should give the highest priority to examining input controls such as limits on the number of vessels, limited entry programs, including transferable quotas, limits on fishing effort, time and/or area closures and prohibition of FAD sets to be presented to the Scientific Committee in August 2005;
- That the Scientific Committee of the WCPFC should examine areas of high fishing mortality for BET and explore opportunities for input controls , for example, time/area closures;
- That the WCPFC and the IATTC develop international programs to register both anchored and drifting FADs as fishing gear and mark them with unique identifiers;
- That the WCPFC and the IATTC sponsor research to modify purse seine fishing around FADs to reduce the catch of juvenile bigeye tuna and other bycatch species, such as marlin, sharks and turtles.

Ebisui seconded the motion.

Morioka called for discussion. Hearing none, he called for the question. Motion carried.

McCoy offered as a motion recommendation six, the council believes that all fisheries, both commercial and recreational, within the EEZ be required to provide catch and fishing effort records be subject to forms of fishing control where appropriate, and other management options.

The council directs staff to prepare an options paper for the June 2005 council meeting which presents alternatives for a phased approach for requiring recreational and commercial catch and fishing effort data for all types of data on fishing on pelagic fishing.

The council notes progress already being made in obtaining this type of information from commercial and recreational pelagic fisheries in American Samoa, Guam and the Northern Mariana Islands.

Tulafono seconded the motion.

Morioka called for discussion. Hearing none, he called for the question. Motion carried.

McCoy offered as a motion recommendation seven, the council recommends immediate initiation of scientific research, for example, tagging or genetics, to determine whether bigeye tuna are a single stock Pacific-wide or otherwise, to ensure implementation of appropriate management regimes, complementary of this stock assessment. Tulafono seconded the motion.

Morioka called for discussion. Hearing none, he called for the question. Motion carried.

McCoy offered as a motion recommendation eight. The Council requests that NMFS Southwest Regional Fishery Center review the status of the North Pacific albacore stock with respect to the council's overfishing reference points and request the PFRP to review potential impacts to the Hawaii pelagic fisheries for management measures for North Pacific albacore. Tulafono seconded the motion.

Morioka called for discussion. Hearing none, he called for the question. Motion carried.

McCoy offered as a motion recommendation nine, the Council directs staff to work with HMRFS NMFS program to prepare a detailed and comprehensive report on data collecting during the 2002 to 2003 surveys, including the distribution of fishing between expense and purely recreational fishing; and to present this to the recreational data task force at its final meeting. Tulafono seconded the motion.

Morioka called for discussion. Hearing none, he called for the question. Motion carried.

McCoy offered as a motion the final recommendation, the Council will to develop a paper in time for consideration at the June council meeting that evaluates regulatory options relating to the shark tour operations being conducted off Haleiwa and other proposed operations throughout the State of Hawaii. The council further directs staff to schedule scoping sessions on the issue and to pursue PFRP or other funding to support shark tagging research to determine the movements of shark associated with the shark viewing operations. Ebisui seconded the motion.

Morioka called for discussion. Hearing none, he called for the question. Motion carried.

Morioka recessed the meeting for lunch.

Morioka reconvened the 126th meeting of the Western Pacific Fisheries Management Council. He called on Loerzel to present Item 11.

## **11. Program Planning and Budget**

Loerzel called on Ka'ai'ai' to provide the update on legislation.

### **11.A. Update on Legislation**

Ka'ai'ai stated that the main piece of State legislation HR 131, which is the Marine Preservation Act was dead. It had gone through two iterations and was a House draft before it was killed by the Finance Committee.

Simonds added that Mr. Ezra Kanoho said that he was going to hold hearings this summer. It could come up again next year.

Ka'ai'ai said that it would probably come up because this was the third year that legislation like this has been in the legislature.

At the public forum the Council staff invited all of those people to get in touch with their legislators and be sure to let them know what they felt about it and that the time the legislation would be drafted would be during the summer. So hopefully, the people who came to the public forum will be able to participate in that process.

On the congressional side, there were a number of bills that should be of interest to the Council. HR 50, the National Oceanic and Atmospheric Administration Act reorganizes NOAA and establishes a set of priorities for NOAA. This bill is currently in subcommittee. It is in the House Subcommittee on Resources. He had not checked on the bill for about a week so was not sure where it stood.

Simonds asked if there was a companion bill in the Senate.

Ka'ai'ai said he could not find a companion bill in the Senate, so he did not know.

Simonds added that last year Senator Hollings, Inouye and Stevens introduced it in the Senate. She did not think it was such a great bill.

Ka'ai'ai said there were a number of bill introduced by Senator Inouye:

- The Marine Debris Research, Prevention and Reduction Act would establish a program under NOAA to help identify and determine sources, assess and create programs to reduce and prevent proliferation of marine debris;
- Senate Bill 264 would establish a program within NOAA to integrate all of the agencies involved with mapping so that we can have a comprehensive mapping program under NOAA.

There were copies of HR 50, S364 and S362 in the briefing books.

Loerzel asked if there were any comments or questions.

Simonds commented on the Marine Debris bill. The Council sponsored and co-sponsored, funded at least four marine debris conferences, including one with the State Department last year. They were pleased that there is finally legislation introduced and that there will be money. It is just a waste time to be cleaning up the Northwestern Hawaiian Islands when they should be working on how to prevent that debris from getting there.

Loerzel asked for questions. Hearing none, she moved on to Community Networks.

### **11.C. Community Networks**

Ka'ai'ai said in January the Council staff went out to CNMI and Guam and held a series of community meetings, the AP meeting to update new AP members, and the CDPP Workshops. The community meetings initiate the community effort by the Council. Community participation is needed to develop the FEPs, Fishery Ecosystem Plans.

In February the same series of meeting were held in American Samoa. There was very good participation. American Samoa is probably ahead of everyone else in the region with their community-based fishery management plans.

From speaking with the communities that have village-based fishery management plan, they look like marine-managed areas. It is a good community effort, and one of the good things is that the fono has given the authority to DMWR to recognize these community management plans as part of the marine management plan for American Samoa.

They want to do the series of community meetings in Hawaii. The first thing they want to do is meet with agencies and nongovernmental organizations that already have established some kind of community network and come up with some strategy so that the Council can go out to the community. Maybe with the community, start the networks and offer the kinds of skills and opportunities that the Council will be able to offer under their mandate.

Loerzel asked if there were any questions or comments.

Oishi agreed that the Council should start with the agencies in coordinating a community network program. There is a lot of effort that is underway and it is important that the public not be confused with different directions and seemingly integrated but not really integrated efforts.

Duenas requested that in his effort to work with the communities, an information network or system be developed to explain to the constituency what MPA stands for, how it affects us, what ESA stands for. We have to really educate the constituency on the issues.

Ka'ai'ai said that even with the AP meetings, defining acronyms was a real big part of it.

Loerzel asked Haleck to report on the Advisory Panel Reports.

Haleck wanted to recognize the work that Tulafono and his office is doing in American Samoa, taking the lead with this community-based programs that are going on. He also wanted to recognize the staff that came down in February and held the scoping meetings and the AP meetings.

Loerzel asked Mitsuyasu to finish up the section report.

Mitsuyasu reported that in addition to the community meetings in January and February, there were advisory panel meetings. There is a new set of advisors for this two-year term, which begins in January, ends at the end of December 2006.

In the beginning the new advisors receive an overview of the Council, the Council family, Council process and also the various statutes that the Council works with. They are also given a brief on some of the hot item issues that the Council will be dealing this year and next year, which includes things like development of fishery ecosystem plans and what is going on in international plans, protected species and some of those other type of issues.

There was a lot of discussion regarding communities and how to engage the public with the advisors. The plan for later this summer is to have a global advisory panel meeting, where everybody comes together. Prior to that meeting, the advisors will be meeting in their respective areas with other council family members, plan team and SSC, to talk about issues in their respective regions.

Loerzel asked for any questions or comments.

Sablan noted that during the visits to Saipan to do the workshop on the AP for Saipan, those who were acquainted by the Council, about 90 percent of them showed up. There was one name, Seman, and he had agreed to ask the permission or indulgence of the Council to drop, Tony Seman.

Duenas asked if this was a relation.

Sablan said, yes, everybody is related on Saipan.

Simonds asked why.

Sablan said that he showed interest in attending AP meetings. He did not know what he was doing and the boat that he is on is not working permanently. So he's probably not interested in working with the AP members.

Simonds felt he and Seman should find out from him what his interests are, and then just e-mail her.

Sablan said he would do that.



Loerzel asked for any other comments. She called on Earl Miyamoto to report on the Status of the Hawaii \$5 Million Disaster Funds for Federal Fisheries.

### **11.B. Status of the Hawaii \$5 Million Disaster Fund for Federal Fisheries**

Miyamoto said he was brought aboard the Hawaii State Disaster Relief Program in January of this year. They have received \$5 million appropriated by Congress. The State of Hawaii DLNR DAR Division and Walter Ikehara went in for the grant. It was granted for a two-year status starting on the 31st of October 2003.

There was some delay in getting the program on the road due to personnel hiring type issues.

The first thing they did was get an extension for the grant to the 30th of September 2006.

There are no State funds involved with this funding at all.

The objective for the project is to establish the Hawaii Disaster Relief Program. The funding is to be used for fisheries that are affected by federal regulations or closures or restrictions. They are looking for the four fisheries that the Council has been dealing with. They will provide funding either through research or directly in areas that may mitigate the impact on some of these regulations and laws that have been passed.

There are a couple restrictions on the grant, particularly, on the buyback situation. This came up as he went with the Chair on the Northwestern Hawaiian Islands hearings throughout the islands. The question was, "Are you going to be able to spend money to buy back some of my equipment if I get out of the business?"

The answer is no, unless specifically approved by NOAA. So at this point in time the answer is the funding is not for buybacks.

The other stipulation is there are no direct payments to fishermen. That is not an absolute and can be specifically approved by NOAA on a case-by-case basis.

The Executive Steering Committee (ESC) has been formed and will be meeting at the end of this Council session. One of the first things was to establish a Technical Working Group (TWG) made up of people within the fisheries with varied skills in data, in research, in the industry, in fisheries, in outreach, in socio-economics and others.

They will be looking to the TWG to have that expertise to apply as, one, setting the parameters up for how they go out and solicit for projects to be considered; and two, once those solicitations come in, that they will screen it to ensure that it meets the federal guidelines and it is appropriate and it will help the fishermen in the industry. Once they screen that in the initial screening process, they'll go to the ESC, who acts really as the safety net to ensure that funds are not misspent.

He is hoping to get something out to the public in the June time frame once the TWG is up and running. At this point in time, the public grant is in research. They are negotiating with JIMAR on some of the products and are awaiting their proposal. The TWG will review that proposal before it goes to the ESC. The research projects will be the first ones out of the block, in terms of getting money out to start the process of assisting fishermen.

Loerzel asked for questions.

Sablan noted that Miyamoto stated the extension was to 2006 but he actually wrote 2005.

Miyamoto said it must have been a typo.

Sablan said so it's 2006.

Miyamoto said it was 2005.

Loerzel called on Dave Hamm for the West Pac Fin Report.

#### **11.D. WpacFIN**

Hamm noted that this would be his last update to the Council. Last November he was promoted to the Chief position for the division. Michael Quach will be running the West Pac FIN program. That program is within the division and he would be intimately involved with it. They have a transition plan for about a year for him to be able to do everything.

Hopefully they would also be replacing the biologist half of his position.

He reminded them about the website. It is getting a lot more hits, queries and comments from people around the world. It had been linked in with the FAO site and they are making links to other island sites as they become available. He asked that the Council let them know if there is anything they want there to improve it.

They have been working on a lot of data requests, many of them for Council and Council staff and their contractors. One, in particular, they have put a lot of work into the trophic level, dynamics for the Coral Reef Ecosystem Plan Team and where the Council now has a new contractor that they are working with.

Friday there would be an FDDC meeting where the chiefs of the agency, directors will be talking about this year's budget and some other items.

They had a GIS collaboration with Ray Tulafono's office. His GIS person came up and spent a week with us. The Center paid for her to come up and work with our GIS people. She got a lot of good information, they got a lot of good information and some good transfer of technology. She's tweaking it and improving her software based on some of the comments and interests here in Hawaii. He wanted to thank Mr. Tulafono for that continued collaboration. He had not heard from her for a couple of weeks and hoped she still worked there.

Tulafono confirmed that she was still there.

Hamm said that they have been working on getting the American Samoa inshore creel survey going again. Sabrina Mariner, the biologist has been doing a good job in getting the pilot started and collecting participation information. Our programmer is dedicated to American Samoa, has been developing the new system for that.

They also helped American Samoa's biologist, Emanuel Tardy, produce some fish ID slides to be used in training in the islands. They hope to share that once finished before Emanuel leaves.

Mike Quach has been working with the American Samoa PIRO office on improving the vessel tracking system, especially for the longline fleet.

Quach was in CNMI and Guam in February to help with technical support, hardware/software. All of the systems are being update to the EP Pro and the newer version of Visual FoxPro as that comes online.

Quach has also been working with the Department of Public Safety in CNMI to improve their vessel registration systems so it can be used in validation and quality control of the system. Mike is actually working with them to help them computerize that so he does not have to do it on the Fisheries side of things.

The big item in CNMI is getting the inshore survey restarted. It's going to actually be based on a modification of the boat-based survey as well as implementation of a new shore-based survey. They're supposed to be covering night and day fisheries.

Brent Tippets went up from the Guam office to Saipan about two weeks ago and spent a week there training the staff on fielding techniques, interviewing and scoping things out with Ray Roberto and the other staff. Their programmer, who supports the creel surveys from Guam and Northern Mariana Islands, has been converting all of the Guam data to work in the CNMI arena.

In Guam, at Aquatic Resources, they've had some turnover: Jerry Davis now works for PIRO and Trina has gone to the Nature Conservancy, opening an office there in Guam. Jay Gutterrez, who's been in their Fisheries Section, is now the supervisor of the Fishery Section. So they're starting to get stabilized and they would be working with them on improving their systems.

The Bureau of Statistics and Plans have moved offices. All four of their computers were replaced with new systems. They will be working with Customs and Quarantine to try to come up with an MOU that will make it easier for them collect the transshipment data. There have been some problems with that and they would be working with them on that.

In Hawaii, there have also been some staff turnover that has caused a little bit of backlog and some problems. Some of their staff left because of changing from their RCUH positions to

State positions. So the person that had been running the Northwestern Hawaiian Islands bottomfish tracking program is no longer there. They are replacing that position.

To keep from losing the main data processor there that was processing the dealer data, which has become the most important source of landings in the State since it was computerized four years ago, we hired her back on to the West Pac FIN through the JIMAR contract type of employee. So no time has been lost on that dataset, which is really critical and has taken several years to get going on.

One of the main projects in Hawaii is to start to integrate and cross-check the fishermen reporting system and the dealer reporting system data to improve the quality for both sides of those things and be able to better integrate the dealer data to know where fish are caught and are able to make some by-island and by-fishery reports that are required for some of the plan team reports and also for State reports.

It takes a little bit of magic to match datasets that should be reporting similar things but are not. So there is a lot of work that's going into that. Additional funds have been secured from Headquarters through FIS to help with that project in this next year.

They are changing the Northwestern Hawaiian Islands bottomfish reporting system to instead of use the dealer system data instead of requiring a trip sales report.

Loerzel congratulated Hamm on his promotion and asked for questions.

Tulafono commended Hamm for the fine job that's been done for the last 23 years in the islands and were looking forward to working with Mike.

Simonds noted that when Hamm came aboard, everything was in a shoe box. The data, for example, the fish auction was literally in shoe boxes.

Sablan told Hamm that he did not have to come back. The Remote Island Fishing Station on Alamagan would be starting pretty soon. They haven't fished, and he really wanted good data collection for that island. So when Mike gets out to the islands they will work with him.

Hamm said they would be there the second week in April.

Loerzel called on Kingma to report on the NEPA activities.

### **11.E. NEPA Activities**

Kingma reported that Council staff was in the process developing an Environmental Assessment for the portions of sea turtle conservation projects which may involve nest relocation and the tagging of turtles. The Council staff is preparing the Environmental Assessment that will be submitted with the grant package.

The Programmatic Environmental Impact Statement that was discussed earlier at this meeting should be out by October 2005.

The PIRO Seabird and Squid Final EIS will be available to the public probably around mid April. He would let them know if there were any changes in the schedule.

The State of Hawaii's incidental take permit has initiated an environmental impact statement. PIRO has told them that the permit and the EIS was focusing primarily on sea turtles, but now has been amended to include monk seals, and the Draft EIS will likely be available to the public in the fall of 2005.

The PIRO and Council coordination included training in November on alternatives for environmental impact statements. The consultant will come out again in May for a NEPA Project Manager's course that will involve PIRO, Council staff and PIFSC staff.

Loerzel asked for any questions or comments. Hearing none she called on Simonds to do the Programmatic Report.

#### **11.F. Programmatic Grants Report**

Simonds reported that following the announcement of the new region, the staffs of the Council, PIRO and PIFSC got together and began to develop a strategic plan.

The plan is not completed but a summary was produced in May of last year following the Council Chairman's' meeting. All the councils were asked to develop a five-year plan to give to NMFS.

The Council staff is now in the process of developing their program. They have a draft of a five-year program that dovetails with all of those other plans.

She noted that the Council had already been briefed on the ecosystem part of the Program Plan and NEPA. She called on Ms. Hamilton to report on the status of their documents in the system.

Hamilton reported that they have been trying a variety of methods to track and streamline the processing, approval and implementation of the Council actions. She explained some of the different issues and resolutions that have transpired:

1. The Turtle Technical Amendment that was taken care of at the 125th emergency Council meeting;
2. Council action was required and completed at the 125<sup>th</sup> meeting;
3. A letter that Bill Hogarth sent to permit holders from the squid fishery seemed to imply that they needed to be a part of an FMP to obtain these permits. They secured a

4. The status and timeline for the EIS documents was covered by Mr. Kingma;
5. There was an inquiry about a 7D determination which is an interim determination for a fishery where at least one instance of its use has exceeded its take level and is under consultation, and it states that the continuing the fishery during the period of consultation will not endanger the species. PIRO is developing this document;
6. When the letter about remedial action was received there was some discussion on the action that was required. That has resulted in the preparation of the bigeye foundation plan;
7. There was a concern expressed at this meeting about being kept informed of international management issues following what some saw as imperfect communication about the IATTC quota. Bill Robinson promised to keep the Council informed concerning international issues;

Hamilton continued with actions that the Council recommended and their status as of March 11<sup>th</sup>:

American Samoa limited entry: the proposed rule was published. NMFS officially approved the action. The next step is to publish the final rule as a Federal Register Notice. The Council sent comments on the last version to PIRO on February 25<sup>th</sup>.

One revision said that NMFS would pay for VMS. They heard in the Enforcement Standing Committee that that is not guaranteed. They would be looking for clarification that it was not necessarily required on every vessel. She thought that agreement was made on the understanding that NMFS would pay for the VMS.

The Turtle Technical Amendment: was an issue covered at the 125<sup>th</sup> Council meeting. A letter was sent on January 31<sup>st</sup> to PIRO requesting that they get concurrence with Protected Resources for the recommendation to use short-handle dehookers on alias. A response is needed before the document can be finalized.

Squid measures: monitoring harvest of domestic squid both on the high seas and in the EEZ. The document was sent to PIRO for review on February 7<sup>th</sup>. They have received two comments from Mr. Feder on March 8<sup>th</sup> and are waiting for the balance of the comments.

Seabird side-setting: they have responded to several rounds of review from PIRO. A revised document was sent on February 28<sup>th</sup> and asked whether a transmittal letter was needed and if this was the final version. They have received an email saying there were typos in the latest version, once corrected the document could be sent with a transmittal letter to NMFS for approval and implementation.

They are going to be sending comments on the Federal Register Notice early next week. The entire package has to be completed and sent to PIRO before the approval and implementation process will begin.

E-logs: Kingma reported on the lack of funding for developing the protocols. They are going to find a way to develop those protocols so the document can be finalized.

Shark management measures: this was outstanding from shark finning and no final action has been taken.

Shark viewing measures: Council has not taken final action. There was a recommendation today to have an options document for the next Council meeting.

Guam offshore bottomfish measures: the document was sent to PIRO in October 2003. Comments were received in December 2004 and February 14th, 2005. One of the comments was that the document was outdated and needed to be updated. They are struggling with this response but will need to reconcile this and deal with the issue.

Mau Zone new entry: the Council's final action was in 2003. The document was forwarded to PIRO. However, because of potential conflicts with the EO it was not reviewed at that time. Comments will be sent when the Bottomfish FEIS is completed, which should be within the next couple weeks. Since the measure is linked to the Northwestern Hawaiian Islands Sanctuary the timing is good for the EIS to be done at the same time the Sanctuary recommendation was completed.

The case is the same for the use-or-lose recommendation, to suspend the use-or-lose requirement.

CNMI: As of March 11th, the Council has not taken final action. With this Council meeting's actions the document will be finalized.

Precious corals, Minimum size: the Council has not taken final action; the recommendation was to wait until the State finished their study on this issue. The final action on precious corals and the mega-refugia was taken in 2001. PIRO was going to send comments when the Precious Coral EIS was completed, but this may change a bit since the Council's recommendation regarding Northwestern precious corals was a moratorium until the Ecosystem Plan is in place.

The PRIA one: this would include the PRIA and CNMI in a couple of FMPs that they are not in. The last plan of action was in the year 2000. There have been several rounds of review. The latest set of comments was received in December '04. That document was revised and sent back. Comments were returned on February 18th, '05 that said justification was needed to include these areas. It seemed self-evident, but they are writing it up.

Northwestern Hawaiian Island regulations; these are the Sanctuary recommendations made last night. So now the Council has taken final action and directed staff to write these up to transmit to NOS by April 4th.

The transformation of the Fishery Management Plans into Ecosystem Management Plans: Council final action is expected at the 127th Council meeting.

She noted that on the left-hand column of the status sheet was the item. It also gives the Council lead staff and then the PIRO lead staff. They have asked PIRO to assign a staff person to each measure. They had a lot of turnover, but as they settle down it is hoped they can assign a specific person to each measure.

The third column showed the target dates. These were dates they got from PIRO, but some of them are not going to happen. They have requested an update but have not heard from PIRO yet.

Loerzel asked for comments or questions.

Duenas asked how long it took for PIRO to address the Guam document.

Hamilton responded that it took over a year.

Duenas remarked that it took the Council about a year to work on the document. He was concerned about how the system was operating. The issue of overfishing for Guam was raised three years ago and the Council took rapid action on it. Now PIRO was threatening Guam with an overfishing designation. The fishermen and the environment are the one who suffer.

Now the Council has to go back to the drawing board. PIRO provides only a year for Guam to come up with a solution or management regime. Then a ten-year building plan needs to be done.

He requested a protocol be established to address the timeline issues.

Feder asked Hamilton to clarify the negotiation about paying for the VMS for American Samoa's limited entry amendment. He thought the VMS requirement was a final Council action.

Hamilton responded that her recollection was that the Council recommendation was that VMS be required and be paid for by NMFS.

Feder confirmed that it was written into the amendment document. He asked if it was actually part of the approved management measure.

Hamilton asked if the council members recalled whether it was or not. She knew the VMS and the payment has been a sensitive issue.



Simonds replied that it was a Council policy that is in the SOP. It says that for any of the Council plans, the government pays for VMS.

Morioka thanked Hamilton for her update and asked that she continue to maintain the document for review at each Council meeting.

He asked that the Regional Administrator to identify those individuals that are the leads for the respective documents, as soon as they become available. He thought it would help facilitate the dialogue necessary to expeditiously process these documents, recognizing the fact that they were going through some organization, and was hopeful that it could be accomplished quickly.

Tosatto responded that they did recognize the lack of timeliness over a number of years as they have been through organizational changes. They have brought on a full-time NEPA project manager within the Sustainable Fisheries Division to become the lead person for all the EIS and NEPA-related components. That will help their review of the regulatory packages.

They are bringing on a Regulatory Branch Chief to lead the regulatory side of the Sustainable Fisheries Branch, who will be directly responsible for the Council's regulatory packages that come over. They are also replacing Ms. Hamilton with another staff person; that solicitation should be going out shortly.

Karla Gore, a staff member working on advanced education, will be returning for summer break. She will assist this summer then leave again for another six months to continue her advanced education.

There is GC review and Headquarter reviews that go on. Some things they have the ability to push. Some things are near broken, like Paperwork Reduction Act process.

They are trying across the board within Fisheries to address regulatory streamlining and become more efficient.

Loerzel asked for any further comments.

Hamilton asked Tosatto about the PIRO staff went regulatory streamlining training. She was wondering if he could say something about it. Will Council staff get the same training? Is there going to be some communication there?

Tosatto responded that Fisheries was developing a Regulatory Streamlining Training Program. The first session was being held in Southwest Region, because they had a more major turnover of staff, their ARA and most of their staff turned over. So they "crashed their party" and brought our Sustainable Fisheries Division to Long Beach and sat through the session.

It was the first session and there were some strengths and weaknesses. Headquarters is going to refine the training and then start delivering it. They thought it would go around the country then come to Honolulu; the Council staff would be drawn into that training.

Duenas remarked that he understood the Guam document never left PIRO.

While he understood that staffing was being done, he asked if there could be a protocol as to how long something is going to go through each office.

Tosatto agreed. He noted that the Guam document has already received Headquarter review and GC review. So the comments that went back were PIRO, GC preliminary and Headquarters preliminary comments. That's the norm through the process.

Simonds noted that this needed to be finished. She asked who would be updating the document.

Tosatto said that while he was not sure about the specific comments that were sent back and which things need to be updated, he was positive that they could attach priority to the document. This was reflective of the prioritization process that they are working through and sometimes not always first in the door is the first out. There are crisis issues that get fast-tracked or subplant some other work.

Haleck asked if there was any reason given for the NMFS refusal or being hesitant to pay for the VMS system for American Samoa.

Hamilton responded that Kingma has reported that it was a policy decision at headquarters. They were unwilling to commit to paying for it.

Haleck asked, so there was no reason given.

Hamilton responded that the policy hasn't been decided. The concern was that if they do it here, are they committing to do it everywhere.

Simonds noted that in the discussion on the first day of the Council meeting with the Regional Administrator, she said they were going to send a letter asking them to fund that program in American Samoa. They would ask the Region to fund American Samoa, not Enforcement.

Haleck said that if it was an issue of American Samoa being a different fishery, the last he checked, American Samoa was a part of this Region, just as Guam and Saipan, and it should be included.

Loerzel called on Tosatto to report on the Administration Response to the Ocean Commission Report.

### **11.G. Administrative Response to the Ocean Commission Report**

Tosatto reported that President Bush issued an Executive Order and put in place a series of actions which he's calling the U.S. Ocean Action Plan, which is the first round of actions out

of the outcomes of the Ocean Commission Report. There are a few that do affect NOAA, the Council and our Region, in particular.

The action plan has seven categories:

1. Enhancing ocean leadership and coordination;
2. Advancing our understanding of the ocean's coasts and Great Lakes;
3. Enhancing use and conservation of ocean's coasts and Great Lakes;
4. Managing coasts and their watersheds;
5. Supporting marine transportation; and
6. Advancing international ocean policy and science.
- 7.

Under ocean leadership, they point to two things. The Administration has signaled its support to push forward with a NOAA Organic Act. It won't directly affect all and largely establishes the status quo. NOAA does not have a delineated organization within Commerce. So this will do a lot of those things and provide mandate for a lot of the things that NOAA already does.

The other aspect of ocean leadership is in supporting regional collaborations the Administration points to regional fishery management and regional fishery management councils as something they will continue to support and advance. The Ocean Commission Report had a variety of things to say about the Councils and the Council process. The President and the Administration will be continuing to support and advance the Council process.

There will be a new NOAA Education Office, and a lot of organization of education, research and observation activities, and actions toward achieving sustainable marine fisheries.

They will be moving through reauthorizing Magnuson. The Administration is paying attention to getting these things done.

They do point to the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve by name and call for to protect and promote coral conservation therein.

Loerzel asked for questions. Hearing none she called on Kingma to report on the Marine Debris Disposal Facility Project.

#### **11.H. Marine Debris Disposal Facility Project**

Kingma reported that this was a potential Marine Debris and Derelict Fishing Gear Port Reception and Disposal Pilot Project.

The Hawaii-based longline fleet does encounter trawl nets and other derelict fishing gear and marine debris on the high seas and the ocean. There is potential here and some initial cooperation from the fleet that they would participate in something like this.

Derelict fishing gear is found in all of the oceans. Nets do tend to ghost fish and impact target and nontarget species and other important species. They can also snag and break corals, carry invasive species, entangle seabirds, monk seals, sea turtles and marine mammals.

Hawaii is subject to a lot of marine debris, especially in the Northwestern Hawaiian Islands. Tons of this stuff washes up in the Northwestern Hawaiian Islands. The Hawaii-based longline fleet does encounter marine debris in the ocean, especially when they are hauling back their longlines. They also foul their propellers which result in economic and operational impacts.

In recent years, NOAA and other partner agencies have been removing nearly 100 tons of marine debris in the Northwestern Hawaiian Islands. A private and public partnership had developed where Hawaii Metals Recycling has offered to cut up all this debris that has been brought back and then truck it to Honolulu City and County's H-Power facility at Barbers Point where it is incinerated. Last year 100 tons or so was enough to power 40 homes for a month.

There have been several initiatives on Capitol Hill about Marine Debris; it is a hot issue this year. Senator Inouye's office introduced the bill. While he was not sure of the status it would likely be funded next year.

This year, fiscal year '05, five million dollars is appropriated to NOAA to address marine debris issues.

NOAA Fisheries Habitat Conservation and Ecosystem Assessment Division contacted Council staff regarding a potential pilot program for derelict fishing gear and port reception facility and disposal program.

The Council has been involved in marine debris conferences, international conferences as well as domestic marine debris issues, for a number of years now. A port reception facility is one of the recommendations that came out one of the conferences last year on marine debris, to get marine debris before it encounters the nearshore environment.

A proposal needs to be developed for funding in coordination with NOAA Fisheries with regard to where to locate the reception area, which will collect the debris and how to dispose of the debris. He has been in contact with the Hawaii State Department of Transportation. There are three potential sites that a reception facility could be housed. They are not thinking of new construction, just a small area that could house nets, and then truck them somewhere to be disposed of or potentially cut up.

The sites include Kewalo Basin, there is a site, but it is probably not the best area for a reception. Honolulu Harbor, Piers 44 and 45, which is the University of Hawaii's area, is another possibility. The last one was near Pier 36 and 38 and is DOT land behind the fish auction house, which appears to be one of the better sites of these three. However, he was looking to get some feedback from the industry regarding a better spot.

Martin said that the Pier 36/38 site was much more convenient for the industry.

One aspect that Kingma didn't mention, other than operational and inconvenience was the safety factor. These nets often are wound up in the propeller, which disables the boat. Then the crew draws straws as to who goes over the side to cut it out. When you get to do that in the swordfish grounds the water is 58 to 64 degrees, the short straw is really a short straw.

They are developing a fishing village at the Pier 36/38 site. All of the boats now that sell fish to the auction actually come to the auction facility to offload their catch. It would be convenient for one of the fishing village tenants to help get the netting onto a facility. Right now they just take it over to the State dumpster, and he assumes that it went to the landfill.

He wanted to mention a joint action between both federal and state agencies to remove a huge section of marine debris that was out on Reef 39 in Kaneohe Bay. He got tired of driving by it and actually had an opportunity to take the current Regional Administrator out and showed him. It turned out to be a 10,000-pound piece of marine debris that was actually hung up on that reef for at least four months. That was an example of a cooperative effort by several agencies to do something that was right. If there is any criticism, it was just that it took too long.

Kingma added that they were still collecting data on where these nets are originating from. The Science Center is doing ongoing work, so if the debris is coming back, they can continue their efforts and try to figure out the origin of these nets and other debris.

The program could be transferred to other areas in the Pacific.

Loerzel returned the chair to Morioka

Morioka called on Simonds to report on Administrative Matters, Financial Reports and Administrative Reports.

## **12. Administrative Matters**

### **12.A. Financial Reports**

Simonds noted that the reports in section 12.A were for Admin '04 which ends on September 30th, 2005.

Also included in the section was the Admin 2005 budget request, the reports on all the grants are the financial reports, CDP, coral reef, EIS, NEPA and, turtles. A report on compensation was provided for their review.

### **12.B. Administrative Report**

Regarding Administration, two staff members were hired on January 1. Sylvia came back to the Council and the Council hired Marcia Hamilton, who's been on an IP and is now the staff economist.

She had already mentioned the five-year strategic plan that is being developed and noted that the same thing is happening with requests for funds. All the Councils applied for funds for five years. This was supposed to be a new system that would improve availability of funds, eliminate redundant grant submittals and improve monitoring and reporting. There was a problem submitting the application online so one was hand-delivered it to Regional Office. She thought that the grant appeared to be unusually high. But they were asked to apply for they thought was needed.

On March 7th the Regional Administrator sent an e-mail about going forward. There was a long discussion in their committee meeting. They have yet to resolve which has to do with all the other monies. The grants, like turtle and CDP, were included in the big budget and the Programmatic.

While they need the money right away, it would not come in until May, which is almost six months into the year. The other thing is that this office does not want to be treated differently from other councils, and she is looking in to see how the North Pacific Council was treated on their application.

## **12.C. Meetings and Workshops**

Simonds presented a draft of the upcoming meetings:

- This afternoon was the Disaster Relief meeting;
- Morioka, Farm, Duenas, Hamilton, Dalzell, Mitsuyasu and she would be attending the Managing Fisheries Conference;
- The Indian Ocean Sea Turtle Meeting, some one would be attending;
- The Interim Scientific Committee, John Sibert is representing the Council;
- The Coastal Fisheries Management Workshop.
- Chris Boggs is holding the Technical Consultation. About six countries' representatives are coming to learn how to use circle hooks and mackerel bait;
- The Council will be hosting this Ecosystem-based Management Workshop;
- The ASEAN-SEAFDEC;
- Coral reef;
- Bottomfish;
- Morioka and she are attending the Regional Council Executive Directors Meeting in California;
- Pelagics, the Marine Mammal Committee;
- The SSC;
- The American Samoa Coastal Management Program, some one would be attending and the Council would have a display there.
- Continuing meetings of the teams;
- The next Council meeting – they would like to move the Council meeting in June to the first week, which means the first day of the meeting would be May 31<sup>st</sup> in the afternoon and it would go through Friday. She needed to know if that was okay with the Council. The Council agreed.

Morioka confirmed the meeting would be May 31st through June 3rd, in Honolulu.

Simonds confirmed the dates and place. She explained that they would start in the afternoon and go through to 5 o'clock on Friday. It won't be like half a day on Friday. It will be a full day. She asked the Council members to plan to leave on the next day.

She continued down the list of meetings:

- The NOAA Fish Fry is happening during Boating Week;
- The IATTC meeting requires preparation of the Council's recommendations over the next week or two;
- The IATTC meeting in the Canary Islands;
- In July the Council is sponsoring a panel at the National Marine Educators Conference, which is going to be on Maui. There will also be an activity for kids; Mark Mitsuyasu is going to head that, teaching them how to tag.
- Then the Fishers Forum is going to be held in Yokohama the last week of July. It will run for an entire week and be mainly about bycatch and longline fisheries. While the Council is providing the funds, it will be hosted by Japan and the Japan industry, the longline industry;
- The Council and the SSC meeting;
- The International Billfish Symposium, which is going to be on Santa Catalina Island October 31st to November 3. The Council is sponsoring this as well with a small amount of money. They are also asking to have a panel so the Pacific Islands rec fish can be showcased;
- Then the last thing in December is the second meeting of the Commission, the Honolulu Convention Commission. Hopefully, the Council will be a member so that recommendations can be made.

Morioka reported that the Council Chair has been appointed to the Hawaii Ocean and Coastal Council, which has been convened by the Governor of Hawaii. She has pulled together various organizations and their leaders to sit on this Council to mutually discuss things of mutual interest with regard to ocean-related activities. He thought this was a great start on behalf of the Governor to include the Council in State activities.

#### **12.D.1. SSC Changes**

Simonds reported that Richard Brock has left the committee; he wasn't able to participate for several years. A recommendation for the vacancy would be provided for approval at the next meeting.

Morioka called on Mitsuyasu for AP changes.

#### **12.D.2. Advisory Panel Changes**

Mitsuyasu reported there was one advisory panel change due to the passing of Jerry Perez, a member of the recreational panel. The Guam Council members recommended Dale Alvarez, who was an alternate, be moved to the recreational panel to replace him.

Morioka called on Beeching for Working Group Changes.

#### **12.D.4. Working Group Changes**

Beeching reported that Matthew Parry, who was previously with State, moved to PIRO and is the PIRO point of contact for MPA issues. They would like to nominate him for the MPA Working Group.

Morioka reported that the Standing Committee met Monday, March 14th at 3:30 and went through all of the same presentations that were done this morning and this afternoon.

Dalzell had one more action item for the Council with regard to the Council Marine Mammal Advisory Panel Committee.

#### **7.H. Marine Mammals**

Dalzell prefaced his remarks by saying that Hawaii has emerged as the center of world class research on mitigation of interactions between protected species and longliners. There has been work on seabirds, turtles and now marine mammals.

The Council is undertaking a comprehensive document on all the sea turtle interactions and conservation and research that is being conducted by the Council, PIRO, the Science Center and the Southwest Fisheries Science Center.

The latest initiative is to look at marine mammal interactions with the longline fisheries, particularly the Hawaii longline fishery. These have been the source of the most aggravation with respect to the elevation of the fishery from Category III to Category I with the Marine Mammal Protection Act, the false killer whales.

The Marine Mammal Advisory Committee will serve in lieu of a Take Reduction Team until NMFS is ready to prepare a Take Reduction Team. A Category I elevation, as has happened with this longline fishery, usually has a Take Reduction Team to minimize interactions between any fishery and the affected marine mammals. The scope of the advisory committee is comparable with the Sea Turtle Advisory Committee.

The members of the committee include:

- Robin Baird, who is a researcher who has looked at the abundance of marine mammals around Hawaii, particularly false killer whales;
- Geoff McPherson from Australia. He has researched this whole issue of what's called degradation. This is toothed whales and dolphins chowing on the catch of tunas by the



- Marilyn Dalheim is with the National Marine Mammal Laboratory in Seattle. She has work extensively on killer whales, orcas, getting a free feed off of demersal longlines in Alaska;
- Tamra Faris, who is in charge of Protected Resources at the PIRO Office. In Standing Committee it was mentioned that she will probably be substituted by Chris Yates, who's been hired by PIRO, with all marine mammal activities;
- David Johnson is a new hire for the Science Center to work specifically on cetaceans;
- Russell Ito will be the point man on the team to deal with fisheries issues and bring that expertise that he has about the longline fishery, not only just the logbooks, but also the observer information;
- Irene Kinan has a lot of marine mammal experience, as well as the new found role as the Turtle Queen of the Pacific.
- Karin Forney works at the Southwest Fisheries Science Center is concerned with issues to do with marine mammal abundance, and also takes in different pelagic fisheries;
- Paul Nachtigall, who is at HIMB, another marine mammal researcher;
- and, himself.

He was asking the Council to approve the committee membership. They are scheduled to meet on the 11th to 12th of this May. He would be working with Chris Yates and with the Science Center to develop the agenda for this meeting.

Morioka reported that the action items that the Standing Committee forwarded would be, to approve the appointment for the Marine Mammal Committee, the appointment of Dale Alvarez to the Council's Recreational Advisory Panel and that Matthew Parry be approved for membership on the Council's Marine Protected Area Working Group. Those will be formally presented in a recommendation.

The first recommendation, that the Council appoint Dale Alvarez to represent Guam on the Council's Recreational Advisory Panel and direct staff to notify him of his appointment.

Duenas so moved. Haleck seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. Motion carried.

Morioka continued with the recommendation that the Council appoints Matthew Parry to the Council's Marine Protected Area Working Group and directs staff to notify him of his appointment.

Duenas so moved. Farm seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. Motion carried.

Morioka read the recommendation that the Council appoints the listed persons to serve on the Council's Marine Mammal Committee and directs staff to notify them of his or her appointment.

Duenas so moved. Tulafono seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. Motion carried.

Morioka read the recommendation that the Council requests that the Pacific Island Regional Office review the Council's grant applications in an expeditious manner. Notify the Council immediately of any completeness problems and copy the Council with the transmission of the application to the Grants Office in Silver Spring.

Duenas so moved. Motion was seconded.

Morioka asked for discussion. Hearing none, he called for the question. Motion carried.

Morioka read the recommendation that the Council directs Council staff to work with the Pacific Islands Regional Office to develop and follow a written process for the review, completion, paren, including criteria by which documents are determined to be, quote, complete, end quote, end paren, transmittal, approval and implementation of the Council's recommendation regarding fishery management actions.

Duenas so moved. McCoy seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. Motion carried.

Morioka read the recommendation regarding the use of VMS. Council reiterates its policy that because enforcement is the responsibility of the federal government, therefore the Council requests the Pacific Islands Regional Office Regional Administrator identify NOAA funds to establish and administer the VMS Program for the American Samoa longline fleet.

Duenas so moved. McCoy seconded the motion.

Morioka asked for discussion.

Duenas said that just for completeness he added, “or any other territorial”, to be inclusive.

Morioka confirmed that where it said “American Samoa longline fleet”, did they want to just say, CNMI and Guam.

Duenas said that was fine.

Morioka repeated, “American Samoa, comma, CNMI and Guam longline fleet.”

Simonds added that they might want it on their big bottomfish vessels. The American Samoa limited entry program needed to be separated out. Then others as it becomes necessary in CNMI and Guam.

Seman stated that because of their Marine Conservation Plan, they left a provision in there to negotiate; they did not want the VMS to be a factor. They would like to use that in regards to foreign countries, if there is an interest and use that to negotiate on how VMS is to be implemented. So requiring it at this point in time would take that out of their opportunity to negotiate.

Morioka asked then why don't they leave it in the form, and address this for the other regions.

Loerzel said it was their initiative, because they just passed the amendment for CNMI, and that request for VMS on the bottomfish boats that are 40 feet or longer.

Morioka said that was another issue. He suggested they just deal with American Samoa now and deal with Guam and CNMI later.

Duenas had no objection.

Simonds said they had just fixed it.

Morioka said it was an issue with CNMI.

Simonds said that they had added “as appropriate”. Shall it read, “and other Western Pacific Fisheries as necessary or as appropriate.

Morioka said, okay.

Duenas had no objection. McCoy, the second, accepted the modification.

Morioka asked for further discussion.

Tosatto said he recognized the Council's VMS policy and abstained from the vote.

Morioka said he understood and asked for further discussion. The motion was carried.

McCoy reminded the chair that the Council was to write a letter in support of the canneries in American Samoa in regards to the Section 936 tax thing. Could they direct staff to do that? It was deferred to the end of the meeting.

Simonds asked what the request was.

McCoy repeated that the Council was to write in support, in regards to the 936 exempt tax action that's being debated now, either for extension or --

Simonds asked if it was in the U.S. Congress.

McCoy said it would be going to the Congress pretty soon and was being debated at the moment. It is 936, a section of the tax code.

Morioka: The Council directs staff --- (Brief break to word the recommendation)

Martin provided some background. In the report from the Tulafono expressed concern that the tax code currently was jeopardizing the ability of the canners to continue to be financially viable in the American Samoa. The comment was that if something can't be done, the canners won't be able to continue to operate in American Samoa. There was a discussion about the importance of the canning industry, which of course is supported by fisheries, some of which the Council manages, and their ability to continue to operate if they didn't receive an exception from the tax. So the discussion revolved around a letter, some kind of letter of support, supporting the canneries and the necessity of the canneries to be able to continue to be financially viable in American Samoa. Otherwise, the economy of American Samoa would suffer tremendously.

Feder said that the Council staff could be directed to prepare information and background paper on this subject that then is distributed as appropriate.

Simonds asked if it was urgent.

McCoy said, yes, it expires at the end of this year.

Simonds asked when they were going to vote on it.

McCoy said, fiscal year.

Simonds said, September 30<sup>th</sup>, so there is time to prepare a background document. If the Congressman had asked for comments, then that would have been easier.

Morioka asked if McCoy could do that.

McCoy said that was fine.

Morioka read the recommendation as the Council directs staff to prepare a background paper on the economics of the fish canneries in American Samoa and the potential impact of their closure. He asked for a motion to that effect.

Farm so moved. Tulafono seconded the motion.

Morioka asked for discussion and called on Tulafono.

Tulafono said it was good.

Morioka asked if McCoy was comfortable.

McCoy said he was okay.

Morioka called for the question. The motion was carried.

Morioka said they had come to the end of the agenda and had a very important recognition matter to handle here. He called on Commander Mathers to come forward and join him at the podium.

Morioka read the following resolution:

“This is a resolution in recognition of the United States Coast Guard Commander Dwight T. Mathers for his service to the Western Pacific Regional Fisheries Management Council dated March 17th, 2005.

Whereas Commander Mathers, Chief of the United States Coast Guard District 14, Maritime Security Branch, have represented the United States Coast Guard on the Council since 2001;

Whereas in his capacity as Chief of District 14 Maritime's Security Branch, Commander Mathers has helped protect 13 million square miles of the Pacific Ocean, including Western Pacific Region marine resources and island communities through traditional law enforcement missions, maritime, Homeland Security, intelligence and international engagement;

Whereas during Commander Mathers' tenure he was responsible for the prosecution of many law enforcement cases, such as catching several foreign fishing fleets engaged in illegal high seas drift netting;

Whereas Commander Mathers' expertise and knowledge of maritime enforcement has qualified him to represent the U.S. at various international meetings, including the Multilateral High Level Conference and subsequent Western and Central Pacific Fisheries Commission;

Whereas in four years representing the United States Coast Guard on the Council Commander Mathers has never had a hair out of place or a wrinkle in his uniform;

Whereas Commander Mathers' leadership has improved the maritime security of the Western and Central Pacific Region;

Therefore, be it resolved that the Council extends its most heart-felt gratitude to Commander Mathers for his outstanding dedication and service to the Council and to the Nation;

Be it further resolved that the Council wishes Commander Mathers fair winds and following seas in his new leadership position as the Executive Officer of the High Endurance Cutter, U.S. Coast Guard Cutter RUSH, and home-ported here in Honolulu.

Aloha nui loa, (Speaking in languages other than English) and best of luck on your future endeavors. Signed, Kitty M. Simonds, Executive Director, and Roy Morioka, as Council Chair.”

Mathers said it had been his pleasure to be associated with this Council for the last four years. He has always been impressed with the professionalism and dedication of the staff members. He had big shoes to fill coming after Mike Tosatto and was glad to see he's been able to remain in the Region in a different capacity. He was grateful to be remaining in Hawaii and the Pacific Region to see the ongoing efforts that the Council is doing here. He wished them all well and thanked them for the friendship they have extended.

### **13. Other Business**

Morioka asked if there was any further business before this Council.

Farm moved that they adjourn.

Morioka said that there was a call for adjournment. Council members seconded the motion.

Morioka asked for discussion. Hearing none, the 126th meeting of the Western Pacific Regional Fisheries Management Council was adjourned at 2:55 p.m.