



**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

MINUTES OF THE 131<sup>st</sup> COUNCIL MEETING of the  
WESTERN PACIFIC REGIONAL  
FISHERY MANAGEMENT COUNCIL

**14 – 16 March 2006**

**Ala Moana Hotel**

**Honolulu, Hawaii**

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 read "Frank McCoy", is written over a horizontal line.

CHAIR: Frank McCoy  
Western Pacific Regional Fishery Management Council

**TABLE OF CONTENTS**

- 1. INTRODUCTIONS .....1
- 2. APPROVAL OF AGENDA ..... 1
- 3. APPROVAL OF 129<sup>TH</sup> AND 130<sup>TH</sup> MEETING MINUTES ... .2
- 4. ISLAND REPORTS
  - A. Hawaii ..... 2
  - B. Guam ..... 5
  - C. American Samoa ..... 13
  - D. CNMI ..... 16
- 5. AGENCY REPORTS
  - A. National Marine Fisheries Service
    - 1. Pacific Islands Regional Office .....20
    - 2. Pacific Islands Fisheries Science Center ..... 26
  - B. Department of Interior
    - 1. U. S. Fish & Wildlife Service ..... 33
  - C. NOAA General Counsel ..... 37
  - D. Department of State ..... 37
  - E. NOAA Sanctuary Program Update ..... 38
- 6. ENFORCEMENT/VMS ISSUES
  - A. United States Coast Guard ..... 46
    - 1. Enforcement Report ..... 46
  - B. NOAA Office for Law Enforcement Report ..... 47
  - C. Status of Violations ..... 51
  - D. Automatic Identification System Requirements ..... 53
    - 1. Small Vessel AIS Pilot Program .....58
  - E. Standing Committee Recommendations ..... 62
  - F. Public Comment .....63
  - G. Council Discussion and Action .....88
- Guest Speaker: Leimana DaMate, “Ahupuaa in the 21<sup>st</sup> Century” ..... 64
- 7. FISHERY RIGHTS OF INDIGENOUS PEOPLE
  - A. Communities Program ..... 74
  - B. CDPP Update .....74
  - C. Pubic Comment .....79
  - D. Advisory Panel Recommendations .....78
  - E. Council Discussion and Action ..... 79

8. PRECIOUS CORAL FISHERIES	
A. Black Coral Management and Research	
1. Black Coral Amendment Update	81
2. Black Coral Workshop Plan	81
B. SSC Recommendations	81
C. Public Comment	82
D. Council Discussion and Action	82
9. BOTTOMFISH FISHERIES	
A. Bottomfish Management	82
1. PIFSC Report on Hawaii Bottomfish	82
2. MHI Bottomfish Overfishing Measures	85
3. Assessment of existing and designation Of new State of Hawaii bottomfish Restricted Fishing Areas (RFA)	94
B. Plan Team Recommendations	103
C. Advisory Panel Recommendations	103
D. SSC Recommendations	105
E. Standing Committee Recommendations	107
F. Public Hearing	109
G. Council Discussion and Action	111
10. PELAGIC/INTERNATIONAL FISHERIES	
A. International Fisheries Management	
1. WCPFC 2 <sup>nd</sup> Meeting Resolutions	116
a. BET/YFT Conservation	116
b. Northern & Southern Albacore	120
2. NMFS International Division Activities Report	124
a. Purse Seine Report	124
b. Other International Activities	124
B. Hawaii Shortline/Handline Fishery Report	125
C. American Samoa and Hawaii LL 2005 Fishery Report	129
D. Advisory Panel Recommendations	134
E. SSC Recommendations	135
F. Standing Committee Recommendations	137
G. Public Hearing	139
H. Council Discussion and Action	140
11. PROTECTED SPECIES ISSUES	
A. Turtle Conservation Program Update	149
B. Observer Data and Science	147
1. NMFS-Pacific Islands Fishery Science Center	147
2. NMFS-Pacific Island Regional Office Protected Species Report	149
C. SSC Recommendations	152
D. Standing Committee Recommendations	152
E. Public Comments	152

F. Council Discussion and Action .....	153
12. ECOSYSTEMS AND HABITAT	
A. NWHI Sanctuary Fishing Regulations .....	153
B. Western Pacific Fishery Ecosystem Plans Update .....	164
C. NMSP/Council Fishing Regulation Protocol .....	165
D. NMFS Essential Fish Habitat Update .....	166
E. Ecosystems Social Science Workshop Report .....	168
F. Shark Viewing Update .....	169
G. Advisory Panel Recommendations .....	171
H. SSC Recommendations .....	173
I. Standing Committee Recommendations .....	175
J. Public Hearing .....	175
K. Council Discussion and Action .....	189
13. PROGRAM PLANNING	
A. Update on Legislation .....	199
B. Magnuson Act Reauthorization .....	200
C. Status of Fishery Management Actions .....	200
D. Education and Outreach Report .....	200
E. Report on State Disaster Relief Program .....	201
F. FDCC Report .....	202
G. Report on National Aquaculture .....	160
H. Standing Committee Recommendations .....	202
I. Public Comment .....	202
J. Council Discussion and Action .....	203
14. ADMINISTRATIVE MATTERS AND BUDGET	
A. Financial Reports .....	203
B. Administrative Reports .....	203
C. Meetings and Workshops .....	205
D. SOPP Changes .....	206
E. Council Family Changes .....	203
F. Standing Committee Recommendations .....	205
G. Public Comment .....	205
H. Council Discussion and Action .....	206

McCoy called the 131st meeting of the Western Pacific Fisheries Council to order at 8:35 am. Before beginning the introductions, McCoy asked for a moment of silence for the passing of Miss Maggie Inouye, who was an integral part of Pacific Islands life and worked with all Pacific Islanders to better their communities.

## **1. INTRODUCTIONS**

McCoy asked each of those in attendance to introduce themselves. Present were:

- Craig Severance (for Paul Callaghan, Scientific and Statistical Committee);
- Rick Gaffney (Member at-large from Hawaii);
- Bill Gibbons-Fly (Department of State);
- Stephen Haleck (Council member, American Samoa);
- Ed Ebisui (Council member, Hawaii);
- Ray Tulafono (Council member, American Samoa);
- Sean Martin (Council member, Hawaii);
- Frank McCoy (Council member, American Samoa);
- Manny Duenas (Council member, Guam);
- Kitty Simonds, (Council Executive Director);
- Dot Harris (Designee, Guam sitting in for Adrienne Lorzel);
- Ben Sablan (Council member, CNMI);
- Ignacio Dela Cruz (Designee, CNMI);
- Fred Duerr (Council member at-large from Hawaii);
- Commander Bob Wilson (Coast Guard);
- Bill Robinson (NOAA Fisheries Regional Administrator); and,
- Silas DeRoma (NOAA Office of General Counsel, Pacific Islands Region).

## **2. APPROVAL OF AGENDA**

McCoy requested an approval of the agenda. Duenas moved. Sablan seconded. McCoy asked for discussion.

McCoy explained that for Item A: Island Reports, the Hawaii report would be the first, followed by Guam, American Samoa and CNMI. He also noted that the full Council would be in closed session at twelve o'clock to discuss some personal matters.

McCoy asked for further discussion, hearing none, he called for the question. Motion passed.

## **3. APPROVAL OF THE 130<sup>th</sup> COUNCIL MEETING MINUTES**

McCoy asked for approval of the 130<sup>th</sup> Council Meeting Minutes.

SABLAN moved. DUENAS seconded. McCoy called for discussion, hearing none, called for the question. Motion passed.

#### **4. ISLAND REPORTS**

McCoy called on Martin to present the report on the State of Hawaii and asked him to begin with the correspondence from Bill Robinson with regards to the action on the turtle cap.

##### **4.A Hawaii Island Report**

Martin reminded the group that the Hawaii shallow-set fishery operated on hard caps on turtles, meaning that there are limits on turtle takes or interactions. If exceeded, the result would be a closure of the fishery.

The Standing Committee had discussed the hard caps and the mechanism with which to close the fishery. While the fishery had not reached these hard caps last year, it looked like it would be closer to the cap this year. The discussion was to advance a mechanism that would allow the fishery to be closed on a shorter time schedule than it currently operates. Martin called on Robinson to explain this further.

Robinson noted that there was an extraordinary amount of effort early in the year in the swordfish fishery resulting in excellent catches. However, the loggerhead take was 14 of 17 as of last Friday, the hard cap is 17.

When the regulations were set up to implement the hard cap, a Notice of Closure would have to be filed with the Federal Register first. A grace period of seven days was provided in order to facilitate communication, particularly for the vessels at sea. The risk with the grace period is the continued taking of loggerheads during that time that may reach the hard cap. There is the technology today to contact each and every one of the vessel operators through satellite phones that are carried by the observers. So, if the industry and the Council desired, they could move to close the fishery by notifying the fishermen.

The procedure could be changed to eliminate the grace period and provide official notification from NOAA Fisheries to the vessel operator of the closing of the fishery.

The development of an emergency rule could make that change to the regulations. One was being prepared in anticipation of the Council's desire to close the fishery on the take of the 17<sup>th</sup> loggerhead.

Simonds asked if the emergency procedure would be under Magnuson or ESA. Speed of action was important.

Robinson agreed and stated that their attorneys were advising them of the most efficient and quickest way to proceed. The thinking was they would proceed under both Magnuson Act and ESA.

Simonds noted that as long as the time was shorter than the seven days in the regulation, the Council would want to see that happen.

Robinson explained that once the 17<sup>th</sup> loggerhead turtle was taken and the cap reached, any additional take of turtles in the fishery during the open fishery would require re-initiation of consultation under Section 7 and new biological opinions. He stated there are risks involved with that.

Simonds stated that the Council's preference was for a re-initiation of consultation not to occur and the Council would gather new information and make requests based on that new information.

Martin agreed that the industry did not want a forced re-initiation of a consultation situation.

Simonds referred to the Council's response to Robinson's correspondence informing the Council of how many loggerheads were taken. The Council requested that the National Marine Fisheries Service close the fishery immediately following the interaction with the 17<sup>th</sup> loggerhead. She asked if that was sufficient language.

Robinson felt the language was sufficient and that the Council should not be too specific in order to allow NMFS flexibility in figuring out what the notification should be.

Martin stated his support of the Council's response letter if PIRO and the lawyers thought that gives them the flexibility and ability to begin the process.

Simonds suggested that she work with DeRoma on the exact language of the motion for the Council so the Council could continue with business.

McCoy asked Martin to continue with the Hawaii report.

Martin stated that he would do a portion of the Hawaii report and Polhemus would do the State portion of the report.

Martin said that the development of the Fishing Village, Pier 38, was progressing. The construction of a new building to house one of the major fish buyers in Hawaii was continuing and fishing and fishing type companies had committed to over 100% of the available space in the village. Contractual obligations were being finalized and would go to the Land Board for approval for tenants to occupy the Fishing Village. Martin felt that the State had funding to advance the program and the Fishing Village would become a reality shortly.

As discussed earlier, the swordfish fishery, which is most active in the first quarter of the year, has landed 754,000 pounds of swordfish at the Honolulu Fish Auction, with ex-vessel value of 2.6 million dollars. This was the direct result of the Council working with industry and other regulators to get the fishery re-opened.

The industry was quite encouraged by the strength that the fishery has exhibited, and fish sizes were quite large by domestic U.S. fishery standards. The fishery is successful, economically as well as with resources.

Gaffney asked what the average weight was for the catch.

Martin responded that while he did not bring the exact numbers, he guessed it was about 180 pounds. Doing the math in the pounds and dollars, average swordfish price for all the swordfish landed in the State of Hawaii since January 1<sup>st</sup> was about \$3.50 a pound ... a pretty healthy fishery.

McCoy asked for the State report.

#### **4.A State of Hawaii Report**

Polhemus noted the report was Item 4.C.1. and contained nine pages. Highlights for the report included:

- For bottom fish management, the State of Hawaii completed an analysis of existing restricted fishing areas for bottom fish in December of 2005 and defined a set of 14 new areas based on seven years of multi-beam sonar habitat mapping and assessment of distributions of the seven bottom fish species that were of greatest concern. The new areas were reduced to 12 based on public information meetings during the first half of January 2006. The current set of 12 areas will be sent to the Land Board in March/April for their approval. Then additional public hearings will be held.
- For precious corals, a regulation is being developed with what was adopted by West Pac at its Guam meeting. A 48-inch height, one-inch base diameter standard will be adopted so there will no longer be a dichotomy between harvesting standards and State and Federal waters. The management plan for corals and the rule amendment will go to the Land Board within the next several months with hearings probably in late summer.
- For invasive aquatic species, work on development of the Super Sucker at Kaneohe Bay continues. This large suction device on pontoons removes alien algae around the reef. The algae will be trucked to taro farmers in Waiāhole Valley to be used as compost. While not a solution to the problem, it has been successful and a second Super Sucker 2 will be deployed on the Leeward side of the island at Waikīkī. Many of the resorts have been enthusiastic about supporting that project.
- There are several bills in the legislature that have direct applicability to the management of marine resources.
- A bill prohibiting the commercial sale of 'opihi or limpets has cleared the Senate and moved to the State House. The State is working through how this might impact the industry, particularly on the Island of Ni'ihau. The State supports the bill and has suggested an amendment to set a recreational bag limit on 'opihi at one quart (shells on) per person, per day. The State felt this would be small enough to prohibit commercial harvest.

- For crustaceans, a bill was introduced to prohibit the take of females of various crustaceans, including spiny lobsters and Samoan crabs, and sale of those in the commercial fishery. The State supported that bill, but suggested it be amended to prohibit the take of females across the board in both commercial and recreational fisheries. That bill was still moving forward.
- There is a bill that advocates the creation of a community-based fisheries management area in the ahupua'a of Haena on the North Shore of Kaua'i. The State has supported that bill and it is moving forward. As originally written it was not constitutional because it had certain aspects that would have violated public trust clauses in Article 11 of the State Constitution in terms of exclusivity. The local community understands that the bill would need to be modified to pass constitutional muster.

McCoy asked for additional comments, they're being, none he called on Duenas for the Guam Report.

#### **4.B Guam Report**

Duenas presented the following slides:

- The main island of Guam and its banks.
- Phil Apras (phonetic) and Tommy McKinny (phonetic), showing off the catch. Mahi and wahoo are pretty good right now.
- The seas are pretty rough. There have been three major mishaps with fishing vessels:
  - o A 32-foot boat suffered a total loss with two major injuries.
  - o A 16-foot vessel suffered one fatality
  - o A small scale commercial fisherman suffered a spinal injury and will not be able to fish for about a year.
- Bottomfish had a few good days in January, but the seas remained rough.
- A map showing the accessibility of fishing on Guam. The red areas are basically no access. The lighter shade showed very limited or no access.
- Guam's MPAs were mapped and showed what areas are actually available to fishing.
- Duenas thanked the Coast Guard for their efforts when a former LORAN station had been identified to have PCB residue in the waters. The Coast Guard advised the people of the little community of Merizo not to go fishing. They don't expect the PCB to clear for maybe 30, 40 years. Orote Point was another PCB site.
- In the area above an MPA, they believed a major unidentified toxin has caused two fatalities and eight hospitalizations.

- Military bases were shown in blue along with Government of Guam restricted areas and pure Jet Ski operation areas. The remainder was how much fishermen have left.
- Duenas felt that areas with natural boundaries or barriers and restricted areas should all be counted as MPAs because there is no way fishermen are going to get to them. The PCB here is a major concern because it ran from here all the way down to Agat, another fishing community.
- A major collecting point for sea grass and seaweed for the communities is not long available.
- There are four major boat ramps: Merizo, Agat, Agana and a little boat ramp where at low tide you will hit an old military jeep that was sunk during the war that nobody has been able to remove. You may lose a prop or two.
- The major access areas to any offshore areas.
- One little island of 212 square miles has little shoreline for people to access for fishing. In speaking about CPUE all these colored areas, which encompasses about 90 percent of the island, must be considered.

Duenas reported that they were extremely excited about the community-based management program under the FEPs. Paul Bartram has been coordinating this program with on-island coordinators, Jesse Rosario and John Calvo.

The communities are excited to have a real chance at participation. On the other hand, the government was not too excited because they feel it is an ego-system-based approach, and we're stepping on the ego-system.

As a community they work only on one principle, survival for tomorrow. The Chamorro community is slowly becoming a minority just as the Hawaiians are with their homelands. This approach is an opportunity to continue to be a part of the program.

On first looking at the program they were hesitant to accept another federal intervention. But as Jesse Rosario, John Calvo and Paul Bartram educated them, worked together, and developed some projects they began to get excited. Funding is needed, but the community is very excited.

The government is having a difficult time with the program because it is action based, not policy-based.

There are no changes in the federal regulations. The community feels it can not go to Congress and demand things, they have no rights.

This is community-based and adaptive management.

They have talked about the swordfish fishery hitting the hard cap. There is real-time series information now to address that.

The data shows highs and lows in the fishery, yet when the CPUE was down for this year, action needs to be taken. Looking from a historical perspective, it is up and down. But all of a sudden we have to take action.

This is where the community comes in to address those issues. It has been a bad year and we need to figure out what is going on.

The raking of the seaweed along the shoreline of Tumon Bay to enhance the area for tourism versus feeding the fish that live in that MPA, that is a major concern. The initial focus of the ecosystem on offshore banks is a major concern.

There are many unknowns:

- Is overfishing occurring?
- Are fishing vessels we don't know about coming down from somewhere else and anchoring offshore? A long liner was just arrested in the Northern Mariana Islands 60 miles within the EEZ. So these things happen and no one office actually keeps an eye on everything.
- It is not known if the offshore sedimentation problem is drifting all the way to the offshore banks, the runoff, and the pollution. When there is a major rainstorm in Guam, a sedimentation cloud will appear about a mile or two out of one of the major bays. Offshore banks are ten miles off. But that cloud can keep carrying stuff over there, and the impacts are not known.
- There are major seamounts on the southern end of the island. There are also many seamounts in between that are not on the map. In the southern area there are about ten major seamounts, on the northern end, about five or six. There are several right off the northern end of the island. It's a major seamount that has about five or six seamounts.
- The problem in these northern seamounts is the level of military activity. There is hardly any activity on the surface. However, when planes land the pilot's protocol is to jettison the excess fuel. So this whole area could be full of fuel. We don't know. We don't know the impact of that. Planes are landing into Andersen to do their military test run. What is being jettisoned?
- A former heavy fishing area does not even have seabirds now, but nobody is concerned about that. But the community has a major concern.
- The Guam Fishermen Cooperative Association is composed of:
  - o Smaller scale Commercial Fishermen;

- Smaller scale Charter Fishermen;
  - Subsistence Fishermen; and,
  - Recreational Fisherman.
- Recreational is still a word with which we're trying to come to grips. We don't understand what it means. Does it mean catch the fish and let it go? Or, it means you catch the fish and eat it? When you eat it, it becomes subsistence. They are more comfortable with subsistence.
  - Outreach activities include the annual Fishermen's Festival where we invite the public down to see what we're doing.
  - Over the years, the reefs around Guam are closed due to pollution or other issues. They are developing a culinary appeal for pelagic fish. They developed recipes for mahimahi, wahoo, ono, yellowfin and marlin.
  - The number one thing in Guam right now is smoked marlin. Instead of having people eat parrotfish and all the reef fish, that are so-called low in stock, we'd rather change consumer's appetites to the deepwater fish, deep sea fish.
  - They are training Coop members and other fishermen to provide more detailed information. The Volunteer Data Collection Program was developed and is working pretty well. They need to get more members involved.
  - Members and other fishermen are being trained to recognize qualitative differences between fish gonad development and prey in fish stomachs. They are trying to determine what kind of fish is being eaten by other fish. They have found mahimahi with parrotfish in their bellies. They are trying to determine how far inshore they're going, who's eating what.
  - The Co-op Staff is collecting all this data. It is extra work, but they are trying to help out and work this program work with the UOG Marine Lab.
  - The Council has been reviewing a lot of the information and the science reports being produced. DAWR, our local government, and the University of Guam have been looking at the information. But again, funding is needed.
  - NMFS helped with research by sending the OSCAR SETTE down. But, more internal research is needed. That was part of the reason a request was submitted for a small research vessel, for Guam, that would be operating out of the Fishermen's Co-op. Apparently the CDPP money wasn't available. He is speaking with Robinson to see if funding can be secured for that program.
  - They have control rules that lump everything together as fishing grounds around Guam. They, on the other hand, are analyzing every fishing ground; Galvez Bank, White Tuna Bank, Santa Rosa Reef, finding out what's going on with each. Why is taape there in one

year and then all of a sudden it's gone for five years and then all of a sudden they overtake the whole place again for another couple of years. That is what is needed.

- They also need to find out when their spawning periods are. We've been asking our government to provide us information. We're worried about the overfishing category. Why is there overfishing? All our highliners are gone. Why is there overfishing occurring?
- There are three bottom areas on Guam: shallow, midwater, and deep bottom. Shallow water is the red-gilled emperor. Mid bottom are more apex predators: ukus and big jacks. Deep bottom goes from amberjack all the way down to onaga or monchong.
- Seasonal closures, versus any type of other closure, such as area closure, are being considered for ease of monitoring and enforcement. When an area is closed for a certain time of the year for spawning, nobody is going to land that fish.
- The Guam government is very strict and won't hesitate to arrest violators. A 77-year-old man was arrested and locked in jail for fishing in an MPA that he had been fishing in for 70 years of his life.
- As a fisherman, Duenas knew that when the fish spawn, their eggs come up, go with the tide. If we're lucky, the tide may come around in a few years, a year or six months, and come back to my island. The scientists do not agree with him.
- In addition to saving the big fish or mothers for seedlings, the habitat needs to be protected. That was why anchoring was prohibited in the reefs to protect the habitat.
- As long as those little larvae or eggs or little fish can't hang around in the tidal pools anymore, it's useless to have any type of conservation. All you're doing is making somebody in American Samoa or Palau happy.
- There is a need to work with other nations to address these issues. The FEP encourages an ecosystem approach. They are to work hard with the government to try to understand what they want so toes are not stepped on and get people angry. It's an election year so everybody is going to be pretty much cognizant of the community now. After the election is over, it will change.
- FEP encourages greater community participation and management. They are excited about this program because they feel like they are in charge; it gives them ownership, partnership and credibility when action is taken.
- The past included extensive interviews of Guam offshore fishermen and other resource-users as part of the 2005 pilot project.
- For the future, they are hoping for a full-time project coordinator starting in the summer of 2006 to interface between community and other project partners.

The Guam Fishermen Cooperative Association has been providing data to the government for the last 20-something years. Good data. Duenas asked the data collection people for a nice scale to weigh instead of having the Cooperative buy one every year.

He would like to see the fishermen benefit. They data they collected is always used against them, and that was what he is concerned about.

Polhemus asked how precise was the catch data in terms of geographic locations. Did the fishermen provide a GPS coordinate on where they caught the fish?

Duenas responded that the areas were really small. So if it was Rotinian Point, it is the point, almost a dot.

Polhemus continued that there had been an issue at the Bottomfish Standing Committee.

Duenas responded that GPS could be off by 50 feet and not hurt the accuracy of the bottom fish.

Polhemus asked if NOAA's research vessels were used to map Essential Fish Habitat for the bottom fish with multibeam.

Duenas responded that NOAA had mapped their area and asked them to treat that document as if it were national security. Because too much education means disaster.

Polhemus disagreed and said that they could exploit the fishery very effectively. He asked about the limestone plateau in the north and the fact that there was no access, was it topographic, that you can't get there because it is cliffs.

Duenas said no. There are private island areas and resorts in that area. They had lost two fishermen in the last year in that area just trying to cliff-line fish.

Polhemus wondered about the boat-based access to the site. Could recreational fishers come around and access that side of the island by boats during the appropriate seasons.

Duenas said no, it was very difficult. The price of gasoline, it's almost impossible for anybody to go around. There are fishers that know how to navigate that channel, but they have to go at high tide.

Polhemus remarked that in Hawaii there are a lot of areas that are similarly inaccessible from the shore, but during the appropriate seasons there is a lot of fishing pressure, and they're from boat-based anglers.

Duenas added that it was the windward side and inaccessible nine months of the year. It was the largest MPA they have. Divers are the best source of scientific information for him. They tell him the condition of the reef ecosystem. Because the further they dive, not necessarily the fish are deeper, but there is no more habitat in the higher areas or the lower areas. From zero to sixty

is pretty much dead all around the island. You can't find fish habitat. Sedimentation has filled up most of the cracks and crevices. The corals are suffering from bleaching. There are millions of golf balls on the eastern side of the island. They're actually rolling around and smoothing out the coral. As much as the divers may be impacting the reef, their impact was minimal compared to the information they give.

Polhemus said that Duenas must be happy about the prospect of a large military increase in terms of the increase of the number of people on Guam.

Duenas noted on the map where a current Guam MPA was. An area next to it was still "green" and designated for the new Marine barracks. That area in a few years would be as "red" as the neighboring MPA.

Dela Cruz asked who made the suggestion to test the waters for PCB contamination and who paid for it.

Duenas said that the Coast Guard tested the water. He commended the Coast Guard and Captain Marhoffer from Guam, for going out there and checking on what was going on. The Navy installation actually started the whole thing. After that everybody in the military started saying, let's look at our area.

Duenas understood that in testing for PCB, a whole fish is ground up and tested. The scientists and the doctors say that if you remove the guts, filet it off the bone, and remove the skin, the fish is safe. And, you would have to eat that fish every day for 30 years, which the people in Merizo may have done. But no one is educating the people to do that.

Duenas said that it was safe for swimming as long as you don't eat the sand.

Duerr asked if there was anything that the Council could do to persuade the military, as they move in, not to declare more and more of the Guam shoreline off limits or closed. Maybe if they were proactive they may be able to stop needless closures.

Duenas responded that, technically, the military owns one-third of the island, the general public owns one third, and one-third belongs to the Government of Guam. Much of the third that the military owns is shoreline-based and closed currently. So it is not going to add or take away. The only thing they are worried about is the impact to the environment that the military may have. They do not know what is going on; the military does what it wants. They talk about protecting the reefs, yet the military bombs FDM.

Ebisui asked, on the issue of beach access, were gated communities beginning to spring up in Guam.

Duenas remarked that in the old days, a lot of these areas were single-family owned. But as Guam modernized, largely due to the military, a lot of these areas opened up to different types of other communities and housing developments. When they were single-family owned, permission was asked from the family. However, now, there may be one path that will take you

down to this nice pristine area, and different people own it; that the difficulty now.

The only gated community is down in Tumon, which is totally tourist-related. That is the largest MPA. I believe the Sanctuary Program has listed Tumon as a potential Sanctuary site. This will be exciting since there are 1.2 million tourists in three miles of shoreline a year.

Ebisui asked if there were laws that required maintenance and public access.

Duenas said yes, but when there is a concrete jungle all around that public access, where do you park?

Ebisui said that there were areas like Kawela Bay on the North shore of Oahu that is gated. All public access has been shut down and nothing has been done. There are others coming up at Velzyland and Papailoa on the North Shore where there is a public access way, but it's gated and it's locked by the wealthy residents. So if you don't live in the little enclave of wealthy people, you don't get in.

Duenas said the same thing has happened on Guam. They have little narrow trails about five feet wide that are called bull cart trails. Those are public access roads that never can be removed. But buildings are built all alongside the access road and a main highway is at the other end. While you have access, there is not place to park. You park five miles out near the nearest Denny's or McDonald's and walk the rest of the way.

Polhemus wanted to clarify that Duenas supported the Sanctuary Designation at Tumon.

Duenas said no, he just did not know the sanctuary mission in Tumon. Was the prohibition just on fishing or did it include jet skiing and reef traversing is allowed.

Harris reported that Guam had received just under a half million dollars from the Department of Interior Office of Insular Affairs for repair of the Hagata Marina. About \$200,000 of that will go to E&E Design for replacement of steel and concrete pilings and the remainder will go toward a construction fund. We're expecting another 1.2 million in FY '07 from DOI for the actual construction.

There are only two marinas to serve the entire populist of Guam. The Hagata Marina has not seen any infusion for capital improvement in over 30 year. These marinas support Guam and the community in many ways:

- They provide for economic opportunities in terms of import substitution by allowing fishermen to catch fish and sell them in the local market.
- They support the charter industry, which is a valued component of the tourism industry.
- They provide for subsistence opportunities for people, as well as continuing the tradition of fishing among Guam's people.

McCoy thanked Duenas for the report and said the Council appreciates the effort put forth by the community leaders to bring people together to co-manage their resources. He said it prevents a lot of overuse and over-extraction He hoped his territory would take similar action.

McCoy called on Tulafono to provide the American Samoa report.

#### **4.C American Samoa**

Tulafono highlighted some of the items in his report:

- The Fishery Data Collection Program includes an inshore creel survey. In late 2005 some of the personnel from the West Pac FIN came to analyze the data. There was not sufficient data to be representative and a need to increase the data collection. In February of this year two shifts were put into data collection. They have seen the increase both of effort and catch data that is being collected.
- Three villages have joined the seven existing villages in the Community-Based Fishery Management Program.
  - o The aim of the program is for the community or the village to manage its own reef area. There is an initial meeting with the village council to get their endorsement for the program. After that, there are community meetings.
  - o They have met with the women's group, youth groups and the chiefs. All of them are fishing in their reef areas. So, they are able to get information on what type of fishing they do and what type of fishing gear they use.
  - o Two more villages would like to join the program.
- The Key Reef Species Research Program activities are grouped into four categories: reef fish and coral fishery research; environmental parameter monitoring; aging verification; and age data analysis.
- The reef fish and coral fish fishery research involves fish visual census and video transects that generate distribution information on several spatial scales. 24 sites were surveyed around the Island of Tutuila, Aunuu and the nearby reefs of Taema Banks. A report has been drafted and is currently under review and revision. The study on the first category was completed late last year. The draft report is ready and is now under review and revision.
- Sediment traps were fabricated for the environmental monitoring study. A total of the 99 traps were deployed at 11 sites on the south shore, with 108 awaiting deployment on the north shore once the sea condition allows.
- The aging verification involves maintaining test fish in raceways to determine whether they could survive tank environment where their algal food source would be from those

that are recruiting on the tank walls and substrate. Feeding behavior, water quality and other environmental derivatives like rainfall, salinity and temperature are also being monitored.

- Testing is in preparation for the age verification study for brown bristletooth, white-cheek surgeonfish and flag-tail grouper. Previously our biologist gathered otoliths from these same species, and age data are presently in various stages of analysis.
- There was one FAD that was deployed in South Tutuila in November of 2005. There are reports from our local fishermen of productive nearshore FADs.
  - o There are two FADs programs: offshore and inshore FADs. Inshore FADs began last September with four anchored. They range from 70 to 100 fathoms in depth. We have been getting reports from the fishermen that this set of FADS is really productive. FADs are anchored about 50 to 100 yards away from the reefs. So the small boats are really enjoying these FADs because they are catching jacks and tuna.
  - o The FAD manager, Mr. Kitiona, spent two weeks on the NOAA research vessel, OSCAR SETTE. He helped Michael Musyl on his survey, and another project that was conducted on the research vessel.
- The Technical Assistance and Scientific Exchange Program send their scientists to provide technical assistance to other government departments or to the public.
- The Fishery Section has been reviewing the Territory Building Permit Notification Review System. That's where all the applications come in for approval for buildings or any construction.
- The staff has been very active in providing assistance in judging science fairs in the territory, because the month of March is the Science Fair island-wide. Most of the elementary and high schools are having their own science fairs and requests judges from his staff.
- The Governor approved the Interagency Cooperative Agreement between five government agencies under the Coral Reef Initiative. This MOA is for these five agencies to work together to assist the government and also in supporting the Coral Reef Initiative in American Samoa.
- The Marine Protected Area Program was initiated under the CRI, under the Coral Reef Initiative. The initial funding came from the CRI. However, in 2005, October, fiscal year 2006 the program was established in his department. He has hired the MPA Coordinator and advertised for two positions to assist her. A vehicle, computer and scuba equipment were purchased for that program.
- A biological reconnaissance survey has been designed and tested to look for potential no-

take MPA sites throughout the territory. This involves looking at the reef flats and reef slopes and assigning suitable rating for each site.

- The Coral Reef Monitoring Program has a coral biologist onboard, Dr. Fenner. He spends most of his time assisting off-island scientists coming to American Samoa to do their coral research. Recently Dr. Greta Aeby and Dr. Theierry Work were in American Samoa. Dr. Fenner spent about two weeks on the NOAA research vessel helping out on research for the coral scientists. He is also working to investigate the death of coral beds at Fagaalu and reef flat pools around Tutuila.
- They are in the process of hiring two fishery biologists, one for the Pelagics Program and another one for the Coral Reef Program.
- They are looking for funding for the conservation officers in their enforcement program. They do not receive any funding from GA and if they are going to continue until the end of the year, he might have to lay off some of the officers.

Tulafono just spoke with one of the tournament organizers in American Samoa. Over the weekend this tournament provided the first opportunity for tag and release. The organizer said about four marlins had been tagged and release, two between 180 and 200 pounds, two were less than 180 pounds. One sailfish weighing about 120 pounds was also tagged and released. A lot of ahi, mahimahi and ono were caught in the tournament. Close to 20,000 pounds were caught, a very successful tournament.

Duenas asked who funded the sedimentation program.

Tulafono responded it was funded by the Federal Assistance Program, Sportsfish.

Haleck added that within the last couple of there has been a decline in the alia longline fishery in American Samoa. These are alias that actively participate in that fishery, due to the distance that the alia has to travel before they can put their lines out. But on the positive side, there has been increased catches on the number of vessels going trolling within the last couple of months.

Sablan asked if the decrease in alias venturing out and do longlining around American Samoa was connected with fuel prices.

Haleck said the decline was due in part to the fuel prices, but also some with the capability of the alia to be able to travel out that distance and stay out there.

Sablan asked if there was an increase in fall cost in American Samoa, just like everybody else.

Halleck said yes.

McCoy added that over the years he has received suggestions for better facilities for the American Samoan offshore longline limited entry program. There are two main docks about 1500 to 2,000 feet in length. There is a lot of heavy traffic, container ships. So when 10, 20

small boats are in for unloading and refurbishing, there is only one main dock.

Every time a cruise ship comes in, these small boats are stacked six abreast, and he was sure the Coast Guard was aware of that. He wondered if the Council had explored improving the infrastructure of the facility. It was all part of fisheries, to make things better and safer for everybody involved.

Tulafono said that the Port Administration and other government agencies have a five-year plan for the dock in American Samoa. The Army Corps of Engineers called two months ago to see what they thought of particular areas for this dock. His department supports a particular area because there is no impact to the marine resources around that area. So there is hope that a new dock will help alleviate that problem.

McCoy remarked that a new dock would foster the growth of economic opportunity and just makes things easier.

Duerr asked if the security requirements around cruise ships in American Samoa were the same as Hawaii. This has created a problem in Hawaii where they take up the whole pier and priority goes to the cruise ship.

Tulafono said yes, When the cruise ships come in, every boat has to move. That was why the government was looking for another alternative to alleviate that problem in the territory.

Sablan asked how often a cruise ship goes to American Samoa.

Tulafono said twice, sometimes three times a month.

McCoy noted that this happened almost every day. If not a cruise ship, then it was a container ship or tanker. The tank farm can only hold a certain amount.

Harris said that this was a challenge faced by all from limited geographic areas and multi-use waterfronts. They just try their best to accommodate all the security requirements when those other vessels come in.

McCoy called on Dela Cruz for the CNMI report.

#### **4.D CNMI**

Dela Cruz presented five items from his report:

1. Fisheries:
  - a. The Marine Sanctuary Assessment: The Division of Fish and Wildlife has completed the annual assessment for the Sasanhaya Fish Reserve, the only marine sanctuary on the Island of Rota. The assessment was done in January and targeted species included all fin fish.

- b. Deep and shallow Emperor Assessment: The Division of Fish and Wildlife is currently doing assessments on shallow bottom and deep bottom emperor, or mafuti, for the name of this fish in the vernacular, on Saipan.
    - c. Both assessments will determine the species life history, including the growth, size and maturity, seasonality of spawning, sex ratio and stock assessment. These assessments are expected to be completed in a few months.
    - d. Bottom fish database. Work on transfer of historical bottom fish database on catches from the Northern Islands into a contemporary format is continuing. Once done, the new system will be more user-friendly so that others can use it to meet the many different needs.
  2. Enforcement, federal funds: The Division of Fish and Wildlife has submitted its application for federal funds in the amount of \$150,000 under the local law enforcement agreement. If approved, the bulk of the money would be used for fuel and lubrication, overtime and training, as well as for equipment for surveillance and evidence storage and reporting. The CNMI started receiving this assistance in May of 2004.
  3. Ecosystem and Habitat, Inshore Creel Survey. The CNMI's inshore creel survey is still ongoing since it started in May of last year. The survey team is averaging 20 days a month around the clock along the western portion of the island of Saipan from Paupau Beach in Marpi, all the way south to San Antonio village. The stretch of land includes over 20 known launching sites for subsistence fishermen doing reef and lagoon fishing.
  4. Noncommercial Fishing.
    - a. The second annual mahimahi fishing tournament was held on Saturday, March 11th. About 36 boats and over 100 fishermen participated in this event. There were three prize categories. For the biggest fish, the first place prize was \$1,500, second place was \$1,000, and third place award was for \$500. For total weight and most fish caught the prize was \$1,000 each.

The biggest mahimahi caught was 25½ pounds. The most number of fish caught was 17, and the total weight was 183.86 pounds.
    - b. The ceremony for the completion of the floating dock at the Rota West Harbor Marina was held on January 21st. The dock was severely damaged by Super typhoon Chaba and was repaired and completed using FEMA funds. Close to one million dollars was spent to complete the marina. The dock has 14 slips for up to 20-footer boats and two slips for 40 to 60 footer craft.
  5. Other Issues, bottom fish fishing.
    - a. A 60-footer vessel has been operating around the waters of Rota targeting deep bottom fish, such as onaga. Since the vessel can fish for several days before returning

to the report, the fishermen of the island are concerned about this operation and are requesting information about the status of the CNMI bottom fish amendment to prevent vessels longer than 40 feet to do bottom fish fishing within 50 nautical miles from land. The vessel owner is equally concerned of the amendment and what it means to his operation.

- b. The long awaited Division of Fish and Wildlife Fishing Regulation Handbook is finally done, at least in its draft form after being worked on for more than eight months. It is hoped that printing of this handbook will not require the same waiting period because it is direly needed and will definitely help our people, especially fishermen, to know about our local fishing regulations.
- c. The CNMI will be hosting the 2006 Micronesian Games to be held from June 23rd to July the 3rd this year. With over 13 Pacific Island Countries and Territories within their region participating, over 1,000 athletes and officials are expected to join these Micronesian Games.

Sports proposed to be held include baseball, basketball, beach volleyball, fast pitch and slow pitch softball, underwater spear fishing, swimming, table tennis, regular tennis, triathlon, indoor volleyball, wrestling, weight lifting and Micronesian all-around.

The DLNR Division of Fish and Wildlife will also be involved in overseeing the underwater spear fishing.

- d. Fish market: Due to the need to infuse money into the local economy there has been a change in plans to use the fishing-based area for the construction of a public market to accommodate our fishermen and farmers. The new Administration needs the area for a business development with the highest return on their investment and the maximum amount of tax dollars that can be generated. So it is looking for another venue for the public market.

Potential areas include Susupe and the outer cove marina where there is already a dock, an empty building and a gas station that is functional.

- e. Illegal fishing: Just last week a 100-footer fishing boat believed to be engaged in illegal fishing in the Northern Islands was intercepted by the U.S. Coast Guard. It was first spotted by a C50 airplane and was escorted to Saipan by the Coast Guard cutter. Although an investigation is still ongoing, the vessel was believed to be carrying two Taiwanese and ten Chinese citizens.

Duenas said that he had been working with the CNMI government for three years on that public market for the fishermen, trying to develop a HACEP program and a cooperative. He was disappointed that fishermen were again being sacrificed for the benefit of other types of business.

Hawaii has demonstrated the fact that a fishermen village is a very economical and viable

potential for the economy. Dela Cruz should ask his government to take a second look at this idea and maintaining it for the fishermen.

As President of the Guam Fishermen Cooperative, he offered his support and assistance at any time at no cost to develop a cooperative in CNMI.

Dela Cruz thanked Duenas and said there was a facility for the fishing market by the Smiling Cove Marina. They are hoping that that place will be made available to the fishermen to market their catches. They are thinking about them and have not forgotten the need for a marketplace. Hopefully, the Governor can work out something with the present tenant of that building and will make that building available to the fishermen.

Sablan commented that Smiling Cove and outer cove marina were actually federal property and that conducting business on federal property was not allowed. So maybe they're looking at a different location rather than the American Memorial Park area, Susupe, perhaps. The area could be utilized for hotel development rather than the plan for the fish market. There are facilities in front of it and a boat launch ramp in that area. It's between all the communities, in the center of the island where everybody can reach it. It was quite difficult not to be disappointed in the change.

Sablan understood the new government trying to infuse some hard cash into the island's economy. But he thought in the long run a fishing co-op; farmer's market will infuse more rather than pursue the government putting up hotels in an area that is prone to destruction of typhoons because of the proximity of the ocean and the reefs.

Sablan had assisted some military personnel and a contractor from the Navy and NOAA last November to research the number of bombs that were still alive on FDM. There are numerous unexploded ordinances in the water and probably more on land.

The military claims there are no explosives in them, but there are chunks of land that are gone. If not, just the impact of heavy metals on these small tiny islands that our fishermen depend on for commercial fishing.

Maybe the reason for repositioning military ships on Saipan is they don't allow anchoring in Guam. Well, they now anchor on Saipan, five of them, on major ocean course.

A lot of commerce vessels traverse that particular area, but they have got to be about 500 yards away from these vessels due to the Homeland Security regulations. A study conducted and concluded last February says there will be an addition of five more repositioning military vessels to anchor in those areas.

Sablan offered to work closely with Dela Cruz to convince the Navy that a mooring anchor is now necessary, rather than just dropping anchor on the coral and sand mounds. Each link in the anchor chain weighs 90 pounds. They drop several thousand links of heavy chain at the sites of their anchor.

Sablan understood the need for security and did not want to be without it on the Island of Saipan. Homeland Security has a lot to do with the new regulations on the docks and marinas.

He encouraged the Council members to adopt the amendments for the bottom fish regulations, 40 footer and 50 nautical miles. Those 60 footers have to go out and fish further, maybe further north or further south.

Duenas asked if assessments were also being done in the Sanctuary areas.

Dela Cruz said he didn't believe the assessments have been done, but the Sanctuary seems to be working. It's accomplishing the purpose for which they were established, protection of the marine environment and the marine resource.

The other thing is that there is a company that is proposing to do some mining work on the sulfide mounds. While just a proposal, he wanted to know what kind of input the Council could get from the operation and how it would affect the fisheries.

Sablan asked which island

Dela Cruz said he believed it was Sarigan, which was not an island, but an ocean area within the EEZ.

(Fifteen minute break taken)

## **5. AGENCY REPORTS**

### **5.A NMFS Pacific Regional Office**

McCoy called on Robinson to present Item 5.A

Robinson began by honoring some of the folks at the Regional Office and Science Center who were recognized by the Agency for all the work over the last few years. Sam Pooley, Chris Boggs, Don Kobayashi, Bill Chappell, Marcia Hamilton, Alvin Katekaru, Tom Graham, Marilyn Luipold, Wende Goo and Judson Feder were recently awarded a Department of Commerce Bronze Medal for their contributions to developing the fishing regulations to reduce sea turtle interactions and the reopening of the Hawaii swordfish fishery.

In addition, Charles Karnella, Ray Clarke, Gary Kadagawa, Dean Swanson, Mike Gonzales, Paul Ortiz and Judson Feder were awarded the Department of Commerce Silver Medal for their contribution to the successful negotiation and implementation of the Western and Central Pacific Fisheries Convention.

They are real pleased that their employees were honored at a national level for their good work.

They are continuing to build staff, particularly in Protective Resources.

- Chris Yates has been selected as our new Assistant Regional Administrator for Protected Resources, replacing Tamra Faris who moved on to a position in Washington, D.C.
- Lia Van Atta, who came from the Pacific Northwest, will be an MMPA Specialist.
- Michelle Yuen, Marine Mammal Biologist, received her doctorate with Paul Nacthagall out at Coconut Island. She is an expert in the area of sound and sonar and will be an area expert.
- Krista Graham also joined the PR Division.
- Scott Bloom has a new person helping him out, Stephanie Bennet.
- Dr. Steve Kolinski, who had been a JIMAR employee, working in Habitat Conservation, was hired full-time as a Coral Reef Ecologist.

Regulatory actions include:

- On November 13th a final rule was issued to implement new regulations to reduce and mitigate interactions between sea turtles and all of the fisheries managed under the Pelagics FMP, basically extending many of the measures that apply to the Hawaii longline fleet, to the general permit fleet as well. Those regulations took effect on December 15th.
- On December 19th, 2005 the final rule to implement the measures to further reduce the incidental catch of seabirds under Hawaii longline fisheries was issued. Those regulations took effect on January 18th.
- On February 21st the standard annual notice announcing a zero annual harvest guideline for the commercial lobster fishery in the Northwestern Hawaiian Islands for 2006 was issued.
- On March 3rd a final rule was published to correct an error in one of the geographic coordinates that define the longline fishing prohibited area in the EEZ around Guam.
- They are still going through the rulemaking process to implement some amendments to the South Pacific Tuna Treaty that's agreed to the Third Extension of the Treaty.
- In connection with that treaty, 18th Formal Consultation of the Parties to the Treaty was hosted in Honolulu last week. It was an excellent Consultation Meeting, one that he felt all of the 16 parties were happy with. This is a treaty that provides access by U.S. purse seine fishermen into the EEZ of 16 different Pacific Island Nations.
- In December an Advanced Notice of Proposed Rulemaking, which describes our intent to explore regulations to protect Hawaiian spinner dolphins from human activities during their nearshore resting activities was published. They are working with local communities and local tour operators to try and come up with a set of regulations that

will provide some relief there to the resting spinner dolphins.

- The notice requesting public comment closed on January 11th. They are evaluating the comments with the intent of developing the proposed rule to put out for public comment.
- A Section 118 of the Marine Mammal Protection Act requires an annual list of fisheries that reflects new information on interactions between commercial fisheries and marine mammals. They did some housekeeping this year, basically adding some fisheries, changing some fishery descriptions, dropping some fisheries off, and adding a couple of the marine mammal stocks. But the bottom line is that no fishery in this region was re-categorized.

They expect that that list of fisheries proposed rule will publish in the Federal Register some time this month.

- They are working with Council staff on the DSEIS for the Bottom fish and Seamount Groundfish Fishery measures to end overfishing here in the Main Hawaiian Islands and expect to issue the DSEIS after the conclusion of this meeting, hopefully identifying the Council's recommendation as the preferred alternative.
- They are also working with the Council staff to conclude the public comment period for the Draft Programmatic EIS on the Ecosystem Fishery Ecosystem Plans. There were 770 comments received, including seven individual letters, 241 copies of one letter and 521 copies of a second letter. They working with Council staff to respond to these comments and prepare a Final EIS.

For the permitting processing:

- The American Samoa Longline Limited Entry Program that was developed in Amendment 11 to the Pelagics FMP became effective on December 1st, 2005.
- Applications were accepted from August through November. A total of 60 initial permits were issued. In addition to the permits issued, nine applications were denied and three applications were withdrawn. They had a number of appeals to the permit denials submitted, and those are being considered now within the Region.
- Eight Northwestern Hawaiian Islands bottom fish permits in 2006 were renewed, four for the Mau Zone and four for the Hoomalu Zone.
- They are currently renewing Hawaii longline limited entry permits and the general longline permits for 2006.
- In 2005, 2,074 shallow-set swordfish certificates were issued to 122 permit holders. Preliminary data from a contracted study shows that of the 2,074 certificates issued, 1581, or 76 percent, were actually used on a total of 107 shallow-set trips.

- For 2006 they have issued 2,040 certificates to 136 permit holders, 15 certificates per permit holder, compared to 17 issued per permit last year. So they were distributed across a slightly greater number of permit holders in 2005.

There were a lot of international activities, but both Bill Gibbons-Fly, from the Department of State, and Paul Dalzell, would report on international activities during the Pelagics agenda item.

In domestic fisheries, he noted some interesting statistics:

- The observer program coverage for the shallow-set swordfish longline fishery in 2005 was 100 percent. So 107 out of 107 trips observed.
- The coverage of the deep-set fishery in 2005 was 26.1 percent, with 360 trips out of 1377 observed.
- The coverage for the Northwestern Hawaiian Islands bottom fish fishery in 2005 was 25 percent, with 13 trips out of 52 trips observed.
- Effort in the shallow-set fishery was high during the first quarter of 2006. Observer coverage is at 100 percent, but this is affecting the coverage of the other fisheries.
- Combined with other funding issues, they were experiencing a temporary dip in coverage of the deep-set fishery and have ceased covering the bottom fish fishery for the time being all together until they determine how much funding they have.
- Observers will begin deploying on longline fishing vessels in American Samoa in April. One staff member from the Sustainable Fisheries Division, Rich Kupfer, is be relocated to Pago Pago to coordinate the startup of that program.
- There was a longline fishery observer training course which ended on February 17th. It will be training 28 new observers, of which five were placed via the Native Observer Alu Like Program. The next observer training course will be in June.
- Protected Species Workshops were held in American Samoa in November, trained a total of 88 fishers. In response from feedback from that workshop, they are considering holding them more frequently with smaller groups of fishers.
- They are also involved in a joint effort between our Region and the Alaska Region in evaluating the impact of the Hawaii longline fishery on the marine mammal population with the idea of completing an impact determination -- or at least assessing that under the Marine Mammal Protection Act.
- The Revised Hawaiian Monk Seal Recovery Plan is completing NMFS review and being prepared for final submission. The Recovery Team submitted their plan to us in early 2005. With the recent addition of marine mammal expertise, they are working with the

- The formal ESA Section 7 Consultation on the purse seine fishery in conjunction with extending the South Pacific Tuna Treaty is underway. That is expected to be finished this spring. There was a typo in the written report that said fall 2006.
- On December 15th NMFS updated the policy for Delegation of Authority to the Regional Administrator for Section 7 Consultation under the Endangers Species Act. The Pacific Islands Region has completed a Section 7 Quality Assurance and Quality Control Plan for the Region. The plan outlines the procedures for conducting Section 7 Consultations and provides the standards of review. This is very important because it allows the consultations to be completed in the region as opposed to having it done at Headquarters.
- Great strides have been made in improving the Pacific Islands Marine Mammal Response Network. Dave Scofield is our Coordinator; part of his job is meeting with stakeholders. There seems to be a constant flow of strandings.
- In early January there was an elephant seal with cookie cutter shark wounds over a large part of its body reported on Molokai. There is some concern with the presence of this species for the potential transfer of disease to Hawaiian monk seals.
- In February, in partnership with the Sanctuary folks and the Marine Mammal Consortium, DLNR and a lot of other folks, they assisted in the response to an entangled humpback whale, which was eventually successfully freed.
- There have been four whale entanglements so far this season, one of which was never spotted again, and another which was deemed to be a nonlife threatening entanglement.
- In February a pygmy sperm whale stranded on Molokai's Kalaupapa National Park. That animal was also wounded with tiger shark cookie cutter wounds and wounds from being dragged across the reef. They attempted a response, but the animal was swept away and likely perished.
- He reminded the government folks on the Council that the deadline for nominations for Council membership is tomorrow. He urged all of the governments in the territories and Hawaii to make sure that they get their nomination packages in as soon as possible. Sometimes the appointments get delayed if the packages are not received in a timely manner.

Ebisui wanted to be brought up to speed on the incident where that humpback calf was struck by a tour boat.

Robinson said that it was under investigation, but Judy Fogarty could expand on it during her report.

Ebisui asked if Robinson could elaborate on what is known at this time, like who the operator

was, speed, location and what happened to the calf.

Robinson said involved one of the whale watching tour operators, it was a baby whale, and he believed it was seriously injured. They would have to wait for the investigation results.

Duenas asked Robinson who would be developing the policies with regard to the West and Central Pacific Convention Tuna Treaty.

Robinson said there was quite a list of actions that were taken by the Commission at the WCPFC. At this point, they were working through those, trying to develop a list of what are the actions and whether they require an action. They would be consulting with the Council on those that required action.

Duenas asked with regard to promulgating regulations for spinner dolphins in Hawaii, they have spinner dolphins and dolphin watch activities in Guam. Could that information be shared with Guam and maybe other areas of Guam jurisdiction, to see what can be done to protect the spinner dolphin population?

Robinson said that they would be happy to share what they were developing. He would have Chris Yates provide that information to Duenas.

Duenas said good, he had tried to work with Naomi from the Humpback Sanctuary, but it is two different animals or creatures.

Duenas wondered if the Protect Species Workshop could be brought to Guam now that it is a general rule for everyone involved in the longline activities to attend. Or did the vessel operators have to come to Hawaii.

Robinson said that they would never require Guam fishers to come to Hawaii to train. He said that when the workshops are scheduled again, they would do them in Guam.

Duenas wanted to thank Robinson's office, especially Scott Bloom for assisting Guam in their CDP project and getting another year extension on finalizing the actual demonstration of the project.

Tulafono wanted to confirm the date the observer program was going to start in American Samoa.

Robinson said it would be in April. Observers would be deployed out of American Samoa starting then.

McCoy asked how long the observers would not be working since it was affecting coverage in other fisheries.

Robinson said that funding was limited for the observer contract. How quickly that funding is utilized depends to a great extent on the shallow-set swordfish fishery, which is the highest priority and they have committed to 100 percent observer coverage there. That fishery had

gotten going very quickly with a high level of participation, some 30 vessels in January and February and March. They had to look at the overall budget and make sure that those shallow-sets were all covered.

That meant that they had to cut back in other areas. If the swordfish fishery closes, then that frees up observers to be used in some of the other areas. At this point they were still planning on starting up the program in April. The level of coverage right off the bat was still being determined.

McCoy was concerned about losing the trained observers to other occupations, especially since they have to go through the process of re-initiating training.

Duenas asked that since the swordfish fishery may have to shut down in a few weeks, how much money would be left from that program to apply to other coverage.

Robinson said that he had just received word that the 15<sup>th</sup> loggerhead was pulled this morning. If the sword fishery closed as a result of that he would have sufficient budget to meet their coverage goals.

**Duenas asked if Robinson could provide that information.**

**Robinson said yes.**

McCoy called for the Pacific Island Fisheries Science Center report.

### **5.A.2 Pacific Island Fisheries Science Center**

Mike Seki, the Deputy Director of the Science Center, would do the report since Pooley could not be there.

Some of the highlights of his report included:

- A few years ago Jeff Polovina's group noticed that there was a fishery for bigeye developing at 30 Degrees North, a surface fishery, where the water is quite stratified. This was unusual since historically, there wasn't a lot of effort there. The region is not very oceanographically dynamic. He had his folks do an environmental investigation of what was driving the fishery. There has been some interesting results:
  - o The region is very stratified. The frontal system that is there on a semi-permanent basis resides about 50 to 100 meters below the surface. Shallower than that is quite stratified; temperature images do not show any breaks.
  - o It is an area where there are episodic chlorophyll blooms, and a very specific type of phytoplankton that is able to create its own nitrogen and form the basis of a food web when they are present.

- Yonat Swimmer, one of their biologists, had a Fullbright Fellowship last year. She spent six months in Brazil doing outreach and education on turtle bycatch and some gear trials on hook efficiency interactions. Details were in their report.
- In the December of last year, Bruce Mundy, from Chris Boggs' group, published a checklist of Hawaii fishes. Published by Bishop Museum Press, it includes the most up-to-date listing of the 1,250 or so fish species that occur within the 200-mile EEZ of Hawaii. It is a pretty comprehensive document by anyone's standards and a reference that will be used for many years to come.
- Through a contract with one of the vessels, they have collected 29 specimens of hāpu`upu`u that will be used to improve their aging estimates. Some of the specimens have been removed for their hard parts; the others have been frozen to be analyzed by the new biologist, who will report in May. His primary duties will be to workup of the hāpu`upu`u aging material.
- The International Scientific Committee for Highly Migratory Species will be meeting next week in La Jolla. A number of our scientists will be participating as many are members/chair/co-chairs of the working groups.
- The Striped Marlin Working Group met in Honolulu last November. There was a gathering of international scientists to look at what was going to be needed to put together the stock assessment. There were some data issues that came out of there that needed to be resolved, such as a stock assessment on striped marlin that was due this month will be delayed by about a month. They are expected to bring their material and running the selected model for the striped marlin assessment that will be presented next week at the working group.
- Kurt Kawamoto and Bert Kikkawa continue their efforts in the outreach project to work with the local shore fishermen and encourage the use of barbless circle hooks. That has been a very successful program.
- Stewart Allen, of Dave Hamm's program, had the opportunity to bring in one of the NOAA Rotational Assignment Program people for three months. The GIS expert did a tabulation of fishing activity by zip code during his three months. One of the results of his work was a map in the Council binder that showed the density of licenses, permits and landings by zip code. Hopefully that will be used to look at some of the socioeconomic impacts by area of how the fishing activities occur.
- For coral reefs, they have just wrapped up the latest leg of the American Samoa cruise. The report itself will be forthcoming. One of the highlights is the multibeam bathymetry survey of Rose Atoll that came out of those efforts.
- Last year they completed the marine debris recovery efforts in the Northwestern Hawaiian Islands. This was somewhat abbreviated by the grounding of CASITAS at Pearl and Hermes Reef. The effort was picked up FREEBIRD in the fall. They did what

they could at French Frigate Shoals. They didn't take all of the debris out, but it did represent a good job. From this point on, they would take on these efforts on a much more limited scale.

- The turtle folks did some field work on Fibropapilloma in Palaau on Molokai, one of the index sites which they use to monitor the general health of the green turtle. What George Balazs has found is continuing decline in the prevalence of fibropapilloma.
- Jeff Polovina's group have a project where loggerhead turtles are hatched out at an aquarium in Japan and are raised to juvenile stage, then they're tagged and released out at sea. The slide showed white dots where the released turtles ended up. They all converged at 31 to 33 Degrees North. This is consistent with where all the interactions are occurring, where the fleet is operating, where we know of the adults to be occurring as well.

This information could be used next year when the Council looks at management options in setting where the shallow-set fishery would operate. With this kind of information, a scheme could be put together that could minimize interactions with turtles.

- The SETTE did a number of cruises:
  - o For larval billfish off Kona, genetic ID techniques were able to actually identify the type of billfish and tuna that are being taken in the tows.
  - o They are returning from American Samoa and taking a cetacean survey where they are running oceanographic lines. At the same time, they are taking the first efforts to look at the cetacean distribution abundance between here and American Samoa.
  - o Prior to this, there was an oceanographic survey of the grounds north of American Samoa. There were a lot of problems on this cruise. The goal was to do some acoustic and some concurrent trawling to look at the forage grounds for albacore. While the acoustics data looked very good, they were not able to get the matching trawl data to ground-truth what was seen acoustically. Nevertheless, it was a very successful cruise.
  - o They did the Wake ecological assessments and the Coral Reef Program on their transit back from the Marianas last year. Prior to that, they did the Marianas Reef Assessment for two or three months when they were down there.
- The HIALAKAI has the mapping of Penguin Bank.
  - o They are currently in American Samoa where they have the RAMP and the ecological assessment cruises going on.

- Last fall, they had a mapping survey up in the Northwestern Hawaiian Islands.
- They are doing some aerial surveys of marine debris. They have a helicopter and are identifying where the debris is around the Main Islands. He noted that the figures on the Big Island and Kauai debris were in the report.
- Their budget of \$18.2 million does not include the Coral Reef or Marine Debris money they may get. They are receiving \$5.8 million less than last year, that's primarily due to the ramp down of the programs mentioned earlier.
- The budget has a reduction of five percent. The labor rate has grown by 13 percent. There will be some impacts:
  - There was an external review process scheduled for this year on the bottom fish assessment. DiNardo presented a program at the last Council meeting, which is a very intensive assessment of their data and the model that was to be implemented for the bottom fish assessment. That will not occur without relief.
  - The cost of international travel for staff for their work on International Highly Migratory Species, participation in Western and Central Pacific Fisheries Commission and IATTC, is a very difficult thing to absorb in the face of being an unfunded mandate.
  - The cetaceans are a difficult program to ramp up given the shrinking fiscal environment. They do have the cruise that was out there and would continue to try to do what they can with the research that they have.
- The Science Center has 88 milestones, eight of which are tracked nationally. For the second quarter, three were due: the blue shark stock assessment, which is on schedule; the American Samoa cetacean survey, which is underway and will be completed on schedule; and the striped marlin stock assessment, which will be delayed by a month.
- The new building project has completed 50 percent of the design phase. They are still on schedule for completion in 2010, 2011.
- The Kewalo Research Facility is on a month-to-month lease there with plans to develop Kaka'ako. Those facilities are taking a proactive approach and moving to Ford Island in the summer of next year. The move includes the live animal operations, depending on how good the water is and the deep well that has been drilled there; tests are still ongoing. The Coral Reef Program will move there, small boat and dive operations, as well as all of the cruises.

Duenas asked if there was any damage from the vessel CASITAS grounding during the debris removal.

Palawski responded that there was a multi-agency assessment team surveying the damage. That

information is just now being processed.

It was lucky as far as how the vessel ran aground; it stuck right in one spot. So there wasn't a lot of continuing injuries to the reef by moving around at the time it was in place.

In reviewing the removal action, they were also lucky in the sense, that when given flotation, the vessel floated and they were able to pull it off without dragging it across corals. So there was some injury to the reef that is still being quantified.

Ebisui asked if the insurance carrier for the CASITAS stepped up.

Palawski said that they did step up, but he was not sure what the status of the assessment of injury and how that will all play out.

Duenas asked if any of the reports of the Marianas ecological assessment were out yet.

Seki said that he knew the cruise report was out, and they're pretty comprehensive. He was not sure of the data availability. But they had a coral reef ecosystem site, which if it's out, that's where it would be.

Duenas asked if the cancellation of the review on the bottom fish stock was for the Main Hawaiian Islands or Northwestern Hawaiian Islands stock assessment.

Seki said the bottom fish stock assessment was an archipelagic stock assessment and would be done for the whole region. The last one cover 2003, there is another for 2004 and both were done. Now the data needed to be put a review process. They were looking at alternative models to do the assessment. The data has never been put through the scrutiny of this type of a review process. With models, the assessment is only as good as the data, but it is a process used nationally to rigorously look at how good the assessment is.

Duenas asked if there was an effort by his agency to assist the State in the new designation of MPAs or closed areas for a better stock assessment or data collection in those areas.

Seki said that whatever decision is made for the bottom fish fishery, that is the hand that is dealt and you have to deal with it.

Simonds said that the Council was very disappointed that Seki was not going to be able to go through the process that was established and talked about with the Scientific and Statistical Committee for three years. The Council is trying to follow what goes on around the rest of the country, which is a very strict review of stock assessments that are done by the National Marine Fisheries Service.

One of the things that are very important in this review is a review by stakeholders and a review at the very end by our Scientific and Statistical Committee.

Simonds said they spoke with Bill Hogarth and asked why bottom fish always takes a hit when it

comes to funding to follow the correct process. He said that he would find the money.

This really needed to happen because this was going to be the first time that any of the stock assessments would go through a rigorous review. As far as Simonds was concerned, this was the highest priority.

Polhemus added that from the State's side, data had been provided to the Science Center so they could independently review and comment on the effectiveness of the State's previous area closures and the proposed new set of closed areas.

Gaffney asked what the basis was for the cut of the marine debris fund.

Seki said that in the current climate the NMFS was not the only player. The priority for corals was set by the National Coral Reef Conservation Program, which is run out of Headquarters. They feel there are other needs around the United States that should share in this pot. When the program was launched, it was a huge part of the Coral Reef effort. Back from the very beginning it was known that this was going to be a limited program.

Simonds added that now there was a separate pot of money from the Congress for marine debris cleanup so they did not have to depend on the Coral Reef Program monies to do marine debris.

Seki added that the money was not specific to seamounts. It is through a proposal process.

Simonds said, right, it is shared and a new pot. But, she had another question. What was the conclusion about lobsters to the monk seal diet?

Seki responded that this year the fatty acid study that Simonds was referring to was going through an External Center for Dependent Experts Review. He was not sure what it was going to say.

Simonds said the comment has always been that lobsters are an important, if not, integral part of the seal's diet. This study has been going on for many years. She recalled that when the project was proposed the scientists from around the world who were asked to review this said that you'll never get an answer to this question.

Seki said that when he started many years ago, he did a lot of tropic work. He noted that there are many ways to skin a cat, and this is one. Often one effort does not provide the answer that you necessarily will need, and often in more cases than not you need a number of pieces to the puzzle. When all is said and done that in all likelihood will be what we're looking at.

McCoy asked if the composition of the debris changed from fishing nets to cargo nets. And, how much secondary damage is done when they try to remove it.

Seki did not feel that the composition has changed much. That is because a lot of the debris that washes isn't new debris. These are things that have floated in the ocean for many, many years and as they make their way around the gyre they get caught up on these reefs. Most of them have been trawl nets. The breakdown statistically is very much the same.

Seki said that damage during removal is something that is recorded, but he did not have any numbers.

Duerr asked if there was any effort to intercept the marine debris at sea before it gets to the coral reef. They have aerial photography, satellites. There is a little large area north of the Northwestern Hawaiian Islands where it sort of swirls around. Is there any effort to go out there and get it before it comes in?

Seki said that was a true effort, but was not sure of where it was at. The principal investigator is out of the Ocean Atmosphere Office, our research office. They have money actually used the NOAA plan to go out and look at where the debris is. The groundwork has been laid.

However, in practice, it will be a very expensive effort. No one has come forward to fund and define the effort.

But certainly the thought process of using the model to look at the convergence areas, where they are and track and identify them, is all possible, Now they are at the next point of how it would be implemented, how much it would cost and who's going to pay.

Martin stated that a lot of people in the fishing industry have batted around the idea, because some of the areas in the longline fishery, particularly last year, had very high incidental contact with marine debris. They are saying we should be doing some work, particularly in the northeast.

As Duerr pointed out, intercepting before it gets to be marine debris on a reef would be the ideal. So it might be worthy of consideration.

Martin said the industry has an ongoing project to bring marine debris in when they come in contact with it. This is a project of the Council, the Fisheries Service, the State and others. There is a bin down by the Fish Auction now and it is nearly full for the first time since the project has been implemented.

But that is just incidental activity to fishing operations. It was a vision of his and others in the industry that trolling up there with grapple hooks or something, it would be pretty interesting to see what could be scraped up in a couple of weeks. The cost of that kind of operation and the damage to the reefs is huge. The CASITAS was not cheap to operate and had 18 or 19 government personnel onboard.

Martin said that Seki's graphic of the satellite tags of loggerheads was great stuff. He was particularly interest in the longitudinal boundaries. The boundary of latitude is known, if you get down below 30 degrees it is a lower incidence.

Martin asked if the loggerheads were released off the Coast of Japan, where they migrated to. Or were they actually released where the dots were.

Seki said yes, that you see the track with every record that they go out.

Martin said that it would be an interesting exercise to overlay American shallow-set effort over the top of that to see how the effort overlaps.

Seki said it would match up very well.

Tulafono asked if the concurrent study through the oceanographic cruise to American Samoa in February was for pop-up satellite tags to be deployed on albacore caught by the commercial longline.

Seki said yes. They deployed nine tags, seven albacore and two bigeye. One of the bigeye popped off. Those tags were high frequency microwave tags.

Seki noted there were two types of tags. One of the sets was designed to be out there for many months and transmit data on a less frequent basis. So there is some depth distribution information and horizontal information can be inferred. These tags are high frequency; they are 300-day tags. They will all come off within 300 days, but you get a very good high resolution feel for what they are doing in the vertical. That is the purpose for these particular ones, to get a better handle of what habitat they are using subsurface. So, yes, they did the project, put them out and picked them up at the end of the cruise.

McCoy called on Palawski to present item 5.B.

### **5.B Department of Interior, U. S. Fish & Wildlife Service**

Palawski said he had no new initiatives to report since the 129th meeting in Guam.

He wanted to remind the Council that during that meeting he made a presentation on the National Wildlife Refuge Comprehensive Conservation Planning. The new director emphasized, again, the importance of completing these Comprehensive Conservation Plans for refuges. It is a legal mandate to do that.

The work on the Howland plan was continuing and they would be working on Baker and Jarvis later this summer. Then on to Kingman and Palmyra. It is keeping the small staff very busy.

Ebisui asked what kinds of safeguards were in place to prevent the introduction of invasive species for the cruise vessels, which have permits to make port calls on Midway.

Palawski said that the Fish and Wildlife Service has a long history in the Northwestern Hawaiian Islands of having quarantine procedures to prevent the introduction of plant materials to the island. They had those protocols in place for quite a while.

In recent years they have also been encouraging quarantine or preventive procedures. For instance, hull inspections are required before the ship leaves port here in Honolulu, especially if

those ships are going to be conducting research activities within the Hawaiian Islands refuge.

Midway is a little different story in that since it has a long history of ship traffic in and out of there; there are some alien species already there. So they are trying to be careful on how to implement a protocol that is reasonable, efficient and cost effective. They are still trying to evaluate the best way to implement a program that can prevent introduction of new species into the Northwestern Hawaiian Islands, particularly Midway.

Ebisui understood that some of the cruise ships originated from national and international ports, what about those ships?

Palawski said that those ships that get into trouble up there are not allowed into the lagoon at Midway. The cruise ship will anchor outside of the lagoon and then they ferry their people into the island. And there is ship traffic up there.

The first step is just to try to keep them away from the shallow-water areas. They are still looking at better ways but that is their preventative method right now for those larger cruise ships.

McCoy asked how big the anchorage area was and how deep is it for cruise ships.

**Palawski said that he really didn't know the depth, but would get the information for the Council.**

Polhemus provided some additional perspective on invasives in the Northwesterns:

- The State has just finished its guidelines for permit application to enter state waters in the Northwestern Hawaiian Islands and has the permit applications.
- Those permits are very strict in regard to prevention of invasive alien species entering the Northwesterns. All the vessel stats in terms of how big it is, what sort of fuels and lubricants and things it's got onboard, whether there has been a hull inspection, whether you've had a ballast water inspection are all required before you go up there.
- The State coordinated its permitting with the recently-revised permitting guidelines that U.S. Fish and Wildlife Service put in place recently. The permitting is congruent and is designed to prevent the spread of alien species into the Northwesterns to the best extent possible.

McCoy asked if the State modeled their permits after the existing U.S regulations, U.S. Coast Guard regulations.

Polhemus said, to some extent. They did some rather extensive writing of their own simply because they wanted to promote extremely strict guidelines.

Martin said that he thought the best way to keep invasive species out of the Northwestern

Hawaiian Islands was to not go there. But that's not always practical.

Some of the uses may be more important than others, such as the permit last year issued by the State for Kure to have a group of folks go up and talk on radios.

Martin asked Palawski what kind of activities and permits are ongoing? He was also interested in an update on activities on Midway and activities on Palmyra.

Palawski noted that part of the land area, one island, at Palmyra is actually owned by the Nature Conservancy. That island represents about half of the land area at Palmyra, 250 acres. The Nature Conservancy has the infrastructure on the island located by the coral runway for people to be based there.

The Fish and Wildlife Service owns the rest of the outer islands at Palmyra and manages the water around Palmyra. They are entering into a collaborative partnership with the Nature Conservancy, and in doing that, the Fish and Wildlife Service refuge has a very specific purpose. The purpose for which that refuge was established is to protect and conserve the natural character of the terrestrial and marine environment. That is a standard that we are required to live by.

They would not allow an activity that would adversely affect the natural character of the terrestrial resources or the marine resources.

Palmyra is a very unique place in the world. It has some very unique climatic conditions. It has some very unique resources that have not been inventoried, monitored and researched. Palmyra is maybe one of the better places in the world as a natural laboratory to do research. They are supportive of research studies that will help understand the natural character. That is how they make the decisions of what research studies to occur there.

There are nine pretty well-known research institutions interested in doing research there including Stanford, California Academy of Science, American Museum of Natural History and the University of Hawaii. They are working with those folks because we think by working with those people, partnering and having established what their goals and objectives are, that they can learn a lot about the marine environment around Palmyra. That will be developing an ongoing effort for some time to come.

This comprehensive conservation is what will be put out to the public as alternatives for how they would like to manage Palmyra Atoll National Wildlife Refuge.

There is quite a bonefish fishery. When the Nature Conservancy was in the process of fund-raising, people went there to catch and release bonefish. They have an interim capability determination about a catch-and-release bonefish fishery at Palmyra that they will be re-evaluating that over the course of time.

Midway has the same natural characters that Palmyra does. In addition to those natural assets, it has a very substantial historic asset. From that historic perspective and what visitor uses should

occur there, it is a little different situation from than Palmyra.

The infrastructure there is more substantial, is more compatible to have people at Midway than it is at Palmyra. They will be evaluating and going out to the public on what that visitor use should be or shouldn't be, and that includes recreational fishing, scuba diving, swimming, all of the potential uses that are there, including the historical tours of the area.

Ebisui asked if there was an active evaluation and assessment of the permits before they are granted or was it just a reporting requirement.

Polhemus said the process will take 90 days. The application will be reviewed by a committee composed of a variety of stakeholders: scientific, cultural and governmental stakeholders. If it is approved it will then have to go to the Land Board for their approval, at which point the permit will be denied or will be granted if it gets through both levels of review and approval.

Ebisui asked if it was the kind of process where eventually you might know where an invasive species originated from. Or is it something that it will actively seek to prevent?

Polhemus said one of the requirements in the permit is that there is either have VMS on the vessel, or at the very least continuous GPS tracking so the track can be provided to them upon return.

They would be able to know where vessels have been at all times when they are in the Northwestern Hawaiian Islands. Although, he thought the evidence would be circumstantial if an invasive showed up within a certain area within a certain timeframe. They could strongly suspect where it might have come from.

Polhemus said that they have also done an analysis that shows there is a major shipping lane that runs through the Northwestern Hawaiian Islands. Pearl, Hermes and Lisianski is the best gap in that picket fence of islands, and there is a rather substantial amount of commercial ship traffic that goes through there.

Ebisui said his concern was the cruise ships.

Polhemus said that at the moment they did not have a cruise ship problem outside of Midway. With the Sanctuary Designation the area will become popularized with pressures for tourism and other sorts of commercial and recreational activities. That was a cause for concern, which was one of the reasons the tight permit guidelines were written.

Duenas remarked that when Secretary Peter Young was in Guam he mentioned how the State of Hawaii wanted a consultation on any type of issues that addressed adjoining waters. He wondered if the Council could see a copy of this proposed regulation, since it is going to be in adjoining waters.

Polhemus said that it was not a problem. It had just come out and they were trying to bring it out in its proper form, but at the same time give the NOAA research vessels enough time to apply

via the new process.

He believed it should be publicly available on their website for download. **He would try to see that Council members also receive a copy no later than the next Council meeting.**

McCoy called on DeRoma to present item 5.C.

#### **5.D NOAA General Counsel**

DeRoma introduced his Deputy Regional Counsel, Shepard Grimes. Grimes come to the Regional Office from the Southeast, where he was a staff attorney. He is very experienced in Magnuson work and very well experienced in fisheries law. In the short time he's has been working with DeRoma, he has made significant contributions and will be helping DeRoma and advising the Council, as well, in the future.

The second item DeRoma had was that on February 26th the United States Court of Appeals for the Ninth Circuit issued an opinion in Turtle Island Restoration Network, et al., versus Department of Commerce, et al. The opinion affirms the District Court's ruling regarding the 30-day period for challenges to amendments to fishery management plans or fishery management plans when they're promulgated.

The Plaintiffs had challenged the reopening of the swordfish fishery and had not named the Magnuson Act as the underlying cause of action, but rather listed other environmental statutes, such as NEPA, for example, as the basis of the cause of action.

The government countered by saying that the Magnuson Act's 30-day limitation on the period of challenge for judicial review of changes in fishery management plan or the plan, itself, controlled. Therefore, because the challenge was filed outside that window the case should be dismissed.

District Court dismissed the action. The Plaintiffs appealed to the Ninth Circuit. The Ninth Circuit affirmed the District Court.

The essence of the decision is basically that it reaffirms the 30-day window and it provides the Agency the ability to efficiently manage fishery management plans and also expeditiously resolve challenges to those plans.

Hearing no questions, McCoy called on Gibbons-Fly to present item 5.D.

#### **5.D Department of State**

Gibbons-Fly noted to meetings that would be taking place in New York under the auspices of the United Nations.

The U.N. Fish Stock Agreement or the agreement for implementing the provisions of the Law of the Sea for Establishing Fish Stocks and Highly Migratory Fish Stocks entered into force in

2000. One of the provisions of that agreement calls for a review of the agreement after five years. So that formal review will take place in May at the United Nations. Next week is the first in a series of annual informal consultations of parties.

The noteworthy aspect of the meeting next week is that it will really serve as a preparatory meeting for the May conference.

There is information available on the U.N. Department of Oceans and Law of the Sea website, agendas and other information. He would be happy to provide any information that folks have during the course of the week here, or answer any questions that folks may have during the course of the week here.

McCoy called on Tom to present item 5.E.

### **5.E NOAA Sanctuary Program Update**

Tom introduced himself as the Regional Coordinator for the Sanctuary Program. He was going to focus on the two sanctuaries currently in the Pacific Island Region: the Fagatele Bay, American Samoa, and the Humpback Whale Sanctuary in Hawaii.

The Coral Reef Ecosystem Reserve is under the Sanctuary umbrella, but it is separate as it is going through the Designation Process.

The Sanctuary Program has 14 sites throughout the United States and into the territorial waters of American Samoa. The Pacific Islands Region, which includes the Northwestern Hawaiian Islands, the largest of the Marine Protected Areas, and Fagatele Bay, which is the smallest of the Pacific Region.

Fiscal Year 2004, \$43 million was allotted to the entire National Marine Sanctuary Program. In 2005, they got \$39 million even though the Senate's request was \$54 million; the President's budget provided \$39 million.

The \$39 million is spread throughout the other sites, as well as the D.C. Office. They are probably going to be looking at cuts or not doing programs, many of them programs that the Council was familiar with.

Some of the projects that have happened in the region include:

- The one priority, which is getting the Designation Process on the Northwestern Hawaiian Islands completed. As a National Marine Sanctuary, the DEIS or draft management plan would be out this summer, public meetings to follow, and FEIS to follow after that. Hopefully, by the Year 2007 we will have a decision on the Northwestern Hawaiian Islands.
- The HIALAKAI is in American Samoa doing a variety of scientific research. It is also doing some educational days that made the front page of the Samoa News. While in Pago

Harbor, teachers and students go onboard the ship and interact with the researchers that were there on the ship. This has been done on the Main Hawaiian Islands and some teachers went up to the Northwestern Hawaiian Islands last year.

The ship I believe will be going out to Guam and CNMI next year. Even though the Sanctuary Program does not have sanctuaries out there, if there are funds, they will take students and teachers out on the boat for the day.

- Fagatele Bay Management Plan Review is long overdue. Fagatele Bay has been in existence for at least 20 years and has an anniversary the first week of April.
- The Humpback Whale Sanctuary Management Plan Review will be undertaken next year. They have a slow but growing partnership with South Pacific Regional Environmental Program where they are actually sharing personnel, sharing some whale rescue techniques and educational programs with SPREP down in Western Samoa.
- Telepresence is a project that is near and dear to our Director's heart in Washington, D.C. It provides the opportunity for schools and other locations that don't have sanctuaries right next to them to participate in some of the research going on. So we are doing one out at HIMB, Hawaii Institute of Marine Biology, Coconut Island. There is a site just off Coconut Island that connects them to Moanalua High School. Next year they will be expanding to different high schools around the State and possibly to different states as well.
- Fagatele Bay is the smallest marine sanctuary. It is a rather isolated location. But its management plan review is long overdue. This Sanctuary is in partnership with the Territory of American Samoa. The Sanctuary waters are 100 percent in territorial waters. There is an MOA with the territory.
  - o This is an area where they had dynamiting occurring, and they are still looking to find out what happened. It is a very desolate area, not a lot of people go down there. There was an Office of Law Enforcement camera up on the ridge. It lasted two months before somebody took it down.
  - o This is still undergoing investigation. So it still shows there is this kind of thing going on even within a National Marine Sanctuary.
- The Sanctuary anniversary is April 3rd to the 7<sup>th</sup> and undergoing a management plan review. They are working with the territory and the Sanctuary Advisory Committee there in American Samoa. Stephen Haleck is the Chair of that Council. A new manager will be hired probably late summer.
- The Hawaiian Isles Humpback Whale Sanctuary, SPLASH, is in its last year of investigation. A report about what SPLASH is and what kind of research has been done will be done at a future Council meetings here.

- The HIALAKAI education will take place in Kona and Kauai at the end of April. These are one-day trips out on the HIALAKAI for students and teachers.
- Management plan review is coming up. They will be working with the State of Hawaii and the Department of Land and Natural Resources looking at the entire spectrum of what to do with the Hawaii Humpback Whale Sanctuary.
- Regional vision. They are three sites connected by cultural, geography and the fact that they are islands.
- Tom showed some of the things that the region does:
  - o Maps available to the public include one of whale sightings with overlaid areas of protected layers of substrate.
  - o Cultural indigenous programs that the Sanctuary Program works with. In our National Marine Sanctuary Act, which is supposedly going to be reauthorized this year, it says quite specifically that we will work with the Native Hawaiian community, the Native Samoan community that exists where the sanctuaries are located. He showed a poster that had the three sanctuaries: Fagatele Bay, the humpback whale and the Northwestern Hawaiian Islands. It explains some of the cultural programs that are currently going on. For example, in American Samoa educational material is done in both English and Samoan.
  - o Tom introduced his Deputy, Commander **Dave Rathburn**. He is a NOAA Corp Officer. He will be with the Pacific Islands Region based in Honolulu. One of his main jobs is to be a Sanctuary contact for the NOAA building that's being built on Ford Island. He's also going to be assisting with ship time and other aircraft and other assessment needs for the Sanctuary.
  - o The Sanctuary Program is currently under a prohibition to look for new sanctuaries. Our current act says until existing sites are funded to full potential, they cannot look at these sites. Tumon Bay is not on the list. It was on the list many years ago, but it is not on the list now. The State of Oregon and its Governor have expressed interest. The Sanctuary Program is officially taking a hands-off attitude. .

Ebisui noted that it was for the entire coastline of Oregon.

Tom said the Governor of Oregon had requested a National Marine Sanctuary for the entire coastline of Oregon. The official position from the Sanctuary Program is, well, glad you're interested, but we've got all these other fish to fry right now.

However, at some point the Sanctuary Program will be looking at new sites throughout its entire program area.

Tom said he spoke with Simonds if there was a way that the Sanctuary Program and the Fishery Council could work together. The Council has Marine Protected Areas; the Sanctuary Program has a variety of different kinds of mandates. It's possible that a study with the Council could be done to see what is available. The Council could report back to the Sanctuary Program at some future point on Marine Protected Areas or the future of Marine Protected Areas in the region. Depending on the budget, Tom might be able to support or fund that.

Continuing with his presentation:

- The cultural component is part of what Anne Walton will be coming onboard to do for the Pacific Region. She does Environmental Draft Management Plans. But she also does international work. She works in China, Vietnam. She is a conduit to take some of these programs to different countries. So that conduit is to support the Council and NMFS and other partners.
- He showed a project that came to them from NOAA where satellites information is utilized to look at where all the boats and activity is.

Haleck thanked Tom and NOAA for the program when the HIALAKAI was in American Samoa a couple of weeks ago. It allowed students to be on the boat and exposed them to the scientific research and what is done on the vessel. He had a lot of feedback from the students. There was also a VIP cruise where they had the Governor and some high government dignitaries were on the boat also.

He also wanted to thank Tulafono and his Office of Marine and Wildlife Resources for assisting with the enforcement. As of the last Advisory Council Meeting for Fagatele Bay, it was reported that they caught some fishermen fishing within the Marine Protected Area.

With the blasting thing, there are some good leads as to who has been doing the plastic dynamiting in the Sanctuary area.

Tom invited Naomi McIntosh, manager of the Humpback Whale Sanctuary to show the entanglement video.

McIntosh narrated the video:

The humpback whale was trailing a buoy. This buoy was part of what the whale was entangled in. It was actually two buoys that the whale was attached to. We added a third buoy.

The technique used is called keggling. What the responders are doing here is they are actually attaching themselves to the whale by attaching a third buoy to the trailing line of the gear that the whale was entangled in. So it allows the team to get close to the whale. It allows them to stay on top of the whale. It also serves as a mechanism to slow the whale down.

Throughout this effort we actually had two response vessels working with us: a support vessel and a 22-foot Seacat.

The vessel that's taking the video is the 40-footer. It was fortunate that on this particular day there was a lot of research staff support there to help support the effort.

The whale is just dragging the two responders in the inflatable and that one buoy that's up front is our buoy attached to the whale.

Inside of that inflatable are two Sanctuary staff people, David Matilla, our Science and Refuge Coordinator and Ed Leina (phonetic) our Marine Mammal Response Manager. Both David and Ed have extensive experience in large whale disentanglement. They're both permitted by NOAA Fisheries to be able to do disentanglement response. This is a really dangerous undertaking.

When we do get calls of whales or reports of whales that may be entangled in gear the first thing that the team does is assess the entanglement. So we don't respond to every entanglement that's reported. We assess it to determine if it's life threatening to the whale.

If it is, then we will assess whether or not the sea condition, the weather condition or response capability are all in place before we actually get out on the water. We were really lucky.

This disentanglement happened on February 12th. It was a Sunday. These things never happen during work hours. They always happen outside work hours.

Initially the report came in from the Big Island on February 9th. It was really important to note in this particular case we did have Sanctuary support through our partnership with the Department of Land and Natural Resources. The Sanctuary staff person was the first responder. He was trained to attach a buoy to the whale, a VHF radio tag. So that allowed us to be able to resight the whale again.

The tools used are specialized tools, cutting tools that are attached to a long pole. They made the first cut with a flying knife.

The last cut was a challenge due to rather thick rope.

They're right on top of the whale. Underwater footage showed what the gear looked like; it is just a rope and those two buoys that were attached.

They thought it was most likely fishing gear, probably not from any fisheries that are nearby in the Hawaiian Islands, but from higher latitudes that the whale possibly dragged down to the Main Hawaiian Islands.

This was the first disentanglement response that the team was successful in doing this season. There was a second that happened last week Sunday, where we had a whale that had rope wrapped around its tail. We got about 100 pounds of one-inch diameter line that was wrapped around that animal's tail off. We don't have video footage of that.

McIntosh said there is a NOAA Fisheries hotline number that folks can report entanglements to

that gets in touch with the various team members. This is a community-based disentanglement network, members that are trained to launch different responses.

There are lots of times when reports received may not be a whale entangled:

- It might be mothers and calves that might just be laying on the surface. People get worried about whales lying motionless, and that's usually not a whale that's entangled.
- There are also reports when whales are surface active. People think that they're entangled.
- People will see the undersides of a humpback whale and will see the white that's showing and they'll think that it is some kind of gear that the animal might be trailing.
- They have had five credible entanglement reports come in. It seems to be a high number, and they are not quite sure if it is because more people are aware of and call or if it is something happening in the system.

Ebisui said that in the early part of the footage, there was some kind of marking on the gear. Could McIntosh describe that?

McIntosh said it was still being looked at. She was not sure if it was just a marking on a buoy that would help identify where the gear came from. They were able to pull the buoy off and still have them.

Ebisui asked if her program was involved in the investigation on the recent incident where the tour boat struck the calf.

McIntosh said they took the first call when that incident happened. That happened early in the morning and they immediately turned over the report to the NOAA Office of Enforcement.

McCoy noted that this concluded the Agency Reports. The Council was going into closed session.

(Five minute break taken)

(Closed Session held, proceedings under separate transcript)

(Lunch break taken)

McCoy called the 131st Fishery Council back to order.

He called on Dalzell to go back to the Hawaii and turtle resolution that was discussed in length by Bill Robinson.

Dalzell noted that the Hawaii longline fishery was managed in two different segments. One is

the shallow-set swordfish segment, which fishes primarily to the north of Hawaii targeting to maximize swordfish catch. Then the southern fishing segment that fishes primarily south of Hawaii, setting very deep and targeting tunas.

Although both segments of the fishery may go north or south of the Hawaiian Islands at certain times, there generally tends to be a strong spatial separation of the two fisheries.

Now, the swordfish fishery is managed with effort that they can use annually and also on the amount of turtles that it can take annually, principally leatherback and loggerheads have hard caps, 16 leatherbacks and 17 loggerhead turtles.

Last year just over half, or 70 percent, of the loggerhead cap was reached. This year, there is a much higher interaction with loggerheads, only one leatherback has been caught so far.

He showed a slide of the comparison between last year and this year. The first part talks about the oceanographic conditions which have differed over the two years.

In 2005 sea surface temperature isotherms had a broader spatial gradient compared to January 2006 when the isotherms were more tightly compressed. The swordfish fishery usually targets temperatures of 18 Degrees Celsius. In years when the SST isotherms are tightly compressed the turtle habitat is reduced. So the turtles are squeezed into a tighter corridor. Of course, the density in that smaller corridor is higher, resulting in a more increased likelihood of interactions with the fishery. This appears to be the case in 2006.

In January 2005, the turtle habitat defined by the 17 to 20 Degree sea surface temperature was twice as large as in January this year. So in 2005 the density of turtles was lower than January of 2006 and hence there was a correspondingly lower interaction rate with the turtles.

The total number of sets in the first quarter of 2005 is 539. It took nine loggerhead sea turtles and the interaction rate was .016 loggerheads per set. The first quarter of the year is not finished, but to date there's been 407 sets by the fishery. That is as of the end of last week, or the beginning of this week. There have been 14 loggerhead sea turtle interactions, double the take at .034.

The concern is that the turtle cap of 17 could be exceeded even if the fishery closed under the current regulations with a seven-day grace period. In that period if we did exceed 17 turtles, the Section 7 Consultation under the Endangered Species Act would be re-initiated.

This was the situation with the isotherms in January last year. The isotherms were relatively far apart with the warm tropical waters approaching the frontal system. The next slide showed it constricted much tighter and how concentrated the habitat for the turtles was.

With the turtles being so concentrated, it was not surprising that the take rate of the turtles, interaction rate is twice as high as it was. The turtle cap was approaching.

**To avoid the situation where the hard cap on the turtles is exceeded, instead of proceeding**

**and waiting for the 17th turtle to be caught and then going through the process in the regulations, it is suggested that the Council request that the Secretary of Commerce initiate by an emergency rule a framework for the immediate closure of the Hawaii shallow-set swordfish longline fishery upon reaching the hard caps on loggerheads or leatherback turtle takes.**

Dalzell turned it over to Robinson.

Robinson explained that it was not known when Turtle 16 and Turtle 17 were going to be taken. They could hit a hiatus right now, and it could be quite some time. In which case, it would be adequate time to get this emergency rule approved by the Secretary and in place and be ready to provide a closure through some form of actual notice, probably using the satellite phones, as soon as the 17th turtle is taken. That would be the intent, to provide actual notice to the fishermen.

Also, to provide notice to the fishermen in advance of the 17th turtle, would be a change in the protocol and there would no longer be a seven-day grace period.

It does take some time to get an emergency rule approved, because it has to go to NOAA and Downtown Commerce, and so on. So as a contingency, he has already drafted and signed the seven-day closure notice and intend to send that back to Washington, D.C. and have them just hang on to it.

Then if, in fact, if the situation arises where it appears that the seven-day notice would get the fishery closed more quickly than getting an emergency rule approved, then he would opt to go with the seven-day notice.

Robinson's fingers were crossed that there will be enough time between turtle takes where the emergency rule can get approved and in place and allow for an effective close.

Duenas said that the Pelagic and International Committee met and discussed this issue at length, and would like to offer this to the full Council for consideration. He so moved.

Martin seconded the motion.

McCoy called for discussion.

Robinson explained that under the emergency rule, there is a provision in the Magnuson Act that basically says that if the Council takes a unanimous vote the Secretary is mandated to do what the vote is, that the Secretary has no discretion to review, approve, disapprove or modify.

As might be expected, the Secretary of Commerce is not too keen about being put in that position. So part of his job was to make absolutely sure that a unanimous vote never occurs.

Martin asked Robinson if this was a one-year action or was it new policy.

Robinson said this would be an emergency rule which has an effectiveness of 180 days. Under the Magnuson Act they have the ability to extend that emergency rule for a second 180 days, if necessary. So it could be in effect for 360 days.

However, the Council should give consideration to following up this emergency rule with a recommendation for a permanent rule that changes the protocol that would take effect before the emergency rule, whether it's extended or not, or even if it's extended and expires.

Martin suggested that the Council could bring that up for consideration in the Pelagic Section, rather than working through those details now.

Ebisui asked Martin if the swordfish fishermen would consider voluntary cessation of shallow sets even before the cap was reached.

Martin said that even if one fisherman disagreed, it would be a problem; the concern would be that if you don't get 100 percent buy-in, you might as well have no buy-in. He did not envision that 100 percent buy in was possible and the risk of forcing re-initiation would be too great to hope to get it, especially in the short time frame.

Duenas called for the question.

McCoy called the question. Motion passed with one nay.

McCoy noted some changes in the order of presentation for item 6. He called on Tulafono.

## **6. ENFORCEMENT AND VMS ISSUES**

### **6.A United States Coast Guard**

Tulafono called on Wilson for the U.S. Coast Guard Report.

Wilson introduced Lieutenant Commander Bob Hendrickson. He is the Coast Guard liaison to NMFS in Maryland.

Wilson stated that he would be retiring on the 21st of April and that in the interim Lieutenant Commander Mark Young would be taking over until his relief arrived, probably some time around July.

Wilson summarized the activities from the period of October 1st, 2005 to February 18th.

- During that period air patrols were conducted in just about every EEZ, including the Main Hawaiian Islands, Wake, Johnston, Jarvis, Kingman, Palmyra, American Samoa, Howland, Baker and Guam.
- On November 25th one of their C-130s spotted a Taiwanese fishing vessel actively retrieving fishing gear about 15 nautical miles inside the U.S. EEZ. That was a little over 500 nautical miles north, northwest of Guam. A case package documenting the illegal

activity was put together and sent to NOAA Fisheries Enforcement for further follow-up.

- During the latter part of October, two cutters went out to conduct a multi-unit law enforcement patrol in the Main Hawaiian Islands. They boarded 20 vessels of the Based-based longline fleet. The boardings resulted in 26 safety violations and 14 separate minor fishing violations. One of them was a violation of the Shark Finning Prohibition Act. The case package of documented violations was submitted to NOAA Fisheries Enforcement for further follow-up.
- The Cutter SEQUOIA patrolled Guam and CNMI EEZ in early December, and then back in January again with the Cutter GALVESTON ISLAND. With C1-130 air cover, they noted no illegal activity during that time.
- In working with NOAA Fisheries Enforcement, they had one of their Special Agents on our C-130 and spotted a Taiwanese fishing vessel almost 60 nautical miles inside of the U.S. EEZ up in CNMI. The Cutter GALVESTON ISLAND intercepted at the same time the C-130 was there. The boat was boarded at 560 miles north, northwest of Guam, seized and brought into CNMI.
- Wilson thanked NOAA Fisheries Enforcement for all their work in this case.

Simonds asked Wilson to clarify which EEZ the incursions took place in.

Wilson said that both incursions were in CNMI EEZ.

Tulafono wanted to take the opportunity on behalf of the Enforcement Standing Committee, to thank Wilson for all that he has done for the Council and also for the region. He hoped that some day in the future he would visit and they wished him all the best for his future endeavors. (Applause)

Wilson noted that it has been a pleasure working with each and every one of the Council members on such an important thing. He wished them the best in their future endeavors.

Tulafono called on Fogarty to present 6.B.

## **6.B NOAA Fisheries Office of Law Enforcement Report**

Cline introduced himself as the Deputy for the Office of Law Enforcement and that he would start the report.

The quarter started with 27 investigations, 18 of which were Magnuson Act violations involving seabird mitigation. There were three foreign fishing incursions; two endangered species turtle take cases, two sanctuary cases, one Marine Mammal Protection Act case and one Lacey Case.

In January of this year a case was also initiated when a longline vessel was caught fishing illegally within the closed waters of Hawaii. This case will be forwarded to NOAA General Counsel.

There were four whale strikes, one just recently. Three of the whale strikes that have occurred so far this year had to do with commercial whale watch boats. They continue to stress and voice concern to the fleet that they would like people to watch their speed within the whale sanctuary.

They have concerns with the health and safety of the fishing fleet in regards to the bedbug infestation that's taken place and has really affected the Observer Branch. They offered their assistance to the Region and also to the industry to try to solve this problem as quickly as possible.

Sherrie Tinsley-Myers is the new Assistant Agent-In-Charge. She's coming from Alaska, and they were really looking forward to having her. They have been without an Assistant Special-Agent-In-Charge for almost a year now.

Duenas asked if the report regarding the Joint Enforcement Agreements would not be funded due to fiscal shortfalls.

Cline said, yes, that would be one of the issues Fogarty was going to talk about.

Fogarty talked about the issue impacting the division and region:

- Budget concerns eliminated five positions in November. The Joint Enforcement Agreements with the territories has zero funding for 2006. That was an important enforcement issue because they could not do their job without the help of the folks involved with these JEAs. They were speaking to Headquarters and trying to find any available funding anywhere to remedy that hole.
- They spent a lot of time this quarter looking at the bottom fish issue. They have done the analysis on the impacts for this division on the bottom fish issues. Those issues have been explored in committee and elsewhere.
- VMS for the American longline fishery has been funded. She was happy to report at least the funding for the longline units in Samoa was secured. Headquarters has initiated the funding request. They did not know where that process was. There's been a local vendor down in Samoa that will be doing the installations.
- There was a section in the Council materials about the impact of the New Western and Central Pacific Tuna Treaty on enforcement for VMS. In Pohnpei this year, VMS came up on the agenda. As a member of the U.S. Delegation she argued about the differences in systems that are out there and how that impacts enforcement and the Coast Guard as well. U. S. policy mandates the use of Inmarsat-C technology, which is a two-way system, and stressed that this was really the best system for Enforcement, as well as the system that's used throughout the Pacific at the moment. They lost that argument; the Convention has adopted the use of the ARGOS system, which is a one-way communication.
- What that means is that for the U.S. fleet the requirements will stand Inmarsat-C

technology. As an enforcement person, they do not currently monitor ARGOS technology with the one-way communication. Right now, if somebody is fishing on the high seas and they come into our waters, unless someone at Pohnpei decides to pick up the phone and call, they will not know a boat is coming their way.

- Talking to some of the countries who also face these same issues, it was found that they've have got statutes on the books that require foreign fishing boats to report in when entering a country's waters. Canada, Australia and New Zealand mandate that these vessels call into that government and say, we're here.
- That's an issue that would be an essential enforcement tool. She did not think it would be difficult for any fishing nation, since they already do it now, when they go into these other country's waters, that's a standard operating procedure for them. It was her suggestion that the Council study this process and see there can be language attached to a bill that would require foreign fishing vessels to notify the U.S. Government when they enter our waters.

Harris noted at the Committee meeting, the importance of these enforcement agreements with the islands, particularly since they let resources in patrolling federal waters, not only with NOAA but also in support of the U.S. Coast Guard missions. Hopefully they can find some way to resolve the budgetary constraints that are faced with the continuation of these Memorandums of Agreements.

Fogarty said that a prime example was the seizure of foreign vessel in the CNMI. That is quite a burden on her staff. Her entire enforcement staff, except two field agents, one in the Solomons, one in American Samoa, is in CNMI dealing with this vessel.

The JEA that was in place, the folks out there in the Wildlife Service are right there helping every step of the way. The Coast Guard has to be commended for the wonderful work that they did in bringing this case together. This is one time where they have actually been able to catch someone violating EEZ waters red-handed. It was a well-coordinated surface patrol with an air patrol on top of it. The vessel had been brought into CNMI.

Due to some legal issues in CNMI, that vessel is buoyed in the middle of the lagoon. Her agents are traveling back and forth to this vessel and having to stand guard of the crew that's on the fishing boat.

The logistics of the 24/7 coverage that's on the crew, and maintaining the crew and safety of those folks and trying to put this case forward into the courtroom, it's quite a package. The JEAs are certainly a big component of allowing them to be successful in this endeavor.

Simonds asked that compared to all of the other regions and their budgets, who else took a similar hit.

Simonds said this was discussed with Hogarth, who couldn't understand what happened in

Washington. Fogarty should know who took what hit and was her percentage larger than anybody else's, since we have the largest EEZ.

Fogarty said it was her understanding from Headquarters that what happened to the JEA money, everybody took a reduction of about 20 percent across the board as to what had been promised for the JEAs.

The areas that did not get funded included North Carolina, which doesn't have a JEA, Hawaii, that does not have a JEA, the three territories, who had JEAs were not funded.

Simonds said it seemed like all the island-type regions were hit hardest.

Fogarty said that certainly the Pacific Island Region took a pretty big toll. The assurance she has received from Headquarters is that they should be on the top of the list for funding next year.

Duenas asked if it would be difficult to come up with language or entities since he was planning to establish a corridor around Guam.

Fogarty said that she was not an expert in maritime law and the attorneys would have to provide guidance on that.

She had pulled the Canadian Fisheries law as an example and thought it was something that they should look at along with other countries and see if they can't get something similar.

As far as doing the traffic order, she felt that maybe that was Wilson's venue.

Gibbons-Fly said that they did argue that the Inmarsat-C in our view was the appropriate standard for the Commission. Since there are two systems, taking one or the other meant someone had to retool. After some fairly lively discussion, the result was that both systems would remain in place with some conditions on the frequency of the ARGOS system.

This will mean that Fogarty and her staff may not be able to see all of these vessels that apply ARGOS on her system, and it certainly made sense that if someone has those vessels on their screen, they would explore what arrangements need to be made to ensure that others can be alerted to that fact. They want to continue to pursue this through FFA or with the Commission or whatever body is monitoring that.

Harris asked if they would ask for reciprocal information in that case.

Gibbons-Fly thought they would.

Duenas commented that they still had Kevin down at Honiara. Was anybody down there monitoring that system? His understanding was that there was an enforcement agent there.

Fogarty said that Special Agent Kevin Paner (phonetic) is still assigned as the Enforcement Advisor in Honiara to the FFA. However, his role was not to monitor VMS, but is there as

enforcement advisor. He does provide enforcement training to many countries. He has assisted in enforcement operations out in the Pacific and has helped put together many, international prosecutions on behalf of the members of the FFA.

Kevin's position through his networking capabilities is certainly a conduit for them to get information quickly. So if they need help from Vanuatu or some other nation, or they need help putting an investigation together, because of Kevin's ties there, they can get that information.

Duenas asked if that could be added to his duties.

Fogarty said the FFA would not formally let them do that.

Tulafono commended Martina Sagapolu, Special Agent in American Samoa, who was doing good job working together with his staff and enforcement, both territorial and federal laws in American Samoa; they really had a good team.

Fogarty said she was an outstanding agent and asset to the organization. They were pretty short-handed in American Samoa and would not be surviving there as well without the help of his department.

Tulafono emphasized the importance of JEA funding to the territories. He encouraged members from Guam, Saipan and American Samoa to talk to their governments. Maybe they could write letters to D.C. or to Dr. Hogarth encouraging him to fund this program.

## **6.C Status of Violations**

Tulafono called on Paul Ortiz to present the report.

Ortiz's report showed:

- One civil penalty for observer intimidation and observer interference. The case is in litigation so he could not give too many specifics on it. But every once in a while there is a situation where a crewman and an observer don't get along and sometimes turns into a fairly bad situation. They continue to take these cases very seriously and issue some significant civil penalties to try to assure that they don't have these problems in the future.
- A federal case from a few years back involving the targeting of swordfish where the main charge was part of the regulations that is tied up in the HLA litigation. When those regs fell out, the main count for prosecution fell away. So they settled for what was the remaining count on failure to accurately complete a logbook.
- There were a couple of cases still outstanding that the defense counsel and Ortiz had been working on them for several years and trying to reach settlements for the remaining counts.
- Ortiz highlighted the case in the CNMI and said it was a bit premature to talk about

penalties. It has been a while since they have had one of these cases coming out of that part of the world.

- The Coast Guard, the Office of Law Enforcement and U.S. Attorneys Office in Guam are all ready to go. They have been pretty good with these cases before and he was working very closely with the Assistant United States Attorney on the case.
- Foreign vessels fishing in the U.S. EEZ is just about as serious a case as there is in the Magnuson Act and it is taken very seriously. You would normally expect to see in this type of case a vessel forfeiture, where you won't actually be forfeiting the vessel, it would be forfeiting the value of the vessel. And, they would be seizing catch as well. Unfortunately, this vessel was caught on the first set and it did not have much.
- They could always look to a civil penalty for the actual illegal incursions. The 100-foot long liner was probably worth a bit of money. The value of the forfeiture will be driven by the value of the vessel.
- Because this case occurred in the EEZ adjacent to CNMI, the money from the forfeiture and any civil penalty proceeds after enforcement costs would go to CNMI under the Pacific Insular Area Act.
- Settlement negotiations with vessel owners in this type of situation provide them a fairly strong position. In the past they have used that strong position in order to impose VMS. One of the first VMS systems ever on Japanese vessels was put on one of their vessels under arrest in Guam and the company's fleets was forced to use VMS.
- They could do creative things such as that or require them to use circle hooks.
- He hoped at the next meeting he would be reporting a creative settlement solution for the CNMI case.

Ortiz noted that Cline mentioned the number of violations for seabird mitigation techniques. Setting penalties is situation based and a bit of an art. They look for the proper penalty to get this message across.

Historically a single case of failing to fully dye the bait would probably be \$500. Not a huge penalty, but you would expect that the master of that vessel or the owner would not want to pay \$500 every time the boat goes out. It would ensure that that type of violation didn't happen in the future.

With 18 violations, it appeared to him that the \$500 tickets may not be too successful. He was going to talk with the Office of Law Enforcement and ask for an increase in that type of penalty.

Duenas noted that Ortiz said the CNMI ship was empty, where did it come from? Did it come from Guam?

Ortiz said he believed it came from Taiwan and asked Wilson to clarify.

Wilson said that the ship wasn't empty. It just didn't have that many fish onboard, i.e. 18 sharks, 16 tuna, some mahi, marlin and shark fins. And they knew it was a Taiwanese vessel.

Martin asked if the captain and crew were still retained onboard.

Ortiz said they were currently onboard the vessel.

Simonds asked if the fins matched the bodies.

Ortiz said that was certainly part of the ongoing investigation, is whether there was a shark finning violation as well.

Sablan asked the exact coordinates of the fishing grounds.

Wilson said the position was 22° 09' North and 144° 34' East.

#### **6.D Automatic Identification System**

Tulafono called on Lieutenant Commander Robert Hendrickson for the report.

Hendrickson thanked the Council for fitting him into the schedule on such short notice.

Hendrickson noted the Automatic Identification System was part of a much larger system promulgated by the International Maritime Organization back in the early 1990s, referred to as GMDSS, which is primarily for safety at life at sea. It's a search and rescue and collision avoidance system promulgated by IMO.

The AIS portion of GMDSS has a Maritime Domain Awareness benefit. They are able to take a look and see who is out there in our waters and what they are doing. Under the Maritime Transportation Security Act of 2002, the Coast Guard is responsible for knowing who's out there in our water and what they're doing. So this is an excellent side benefit to the AIS system.

The AIS system operates on an open communications protocol. It is the same thing as picking up a VHF-FM radio microphone, keying it up, and giving a position report, course, speed and a bunch of other information every two to five seconds. It automatically sends that information out to other AIS receivers automatically. It is all sequenced so that nobody steps on top of each other. If you are anchored or your speed is less than three nautical miles per hour, it drops down to every three minutes it makes a report.

AIS is required on all commercial vessels 65 feet or larger per the Maritime Transportation Security Act of 2002. Fishing vessels were set aside temporarily when the rule was made by the Coast Guard because of comments received during public listening sessions. There were 200

comments from the fishing industry and from other small entities, specifically, passenger vessel entities and tow-vessel entities.

What the Coast Guard has done for the last year and a half has reviewed these comments and reported these comments to the Congress with recommendations.

The rule will require all commercial vessels, which would include fishing vessels, 65 feet or larger to be equipped with AIS. That rule is in the rulemaking process.

He anticipated that commercial fishing vessels were going to be required to carry AIS. He was not telling you to go out and buy a unit today, but he wanted them to be prepared for that eventuality.

Hendrickson show them the basic unit, AIS Class A. There is Class B type unit that is not quite approved yet. They did not know what it was going to mean for carriage requirements. There are 19 types approved, Class A AIS units available today.

The minimum requirements of an AIS Class A unit is to be able to bring in the information for the seven closest contacts and display that information in some form of a useful manner. It might be something as simple as a minor graphic display. That can be integrated into a radar system, an electronic chart display system, or a personal computer.

The AIS unit contains an onboard GPS, two VHF-FM transceivers and an antenna. The GPS unit drives the entire works.

It has a very sophisticated sequencing system so that no one steps on anybody else when they're transmitting. It also has the two VHF-FM transmitters for broadcasting. One is a fail-safe backup for the other.

The AIS report shows position information by way of an onboard GPS:

- An indication of how accurate that position actually is, the position is time-stamped;
- It gives the course over ground and speed over ground, and the general heading of the vessel;
- You are able to manually input your navigational status: if you are fishing, if you are restricted in the ability to maneuver, if you are anchored, and if you're not under command;
- As other vessels look at your AIS report on their screen, they can flag you right away; and
- The name of your vessel also comes across on the AIS display. So there's no more of this, hailing the vessel off of the starboard bow in the middle of the fog bank.

The primary purpose of AIS was originally for safety of life at sea, collision avoidance, but it works really well in two other areas:

- In a VTS situation, Vessel Tracking Situation, where you have a VTS established and active in one of the 13 ports of the United States, it automatically makes the various

- It is an excellent maritime awareness tool. For large vessels one of the other things it will report out is the rate of turn, how quickly you're turning right or left. It gives that indication.
- You can manipulate the software of your particular unit so that your depiction of what the AIS information is customized for your needs and purposes.

A situation that could be avoided is a small vessel being over out in the middle of nowhere by a big vessel.

Under IMO the big boats, 300 gross tons or larger, regardless of the flag, are required to carry AIS. That means that they can see you. It is not a panacea or a replacement for radar, but it will enhance their ability to see you in addition to their radar.

The range is line of sight, thirty to sixty miles.

The U.S. Maritime Security aspect of the AIS includes:

- The AIS carriage requirements are under the Maritime Transportation Security Act of 2002 as opposed to some other search and rescue related requirements.
- Why commercial vessels? Why not something smaller? The STARK was not blown up by a 65-foot fishing vessel; it was blown up by a little rubber boat that was about 20-feet long. It is a place to start.
- Will small vessels be included down the road? You would probably see something.

Hendrickson described how the currently used VMS is different from AIS:

- Tab 6.A.2.A in the Council binders had a breakdown side-by-side comparison of AIS to VMS.
- AIS is an IMO system. VMS is a U.S. system.
- There is an international system. However, it is a U.S. system because of the way the communication protocols work.
- AIS is for safety of life at sea and Maritime Domain Awareness. VMS is for fisheries law enforcement.
- AIS has an open communications protocol. Anyone within the footprint of your signal can see who you are, where you are and what you're doing. He knew that did not go over too well with fishermen who are interested in keeping their hunting hole secret. As we

move closer to quota management systems and protected area management regimes, the hunting holes aren't going to be as important.

- VMS is a closed communications protocol, like a cell phone call.
- A VMS position is available depending on the particular FMP that they are looking at and the particular vessel. As opposed to AIS, which self-reports every two to ten seconds.
- AIS is mandated under Congress, MTSA 2002. VMS is required under various FMPs from the Fishery Management Councils.
- There are only about 3,000, 3500 vessels in the United States right now that are equipped with VMS. When implemented about 19,000 vessels in the United States will be equipped with AIS.

The regulation is in the rulemaking stage and there are still a number of places to have input before it is finished. When the final rule comes out, the Coast Guard will provide a reasonable amount of time to come to compliance. Their purpose is to be aware of what is going on in their maritime domain and to help educate people.

They are working with industry so there is a good feel for how many units are available, how easy it will be to install and a reasonable amount of time to allow for compliance.

The violation for not having the AIS is \$25,000 for each violation. They have written only one ticket to date.

The cost of the unit, \$2500 to \$7,000, the base unit is \$2500. The cost of the unit depends on how many different pieces of equipment are plug into it. It can be plugged into a number of different pieces of equipment, how many bulkheads you have to go through to get to that equipment.

They have provided discounts from five to twenty percent on the units when bought as a group.

More information is available at [www.navcen.uscg.gov](http://www.navcen.uscg.gov). That's going to list for you all of the 19 type approved AIS units. Technical questions could be forwarded to Jorge Arroyo at [Jarroyo@comdt.uscg.mil](mailto:Jarroyo@comdt.uscg.mil) or by phone. Questions about policy or implementation could be directed to Hendrickson at [Robert.Hendrickson@NOAA.gov](mailto:Robert.Hendrickson@NOAA.gov) or by phone.

Harris asked if this had been adopted under ISTS.

Hendrickson said that any foreign flag vessel that calls at a U.S. port is required to abide by the U.S. regulations with regard to AIS. So any foreign-flagged vessel 65 feet or larger on a commercial venture that wants to call at a U.S. port is required to carry AIS.

Harris remarked that it seemed that the U.S. seemed more highly regulated on the high seas or in

port than the rest of the world. She would like to see everyone come up to speed.

Hendrickson said he didn't disagree with that.

Martin asked how he could influence what comes out of the pipe. He did not agree with it. While commercial boats were regulated, what about the 100 foot yacht? He was sure Hendrickson would hear more comments like this at the Fishers Forum.

Hendrickson said he was here presenting because he felt a responsibility to his office's constituency. He has very little to do with the rulemaking process, his job was enforcement.

He realized this rule would have significant impact on fishermen. That was why he was here now instead of six months from now after it has gone through the venting process. The way they could influence the outcome was to contact their elected officials.

When this was first looked at three years ago, there were commercial fishermen in the public listening sessions. He could not tell them who these fishermen were or where they were from, but there was commercial industry input into the rulemaking process.

Martin asked if the fishermen were responsible for purchasing the unit and then programming, how does the Coast Guard or any regulatory agency know that he bought it, but put someone else's vessel information in. Would he be programming it or is it a registered thing like an EPIRV?

Hendrickson said it was a registered thing like an EPIRV. It is registered to your vessel. As a Foreign Patrol Boat Commander and Big Ship Driver, if he was out there and looking at radar, when sorting targets for boarding, if you're not broadcasting AIS and you appear to be 65 feet or larger, he would probably board you as opposed to someone who is broadcasting AIS. And when he boarded, the AIS would be part of his punch list.

Polhemus said that for the refuge in the Northwestern Hawaiian Islands, which is an extremely remote chain of islands, the State could possibly require something like AIS because it was entry by permit only. However, two things concerned him, first the cost of the units and the other was the applicability to smaller vessels and possible problems with a power source. Did Hendrickson have any comments on that?

Hendrickson said that as far as power goes it was 120 volts, what the generator puts out. He thought that applicability in the Northwestern Hawaiian Islands was a great thing.

Hendrickson noted that while AIS B had not been approved yet, was similar to AIS and cost about \$1500. If he had \$1500 in his pocket, he would buy AIS B for the safety of life at sea aspect. It would be the same for EPIRV.

Polhemus asked if Hendrickson thought it would be similar to GIS, where it started out expensive and ended up cheap.

Hendrickson noted that in 2003 when the Federal Register came out with the Notice of Intended Rulemaking for AIS, the price was listed there at about \$9500. At \$2500, it had come down significantly, but he did not know if that was the basement.

Simonds asked what the opportunity was for putting VMS and the AIS together as both are good systems for different purposes.

Hendrickson said there were looking into it. Both the VMS and AIS manufacturers said they could not do it. While the technologies may not be able to marry, they can certainly talk to each other, which is what they were looking at. They have set up a meeting with all the representatives of the type approved AIS and the type approved VMS. They are going to try and facilitate that meeting.

Whether industry actually latches on to that is beyond their control. But the market niche is certainly expanding with the expansion of the use of VMS and with the new AIS regulations in the pipe. Whether or not they're willing to expend the research and development dollars, it's up to them.

Simonds clarified that the requirement for AIS was 24/7. She could see where a fisherman might like this AIS system when he's not fishing, but would want the option to turn it on and off.

Hendrickson said the specifications from the Coast Guard didn't include an on and off switch. So most of the type approved don't have an on and off switch.

Polhemus asked Robinson if his NOAA research vessels used AIS.

Robinson said he did not know, and had not seen it.

Hendrickson said that public vessels were required to carry AIS. That doesn't mean they don't voluntarily carry it.

Martin had heard in another presentation that anyone could buy a receiver for about \$1200 and the receiver did not have to be registered with anyone.

Hendrickson said that was correct. He added that he had been to every Council and did not receive a lot of push back on the issues except for New England.

Tulafono thanked Hendrickson and moved on to item 6.D.1 Small Vessel AIS Pilot Program. He called on Fritz Amtsberg.

#### **6.D.1 Small Vessel AIS Pilot Program**

Amtsberg represented OceanTronics, a dealer for most of the companies that make AIS equipment. He noted that a procurement of 200 AIS systems for the Navy was just let through San Diego. The total cost per unit was under \$800.

When GPS was first provided to the fishermen, they were at \$3,000, now they are \$75. So big difference.

As far as the AIS receiver, it is \$200 to listen to an AIS.

They had been asked by the Council to take a look at a method of trying to keep track of the 3,000-plus small boats that fish around the Main Hawaiian Islands to make sure that they are not fishing in areas that are closed. They looked at the AIS system and the Class B system was priced at \$1500.

They went to one of the manufacturers that make the AIS and asked if a fisherman did not want his position transmitted to another fisherman, was there a way to cloak the information so it could be received only by, say, a Coast Guard Station. He said, yes, he could do that.

Then they asked if there was processing power in the Class B system where built-in boundaries of areas could be put in to limit the transmissions when the vessel was outside of the area. If he's in an area that was closed, it could increment up so you could actually tell if he was drift fishing within the area or whether he was anchored, or what he was doing in that area. They said they could do that.

They proposed to the Council to take a modified version of the Class B and utilize that as a system to keep track of small boats. It would be made so that the fishermen could use it, where he could take the AIS signals that he receives and display them on his plotting program, or whatever he has, that all of the plotters and radars now are being made where they will take an ASCII census of the information from AIS and display it on a plotter or a radar. They wanted to make sure that the fishermen could use it in that respect also so that it was a benefit to him.

Then if he's traveling, in distress, anchored somewhere, they would make it so that he could activate it so that anybody could hear him. He can use it for safety or if he's in distress. The manufacturers said yes, they could do that.

So they came up with a transceiver that he thought met the requirements that Martin was concerned about, which is fishermen don't want to broadcast their positions to fishermen. They can also make it transmit position information when you're within a specific boundary, right now the system can be set with nine boundaries in it. That can be increased, depending on the needs of the Council's requirements.

At the time the local Coast Guard people were at the meetings and they discussed the concept of having this position information go through their receive sites and then distributed to the fishery people. That was basically being implemented there.

In fact, putting AIS receive systems on Kauai could be implemented reasonably inexpensively.

They have proposed to the Council that a dozen or so systems be put on cooperative vessels and tested for a limited period of time to make sure that it does what people want, modify it to make sure that it does not do things you don't want it to do.

This was done in conjunction with Pacific Missile Range, who has indicated that they would like to have the test be done in their area, which is around Kauai, predominantly for safety reasons because when they launch missiles they'd like to have information as to where all the local fishing boats are.

There are banks about 60 miles west of Kauai's launch facility, Middle Bank, which is fished by small boats. They are not seen on normal signal returns. Pacific Missile Range flies a P3C out and has AIS receivers on it and they're able to scan the area and see what vessels are there.

Wilson said that because the rule hasn't come out the other end of the pipe yet, they did not know whether or not whether any of these things would meet the actual requirements.

Amtsberg said he understood that. He was addressing their need to keep track of the vessels, not the AIS, and the utilization of a Class\_B system as an inexpensive solution.

Simonds noted that Amtsborg was asked to look at this 20 years ago it has taken him 20 years to find a way to monitor and enforce small boats for closures.

Simonds said they wanted to do this pilot project this year so that they would recommendations for the State, as well as the Feds.

Polhemus said this was of interest to the State since they are proposing area closures in the bottom fish fishery. But, the cost of the unit is still about \$1,000.

Amtsberg thought that was the right price for the pilot program. But the estimate would be significantly less if there were the kind of quantities they were talking about.

Polhemus said that for the bottom fish fishery alone, there are 3,000 boats, multiplied by \$1,000 each would be \$3 million, that was a lot of money but you would get complete coverage of the fishery. But, cutting that by a half or a third would be getting into some reasonable numbers.

Tulafono asked Rick Daly to come up and just do a quick synopsis of the needs of the Pacific Missile Range.

Daly said that they have been cooperating with the Coast Guard here on Oahu with AIS. Specifically, the Pacific Missile Range facility purchased some AIS receiver units.

One unit was given to the C-130 outfit at Barbers Point. They made their first flight last week and seem to be very excited about the ability of this receiver to cover huge areas when the aircraft is at altitude. They can about 200 miles in a circle from that aircraft when it's at 24,000 feet.

They're excited about it because it means that they don't have to fly down and visually identify every contact they see. They can take care of a lot of it and concentrate on those vessels that aren't carrying AIS.

They are also assisting the Coast Guard in the installation of their receiver site on Kauai, which is expected to be going in in late March or early April. This receiver set, as the ones that are used in the aircraft, is capable of receiving cloaked Class B transponder if it's determined to use it. It's really just a matter of the software setting and the receiver that gives us ability to see when fishing boats can't see the data.

They are also developing a communications link between Coast Guard Headquarters in Honolulu in their facility so position information on vessels and other information can be exchanged over a classified network.

In a recent exercise at Barking Sands where they launched and a Coast Guard aircraft helped them by using this communication system to give positions of the contacts that they saw. They picked up three vessels that were in their hazard area, and they also with their radar picked up two fishing vessels that were over 65 feet that were not carrying transponders because they're not required to. So they had to fly down and use their other devices to identify these vessels. They got a good idea of the difference in efficiency of the AIS versus non-AIS.

Their interests in AIS are primarily monetary in that they spend up to one million dollars per exercise to go out with aircraft and make sure there is no fishing or commercial vessels on their range. The reason for this is that if there were a serious accident out there, that would severely constrain the ability of the Navy to conduct operations. They have a very high interest in keeping that area safe.

When there are fishing vessels or commercial vessels in that area, and they can't get out of the area during the scheduled launch, they don't launch. But it costs them millions of dollars a day to have everybody standing by while these vessels make their way. This is true for longliners, because they have to gather their gear up before they leave, and they're reluctant to do this because they just set it.

Daly was there for two reasons: first, they wanted to participate in the pilot study. While he could not personally commit money, he felt it could be discussed once the plan was developed; second, they were interested getting permission to use the VMS data that is produced but kept close because of the fishermen's interest of not having their positions given away. They proposed using that same secure communications link between Coast Guard Headquarters and were quite willing to treat that information as confidential or privileged.

They were willing to enter into a Memorandum of Understanding or a Memorandum of Agreement with the Fisheries Council and also the Coast Guard, if that's a good way to do that. Their interest was safety and they would not use the information for law enforcement.

Polhemus said that based on the cost for each exercise to make sure you don't have anybody out there; with a couple of exercises they could equip the entire recreational fishing fleet with AIS and be done with it.

Daly said it was an interesting proposal, but he was not there to make monetary commitments. But they could discuss that.

Amtsberg noted that the plotting program that used to keep track of these vessels is one that was designed by Ed Timoney, who is a local fisherman. He ended up designing a software program for keeping track of vessels and for his own use and for the use of people like the albacore fleet uses his software program for their fish catch reports.

He had done a \$300,000 contract with the Navy to make Timoney's program compliant with the Navy's program. The system is on 42 surface combatants that went to the Arabian Gulf. All of them use the program to keep track of their semi-inflatables and to use them for vectoring on vessels that they wanted to board.

Simonds noted that Timoney developed this program as he was fishing up in the Northwestern Hawaiian Islands. She added that the Council staff was going to continue working with the group, have a little workshop on these requests and on the actual pilot program over the next several weeks.

### **6.E Standing Committee Recommendations**

Before going on to the Standing Committee recommendations, Tulafono called for the Advisory Committee recommendations from Sesepasara.

Sesepasara, a Council member 30 years ago, is the Chairman of the Subsistence Advisory Panel. There is no Advisory Panel on Enforcement so he would report on the Advisory Panel as a whole group.

It was consensus of the advisory panels to support these three recommendations:

1. The Advisory Panel recommends a greater level of enforcement presence by Federal and State fisheries enforcement agents and a greater commitment to enforcing existing fishery regulations in the State of Hawaii.
2. The Advisory Panel recommends a more proactive U.S. Coast Guard presence in American Samoa to enforce fishery regulations.
3. The Advisory Panel requests the Council to work with U.S. Coast Guard to implement an apprenticeship program in American Samoa to assist captains to acquire their 100 ton Master License, hopefully that the Council would provide some funding and the Coast Guard would provide some kind of program to help our local indigenous Samoans who want to obtain the Master's licensed operator.

Wilson said that each one of these recommendations was good and valid. He and the Coast Guard completely support a stronger enforcement presence in American Samoa. With the limited resources they have, they were trying to get assets down there. The amount of high endurance cutters that he could get during the year had been reduced. So they were trying to use their buoy tenders and get them down to American Samoa as often as they could

With regard to the last program, it was outside the area of his expertise, but he would be willing

to explore what the possibilities and would support it.

Sesepasara noted that the Standing Committee met yesterday at the Hibiscus Room around 7:35 in the morning. They heard the report from the Commander Wilson, the Coast Guard, and Lieutenant Commander Bob Hendrickson with the presentation on the Automated Identification System the report from Judy Fogarty on the Office of Law Enforcement activities, Paul Ortiz on the Status of Violations and also Eric Kingma provided a description of the alternatives for the Hawaii bottom fish overfishing.

After lengthy discussion and deliberation on the issues, the Enforcement Standing Committee came out with two recommendations for the Council's consideration:

1. Recognizing the enforcement value of Joint Enforcement Agreements, JEAs, in the region and that the 2006 JEA funding was not provided to National Marine Fisheries Service Office of Law Enforcement Pacific Islands Division, the Standing Committee recommends that National Marine Fisheries Service provide Office of Law Enforcement Pacific Islands Division with adequate funding to maintain JEAs with the Territories of American Samoa and Guam, the Commonwealth of Northern Mariana Islands, as well as enter into a JEA with the State of Hawaii.
2. The Standing Committee recommends that the reauthorization of the Magnuson-Stevens Act be amended to include a notification requirement for foreign fishing vessels entering the EEZ. This provision under the MSA will allow the U.S. Coast Guard and the National Marine Fisheries Service Office of Law Enforcement to adequately monitor potential illegal incursions into the EEZ.

Sesepasara said he would like to move for the Council to endorse both the three recommendations from the Advisory Committee and also the two recommendations from the Standing Committee.

Sablan seconded.

## **6.F Public Comment**

McCoy hearing no public comment called for the question.

Motion Passed.

Robinson suggested that with respect to Recommendation 1 of the Standing Committee Report on JEA funding, that the Council write a letter to Dr. Hogarth with that request, with a copy to Judith Fogarty.

McCoy thanked Robinson and called for a break.

(Brief break taken)

McCoy called the meeting back to order and introduced their guest speaker, Ahupuaa in the 21st Century, Leimana DaMate.

### **LEIMANA DAMATE: “AHUPUAA IN THE 21<sup>ST</sup> CENTURY”**

DaMate said her presentation had been given to the general community and to the Hawaiian people over a series of five years. The information that's in it has been compiled by community input.

The presentation was put together and supported by three organizations: West Pac; the Pacific Islands Resource Management Institute, whose mission is to protect, preserve and restore the life of the land through traditional resource management; and the Association of Hawaiian Civic Clubs, which is a confederation of 51 Native Hawaiian civic clubs throughout the nation. There are about 21 clubs on this island, alone. They were formed by Prince Jonah Kuhio in 1918 specifically to give the Hawaiian people a voice in civic and community affairs.

Her presentation included critical areas of concern that were brought to their attention through 30 community meetings throughout the State over the course of three years.

Those areas of concern led them to look at their Hawaiian science and implementation tools of how the science is applied in today's contemporary society.

They needed to really look at why ahupua'a and ecosystem resource management was needed.

Ecosystems are in peril globally, particularly, because coastal areas are in crisis and because the fisheries are declining. They looked at the 2004 Ocean Commission Policy where it's stated that ecosystem resource protection was one of the mandates of this Commission. After working with the county and state agencies, and now the federal government, they realized that all three support ecosystem management as a whole.

In the community meetings there were three major areas of concern:

1. The first one was the Marine Life Conservation Districts, Fishery Management Areas and Fishery Replenishment Areas as they have been initiated around the state in the Main Hawaiian waters by the State of Hawaii.
2. Fishery decline.
3. Finally, government stewardship, how all of the agencies affect land and coastal resources.

“We looked at the Marine Life Conservation Districts only because our kupuna at these community meetings were so concerned about them. These are permanent or long-term closures. I'm not going to go through all of them, but just say a few words about one. That's because it's in Kealakekua and we live on the Island of Hawaii, Mokuokeawe.

The MLCB at Kealahou, according to the Hawaiian people, does not work. The reason it was created was a good one, to protect a pristine ecosystem.

But what has happened is that -- because it's a no-take zone. But what has happened is dive shop people, tour boat operators, snorkel operators are still allowed to come in and use the whole entire bay. They feed the fish synthetic palu or synthetic chum, or whatever it is. The taste of the fish has changed. The ecosystem, itself, has changed. The limu has changed. The seaweed has changed. So the entire ecosystem is no longer the same as it was. So the reason it was protected has not been realized.

The same for the Fishery Management Area. The purpose of creating these FMAs was good. At the time the State needed to do that. But time has also proven that they are not working. The only freshwater fishery management area that we have is the Wailuku River in Hilo, and we were told that was to o'opu, which are an indigenous fish and a delicacy.

So recently we learned that the DLNR, the State of Hawaii, has proposed certain restricted areas for bottomfishing. Although we're not going to go into this, we just wanted to point out that we need to really look at the reasons these areas were picked.

This is the Kauai County. This is the Main Hawaiian Islands, Maui and Honolulu Counties. This is the Hawaii County.

Bob and I live at Ka Lae at the very bottom. That's South Point, right down there.

In our recent community meetings we went around to actually ask community people what they felt about this.

None of the Hawaiian people even knew about it. They would like an opportunity to work more with the State to find out exactly why these closures are being proposed.

All of that still brings up the question of government stewardship. The government is responsible for the protection of our resources. But people are asking, we're asking, how do these agencies impact our land and ocean use. These are federal, state and county.

It was curious that many of the agencies, themselves, were not aware of how their counterparts affected the same resource. So you have overlapping jurisdiction here.

This graph right here is a listing. Under the function, this right here, this first column, these are all the issues that were brought up as prevalent issues in the community meetings. What we did is we listed in the columns next to it all the county areas, the county divisions, state divisions and federal divisions who are responsible for jurisdiction that affects these issues right here.

In realizing that county, state and federal agencies have overlapping jurisdictions on many of the issues, we needed to find a way, a common cause, a commonality, so that there could be more uniformed policies that govern our resources.

So this is just a quick look at the federal agencies. You have the National Marine Fisheries, West Pac and the bottomfishing, Geological Survey because ocean mining is coming, and all of those issues. Your Humpback Whale Sanctuary because of our endangered species.

On the state side, these are agencies that people do not normally associate with fisheries. Your Water Commission under the State of Hawaii, under DLNR, is responsible for watersheds.

This is Haiku Valley on Oahu.

What happens on your watersheds affects your fisheries.

We have a kupuna from Kona who recently passed away, Kahele Mauna Roy. He is a historian, a respected historian. He used to tell us the story of fishing off of the Kona Coast, eight to nine miles out, out of site of land, for ahi. When he pulled it up and cut open the belly he found ōpai that can only be found on the slopes of Mauna Kea. So that shows the symbiotic relationship between land and ocean.

He said that the ōpai, the shrimp, was flushed down through the lava tubes from the top of Mauna Kea, through the lava tubes way out to sea, the fresh water, and that's what the juvenile fish, spawning fish, and were feeding on.

Then you have the Department of Agriculture, who's responsible for aquaculture, that's your ponds and deep-sea -- your sea cages, your fish cages now.

The Department of Health is responsible for water quality. This is the Wailua River on Kauai. We picked this one because it is land-locked right now, this one particular picture.

But it does empty out to sea. So whatever happens in the river affects your fisheries.

The same with the Department of Agriculture, because whatever is planted goes right through the soil, down to our ground water and out to sea, affects all of our fish, our fishery. The county is your trenchlines. That's your baseline. This is where most people come for permits and it's your first line of defense when it comes to protecting the fisheries.

The county people are responsible for contest permits. This is in Olowalu in Maui. First we thought this was a shark, but it's a dolphin.

What our kupuna on Maui have told us is that when these contests at Olowalu are actually being put on nobody bothers to find out that that is an area where the shark actually comes in to spawn. So it's a smorgasbord for them.

But this is a not a shark, that's a dolphin.

The same for your shoreline setbacks in Kona. This is the Keauhou Beach Resort. You see the hotel is built right over the water. So that affects the coastline, but anything that affects your coast affects your deepsea.

Public access in Laie on Oahu. The county is also responsible for county parks.

This is Poipu Beach.

All of that still have to tell agencies why and where the Hawaiian ahupuaa came from. So we went all the way back to the beginning.

The beginning was Hawaiian science. Hawaiian science is actually a study of aha, which are councils created before the Tahitians got here. Ahapuaa, a land and ocean use management system all geared to provide one thing, sustainability of your resources.

This is a picture of our earth. You see where Hawaii is. We are located in the most perfect place on earth. The most perfect place on the globe. We're surrounded by pristine and plentiful resources. Hawaiian people and people who live here are very, very lucky.

This is a NASA picture showing the Hawaiian Islands from space on a typical day. Now you can't say it's typical right now, we're in the middle of a storm. But normally, we are always -- we always have pretty good decent weather and good temperatures.

We're also surrounded by a water vapor cloud that surrounds the earth. Hawaii is located right in the middle of it. So we have a continuous stream of fresh water. So when people tell you we're in a drought, we really are not in a drought.

What was really interesting, and this is where the Hawaiian science comes in. Hawaiians have also known that there has been a difference between our currents and the rest of the Pacific Ocean.

In 2002 the University of Hawaii actually came up and found the Hawaii wake.

What the wake is a stream of water caused by the height of the Hawaiian Islands that is only one to two degrees warmer than the rest of the ocean. This affects our species, our spawning and all of the endemic fish found in the Hawaiian waters.

At the same time that we were doing all of this, West Pac was on their own parallel course. This slide is actually a West Pac slide, which Charles can explain a little bit better.”

Kaaii described the time series of a picture from 1999 that the Pacific Islands Fishery Science Center did to track Loretta, the eddy that was created in the wake of the Big Island. It tracked it for about three months, up until it started to dissipate on the lee side of Oahu, and then Mikaele is formed off of Hawaii again. They found it to be a highly productive spot in the wake of the Hawaiian Islands.

DaMate continued and said that was actually caused by the wakes.

(Verbatim)

Now, when the scientists did their studies on the island wakes they used the Caribbean Islands as their model of all the other islands in the world. The Caribbean Islands throws a wake of only 300 kilometers. The Hawaiian Islands throws a wake of 3,000 kilometers. So here you see the wakes of the Caribbean Islands right here. This is Oahu's wake.

The Polynesians, Hawaiians knew this. This is what Hawaiian science is. When they navigated thousands of years ago they didn't only navigate at night by the stars. They had to sail during the day, too. They used the water temperature, what kind of fish would tell them how far away from land they were. They used the clouds, the birds, all of that caused by the wake from the islands. So Hawaiian culture actually developed on its own for thousands of years before western contact. In all of the villages they had specific skills, specific people that handled those skills. That formed what we call an aha, a council.

The whole purpose of an aha was to weave together one pristine ecosystem. So everybody depended on each other, this is your basic community-based management, to sustain, create sustainability so we would never starve.

The Tahitians came over between 100 and 400 A.D. to settle the islands. When they came they developed -- they brought with them, rather, the actual ahupuaa land and ocean management system. So they combined that with the previous inhabitants and together came up with the current ahupuaa system.

This is a ruling from Kingdom Law in 1879. Actually, the picture is of Waipa in Kauai. This is a pretty good example of what an existing ahupuaa today looks like.

But Kingdom Law stated that an ahupuaa actually was formed from the sea up to the mountain. Common perception is that it's from the mountain top to the coastline. It actually is much further than that.

But still, how are we going to bring that same concept to contemporary society today? We need to bring the concept to build a bridge from Hawai'i's past to our future. That is, again, you bypass all of the politics because the main reason is to protect the resource.

In our community meetings as we went around the islands over the years one thing we were asked to bring forward and put in -- and this is from all of the kupuna, and that was to stress the relationship between the Native Hawaiian people and the ahupuaa, or the land.

It's a very, very spiritual relationship, which is why most Hawaiians are so passionately involved today in protecting the land and ocean. It is so spiritual that if the resources are neglected or mismanaged, then the Hawaiians will die out as well.

That's how strongly they feel about this.

These are the more common known ahupuaa definitions that people are familiar with. I'm going to ask Bob to come and just give you a little history on some of this.”

Mr. DaMate continued:

(Verbatim)

“What an ahu is just a boundary marker. All of the land areas ran mauka to makai and from makai to mauka.

In Kona on the Big Island, called Mokuokeawe, we have ahupuaa that run laterally in Kona. So all an ahupuaa is it's a resource-managed area. Okay. So the ahu is the alter to mark the boundaries, and the puua was the bounty that was put upon there to designate that particular boundary.

Now, to the Hawaiian people, puua also basically means pig. But there are a lot of puua in Hawaiian culture. Because not every area had pigs. So certain fish, like on the screen right now, were puua. Plants, kalo, puhala were puua. So those were the things that were left on these ahus to designate these boundaries.”

DaMate showed another graphic example of an ahupuaa land division.

(Verbatim)

“Now, we started it way out here because the edge of an ahupuaa actually is the edge of the archipelagic boundaries. The ahupuaa ran from that, all they way up to the summit and included the air. That is why Native Hawaiians were known to be bottomfishers.

This is just Nanakuli to show you the relationship between the air, land and the water. It's all symbiotic. Everything depends on each other.

Dr. Luciano Minerbi is a Professor of Urban Planning at the University of Hawaii. He's made a study for years and years on how an ahupuaa structure was put together. So this is his drawing, his graph. He has Forest Zone, Ag Zone and Coastal Zone.

What he did not put in there, because this information is only starting to come out in the past five years or so, is your Deep Sea Zone. There were actually four zones.

This is a graph just to show you the common names for the Hawaiian land zones. Now, the zones. Now, the zones are all named the common names, but the trick here is that one uniform law will not fit all.

Where we may have the kuahiwi, or Forest Zone, in Kau on the Big Island, you're not going to find that in Lanai or Maui. It varies. Because every ahupuaa is different and unique and the resources are different.

One thing is common, though. And that's a kuleana. Everybody in an ahupuaa all work together to keep the whole area pristine and the resources rich.

This is Haena in Kauai.

Even with all of that, how are we going to bring that forward so that it can beneficially impact our laws today. Remember now, we want to try to keep it so that the resource is protected.

In doing all of our studies we found that there were two areas where this could be done. These two areas we're looking at critical issues.

The first area is the Western Pacific Fisheries Management Council, because they're responsible for the fisheries throughout the Hawaiian waters. What the people really, really liked is the idea that West Pac promotes long-term sustainable use of U.S. marine resources. The key word here is "sustainable."

The Hawaii Ocean and Coastal Council was formed by Governor Lingle -- this is on the state and county level -- in January 2005 through Executive Order. This is the first of its kind in the nation. It's unique and it's an excellent opportunity for everyone to work together to try and find ways to protect the resource. It's Chaired by Peter Young from DLNR. He does a really admirable job of that.

So on the federal side; you see all of the federal agencies that are a part of this council. West Pac is a part and has a seat on this council.

On the state side, this is every agency that has any kind of impact on either land or ocean.

Kau, for a county, and State of Hawaii are part of it. We have two community organizations. One is the Association of Hawaiian Civic Clubs. I sit on this Council representing the Civic Clubs. And the Polynesian Voyaging Society.

Together, they talk about all the different issues in areas that affect not only the fisheries but a complete ecosystem in Hawaii.

In October 2005, the HOCC and the Ocean Resource Management had a workshop that brought together and identified many of the different issues that came from the public. Three of these issues are listed here because they had the highest rate of concern in this workshop.

The first one is the protection of natural and cultural resources. So what we've done is that in these three columns, the first column shows how the Native Hawaiians traditionally sustained a pristine ecosystem.

The middle column are the implementation tools that can be used today, some of them came from the past, from traditional methods. Some of them are modern. But together, they can bring our resources back to the same pristine state.

The third column is all of the different agencies, federal, state and county, that is impacted by this. In other words, these are the agencies that will need to either look at or adjust their existing

policies so that a pristine ecosystem can be achieved.

So on the ahupuaa side, a konohiki controlled the land and fishing rights. However, each moku, or region, was specific and different from the others. They used traditional knowledge.

To get back to that, we are recommending that you use fishery ecosystem plans, ahupuaa maps, talk to our kupuna and pay attention to your watersheds.

Our full recommendations were actually to adapt the Hawaiian moon calendar to contemporary use; again, look at spawning, seasonal closures based on spawning cycles.

The next category was diminishing fisheries. This is a big one because fisheries are very, very important to the Hawaiian people. It's their main source of food, actually.

So in the first column, again, traditional knowledge is important. But the practices vary district to district. So again, one set of rules does not fit all.

You need to identify your experts or your luna in all the different areas of the practices.

The tools, again, are your Hawaiian moon calendar and a strong push on education. People have to understand what we're trying to protect.

The recommendations, which are identified again, are kupuna and our cultural resources, strong education and to establish coastal and ocean resource-based criteria so that we can start working on ecosystem sustainability.

Another one was to implement seasonal closures based on spawning cycles.

The third one was the conflict between who uses the oceans and for what.

In Hawaii, gathering and fisheries were the priorities and our ecosystem management was practiced by everybody. So sustainability was a priority.

Again, the implementation tools were the moon calendar.

But now you start going down into your basic community. So you start working on the ground level through your community plans and community development plans, as well as your county general plans.

All of that can tell you what's needed and how to do it. So our recommendation was to look at the Hawaiian moon calendar.

Bob is going to explain a little bit more on the Hawaiian science that created a lunar calendar.”

Mr. DaMate said:

(Verbatim)

“The Hawaiians use the lunar cycle for all of their lives, all of their practices, as well as all of their predictions, of which there are many in our history books.

But the moon calendar was based on stars and the constellations and their reaction with the lunar cycles. Okay.

So there were two -- there are two seasons, I'm sorry, in the Hawaiian Islands. We have a wet season and we have a dry season.

These are the conditions that happen through our wet season, which is now October through April. These are some of our fishing practices. These are some of our farming practices.

In the dry season, these are the weather conditions and these are fishing and farming practices. All of this knowledge is based on observation, or empirical knowledge, that was done for thousands of years by the Polynesians.

This is a moon calendar for Kauai.

Now, what makes the moon calendar so unique in our islands is that we have a different full moon night on each island. So the practices vary, the seasons vary and the months vary according to the traditions of the lunar cycle on each individual island.”

DaMate continued:

(Verbatim)

“So using those tools as a starting place, we started to look at your Fishery Ecosystem Plans and your county general plans. These are the first steps to implementing the ahupuaa concept.

On your Fishery Ecosystem Plans West Pac has initiated an ecosystem plan pretty parallel to the time that we were looking at ahupuaa. So we've been traveling a parallel path, and only very recently intersected.

Your community plans are where your people are. That's the base of your whole structure.

This is a listing of every single community plan in the State of Hawaii. Oahu has eight.

Maui has nine. Maui has taken the really forward-thinking step.

Because of the HOCC, the Maui County announced last year that they were using Molokai as the pilot project in implementing ahupuaa concepts into that the community development plans. They are in the process of updating and upgrading their general plan right now.

So to summarize, we just wanted to point out that there is a way we can all find a commonality.

All of us want to protect the resource and it doesn't matter where you are or who are you, we can do it if we look at using and implementing traditional practices, ahupuaa practice.

We need to get involved. Keep in touch with governmental agencies. Keep in touch with your legislators because they are the ones that actually can put the laws into place.

So the Native Hawaiians actually handled and used land and ocean practices in ancient Hawaii to sustain a pristine ecosystem.

In fact, the population around the time just before Cook came in was estimated to be between 400,000 and a million. There was no starvation. There was plenty of food, plenty of fish and no pollution.

All of their land and ocean practices have been inherited by the government agencies of today. That stewardship has been inherited by federal, state and county agencies. It's now their kuleana, their responsibility, to make sure that our ecosystem is kept pristine.

It goes totally full circle. Now it comes back to using Native Hawaiian cultural practices because it's proven over thousands of years.

What we are looking for is not to go back to the past, but to incorporate traditional practices with modern technology today and together come up with a new concept to sustain and protect our resource. Mahalo.”

McCoy asked for questions.

Polhemus noted that in 1846 King Kamehameha, III, in Article 5, Section 2 of the statute laws of His Majesty, Kamehameha, III, defined the responsibilities and rights of the konohiki.

Article 5 is the public and private rights of piscary. In Section 2 it says, the fishing grounds from the reefs and, where there happen to be no reefs, from the distance of one geographical mile seaward of the beach at low water mark shall in law be considered the private property of the landlords whose lands by ancient regulation belong to them.

That indicated to him that that for about 160 years the king believed that the seaward boundary of an ahupuaa was the edge of the reef, or one mile out. Did DaMate have any comments?

DaMate said that Konohiki and all of the alii changed all of their laws as they went along.

The traditional practice was a self-sustaining one. The people, themselves, believed that the ahupuaa went out to the archipelagic edge, which accounted for the fisheries.

Mr. DaMate added their koa practice went out miles into the deep ocean. In their moololo the ahupuaa started at a depth of 1200 feet. This is very unique in a Polynesian concept because these koas were marked by the Hawaiians taking rocks out into the deep ocean and building these ahus on the ocean floor to make these koas, and they marked these koas and they fed those

koas.

DaMate said that in Hawaiian history it was recorded that all the different alii had specific practices, but the Hawaiian Islands are very, very territorial and the people did not follow everything that an alii on Oahu said. Where she lives, in Kau, they never followed Kamehameha, and their practices were very different. So what history has recorded by western historians does not always hold true by Hawaiian communities.

Polhemus said that this came from Kepa Maly, who he did not believe was a western historian.

DaMate said that actually Kepa Maly was a historian and not Hawaiian. He has studied the Hawaiian history in depth. What she was talking about was the community input.

McCoy thanked the DaMates and asked for Haleck to continue with item 7.

## **7. FISHERY RIGHTS OF INDIGENOUS PEOPLE**

### **7.B CDPP Update**

Haleck called on Kaaiai to report on item 7.A.

Kaaiai referred the Council members to their binders for the list of proposals for projects that the Council is interested in doing.

He also noted that under the Community Demonstration Projects there was a status report and there are 14 projects that have been funded over the years, starting in 2002. Two of them have been completed and twelve projects still operating.

Kaaiai introduced two of the principal investigators for the projects, Henry Sesepasara and Tony Langkilde.

### **7.A Communities Program**

Sesepasara thanked the Council and Simonds for seeking funds for the demonstration projects. He thought it was becoming a very helpful program for the island communities. He also wanted to thank the National Marine Fisheries for making the funds available for the Community Demonstration Projects.

Sesepasara was the principal investigator for a project in American Samoa called the Niche Marketing to Reduce Waste of American Samoa Long line Fish Bycatch.

Sesepasara said their proposal addressed a problem in American Samoa. The long line fishing boats in American Samoa go out and target albacore tuna and some yellow fin tuna for the canneries in American Samoa. But as they are doing that, they catch all other species including mahimahi, ono, blue marlin, pomfret, and sharks.

Unfortunately, this bycatch is not brought to shore. It is thrown back into the water because there is no market for it. The fishermen don't have the time to bring the fish and then try to stand by the road and sell the fish on the road.

Their local fishermen have their own niche marketing to market their fresh catch. But if a long liner comes in with ten tons of miscellaneous fish, that will flood the market in American Samoa and it would really create some hardship for the local fishermen. So the project here is to look into different ways that this bycatch can be marketed.

Almost 20 percent of the total of American Samoa long line catch is now albacore or yellow fin tuna. So this is the 20 percent that they are trying to market. Only the albacore and yellow fin are worth landing for the canneries. The fishermen lack marketing opportunities for other species, and that was what they are trying to see where they can market those other species.

Talking with the longliners, the fishermen all of the fish that are thrown back are dead fish.

The thought for putting together this proposal was based on their culture. The survivors of Samoan civilization for several thousands of years depend on not wasting natural resources. To waste fish bycatch goes against their traditional culture.

Sesepasara shared a Samoan proverb: “when all people go fishing, they fish and wrap up the fish. They don't waste it.”

There was a bush village, inland of Savaii Island in Western Samoa. It exists no longer. It's already gone. But its inhabitants had the reputation of avoiding all waste when fishing. Their village being so far inland, they knew how to appreciate their catch. Anything they got was carefully wrapped up and at once sent to the village.

This is the attitude of the Samoan people.

The purpose of the project was to build, operate a small-scale processing facility that meets seafood safety standards. The small processing facility would produce some fish sausage or fish burger. They are looking at canning some of the fish, but were not going to build a cannery operation. American Samoa has two canning companies, StarKist Samoa and Van Camp, which is Samoa Packing Company right now.

They have already negotiated with both canneries the possibility of sending them ono and wahoo for canning. They are still negotiating the possibility of canning mahimahi. There is no canning of mahimahi anywhere in the world.

For the other species, they are looking to other resources like the fish sausage, the fish burger, fish jerky and smoked marlin.

He showed a slide of the president of the company, who is his partner, and the president's sister, who is the secretary/treasurer.

Two weeks ago they had a Taste, Don't Waste Demonstration of their fish product. We served fish sausage, fish burger, smoked marlin dip. They brought a consultant down to help them put this together, Paul Bartram.

They had as guests the Speaker of the House, the wives, some politicians, and a representative from the Department of Commerce.

He showed some of the boat owners that were invited to the Taste, Don't Waste Demonstration. Boat owners were very happy. They said, if you can do this, we'll bring our fish to shore.

With the help of Scott Bloom, funding from Silver Spring, Maryland began in mid February.

They have an application for a Land Use Permit to build the building. They ordered a prefab steel building from New Zealand because the shipping costs were significantly cheaper.

One of the problems they have found in the demonstration is the product has a very short shelf-life. They are looking for ways to lengthen the shelf life so the product can be exported.

Gaffney noted that 20 or 30 years ago canned wahoo from the Samoan canneries was gold, a major gift item. Now it is in our supermarkets.

Sesepasara said that the reason it was difficult to get canned wahoo was that it was a recreational species and could not be canned commercially. Recently they opened it up. The contract between the canneries and the American Samoa Government when they first started down in American Samoa some 40 years ago was to can wahoo for local consumption, only for American Samoa.

Now they are trying to do the same with mahimahi. The canneries have said they are not allowed to can mahimahi because it is still a recreational species. So he is trying to convince them to go back to the original contract with the American Samoa Government and can it for local consumption.

McCoy commended Sesepasara and his organization for taking the lead in trying to do these things. They did need to resolve the bycatch issue, which would always be a problem and wasteful. He appreciated what Sesepasara was doing. McCoy apologized for not making it to the demonstration.

Sesepasara said they would be doing another in June when the Council came down.

Dela Cruz asked if Sesepasara made use of these byproducts as hog feed.

Sesepasara said yes, the waste: the heads, the bones, the cuts, all that was used for hog feed.

They spoke with the cannery folks, especially Starkist who does pet food.

Duerr asked if the reason why the fishermen did not bring the bycatch in was because there was

no market or because there was no room on the vessel. Don't people want to buy it for their school children or home?

Sesepasara said the longliners, when they go out fishing, they freeze their catch. They freeze all their catch, the yellowfin and albacore that they take to the canneries, because the cannery takes frozen fish. They are talking to the fishermen about a special effort to preserve some of the fish fresh and that would require a lot of ice.

Another problem is the airline transportation.

McCoy noted that they didn't have a bycatch problem before they developed the albacore fishery. So it's not just Samoan boats, it's all the domestic boats that fish there, it just compounds the problem.

Haleck called on Langkilde.

Langkilde was also a Council member in the late 1980s. He had come to present the second demonstration project that was awarded to American Samoa. He expressed sincere appreciation and gratefulness to NOAA and National Marine Fisheries and the Council for accepting and approving their idea.

Langkilde explained that the idea came about in 1985 as a pilot project. As the market became saturated with fishermen during the tuna and bottom fish seasons, the idea of processing the catch came up. So he started to process ono and the bycatch of the foreign longliners for a school lunch program.

There was one long liner that was longlining back in the mid '80s that used to catch albacore and the bycatch. Their albacore was sold to the canneries and they didn't know what to do with the bycatch. This was back in '86, '87 and '88, '89.

He bought their fish, the bycatch and even albacore, and processed it for the school lunch program. That was very successful.

From that pilot project, he found out that it was very hard to get into processing and marketing of fish if they didn't have the right kind of funding. So going through different avenues of trying to get funding through the regular way of getting financing through commercial banks, investors, and so forth, it was very hard.

Then the idea came to look into government funding, and he find out that there was economic development programs in different government agencies. The first grant was submitted through ANA, Administration for Native Americans, which was successful.

Then he submitted a grant through the NOAA and NMFS Demonstration Program to get some money to install cold storage that was bought from another government agency's funding, which was the project he was reporting on. The demonstration program would install this equipment for erecting a processing facility for the marketing of these fish that are caught by the longliners.

They are going to process albacore and the bycatch. The fish will be loined, vacuum-pack, blast frozen, and packaged for sale to the Mainland and Hawaii. The yellowfin and bigeye will be processed, bagged, and put in boxes and air freighted it to Hawaii sashimi and sushi markets.

It took him about four to five months to go through the permit system of the American Samoa Government. That has been completed. The variance process, zoning process, has been completed.

Right now he was going through the A&E plans with the government for them to approve. Once those are approved, construction will start.

The site has been completed. It's a long lease site from the government. It's about 1.8 acres of land over at the government industrial park that is right next to the airport.

The project is on its way. Once they get the plans approved, they will start the foundation.

Harris asked if the product was fresh.

Langkilde said it would be fresh product and fresh frozen product. Eighty percent would be exported, 20 percent for the local market.

Harris asked what the flight frequency was to Honolulu.

Langkilde said that Hawaiian Air flies out twice a week and a 747 air freight that comes in once a week.

Harris asked if they were coordinating the landing and the processing with the flight schedules.

Langkilde said yes. The longliners are very happy to hear about the project since they give their bycatch away, they don't have any value from the bycatch. He said this would all be coordinated with the boats, some of which have technology to email between land and the boat.

Haleck moved on to item 7.D and called on Seseapasara.

#### **Item 7.D Advisory Panel Recommendations**

Seseapasara shared the Indigenous and Subsistence Fishery Advisory Panel recommendations:

1. Regarding the fishing in the island areas, the Recreational Advisory Panel recommends that the Council write to the American Samoa DMWR and request that it build more boat ramps for small-vessel fisheries.
2. The Recreational AP requests that Guam DAWR use Sports Fishing Restoration Funding to restore the boat ramps on Guam. So I guess the two recommendations are the same, one for American Samoa and one for Guam.

3. The Recreational AP recommends that some form of seasonal culture fishing using traditional fishing methods be permitted in Guam's coastal MPAs to preserve Chamorro cultural fishing traditions.
4. The Recreational AP recommends that the Council support the teaching of cultural fishing methods in school in Guam and the digital archiving of traditional fishing methods.
5. The Subsistence AP requests the Council continue the Community Demonstration Program. We were kind of sad to hear that we don't have the fourth solicitation, or something is going wrong here. We strongly recommend that the Council please look into the continuation of this worthy and very helpful program.
6. The AP requests that the Council investigate the issue regarding the CNMI Mayor's power and ability to issue special use permits for indigenous/traditional use in the Coral Gardens, specifically for the rabbitfish, alulae and goatfish. We understand there is some conflict there at CNMI in those areas.
7. The AP requests that the Council recommend that any current or proposed MPA consider indigenous rights of the islands.

Haleck returned the chair to McCoy.

McCoy asked for public comment.

### **7.C Public Comment**

McCoy hearing no public comment, he noted there were no SSC or Standing Committee recommendations.

He asked for discussion on the Advisory Panel recommendations.

### **7.E Council Discussion and Action**

Harris noted that in Recommendation 2, where they were requesting Guam Division of Aquatics and Wildlife Resources to use Sports Fish Restoration Funding to restore boat ramps on Guam, we really have a problem with the application of DJ money in the Marianas because this is dedicated specifically for recreational uses. How were they going to separate out all of the boaters when there are only two very small public facilities to serve the entire boating community of Guam.

She understood that delineation on the mainland was made for recreational boaters to commercial boaters based on fishing licenses. They did not have that program on Guam.

Why were they changing the criteria for utilization of DJ money to spend it on marinas?

The spirit of the purpose of the funding was to promote recreational fishing, to maintain the tradition of fishing in the community, which she thought was lost in bureaucratic red tape and bureaucratic interpretation.

She hoped there was a way for the Council to help. And, she was sure American Samoa and CNMI shared the same problem.

Harris said to utilize the funding for the purpose that it was meant. And don't subjugate them to certain regulations that really have no application in tiny islands with respect to the utilization of funding for boating purposes.

Tulafono said that he appreciated the recommendation by the Advisory Committee and noted that the A&E for three launching ramps for American Samoa has been completed. They were awaiting the permit from the PRNS (phonetic) and also Army Corps of Engineers permit in order to go ahead with the construction of the three launching ramps.

Sablan encouraged the withdrawal of recommendation 6. There are four mayors in CNMI; only two have Amendment 25 authorization. He did not think it was an encouraging deal for the Council to look into the authority of the mayors with regard to constitutional provisions. He moved to withdraw the motion.

Polhemus seconded.

McCoy called for the question on the motion to remove recommendation 6.

Motion passed.

Duenas noted that on recommendation 2 he was confused with the term "restore". He added that on Guam the marinas are small and make it difficult to separate the two.

Polhemus said this would not obligate Duenas.

Kaaiai explained that they were about repair and restore. They said that the ramps were damaged and almost unusable, some of them, and they wanted them repaired.

Tulafono noted there was a motion to approve the recommendations as amended.

Polhemus seconded.

Hearing no discussion, McCoy called for the question.

Motion passed.

McCoy thanked the audience for joining the group, reminded the Council members they would do Precious Corals in the morning and noted the Fishers Forum that evening.

*(Meeting adjourned for the day at approximately 4:50 p.m.)*

McCoy called the meeting to order at 8:35 am on March 15, 2006. He asked Polhemus to continue with his presentation on Precious Corals

## **8. PRECIOUS CORAL FISHERIES**

Polhemus called on DeMello to present items 8.A.1 and 8.A.2

### **8.A.1 Black Coral Amendment Update**

DeMello referred that the timeline for the regulatory amendment:

- The first of NMFS three-part review is complete.
- PIRO sent the amendment package for Council staff review and edit.
- Once that review is complete the amendment will return to PIRO for the second review.

### **8.A.2 Black Coral Workshop Plan**

DeMello reviewed the draft agenda for the Black Coral Science Management Workshop:

- The first day is a science day:
  - o Brendan Roark from Stanford University to talk about radiometric aging of black coral.
  - o Rick Grigg to give background on the history of Hawaii's black coral and science.
  - o Tony Montgomery, from the Department of Aquatic Resources, will present his research.
  - o Dr. Ken Grange from New Zealand will talk about tagged corals.
  - o The scientists will address the issue between the height and the width of base diameter, to see which is the more appropriate management measure.
- The second day will have the industry and divers looking at the Council's recommendation of establishing an MPA. They will look at the problem black coral faces with CITES, e.g. if someone's black coral ring breaks and they send it back to Maui Divers, the Fish and Wildlife Service confiscates the black coral. Maui Divers will replace the coral and send the mended ring back – all involving Hawaii coral.

The State has agreed to sponsor the workshop.

### **8.B Scientific and Statistical Committee Recommendations.**

Polhemus recalled that there were no SSC recommendations for this fishery at this time.

Severance remarked that the SSC was looking forward to the results of the workshop and taking pleasure in the fact that the scientists and the fishermen were getting together.

### **8.C Public Comments**

Polhemus noted there were none.

### **8.D Council Discussion and Action**

Duenas asked if there were any AP recommendations.

McCoy noted there were none and called on Ebisui to report on item 9.

(Ten minute break taken)

## **9. BOTTOMFISH FISHERIES**

### **9.A.1 PIFSC Report on the Hawaii Bottomfish**

Ebisui introduced Dr. Moffitt from the Pacific Islands Fisheries Science Center to do the report on Hawaii bottomfish.

Moffitt noted that the report on the status of the stock using 2004 data that he was working on with Don Kobayashi and Jarad DiNardo was in the late stages of review and that he would present some of the data.

- There are three management zones for the single stock, multi-species bottomfish: the Main Hawaiian Islands, which is an open-access fishery with most of the bottomfish habitat within state waters, and the two Northwestern Hawaiian Island zones that are both now limited entry. The majority of the fishing habitat is in federal waters.
- The State's catch data from commercial fishers dates back to 1948.
- For the Main Hawaiian Islands, the catch started at six to eight hundred pounds, now it is at two hundred pounds per trip. In general, Main Island trips are about one day.
- For the Northwestern Hawaiian Islands, using the same dataset, the catch per trip has varied with some years having no trips reported. Fishing days could be anywhere from five to eight fishing days, the length was not reported. It is not the best data.
- In the near term for the Northwestern Hawaiian Islands, the data is based on a new catch reporting system and from interviews with the fishers there.
- Catch per day is probably a more accurate representation of changes in biomass.

- From 1998 for the Hoomalu Zone, there has been a decline from about 900 pounds per day down to 450 in that virgin population. This is expected and not necessarily a red-light situation.
- The Mau Zone has had more fishing over time and is pretty stable. There were a couple of high years in the late 1980s, increasing a little bit in more recent years.
  - Looking at the mean weight of the fish, ordinarily, the fish are relatively large to start. As you fish them, you catch smaller and smaller individuals.
    - o Opakapaka are fairly large in the Northwestern Hawaiian Islands, both zones, averaging about eight pounds. Around the Main Islands, the average is four pounds, indicating greater fishing pressure.
    - o The same is true for onaga and hapuupuu.
  - The percent of immature fish is measured in the catch; 50 percent or more is considered a problem.
    - o For the Northwestern Islands, the percent of immature is very, very small.
    - o In the Main Hawaiian Islands, there are more immature fish, but not up to 50 percent for opakapaka.
    - o Onaga immature catch for both zones in the Northwestern Hawaiian Islands is about 40 percent. In the Main Islands, it is more like 70 to 80 percent immature.
    - o For Hapuupuu, less than 50 percent are immature.
  - CPUE data is used to calculate the Spawning Potential Ratio (SPR) and compare the current spawning biomass to what it was at virgin situations. This used to be the sole definition of overfished; for any species, if the SPR value went below 20 percent it triggered the overfished condition, at which case rebuilding is required.
  - None of the species are below 20 percent archipelago-wide. The worst case is onaga, largely because of its large size at first reproduction, at 28 percent in 2004.

In 2004, new SFA regulations and definitions of overfished and overfishing were based on Maximum Sustainable Yield.

- They ran a dynamic production model and got estimates of the MSY, Maximum Sustainable Yield, for the archipelago which totaled 811,000 pounds of bottomfish, all species combined. By zone:
  - o Main Hawaiian Islands, 362,000 pounds or 400 pounds catch per unit;
  - o Mau Zone, 100,000 or 437 pounds catch per unit; and
  - o Hoomalu Zone, 348,000 or 400 pounds catch per unit.

The definition for “overfished” is when the biomass is below the level that can produce the

Maximum Sustainable Yield. “Overfishing” is defined as when fishing mortality or effort is too high or your fishing effort is too high, then it triggers overfishing.

Maximum Sustainable Yield is an equilibrium situation, if fishing is at the correct amount of effort, the MSY is maintained. If you fish more or less than that there is not that equilibrium. It will not be at maximum level and will be a smaller equilibrium level.

A graph of the Main Hawaiian Islands showed the maximum sustainable level at 360. In the 1980s and early 1990s catch was always higher than that at about eight to nine hundred days of fishing. In the 1980s, effort started to rise and it stayed quite a bit higher than 800 fishing days; fishing mortality was very high. The same was not true for the Northwestern Islands.

Metrics for biomass in the Main Islands should be at 1.0, where the current level of biomass equals the contribution for MSY. The Main Islands is at about .4. Mau Zone has been at 1.0 for the last three years. The Hoomalu Zone has always been above 1.0.

A graph was shown using the new regulations for overfished and overfishing regulations on 2002 data.

- In the case of fishing mortality you do not want to be above 1.0, where the fishing mortality is too high for the area.
  - o The metric for the Main Islands averages around 2.0, maybe a little bit higher;
  - o The Northwestern Islands, in general, is 1.0 or less;
  - o The Hoomalu Zone, always less than 1.0; and
  - o The Mau Zone, there are a few years in the mid 1990s when it was frequently above 1.0. Since 1997, only 2002 was a little bit high.
- Control rules are applied to the archipelago as a whole. An overfished condition is triggered at .7. Biomass from 2002 to 2004, between 1976 and 1987, was .87. While not in an overfished condition, we would like to see that closer to 1.0.

For the F ratio, the fish mortality ratio, we are in an overfishing condition, 1.0. First noted in the 2002, this is what triggered the letter from the Secretary. However, if you apply the regulations to previous years, it has always been that way and in fact, has improved over time.

Overfishing has been determined on pelagic stock multi-species stock, archipelago-wide. It is a newly defined condition, since the middle of '04. But it is not a recent phenomenon. However, the stock is not overfished, the biomass is still sufficient.

The catch rates have been fairly constant over the 10 to 15 years indicating an equilibrium situation. The problem is that it is not an optimum equilibrium; it is not at Maximum Sustainable Yield. While not facing a crash of the fishery, but we are not in the best of condition.

Gaffney asked if Moffitt could show in his graphs where the State protected areas were.

Moffitt said that since the data source is the commercial catch records, the data comes from open areas. Very thorough monitoring would be required to create the same measures for the closed areas.

Polhemus noted that one of the graphs indicated that right about the time the area closures went in, the fishing mortality moved from 1.9 closer to 1.0.

Moffitt agreed and said that during that time a lot of fishermen left the fishery. The peak was in the mid 1980s and has declined since then.

### **9.A.2 MHI Bottomfish Overfishing Measures**

Mitsuyasu detailed the alternatives being considered to address the overfishing condition in the Hawaii bottomfish fishery:

1. The first action is no action. The State has a management plan in place.
2. There are two closed area options.
  - a. Closure of federal waters between Penguin Bank and Middle Bank.
  - b. The State proposal being implementing is the closure of 12 areas.
3. Seasonal closures from May to August.
4. Quota-based options, including a TAC and individual quotas.
5. A combination of options that include a variety of the measures in the previous alternative.
  - a. The first no action alternative:
    - i. The 19 closed fishing areas in the Main Hawaiian Islands remain in place;
    - ii. The recreational bag limits for ehu and onaga remains;
    - iii. The State's Bottomfish Registration Program remains in place, all implemented in 1998;
    - iv. The commercial permit and reporting would remain in place for data gathering and monitoring of the fishery.
    - v. The control rules put in place by the State in 1998 and one by the Council last summer.

Mitsuyasu showed a picture of the existing area closures as they have been for the last seven or eight years. The impact of the Council electing to do nothing has been a decline in fishing effort for about 25 years. Under this alternative the fishery remains open access in the Main Hawaiian Islands:

- DOCARE is the primary enforcement agency responsible to monitor and enforce the

regulations.

- Administrative requirements remain the same.
- The recreational data gap that would remain.
- Monitoring and evaluation of area closures have proven difficult due to nature of the fishery and the expense to monitor. Research has been done with submersibles and the development of BOTCAMs, but with regard to the status of the stock, we are not there yet.
- The action may result in compliance with the overfishing determination. However, there is risk that the Secretary or NMFS would come in and manage the fishery.

Alternative 2 looks at closing Penguin Bank and Middle Bank, which make up the bulk of the federal jurisdiction of the Main Hawaiian Islands. Under this alternative, the closure would apply to recreational and commercial boats and the same seven species managed for the State's plan would be included in this plan. Additional conditions of this alternative include:

- Federal permit and reporting would be required under this alternative.
- The 19 State area closures would be the baseline for this alternative.
- Looking at two areas, one west of Molokai and the other north of Kauai:
  - o From 1990 to 2004, landings from the two areas contributed between 12 to 25 percent of total Main Hawaiian Island landings.
  - o This option would decrease average landings by about 15 percent.
- This option can be taken by the Federal government or West Pac independent of State coordination, because it would just be closure of federal jurisdiction.
- Information on the recreational fishery could be obtained.
- The areas produced would be large. Penguin Bank, being close to Oahu, too, would make it a little easier to access and monitor.
- The cons to this option include:
  - o Significant localized impact, especially to Oahu and Kauai fishermen. For example, Penguin Bank represents about 60 percent of Oahu's landings. The higher-quality sashimi-grade market would be impacted.
  - o Area closure does not remove the effort; the effort could shift to other open areas. That shift could reduce the potential gains in terms of the reduction of mortality number.

Alternative 2b includes 12 areas, the same seven species and the provisions are the same. This alternative would include:

- Federal permit and reporting. The Council would take action in overlaying federal closures in the areas where the proposed closures are in federal jurisdiction.
- The areas include three areas around Kauai, including Nihau and Kaula Rock, closures at Kaena Point and Makapuu, the one Penguin Bank closure, the closure on the back side of Molokai, between Molokai and Maui, in the Hana area, Kohala, Hilo and South Point.

The area closures are based on the habitat mapping that has been available since the closures were put in place. The State's analysis shows a 15 percent reduction in mortality.

The State is looking at potentially important habitat areas, including pinnacles, escarpments and known structural areas that bottomfish are associated with. Based on the new mapping, they can count the number of areas within the area closures.

The first set of area closures was taken to the public in January. They will undergo an Administrative Rule Process and public hearings. The goal is to improve the protection of habitat from 11 percent to 25 percent.

Some of the arguments against alternative 2B include:

- As with the closing of Penguin Bank and Middle Bank, effort can shift.
- Localized impact among the various communities, depending on where the area closures are located.

The Council is awaiting the analysis of the projected mortality reductions by the National Marine Fisheries Service.

Alternative 3 is seasonal closures May to August that will apply to recreational and commercial boats. The same seven species would be included as well as Federal permit and reporting and the State's existing area closures will remain in place.

The bottomfish fishery in the Northwesterns would be allowed to continue during this period.

Looking at landings by month, the active months for bottomfish are during the wintertime. Summertime is the slower production months. Imports offset this slower production.

The impacts associated with this alternative include:

- A projected mortality reduction of up to 17 percent.
- The closure would be proposed during the spawning period for bottomfish.

- Summer closure would not impact the summer local fishery, which were some of the comments that we heard for the public. Options during the closure for fishermen include trolling and akule.
- The bottomfish fishery remains open during the culturally-important period, which is that winter period.
- The impacts, unlike the closure of Penguin Bank, the impacts would be distributed throughout the state under this approach.
- At-sea enforcement would not be required; it could be done dockside or in the market.
- The Northwestern Hawaiian Islands fishery would be able to supply the market with bottomfish during the closure period.
- Some of the arguments against include:
  - o The handful of full-time commercial bottomfish fishermen would be forced to do other things during that closure period, an impact to that fleet.
  - o Reduced availability of high-end fish, allowing for bigger imports.
  - o A certification program may be required during the closure to attract bottomfish from the Northwesterns and imports.
  - o Over time effort can shift to open periods.

Alternative 4 has two options:

1. Looking at total annual catch, overfishing was based on 2003 statistics. So reducing the poundage by 15 percent of the 2003 catch provides about 200,000 pounds of bottomfish. The fishing year begins in October. When the TAC is reached for commercial and recreational, the fishery is closed.
  - a. This alternative would require detailed federal permit and trip reporting in order to monitor that TAC.
  - b. The Northwest fishery remains open.
  - c. The TAC gives you a direct control over the fishing mortality.
  - d. It allows fishing to continue during the winter, that culturally-important period.
  - e. Enforcement could be done dockside and at the markets.
  - f. Some of the arguments against alternative include:

- i. A derby-type environment is created, where fishermen compete against each other.
  - ii. The catch reporting system will have to be improved to be accurate and timely so progress toward the quota can be monitored.
  - iii. Certification will be required once the fishery closes.
  - iv. There is the potential for flooding the market when the fishery first opens.
2. Quotas distributed to individual fishermen could be done in a number of ways. The 200,000 pounds would be distributed to the commercial fisherman. The recreational fisherman would fish under the State recreational caps or catch limits.
  - a. The fishing year would start January 1. Once the individual quota is reached they would not be able to do bottomfishing again until the following year.
  - b. Federal permit and reporting is required.
  - c. The allocation of the poundage would require some thought because the bottomfish fishery includes a lot of fishermen, a few of them land significant poundage, but most land 20 to 50 pounds. The allocation could include:
    - i. Reducing everyone's catch by 15 percent;
    - ii. Those not landing at least 500 pounds would not have a permit and an IFQ. This approach will alienate a large number of fishermen; or
    - iii. A cap on how much bottomfish everybody could catch.
  - d. The favorable impacts include:
    - i. The control of overfishing mortality.
    - ii. Reward commercial fishermen who have gotten their license and have been reporting their catches accurately because they will likely get full credit for what they caught.
    - iii. Commercial fishermen can fish and supply the markets throughout the year under this alternative.
    - iv. Dockside enforcement and monitoring the markets could be achieved.
  - e. Some of the arguments include:
    - i. High-grading to maximize profit becomes an issue. Because the fish come from the bottom, this would increase mortality.
    - ii. Catch reporting needs to be improved.
    - iii. Transferability of the permits would need to be considered.
    - iv. In some of the fisheries the licensed fishermen fish together, if the catch is recorded under the captain, individual catches will not be associated with appropriate licenses. This will have to be reviewed.

The fourth alternative looks at combining a seasonal closure with an IFQ.

- This alternative was developed based on the comments received asking that the few full-time commercial bottomfish fishermen be allowed to continue during the closure period.
- The closure would be from May to September and allow a handful of fishermen to fish during that five-month period.
- Looking at those five months from 1998 to 2004, there was a five month average reduction in mortality of 24 percent. If the target is a reduction of 15 percent, that would equal 21,000 pounds of bottomfish.
- Those targeted pounds could be reallocated as an IFQ to fish for individual fishermen based on the table below.

<b>Allocation Method by Bottomfish Fishermen</b>	<b>No. of Fishermen</b>	<b>Pound Quota Per Fisherman</b>
All fishermen	970	21
Those catching over 500 lbs.	91	233
Those catching over 1000 lbs.	43	>500
Those catching over 2000 lbs.	12	1700
Those catching over 5000 lbs.	2	10,500

- The pros and cons with this alternative are similar to the ones for seasonal closures:
  - o the high-grading issue with regard to the IFQ
  - o the monitoring of the bottomfish coming in from the Main Hawaiian Islands during that closure period.

The last alternative is a combination of seasonal closure and an area closure.

- The seasonal closure is from June to August with a partial closure on Penguin Bank.
- The landings from the Main Hawaiian Islands bottomfish fishery for those three months provide up to 10.9 percent reduction in mortality.
- A partial area closure of Penguin Bank, which is the western tip area, would add to the reduction.
- Closing a quarter of the Penguin Bank would increase the reduction to 14.8 percent a bit short. But the problem and the difficulty is trying to allocate and to get the pounds and effort in dealing with a partial grid.

These alternatives are in the Draft DEIS and in the draft amendment.

Ebisui called on Alton Miyasaka, from the Division of Aquatic Resources, Department of Land and Natural Resources, State of Hawaii, to talk about the Assessment of Existing and Designation of New State Restricted Fishing Areas.

### **9.A.3 Assessment of existing and designation of new State of Hawaii Bottomfish Restricted Fishing Areas**

Miyasaka noted that the major point in the State's plan was focus on habitat protection. The selected areas were based on known habitat characteristics important to bottomfish. In seeking long-term benefits to the stock, the goal is to achieve both habitat protection and a reduction in the bottomfish catch.

The seven species in the State's plan continue to be protected in the revision.

Miyasaka showed a map of the new areas versus the old:

- In some cases, the areas will be realphabetized after the revision process is complete.
- For Honolulu and Maui County bank complex the area know as F has been reduced from the original, G is the same and H has moved west.
- Area 10 and the Second and Third Fingers will be closed.
- Area L in front of Hana is still being considered for revisions. There has considerable community opposition to this particular area.
- There were several changes to the Big Island areas.

It is expected that the new proposed areas will result in about a 29 percent reduction in catch. The existing areas have a reduction equal to about 12 percent. The net reduction should be about 17 percent.

The new areas were selected based on two criteria: good bottomfish habitat and the 15 percent federal requirement. The total number of areas have been decreased from 19 to 12, but each area is relatively larger compared to the old ones.

In looking for good quality habitat, the following measures were used:

- The amount of the Bottomfish Habitat Depth Range occurring in the existing area was compared to the new areas. They used to be 7.5 percent and have been raised to about 10 percent of the area that falls within this depth range. As opposed to the Federal EFH, which goes to the shoreline, the State's Bottomfish Habitat Depth Range is 100 to 400 meters.
- The Potentially Important Habitat Areas (PIHA) include underwater structures, such as canyons, pinnacles, slopes, places that are important to the bottomfish. The PIHAs

have increased from 11 percent to 19 percent. PIHAs have a much wider range than HAPC, which include just slopes and escarpments.

- Where the bottomfish were based on fishing surveys.
- The State definitions varied from the Federal definitions because the federal definitions were not clear or accurately reflective of the habitats important to the bottomfish.

Miyasaka showed a detailed bottomfish habitat topography including sidescan sonar of what the bottom looks like. They believe that by protecting good quality habitat, the bottomfish survival rate and number will improve.

Bottomfish are site-specific, but also move. By finding out where they are most likely to occur and expanding the areas of protection there is a good chance that the species will be protected.

Some of the proposed areas will cross the shoreline to maintain the integrity of the rectangular shapes determined by the Bottomfish Habitat Depth Range and the Potentially Important Habitat Areas.

The new bottomfish areas will:

- Increase the amount of the good quality habitat within them.
- Have straight-line boundaries, because currently they're in odd shapes and sometimes it is hard to tell whether you're inside or outside.
- Have 12 bottomfish areas versus the current 19.
- Targeted specifically the ehu and onaga habitats.
- Tried to minimize the impacts to fishers while maximizing benefits to the stocks.
- And will exceed the 15 percent of the federal assessments.

Duenas asked if the State would be amenable to the SSC recommendation that the closure on Penguin Bank be seasonal. His concern was the enforceability of a total closure.

Duenas' second question was if the State was going to establish baselines upon the designation of the closed areas and how that would be done.

Polhemus said that areas were selected to ensure 15 percent mortality. If the areas change, a different closed area would have to be identified, probably with a greater proportion of State waters.

Polhemus said nonextractive means of monitoring would be used to set the baseline. This would involve robotic or drop cameras with a bait component, to assess density of fish in these areas,

both at the time they were closed then at intervals thereafter. Biostatisticians at the University of Hawaii would assist to set up a proper sampling regime that is statistically viable.

They would like to engage fishermen for some scientific fishing in the reopened areas.

Miyasaka added that since the State was targeting a 15 percent reduction in mortality any additional activities that the Council did would add to the figure.

Duerr asked if the State took into account the areas that are closed by natural forces like strong currents and winds when determining the 15 percent reduction.

Miyasaka responded yes. The fact that the good habitat is in an area that is hard to fish helps to reduce the catch.

Polhemus added that because they used the commercial landings database to assess the catch and factored in historical trends, those areas were picked up.

Miyasaka said that because the areas are hard to fish, when the conditions are favorable, the fishermen tend to fish the area pretty hard. And because it is closed, they will not be able to do that anymore.

Wilson noticed that many of the landings within Oahu came from Middle Ground, yet Middle Ground was not going to be a closed area. Did that mean it was not good habitat for bottomfish?

Miyasaka said that there is very good habitat in Middle Bank, but the State felt there was enough in federal jurisdiction that it did not need to be included in the Main Hawaiian Island complex and was beyond the scope of the current archipelagic plan. Whereas, Penguin Bank was in federal waters but still within the Main Hawaiian Island area.

Wilson asked how the State determined how much of a percent drop in mortality was expected in a specific area if the reporting was for a larger area.

Miyasaka said that the formula included identifying all of the bottomfish depth range that occurred within that area, taking the closed area as a percentage of the total and applying that to the catch.

Polhemus said that the calculations were presented to the Scientific and Statistical Committee. To simplify, it is assumed that bottomfish are largely restricted to their Essential Fish Habitat, the depth range, the topography and the substrate hardness. Then it was assumed that bottomfish were distributed equally throughout the habitat and they are fished equally. Taking 25 percent of the habitat out, the catch is decreased by 25 percent. More filters were added to the calculation to come up with the estimate.

Taking the simplest assumptions, the estimates of catch and effort reduction would be much higher than 17 percent. The plan reflects the most conservative low range estimate of its effectiveness.

Gaffney asked if Miyasaka could detail how Area L may be changed because of the community pressure.

Miyasaka said the alternatives included:

- To move it on the north side between that Nahiku and Keanae, the community preference.
- Moving it further south towards that currently closed area. There seems to be better habitat on the southern side of the point.

Gaffney asked which area was more heavily fished.

Polhemus responded that it was the south and leeward side.

Miyasaka said that the difference between the north and the south side was not that much in terms of trying to meet that 15 percent catch reduction.

Kelley said that he was involved in the creation of the reserves for the State. He was contracted to develop a Geographic Information System that was used to evaluate the existing RFAs and to come up with some new RFAs.

Hana is unique in the Main Hawaiian Islands in that it has a cluster of isolated pinnacle habitats. There are pinnacles offshore that are outside of the main bottomfish depth range that circles each island terrace. Within the 100 to 400 meters around each island or bank, there are some features that are in much deeper water that stick up and protrude into that area.

In order for fish to move between those features and the main large habitat area around each island they have to cross fairly deep water, which may inhibit migration to and from those sites. Therefore, they may inhibit restocking of those areas if they're under heavy fishing pressure.

Pinnacles are highly targeted habitats for bottomfish. Isolated pinnacles, in his opinion, were perhaps the most vulnerable habitats that exist.

Hana has six isolated pinnacles out in front, more than any other place in the Main Hawaiian Islands. He was arguing for Hana restricted fishing area as is, or at least for the compromise, to keep three of those pinnacles within the reserve area, keep three of them open and also a portion of the slope.

Surveys have been done to the north and south of the area. The northern area, which the fishermen are suggesting the reserve be moved to, is not particularly good habitat. There are some habitat sites there, but they are not as good as the Hana area.

Based on the fishing survey data, the pinnacles outside of Hana are large onaga areas, unlike the sites to the north and south.

The Hana area was also selected based on the surface current patterns. Currents intersect at a point off Maui, and on some days during the summer spawning season, currents are moving to the north of the Maui Island area. On other days within their spawning season, they will move south, along the south coast.

One of the goals in creating the reserves is to develop natural habitats, protected areas where breeding-sized fish might export larvae to help reseed open fishing areas, as well as, their potential for spillover.

The spillover effect can be on the slope in that area and improve the larval export potential. Since the larvae flow is not known for bottomfish, one way to hedge your bet is to put them in a location where currents are flushing on one side of the island in part of the season, flushing on the other side of the island the rest of the season, and going throughout the Main Hawaiian Islands. That was one of the reasons Hana was chosen.

As for movement, only the schooling species, such as onaga and opakapaka will move 20 miles per day. Ehu, hapuupuu, gindae, some of the more benthic species, do not move like that. Therefore, there is some protection.

Kelley added that the distribution of these reserves was based on an effort to try to maintain genetic connectivity within the Main Hawaiian Islands and also between the Main Hawaiian Islands and the Northwestern Hawaiian Islands. None of the other alternatives actually addresses that issue.

There is some thought on reseeding the Main Hawaiian Islands and/or the Northwestern islands. However, no one really knows how genetic material goes back and forth throughout the archipelago. One of the assumptions is that the material is going bank by bank using a stepping-stone effect, a theory used in population genetics.

The implication is there needs to be some type of protected areas to ensure connectivity is fully protected, essentially for the next 100, 500, 1,000 years. There needs to be some areas on each of those banks, because each of those banks is important to maintain that connectivity.

Kelley did not believe that doing Middle Bank and Penguin Bank was useful, because it did not take connectivity into account.

Kelley pointed out that basis of selecting these reserves was hard data. The data included multibeam sonar data, topographical features, and backscatter data that showed what is hard and what is soft substrate.

The alternative being discussed was based on that. In the original 1998 RFAS, the multibeam data was not available. Those are best-guess sightings for those reserves.

Every single island in the Main Hawaiian Islands has been mapped, as well as bottomfish depths except for the Big Island, which is scheduled for the fall.

Kelley had an issue with the assumption being made on all the closed seasons and quotas was that the commercial catch data accurately reflected what was being removed from the Main Hawaiian Islands. In particular:

- No recreational data was considered in that analysis.
- Putting the commercial catch in GIS reporting grids shows that fish is caught in some of the grids where there is no habitat. This is because sometimes the areas are reported incorrectly by fishermen due to the uneven boundaries. But, also sometimes the fisherman does not want the State to know exactly where he's fishing, especially if it is a closed area.
- And, there are backdoor restaurant sales.

The commercial catch data has to be taken with a grain of salt. On the other hand, with the reserve system, there were no issues. The sites are topographical, real sites; they have ground-truthed for the presence of fish through fishing surveys and through visual surveys.

McCoy asked Kelley if he had done any migration studies on bottomfish.

Kelley replied they have done a tracking study in the Kahoolawe Reserve and it was to document that opakapaka was crossing the boundary of the Kahoolawe Island Reserve in support of the no fishing rule there.

Kahoolawe could be a model of how to create an enhancement preserve for bottomfish. The entire southern coast of that area is prime bottomfish habitat. Fish can move outside on both the eastern and western side of the reserve. It was no accident that the Alenuihaha Channel and the other grid on the northern side of Kahoolawe are some of the bottomfish reporting areas. The Kahoolawe Island Reserve is there and acting as a reservoir of fish feeding the open fishing areas.

The goal for creating reserves is not to protect this little pocket of fish forever. It is to build up the populations in the reserves and for the fish to replenish open fishing areas.

McCoy asked if there was overcapacity in a reserve.

Kelley responded in areas based on picking both pinnacle and slope areas, if a pinnacle builds to a certain extent where it can not support a population, those fish are going to make that trek across deep water because they are not getting enough food or some other need. A pinnacle concentrates fish in a very small area.

The same activity occurs on ledges where there is a lot of upwelling. Because onaga and opakapaka feed in the backscatter layer up the water column, they will have trouble competing if there are a lot of fish on that spot and move outside of that area.

Two of the reserves were created to protect coral habitat and none of that was touched on in the options. None of these plans take into account possible impacts on anchor damage on deepwater corals. And it is known that there are deepwater corals in some of the bottomfish fishing areas.

Two of those reserves, one off of Makapuu and the number K in the Pailolo Channel were specifically sited because they have substantial precious corals beds.

McCoy asked if some of the reserves Kelley spoke of would ever be opened again because of that concern.

Kelley thought that some reserves should be protected continuously. But he also felt there were other areas that could be opened periodically. Where there are substantial beds of precious corals, he felt it was in the interest of management agencies to consider a permanent ban of fishing activity.

McCoy asked if the land areas Kelley presented included any public use and if that would now be prohibited.

Miyasaka responded that because the new areas go right up the shoreline, there was a concern that the State would move to ban all fishing within the bottomfish area, including the taking of small fish, reef fish, along the shoreline. Their plan did not include that. The regulation only applied to the bottomfish complex.

Ebisui asked if Kelley was familiar with the demographics and patterns of the Main Hawaiian Island bottomfish fishery.

Kelley responded that he was not; his focus was on the habitat.

Ebisui needed to clarify that most of the fishing in the Main Hawaiian Islands occurred on the leeward side of islands due to the favorable weather conditions. Yet, most of the proposed closed areas were on the windward side where there is far less effort. So if the objective was to bring down the effort, he did not understand how that would occur.

Kelley explained that the south coast of Maui, in the main channel, was technically in the lee and had very rough seas. The same conditions existed for the south coast of Kahoolawe.

Along the Waianae Coast, down to Kaena Point to Barbers Point, was very poor bottomfish habitat and not good fishing grounds according to the fishermen. The fishermen are angry because all their grounds have been closed, and nobody fishes on the Waianae Coast.

Down along Pearl Harbor, from Barbers Point to Hawaii Kai, very poor bottomfish grounds and the area off of the north of Molokai were selected because there was no fishing going on.

The other considerations that went into these sites were enforceability. Kalaupapa was the only place where visual observations could be made of boats in the reserve fishing.

Kelley had suggested radar enforcement. Radar equipment could be placed on bluffs overlooking the areas and a central radar facility could monitor all the areas. Boats could be marked and tracked for the length of time in the area and radioed if there was a possibility of bottomfishing.

Polhemus asked Robinson to clarify if the mandate was to reduce effort or mortality.

Robinson responded that the mandate was to reduce fish mortality; however, effort could be a proxy for that.

Ebisui asked if there was a practical difference between catch and effort being used as a proxy.

Miyasaka responded that if catch is used the number is lower, effort is a higher number.

Duerr noted that Kelley's point was important and a long term issue, that without a fishing license for recreational fishermen the amount of the catch is not known.

He has observed more people bottomfishing due to the price of fuel and knows that their catches are not all being personally consumed. He felt that the State should dedicate some funding to fishing licenses.

Polhemus said that he could not speak to that officially but he would be willing to bring it up with his superiors for that particular fishery.

Ebisui noted that Governor has already taken a position on recreational licensing.

Polhemus said that it was recreational licensing across the board. He was not sure if it precluded specialized licensing for particular fisheries where there are pressing management needs.

Wilson asked that if the areas were established, how the closures would be enforced within the area with current resources.

Polhemus noted that there were a variety of options. Whether they did the monitoring by extractive or nonextractive means, they would need to be on the water periodically in those areas. If they are already in the area with a vessel, they could take DOCARE along and do a random-spot inspection.

He felt AIS held promise in knowing where people are at a given time. The cost-basis of AIS was coming down rapidly. If it came down to a reasonable level, e.g. a couple of hundred dollars, it could be a condition of entry into the fishery. This was not for sure, but a possibility.

They had a bill in the legislature would provide funding for on-the-water marine enforcement. The amount of money that would support DOCARE on-the-water enforcement efforts was still under discussion, but he felt there was a possibility of something substantial coming from the discussion. He noted that it cost about \$100,000 an officer to put someone on the water.

Wilson asked what kind of vessel would take a DOCARE officer along.

Kelley noted that they had been using the charter vessel WAILOA, a 50-foot Australian catamaran. Some BOTCAM work has been done in collaboration with the NOAA Fisheries Coral Group. He was willing to put up the charter boat time if they would test their equipment in areas that were useful for the State.

The boat cost about \$1500 a day, \$1200 if the State got a volume discount. They would use a two-BOTCAM system, so they could be dropped at different sites, close together, or on the same site. They were still discussing the methodology for sampling and analytical designs with NOAA and the State. The Australians are using this system.

The kinds of data from this kind of nonlethal assessment method include the maximum number of fish in any given frame, arrival time, first-arrival time, and rated arrival. All these types of indicators will provide data on how many fish are in the area.

Gaffney added that on the Big Island the Department of Aquatic Resources monitors over 100 sites to continue the science of the fishery replenishment areas on the coast. They have a boat in the water a substantial amount of time and regularly bring DOCARE officers onboard to do cooperative management. The State DAR has vessels across the state that are doing research of this kind all the time.

Wilson wanted to be clear that if the Council decided on area closures that extended out to federal waters and expected the Coast Guard to enforce the closures, that he did not have the resources to support the program.

The letter written in response to the Council's request talked about aerial enforcement. However, a prohibition for seven species would require at-sea enforcement. There are other missions like Homeland Security that have a higher priority for the Coast Guard.

Polhemus added that as discussed in the Standing Committee Meeting, the Coast Guard did not have the resources to do dockside enforcement either.

Martin asked Miyasaka if he could provide an overall volume for the new 12 areas in Essential Fish Habitat; were the 12 areas increasing EFH overall or just the bottomfish habitat.

Miyasaka responded that the bottomfish habitat area enclosed within the bottomfish restricted areas was increasing from seven to ten percent.

Polhemus added that in terms of the habitat depth range, it moved from 7.5 to 10 percent statewide in the Main Hawaiian Islands. In terms of PIHAs, habitats of particular quality, it increased from 11 to 19 percent.

Martin said there was concern from fishermen that the geographic straight lines in the new areas would become something more not necessarily related directly to bottomfish. The concern was more areas would be carved off where there would not be any extractive uses.

Polhemus said that this was not so, except perhaps in the two areas mentioned by Kelley with regard to corals. Except for Areas G and K, no alternative or additional uses or restrictions were planned.

The places where the areas are extended to the shoreline are not considered quality nearshore habitats that could be included in an MPA.

Ebisui asked for DiNardo to talk about the efficacy of MPAs.

DiNardo said that the question was, would the 15 percent reduction in fishing mortality be achieved. They had some questions about it, in particular:

- Public comment has impacted the identification of the specific areas. But, that was coming to an end.
- Bycatch was another issue. The areas were not actually closed areas and fishing could continue. You could catch a bottomfish there, but it would be illegal to land it.
- Assumptions in the State calculation include that when an area is closed, the fishing effort or catch has been removed from the area. That effort will be displaced, probably with reduced efficiency. They were not sure there would be a 3 percent reduction in mortality.

He was a proponent of closed areas. Looking at habitats was a step in the right direction. However, they needed to be the right size to take into account where the animals were moving.

DiNardo said that nonextractive was a nice concept, but it was not going to provide all of the information needed for assessment. There will have to be some extraction from that area to provide information to identify the benefits of these areas.

As far as BOTCAMs were concerned, they are still in the R&D phase. They would not be available for full use for a few years. In the interim, submarines and ROV could be used as sampling devices.

He felt it was critical to put in a monitoring program especially since there had not been an effective program done when the 1998 regulations went into place.

There is an assumption that there has been zero benefit from the existing closed area just because there is no information. That could be looked at as a very precautionary approach. But he would hate to be in the same position a few years from now when asked what the benefit of this closure was. There needs to be a baseline so the benefits of the program can be gauged.

It would take a few years to get some good baseline data in terms of abundance or densities for some of these areas. There is some good presence-absence data and some preliminary information on the bottomfish. But a statistically-sound sampling design is needed to provide baseline information.

Simonds asked if DiNardo was saying that the scientists need to go out and look at the current area closures, as well as the proposed area closures, do some sort of assessment and then make recommendations following that.

DiNardo responded that since there is not any baseline information, that needed to be done. Information is needed on the densities of the animals. Then once the area is opened, the fishing pressure can be measured.

The same is true for these proposed closed areas. What is in those areas is not known. There is some commercial fishing data, but that was very biased and not the best approach. The best thing to do was an intensive fishery-independent monitoring program to provide that baseline information in terms of abundance in those areas. Then put the impact of the closed area on top of that.

Polhemus said that the State certainly acknowledges the scientific challenges in monitoring the bottomfish. They were working with DiNardo's group to work out the monitoring. The presence or absence of various management unit species had been established in the areas. However, in terms of bycatch, that would be a problem with any alternative because people fishing for something else in a closed season for bottomfish could get bycatch.

In terms of effort, it can migrate geographically or temporally. In season closures effort is pushed into the open time of year. So this is not just a weakness that applies to area closures.

DiNardo said that whether closed seasons were more beneficial than closed areas still needed to be shown to reduce fish mortality.

He felt temporal movement of fishing effort was unlikely and that there would be more results if closed seasons were applied versus closed areas. But, he did like a mix of both.

Duenas asked how a baseline for a fishery could be established with a nonfishery method, i.e. using a camera and counting the number of fish in a frame. When the Oscar Sette came to Guam, they used a BOTCAM and said there were no bottomfish or sharks. And, the next day a fisherman brought in 400 pounds in three hours of fishing.

DiNardo said that is why the BOTCAM is in the R&D phase. It was another fishing gear that needed to be measured as far as the catchability effectiveness of that gear. A BOTCAM will provide presence-absence information but not necessarily abundance or density. You don't know if the fish you see on camera is circling the equipment and you are counting it a number of times.

Duenas said that the State has said they preferred a nonextractive technology to determine the baseline, was that realistic.

DiNardo said other information is needed from the animals to determine the benefits. That would include fecundity, the number of eggs each animal has; has that increased with this area

being closed and has age at maturity changed, is size structure changing.

Some of that information can come from any kind of visualization techniques, including the BOTCAM. But information is also needed from an assessment point of view. For example, pieces of the animal need to be extracted to determine age. A sample size would include a few hundred animals.

Polhemus stated that the State doesn't dispute the fact that occasionally some fish need to be taken from an area to get the sort of statistics that DiNardo was talking about. They just preferred to minimize that in a closed area to enhance stocks.

Polhemus added that technical specifications of the BOTCAM were included in a flyer at the back of the room.

Robinson wanted to get back to how changes in fishing mortality would be measured across the Main Hawaiian Islands. In the discussion he heard that the Science Center has been unable to either verify or independently calculate a reduction of mortality by imposing these particular new 12 bottomfish restricted areas and simultaneously opening some of those areas that were previously closed.

Robinson asked how much time it would take to either verify the State calculations or conduct an independent calculation of the reduction in fishing mortality.

DiNardo said that Robinson was right; the Science Center has not been able to verify the State calculations, partly because of the changing dimensions of the areas. They would need to go through a number of different scenarios using various assumptions on the impact on mortality, the displacement of effort and the efficiency of the displaced effort. But they really needed to understand the closed areas first.

Robinson asked if there was a possibility that the new stock assessment will change the estimate of the reduction in fishing mortality.

DiNardo said yes, the new assessment that they are currently reviewing is showing that more areas would need to be closed. They estimate that 24 percent would be needed now. This was because of the bump up in fishing that occurred in 2004.

Polhemus noted that the only area still left in play is Hana. The system now, no matter how Hana sorts out, will not have any less protection of total percentage of EFH. He did not see the other areas changing since they had been out for public comment. What they had shown, except for slight changes in Hana is what was going to the Land Board.

(Ten minute break taken)

McCoy called the meeting back to order.

Ebisui called on Moffitt to report on item 9.B.

## **9.B Plan Team Recommendations**

Moffitt referred the Council members to the back page of section 9.B.1 for the plan team recommendations.

After presentations from Mark Mitsuyasu and the State on various alternatives, the plan team decided that no action would probably not be sufficient to get 15 percent reduction in mortality. The quota, either TACs or IFQs, would be administratively very difficult. While it was direct control, they were not a preferred alternative and would be difficult to implement.

The preferred alternative from the majority of those present was closed seasons, either in Alternative 3 or in the combination alternatives.

There was a minority preference for closed areas, in particular Alternative 2b, which is the State plan.

Those who opposed closed areas stated

- Enforcement has not been the greatest and they were not assured that it would be much better in the current plans.
- Monitoring of the closed areas would be key in determining the benefits.
- A baseline survey is essential, whether it be nonextractive or a combination with extractive methods.

If alternative 5a were selected it was suggested that the fishermen be paid to get additional biological data from their catch. This would allow for better length frequency data.

The team was informed that the State closures would go in place regardless of what other alternatives this Council put in place.

Polhemus verified that there was no formal consensus from the plan team on a preferred alternative.

Martin confirmed that for alternative 5a the IFQs would be imposed only during the seasonal closure.

Ebisui called on Beals to present the AP Recommendations

## **9.C Advisory Panel Recommendations**

Beals presented the recommendations which included:

1. In regards to the Hawaii bottomfish overfishing, the Commercial AP recommends Alternative 3, seasonal closure, with the provision that the existing closed areas be opened after an experimental fishery is conducted to evaluate the effectiveness of the

closed areas. If new area closures are considered, scientific research must be completed to justify the need and likely success of the closure.

2. The Ecosystems and Habitat AP supports the Hawaii group recommendation and supports the Main Hawaiian Island seasonal closures with a proviso that current and proposed closed areas be rescinded and that the Northwestern Hawaiian Island bottom fishery continues in its existence.
3. The Recreational AP supports seasonal closures for bottomfish in the Main Hawaiian Islands with the proviso that current and proposed closed areas be rescinded and with a continuation of the Northwestern Hawaiian Island bottomfish fishery.
4. The Subsistence AP consensus is to keep bottomfish fishing open for Hawaii's subsistence use, preserving consideration for indigenous Hawaiians and allow fishing in closed areas and closed seasons.
5. The Recreational AP recommends the Council investigate the effects of additives such as bread or barley in chum, palu, in bottomfish fishing on the survival of the target species.
6. The Commercial AP recommends the CNMI 40-foot vessel, 50-mile closure be implemented expeditiously by the Council and NMFS due to reports that foreign vessels are using U.S.-licensed captains to fish for bottomfish within the EEZ around CNMI.

Martin asked about the use of bread and barley, was there a concern about harming the fish.

Beals said that there was a concern palu was being stretched with the use of oatmeal, barley, and other additives. Bottomfish normally do not have these foods in their diet. It was disrupting not only the natural diet of the fish, but might have a detrimental effect on the reef or other parts of the environment.

Wilson asked if there was any other amplifying information about the reports of foreign boats with U.S. Masters on them.

Beals said the issue was brought up by someone from CNMI and had surfaced in the last several years.

Sablan said it was a 50 to 60 footer out of Rota. Under the Magnuson Act they are allowed up to 200 gross tons for a foreign haul. He was not sure what the problem was for U.S. Masters to pilot a boat greater than a 50-footer going bottom fishing or harvesting any resources within the CNMI.

Kingma added that there was belief that there are some vessels from Japan bottomfishing the CNMI EEZ and they were using U.S. captains as a captain of convenience. They were impacting the resource and there needed to be an expeditious implementation of the Council's

recommendation to amend the Bottomfish FMP for the 40-foot, 50 nautical mile closure around Saipan and Rota, and the other proposed closures for Alamagan.

Wilson recalled that a few months ago, there was an issue of foreign flagged boats trying to come into that area and obtain a recreational permit with the thought that they might be able to go fishing. That was squashed.

Wilson wanted more specific information on the vessels that were trying to do this. He did not believe this was legal and needed to put a stop to it.

Sablan noted the boat, the Kaiu Maru, had a foreign owner who did not live in Saipan but did recreational fishing there with a U. S. captain. The boat was larger than a 40-footer.

Duenas said a liaison officer came to Guam and asked if they were interested in buying fish, bottomfish. They were supposed to move three former Japanese vessels, reflagged as U.S., with U.S. Masters. They were going to operate out between Rota and Saipan, but they wanted Guam to participate in their venture, handle their loading and offloading.

Another vessel on Guam, the Lotus 1 was a Japanese vessel being reflagged. Duenas was not sure if the vessel had a permit. Duenas understood the vessel was going to CNMI to get a foreign crew. They would operate out of CNMI and come to Guam for offloading. This was going to be a big problem in the Pacific.

Ebisui asked Severance to report on the item 9.D.

### **9.D SSC Recommendations**

Severance noted that the SSC operates by consensus, not vote. When an agenda issue comes up, a couple of people are assigned to do the write-up, often with a staff support member. Then the write up of the consensus recommendations, are put on the screen on the third day of the meeting and edited by the SSC as a whole.

The SSC heard reports from Moffitt, Mitsuyasu, Miyasaka and Lowe. That led into fairly extended discussions, at times contentious, over the relative merits of seasonal closures versus area closures and the difficulties of monitoring and enforcement and the even greater difficulties of getting the science data needed to assess their relative effectiveness.

The resulting compromise consensus suggested leading off with the seasonal closure and the potential for phasing that out if and only if the State's area closures could be shown to be effective.

The SSC had difficulties with some of the commercial catch data and the difficulties of parsing out the potential future impact of new closures when the new closures overlap reporting grids. The SSC felt fairly strongly that baseline data was needed, both extractive and nonextractive using items like BOTCAMs and experimental fishing. This would be needed for the areas proposed for new closures prior to them being closed and for the areas that are already closed

and scheduled for reopening.

There was a concern that in reopening the closed areas there might be a spike in landings that would go counter to the desired reduction in fishing mortality.

The SSC also heard the Plan Team Report that, in general, meshed with SSC ideas. There were no modifications to the Plan Team Report.

The recommendations were:

1. The SSC recommends that both the Council and the State of Hawaii support an adaptive management approach to address the excess fishing mortality in the Main Hawaiian Islands bottomfish fishery.
2. The SSC continues to support the State of Hawaii's system of area closures for management of this fishery, and endorses the State's proposed refinements to this system based on improved understanding of Essential Fish Habitat and distribution of individual bottomfish species. The State has estimated that the proposed refinements would result in at least a 15 percent reduction in bottomfish catch. However, the SSC notes that the effectiveness of the closed area system needs to be evaluated as recommended below.
3. The SSC recognizes that the absence of recreational bottomfish catch data is a significant gap, and therefore the SSC continues to recommend mandatory permit and catch reporting for all bottomfishers in the MHI.
4. In order to ensure sufficient effort and catch reductions to meet NOAA requirements in this fishery during the period of transition from the State's current network of area closures to its proposed network of revised area closures, the SSC recommends that the Council adopt an interim implementation of Alternative 3, which closes the MHI bottomfish fishery from May to August. The SSC believes that such an interim seasonal closure will provide a near-term solution to reduce bottomfish fishing mortality in the MHI, but recognizes that in order for such a seasonal closure to work, the State must promulgate parallel seasonal closure regulations. The SSC recognizes that seasonal closures are currently the most enforceable of the alternatives.
5. The SSC further recognizes that an immediate transition between current and revised area closure regimes could generate a temporary increase in catch in the bottomfish fishery, as previously closed areas are reopened, and that this could be at odds with federally-mandated catch reductions in this fishery. Therefore, the SSC supports a phased implementation of the State's new closed areas, coupled with a phased reopening of certain formerly closed areas. As the State makes the transition to its new bottomfish area closure regime, the seasonal closure period will be shortened and eventually terminated, provided that an annual SSC review indicates that the closed area system is proving to be effective and that a 15 percent reduction in fishing mortality is being maintained in the fishery as a whole.

6. The SSC notes that the current enforcement arrangements for the MHI bottomfish fishery are inadequate. Therefore, the SSC recommends that a comprehensive and properly resourced enforcement plan, including a Joint Enforcement Agreement between state and federal enforcement agencies, be developed to adequately enforce the seasonal and area closures.
7. Since it is essential to monitor the effectiveness of the State's closed area approach, the SSC recommends that the Council and NMFS support the State in developing a comprehensive research and monitoring program that should include:
  - a. An improved catch reporting program specific to the bottomfish fishery, such as revising catch reports to include latitude and longitude of catch and requiring that fishermen utilize GPS units to accomplish this. Note: there was some discussion of whether this should be just to the minute rather than to the second, in terms of GPS coordinates.
  - b. Fishery-dependent monitoring methods, such as drop cameras or robotic cameras, to provide indices of relative abundance. Such a monitoring program should include both former bottomfish restricted fishing areas that are being reopened to fishing and new restricted areas that are being closed to fishing.
  - c. Fishery-dependent monitoring of former bottomfish restricted fishing areas that are being reopened to fishing, including experimental fishing in existing closed areas that contain both large and small amounts of EFH. Such experimental fishing could occur during the seasonal closure through a cooperative agreement with fishermen. This was out of a concern the SSC had in terms of the social impact on that small number of bottomfish fishermen who fish bottomfish year-round.
  - d. Collection of baseline data, including oceanographic, e.g., currents, water temperature, ocean conditions, and biological information, e.g., otoliths, gut samples, gonads, length, and weight. In other words, experimental fishing would provide the kind of data DiNardo talked where you actually have the fish to sample and look at age, maturity and genetic information as well.

## **9.E Standing Committee Recommendations**

Ebisui presented the Bottomfish Standing Committee Report.

The committee met on Monday afternoon with an agenda that included:

- Mark Mitsuyasu presenting the history and the alternatives with respect to the Main Hawaiian Islands bottomfish overfishing issue.
- Eric Kingma summarizing the public comments that have been gathered throughout

this process in the meetings held from November through March of this year.

- Receipt of the Plan Team Recommendations. Note: the Advisory Panel Recommendations were not received as they were also in session.
- Severance presenting the SSC Recommendations.
- Public comment from Gary Dill. Dill was concerned about the effects of layering of any federal action over the State action and the burdens that that would impose on fishermen.

The Standing Committee recommendations:

The Committee recommended that the Council endorse Alternative 3, which would be the summer seasonal closure. They did not recommend that the Council endorse the rest of the SSC recommendations.

There was concern that the specificity in some of the subjects touched upon in the SSC report crossed the line into the policy initiation discretion and prerogatives that are for the Council to address.

In other words, the SSC report could be construed, if endorsed, as a road map to what would be done in the future. For example, there was the discussion regarding support now of the State's closed area plans, requiring lat/long coordinates for catch, and also requiring people, fishermen, to use GPS units, which was felt to be premature. There needs to be more analysis and discussion before taking action on that item.

Robinson asked if the SSC, as the Council's scientific conscience, looked at and considered trying to do this regarding the underlying data, the methodology, and the assumptions that went into the State's estimate. Did they have an opinion on that?

Severance responded that this was part of the reason for the extended discussion, the SSC had difficulty understanding the original rationale as it was first presented. When it was refined and represented, the rationale and the methodology were accepted. They had summary data tables, not detailed data tables in terms of the CPUE data, and were given a series of examples of cases of how the estimated reduction was calculated based on the CPUE commercial catch data from each of the grids. It was a general consensus; it looked like it could work. In the write-up the consensus became a little bit clear.

Polhemus said that the better part of three days were spent reviewing the State's analysis. The State provided progressively more detailed datasets, including confidential datasets. The datasets were passed out and then at the end of the day they were withdrawn because they contained data that could not be released to the general public due to confidentiality of the few fishers in one grid.

Simonds added that the SSC did ask for the Pacific Islands Fisheries Science Center analysis of

the analysis, but that was not provided to the SSC. That analysis had been given by Dr. Pooley to the Regional Administrator and that the SSC would receive this from the Regional Administrator.

As of this date, the Center's analysis of the State's analysis has not been received.

Polhemus noted that the State representative had reservations about the conclusions in that committee.

Robinson, in response to Simonds' comments, did not have a document that he would consider an analysis to pass on to the SSC.

## **9.F Public Hearing**

Mark Collins, a resident of Hana and a fisherman there for the past 25 years.

(Verbatim)

“I brought up two petitions, one which supports the seasonal closures and the other which opposes the area closures.

The area closures would have a devastating effect, economic and social, on the small community of Hana. We don't feel there is enough data collected yet to show their effect. Thank you.”

Gary Dill, bottom fisherman for both Main Hawaiian Islands and the Mau Zone of the Northwest since the 1980's.

(Verbatim)

“I would like to start with a suggestion, that if anyone in the room would ever care to feel like the horseshoe caught between a hammer and the anvil, just become a bottomfish fisherman in Hawaii and you'll get your money's worth. You'll get full value.

As Ed said earlier, he called it layering, I call it being caught between the hammer and the anvil.

But to get to the nut of it, I've got some reasons that I hope I can get into. But to get to the nut of it for the Council, myself and a couple other bottomfish fishermen in Kewalo Basin I know have discussed this and said that what we would like to see the Council enact is something along the lines of that the SSC has in fact proposed, an immediate seasonal closure that ends, however, once the State's area closures become effective.

When I say, the State's area closures become effective, it means the whole ball of wax; information to all the fishermen, to the public, enforcement presence and a monitoring and evaluation system that is described and that meets not only State standards but also federal standards.

At that point in time, to end the seasonal closures.

That's the recommendation.

The reasons are, the layering effect is one. The State is telling us where not to fish and the Feds are telling us when not to fish. If you add the two of them together, it's a 15 percent reduction over here and a 15 percent reduction over there. What are we left with?

The other part of it is, I was a supporter of the closed areas back in '95, '96, '97, when the program was being talked about. We had some bad numbers and something needed to be done. It looked like MPAs worked elsewhere. They did work in other fisheries in other parts of the country. So it sounded like a good idea.

Eight years later, I'm not so sure. In fact, I have some very serious doubts whether they work at all. There are lots of reasons that you've all heard.

One thing that as a fisherman I really don't want is to have two different ideas competing for the right to say that they were right.

If we had both seasonal closures and closed areas and the numbers do start looking better, no one is going to know which program is more responsible for that. So from the fishermen's point of view, we would really like to have immediate help, which is a seasonal closure. But in the longer run, we don't want it to run at the same time as the closed areas because it might become confusing as to which idea is working.

Since we only want one idea, we would like to have them isolated.

I'm no longer a real great fan of closed areas for not only the reasons that the numbers show, but also for some reasons that have come to light. They don't take into effect the socioeconomic impacts in some small areas.

More importantly, they don't take into effect what we now begin to suspect is the biology of the fish that we're looking at. We don't know anything about onaga and ehu. We don't know how far they travel.

As Dr. Kelley was saying, we have no idea what their larval dispersal is like. We don't know how they breed and how it's carried around. Yet, it's a species we're really concerned with.

We always thought that onaga and ehu, like some of the other bottomfish, were specific to locales. So as a fisherman, if I found a spot that had some onaga in it, I kept quiet about it. I'd only fish there when there were no other boats around and I made sure that my deckhand didn't get drunk and pass it on somewhere.

These days, however, I'm really beginning, as a fisherman, to question that belief.

We used to think tiger sharks were very territorial. You could talk to surfers, oh yeah, there's a

good one right outside Kewalo. He's always there. It's a tiger shark that lives there.

Then the tiger shark tagging study came along and destroyed that myth entirely. Tiger sharks have a range all right, but it's in hundreds and hundreds of miles.

DAR, itself, has done an ulua study. Everybody knows what an ulua hole is, that's where you go and catch your ulua. You go to the same spot on the cliffs, every darn time there's an ulua right there, because they live there, they're born there, they grew up there.

No, they don't. Not at all. They travel. They travel far more than we ever thought they did.

But what about onaga and ehu? Hum, I've gone to the same spot many times and caught nothing. I've come back in a couple of weeks and there's a big crowd there.

So where are they in the meantime? Are they traveling?

So if you close that spot and take it away, what are you really accomplishing?

Temporary help, at best.

So my confidence and my faith in the closed areas and the MPA sort of concept is pretty near destroyed.

But I would like to give it one more chance. Have a closed season for a while. As soon as the new areas come online, look at them real carefully for five years. It would be a couple years from now by the time they come online, add on another five years, see what the numbers are.

Director of the DAR told us at the Standing Committee that he'd be the first one -- if he was still in the job -- be the first one to trash the whole concept of MPAs if down the line it was shown that they didn't work. So that's the hope that we have.

Thanks for listening.”

(Lunch break taken)

## **9.G Council Discussion and Action**

Ebisui asked Mitsuyasu to put the motion up on the screen.

Wilson clarified that he had checked and if the vessel is less than 300 gross tons, even if foreign built, it is eligible for documentation and could get a fisheries endorsement in the Territories of American Samoa, Guam or CNMI.

Sablan added that the MSA Reauthorization was for 200 gross tons.

Ebisui read the motion:

“The Council recommends Alternative 3, an annual Main Hawaiian Island bottomfish seasonal closure between May 1st and August 31st in the Main Hawaiian Islands as described in the Draft FMP Amendment to end bottomfish overfishing by reducing fishing mortality on Hawaii's Main Hawaiian Island bottomfish stock complex by up to 15 percent provided the State of Hawaii notify the Council in writing by April 15, 2006 of its commitment to adopt parallel seasonal regulations.

Should the State not commit to adopting such regulations, the Council recommends the adoption of Alternative 2a, the closure of Middle and Penguin Banks, as described in the Draft FMP Amendment.”

Ebisui so moved, Duenas seconded.

McCoy called for discussion.

Gaffney said that this assumed that this recommendation will reduce fishing mortality by 15 percent. What if it did not?

Robinson responded that in order to approve and implement any recommendation, the Secretary would have to be confident that the recommendation would in fact reduce the fishing mortality by 15 percent. Then, whether in fact that turns out to be the case is a matter of subsequent evaluation.

If not, then the Council would be asked to take additional actions based on an evaluation of effectiveness.

Gaffney asked if there was a time frame, when, specifically, would the 15 percent reduction take place.

Robinson noted that the deadline was the delivery of a recommendation to implement a management plan to reduce fishing mortality which was one year from notification or May 27, 2006.

The statute of the Magnuson Act is silent as to the period of time that it takes to prove its effectiveness or adjusted. It only speaks to acting as quickly as possible to end overfishing. So there is no specific statutory time frame for evaluation or adjustment.

Ebisui added that by the nature of the action, the plan is expected to be in place March 1<sup>st</sup> through August 31<sup>st</sup>, 2007.

Gaffney said he understood that part. His concern was the focus on just getting to the 15 percent figure. He wondered if they were absolutely confident of getting to that number.

Robinson said that the four month seasonal closure in both state and federal waters was expected to produce 17 percent or slightly over the mandated 15 percent.

Robinson said that the motion contemplated the State moving forward and implementing its bottomfish restricted fishing areas as well, phased in, as the SSC suggested, or all at once.

If implemented as the SSC recommended, the seasonal closures could be monitored by the Council, the State and NOAA annually, adjusted as needed, and a determination of the effectiveness of the State closures made. The premise here is that the State intends to go forward with its closures.

So overlaying the seasonal closure with what the State intends, they could be confident that it was going to be more than a 15 percent reduction.

Duerr recommended that the motion read 17 percent instead of the 15 percent.

Ebisui said he had no objection to the amendment.

Dela Cruz suggested that the baseline year be added to the motion – 17 percent relative to 2003 baseline.

McCoy did not think that was necessary.

Dela Cruz asked what the consequence would be if the biomass should turn around and increase.

Ebisui said the unstated intention of the Council is to review this closure on a regular basis. So, for example, if the State does implement its new closed area program and if it was effectively doing the reduction, the Council could easily reconsider, and either reduce or eliminate this action.

Polhemus said that in terms of calculating the effectiveness of the alternatives, it was assumed that the State's original set of area closures remained in place, because that was the baseline.

Robinson agreed and added if the State's new closures were more effective than the existing closures, then there might be additional savings in mortality beyond the 17 percent. Was that Polhemus' point?

Polhemus said yes, the State felt it presented reasonable evidence to the effect that the revised set of area closures were properly targeted and will produce at least a 17 percent reduction in mortality of the fishery.

Alternative 3 put on top of that could be additive, and there could be a 34 percent reduction in mortality, which would be clearly more than is mandated at the present time.

He also noted that it would take up to nine months for the State to implement an Administrative Rule to get a seasonal closure in place parallel to that proposed by the federal government, and that by the time that is done the revised area closures will be in place.

And, in terms of Alternative 3, he thought it unlikely that the State would cooperate with Alternative 3 unless there was a proposed phase-out over time contingent upon performance of the area closures for five reasons:

1. The fishing community here in Hawaii is clearly split on this issue. There is a petition from Hana with 79 names that oppose area closures and are in favor of seasonal closures.

When testimony was prepared for House Bill 2881, appended to that testimony was a letter from the Maui Trailer Boat Club representing 60 more Maui fishermen who did not advocate seasonal closures and preferred to remain with the State's area closure system. The fishing community is split as to which they would rather have.

2. The SSC clearly endorsed the State system of area closures and also advocated utilizing Alternative 3 only as an interim measure. That was not reflected in the resolution.
3. The science supports area closures. Polhemus offered a list of 30 different successful area closures that have been undertaken in various parts of the world, five of which are directly applicable to tropical bottomfish. At the SSC meetings he had asked for any peer-reviewed examples of seasonal closures being effective in a tropical bottom fishery. The answer to that in both cases was no. During the hearings for HB 2881 their constituents indicated they wanted management actions based on science. In all the information they have been able to find and in consultation with the scientists at the University, they have been unable to see that the science supports any alternative other than the area closures.
4. Internal analysis indicates that additional closures in federal waters are not needed because reasonable evidence has been presented that Alternative 2a, would be sufficient to meet the federal targets. The additional layering, as one person put it in the public comment period, in terms of federal actions, would overburden our fishermen. It would over-manage this fishery and would overly impact the local market for Hawaiian bottomfish, which is already over 50 percent comprised of imported fish.
5. A letter was received the Office of Hawaiian Affairs, the state body that is officially tasked with representing the interests of the Native Hawaiian people in this state.

Polhemus read the first paragraph and the concluding three paragraphs:

“The Office of Hawaiian Affairs offers the following comments opposing proposed seasonal closures for bottomfish areas in the Main Hawaiian Islands, any commercial fishing in the proposed Northwestern Hawaiian Island Sanctuary and the Western Pacific Regional Fishery Management Council's cultural misappropriation of Hawaiian ethics and knowledge to try to give validity to these proposals.”

The final two paragraphs said:

“One cannot stitch a quilt of the many patches of ahupua'a stewardship and lay it over the Main Hawaiian Islands and Northwestern Islands inclusive of deepsea fisheries. To do so is a misuse of Hawaiian knowledge, terminology, heritage and ethics. It is irresponsible management masked with a Hawaiian name steeped in respect and responsibility and kuleana.

Therefore, OHA opposes the misappropriation of the Hawaiian language and culture, seasonal closures for an overfished fishery that cannot recover with seasonal closures and any commercial fishing in the Northwestern Hawaiian Islands.

As OHA has testified regularly at state and federal levels, the Northwestern Islands and surrounding waters must be preserved in their entirety with ecological integrity.”

OHA did not support Alternative 3.

Ebisui said that he supported Alternative 3, it was well reasoned, clean, designed to achieve the 15 percent goal that was imposed by the Secretary, more enforceable, and more equitable.

The Council is obligated to do something by Magnuson, obligated to do something not nine months from now, not a year from now, not two years from now, but by May 27th.

McCoy called for the question.

Simonds noted that it had to be a roll call vote.

McCoy called for a roll call vote:

Ayes: Martin, Ebisui, Duerr, Tulafono, Haleck, McCoy, Duenas, Harris, Dela Cruz, Sablan, Robinson

Nays: Polhemus, Gaffney

Motion passed with eleven yes and two no.

Ebisui read motion two:

“Recognizing the importance of State and Federal cooperation the Council recommends a working group be established composed of staff from the Council, State and Federal agencies to develop a comprehensive research monitoring and enforcement program to evaluate the effectiveness of the State's existing and proposed bottomfish restricted fishing areas.”

Ebisui moved to adopt the motion, Duenas seconded.

Having no discussion McCoy called for the vote.

Motion passed.

(Break taken)

McCoy concluded the Council business for the day and said they would resume the following day at 8:30.

He asked that everyone be present for the Fishers Forum that evening. The subject would be Mandatory Vessel Identification Systems for Vessels over 65 feet.

The meeting was adjourned at 2:25 p.m.

McCoy called to order the 131st Western Pacific Fisheries Management Council Meeting on Thursday, March 16, 2006. He welcomed Commander Mark Young, who replaced Commander Wilson of the Coast Guard.

McCoy called on Martin to assume the chair with Item 10, Pelagic and International Fisheries.

## **10. PELAGIC/INTERNATIONAL FISHERIES**

Martin called on Dalzell to provide the report on item 10.A.1.

### **10.A.1 WCPFC Second Meeting Resolutions**

Dalzell said he was going to focus on the top three resolutions, bigeye, yellowfin and the two albacore.

He referred the group to the Standing Committee Report for the detailed presentation.

The resolutions deal with fish species, turtles, and seabirds. They cover reporting and minimizing the impacts of fishing on the same. For sea turtles there was additional language about the use of circle hooks.

#### **10.A.1.1 Bigeye and Yellowfin Conservation**

The first resolution covered overfishing of bigeye and yellowfin. Dalzell showed a graphic with the Pacific divided between two regional fishery management organizations, IATTC, established in the 1950's, and the Western and Central Pacific Fisheries Commission, started 2004.

Both of these regional fishery management organizations (RFMOs) have implemented quotas for longline fleets fishing. In the Eastern Pacific, for IATTC, the quota for the Hawaii longline fleet is 150 metric tons. That quota will stay in place until re-evaluation at the IATTC meeting in June. The quota for the Hawaii Fishery will remain in place until 2008.

In the Western and Central Pacific Fisheries Commission there are Commission members (who are signed up to the Convention), and cooperating nonmembers, which includes the United States. The U.S. Senate has ratified the Convention. However, the President and Congress have not signed off on the implementing legislation. Once signed, the articles will be deposited in New Zealand, and participating territories.

The convention includes not exceeding the average annual bigeye catch for the years 2001 to 2004 or the average for the year 2004. This 2004 provision only applies to China and United States.

In 2001 the fishery was under a range of different management measures including: a two-week full closure of the fishery and the reduced catch of bigeye. The Commission understood this but went with 2004. China argued that their fishery was still ramping up in 2001.

The convention does not apply to those CCMs that caught less than 2,000 tons in 2004. For each CCM that caught less than 2,000 tons in 2004, the CCM will not exceed 2,000 tons for the next three years.

The participating territories of the Northern Mariana Islands, Guam and American Samoa have a limit on their catches of 2,000 metric tons. At this time, only American Samoa has a significant bigeye catch of about 250 metric tons, so the limit is a long way to being achieved. However, the convention continues to say that any future reduction in catch levels will take into account increases in the levels by each CCM in recent years.

The convention is concerned about fish mortality on both bigeye and yellowfin. Most of the problems have come from the increased use of purse seine fishing, particularly around fish aggregating devices. The catch is not only skipjack, but juvenile bigeye and yellowfin tuna. As a consequence, it is believed the Maximum Sustainable Yield (MSY) of 100,000 metric tons is being exceeded. An extra 100,000 tons is being taken in the Eastern and Western Pacific with FAD-associated skipjack catches made by purse seiners.

Dalzell showed a graphic with the impact of longline and purse seine fishing on both bigeye and yellow fin:

- Longline does not cause as significant an impact on bigeye, but adds to the mortality.
- For yellowfin and bigeye most of the fishing mortality comes from purse seine.
- Reducing the purse seine fishing on yellowfin should be sufficient to restore the stock.
- Measures on longline and purse seine are needed to bring back the bigeye.

There are no catch limits set for the purse seine fishery, only effort limits. Longliners will have catch limits.

Commission members are to take necessary measures to ensure that purse seine effort levels do not exceed either 2004 levels or the average of 2001 to 2004 in waters under national jurisdiction beginning this year.

The resolution applies to the area bound by 20 Degrees North and 20 Degrees South, where most of the purse seine fishing effort is.

The political groupings and blocks of the Convention include:

- The Pacific Island nations, who are members of the South Pacific Forum and have their own fishery management agency, the Forum Fisheries Agency.
- The Pacific Warmpool, where all the skipjack is found.
- Palau, New Guinea, Solomons, Naru, Tuvalu, Kiribati, Marshalls, form “the Parties to the Naru Agreement”. They have agreed to develop a vessel day scheme which will limit the amount of days that vessels fish in their EEZs by the 1st of December 2007.
- Other non-PNA member countries, including the other Pacific Islands in the Central South Pacific, have implemented similar measures to limit the purse seine effort in waters under their jurisdiction to no more than 2004 or the average for 2001 to 2004.
- The Northern Committee in coordination with a science forum in the National Scientific Committee for Tunas and Tuna-like Species in the North Pacific is monitoring the status of albacore and making reports at each annual meeting.

The Commission will work towards having a system of temporary purse seine closures comparable to those in the Eastern Pacific developed by IATTC. Vessels may elect to stop fishing in one of two periods.

The Western Pacific will have two two-month slots or something comparable where vessels will elect not to fish.

There are no limits being set on FAD-associated fishing at present. FAD technology can be deployed on the water without a mooring tether and allowed to drift. Skipjack and other fish aggregate underneath them including a substantial volume of juvenile bigeye, yellowfin and a range of other bigeye species. Radio transponders and fish-finding devices attached to these FADs allow fishermen to enhance their fishing power.

Commission members have been asked to devise a management plan for the use of FADs, anchored or drifting, to reduce catches of juvenile bigeye and yellowfin.

Council efforts in bigeye and yellowfin conservation include:

- A working group comprised of Council staff, PIRO -International Sustainable Fisheries Divisions, NMFS Science Center, Hawaii and American Samoa longline industries, and the Department of State has been formed.

- Three meetings to address issues including:
  - o The borrowing of quota from American Samoa, Guam or NMI if the Hawaii fishery looks set to reach its quota in a given year. However, this may set a precedent with other Pacific Island Nations and Distant Water Fishing Nations that may have the opposite effect of the conservation measures and, in fact, possibly increase the catch of bigeye. Countries with a virtual allocation of 2,000 metric tons represent an additional 50,000 metric tons;
  - o Managing the quota on a three year basis, versus annually;
  - o Changing the fishing year from calendar to seasonal (April to March);
  - o Issuing quotas on an individual basis (Individual Take Quotas or ITQs) to ensure market supply during times when the quota ceiling is hit prior to periods when market demand is the greatest, e.g. during the holidays when the demand for bigeye is the greatest. Some compelling arguments for this come from the West Central Pacific Commission. Should the Magnuson Act be reauthorized, councils would be required to set Total Allowable Catches (TACs). Those TACs could be divided up amongst different fisheries and their participants. ITQs would be a natural vehicle for this; and
  - o Engaging a contractor to explore the potential for ITQs and other management tools.

SSC recommendations with respect to this resolution include:

- Since the WCPFC measures did not adequately respond to scientific advice that overfishing of bigeye and yellowfin tuna is currently occurring. The SSC urges future U.S. delegations to the WCPFC to promote conservation and management measures that eliminate overfishing consistent with scientific advice.
- A 20 percent reduction in both longline and purse seine fishing mortality on bigeye and yellowfin.
- An endorsement of the Council's initiatives to engage a consultant to analyze alternative management measures for Council-regulated longline fisheries.
- While the stock for the northern albacore is in good shape, stock assessments indicate it is being fished at unsustainable levels. It is recommended that there be no catch limits and no increase to fishing efforts in the Convention area north of the equator and that member countries catching or targeting northern albacore do annual or six-month reporting of their catches.
- Because albacore stretches right into the North Pacific albacore and may be a single stock that goes right across the Pacific, it is recommended work continue with IATTC

to harmonize any management measures.

#### **10.A.1.2 Northern and Southern Albacore**

Stock assessments indicate that South Pacific albacore has been fished at about one-twentieth of the level necessary to generate MSY. According to the American Samoa longline fishery quarterly report, no one is catching any in American Samoa or across the Central South Pacific for the past two years. Fishermen are asking where this fish is. The reason for this paradox may include:

- The portion of the stock that is vulnerable to longline fishing has been reduced somewhat by fishing. The remaining fish are all juveniles and are not yet available to the longline fishery.
- The impact of oceanographic features on the abundance of albacore that influence the availability and catchability of albacore.

While there may be some transferred effort from the North to South Pacific, the resolution indicates that Commission members shall not increase the number of their fishing vessels actively fishing for South Pacific albacore in the Convention Area south of 200 Degrees South above current 2005 levels or recent historical 2001 to 2004 levels. It calls for the members to ensure the long term sustainability and economic viability of the resource and to collaborate on research. The Council is planning to hold a workshop in September for the countries for whom albacore is an important resource.

Initially the SSC recommended that American Samoa and Samoa get together since they were catching one third of the entire albacore catch in the South Pacific. This expanded to include the countries surrounding the American Samoa EEZ. At the South Pacific Tuna Treaty meeting, the countries included those from Papua New Guinea across to French Polynesia since all were catching substantial volumes of albacore.

The meeting in September will look at research being conducted by the Pacific Islands Fisheries Science Center and the SPC. The meeting will also look at the various fisheries in the region, their different characteristics, domestic management regimes, and how these may be put together, possibly a South Pacific collaborative management agreement.

Martin asked if there were questions for Dalzell.

Gaffney asked if Kiribati's agreement meant that purse seiners operating under the Kiribati Government's rights to fish were now within the Convention.

Dalzell responded that he believed that vessels fishing in the Kiribati EEZ would be subject to any vessel day scheme being implemented. Fishing on the high seas would come under other Commission provisions.

Harris asked Mr. Gibbons-Fly what the timeline was for depositing the ratification in New

Zealand.

Gibbons-Fly responded that every effort was being made to make the U. S. a member by the Council's December meeting. Much depended on how quickly the White House signed off and the passing of the Magnuson Act.

He agreed with Dalzell that the EU vessels operating in Kiribati would be operating under the Convention.

He noted a distinction between the Convention and the vessel day scheme Dalzell described. The vessel day scheme would not be adopted under the Convention, but by a subset of countries, the Parties to the Naru Agreement. Adoption is expected to come at the FFA annual meeting in May.

The Commission will then have a framework of capacity or effort limitation in an area where there has been a great deal of uncertainty. Then the Commission can look at the effectiveness of any measures implemented with respect to hitting the targets for reducing overfishing on bigeye and/or yellowfin tuna, and decide what additional measures might be appropriate to implement Commission-wide.

Martin noted that based on documents from WCPFC, the day scheme would be implemented by December 1, 2007. Purse seiners would operate for another year and a half under the current scheme without the day scheme being implemented.

Gibbons-Fly continued that FADs were an area of growing concern, particularly with respect to catches of bigeye. In both the Eastern and Western Pacific there have been significant increases in the use of FADs and catches of bigeye, juvenile bigeye and yellowfin tuna around FADs.

There needs to be some collective thinking about the U.S. policy on FADs. He noted that the use of FADs in the Eastern Pacific is different due to it being an alternative fishing method to fishing on dolphins. The United States has been a strong proponent for minimizing fishing effort on dolphins. It might appear that the U. S. policy encourages fishing on FADs.

There needs to be a United States position on the use of FADs in tuna fisheries in the Pacific Ocean. This will include the Council, NOAA in the Pacific and Long Beach to make sure the policy will work, is effective in addressing conservation concerns, and is consistent in the areas in which it is applied.

Gibbons-Fly commended the Council for convening the meeting with South Pacific Island parties to discuss the Southern Albacore Resolution. He encouraged organizers to include those U.S. fishers impacted by the Commission measures but not subject to the Council jurisdiction, in particular the Western Fish Boat Owners Association and other similar organizations that participate in the Southern Albacore troll fishery.

He also asked that this meeting explore the different gear types of the albacore fishery. There is a question as to whether the troll or surface fishery and the longline fishery have the same impact

and need to be subject to these kinds of regulations or whether it is the albacore. He hoped this question would be explored at the September meeting and other deliberations.

Gaffney commented that FADs are a critical component to recreational sport and subsistence fishing primarily in the Hawaiian island areas represented by the Council and are even more critical given the increased cost of fuel.

Duenas noted that the FADs used in Hawaii and Guam were tethered. His concern was FADs that were not tethered, and/or not recovered that would cause marine debris and damage the ocean resources.

Gibbons-Fly replied that the State Department was concerned about FADs both floating and anchored. Floating FADs have been proliferating in large numbers. While there are a limited number of anchored FADs around the Hawaiian Island, in some areas covered by this Convention, there are huge numbers of anchored FADs, especially in Indonesia and Papua New Guinea.

To address the issue of catches of small fish, the policy will have to be consistent for both floating and anchored FADs. Gibbons-Fly referred to a slide Dalzell had showed at a previous meeting of the relative levels of catches of the different species of tuna in different areas' waters. The catches were described by the size of the circles. All of the huge circles were all in the far western part of the Convention area, much of it caught on anchored FADs. Much thought would need to go into the policy.

Polhemus asked how these limitations would be imposed in places like Papua New Guinea or Indonesia, where local control was tenuous at best.

Gibbons-Fly noted that in some areas government policies had driven the use of these anchored FADs, and even convincing governments around the table to restrict the use of those FADs, in particular in their waters where they are very adamant about their exercise of sovereignty, was going to be a very big question.

Martin asked someone from the delegation to WCPFC to speak to the possibility of a vessel registry being developed, what types of vessels will be included, and who was responsible for this. The vessel registry in the Eastern Pacific has been up and is being improved.

Robinson noted that the Commission was moving forward with the vessel registry. It would include all vessels authorized to fish within the Convention area, e.g. purse seine, longline and albacore troll vessels, for the most part.

At the Technical and Compliance meeting in December, the Commission meeting made some progress in establishing standards for the vessel registrations. The vessel registry needs to deal with the issue of capacity, it is high priority.

Martin pointed out that in recommendations from the Standing Committee, consideration be made for all gear types. There are other fisheries within U.S. jurisdiction, like the Indonesian

and Philippine fisheries where there are gear types other than longline or purse seine that would need to be accounted for.

Martin asked Robinson to speak to the definition of overfishing on yellowfin identified in item 10.12 of the documents received.

Robinson explained that based upon the stock assessments done by the SPC and reviewed by the Pacific Islands Fishery Science Center, it has been determined that the current fishing mortality for yellowfin tuna in the Western and Central Pacific Ocean exceeds the fishing mortality level that would be necessary to achieve MSY.

According to standards in the Magnuson Act, overfishing is occurring in the Western and Central Pacific Ocean on yellowfin tuna. Under the Magnuson Act the councils are required within one year to submit an FMP, FMP amendment, or proposed regulations to address the overfishing issue.

Robinson noted that the vast majority, or 95percent plus, of the harvest is done by other nations in the Western and Central Pacific Ocean, in particular, in the areas off of Indonesia, Philippines, and west. Even the vast majority of the U.S. harvest occurs by the U.S. purse seine fleet fishing under arrangements in the EEZ of other countries or on the high seas.

He noted that the item spoke to the importance of the Council participating as a member of the United States Delegation to the Western and Central Pacific Fisheries Commission where this issue of overfishing on yellowfin must be addressed. The Council must fully participate as a member in the delegation and help the delegation develop negotiating positions to address this issue internationally. The Council should additionally satisfy the Magnuson Act by addressing the issue in its Fishery Management Plan, not necessarily in a way that ends overfishing, because the Council does not have the ability to take domestic action to end the overfishing.

Polhemus added that the in Hawaii Marine Recreational Fishing Survey Program (HMRFS), a lot of yellowfin is caught recreationally in Hawaii. Informally and unofficially, it appears that the recreational catch in Hawaii is double the commercial catch. So that should be borne in mind for assessing the numbers for Hawaii.

Robinson noted that one of the responsibilities in participating in an international commission is the reporting of each nation's catch. Particular attention should be paid to implementing reporting requirements to meet this responsibility.

Polhemus asked that the HMRFS program improve the flow of data back to the states in relation to what the state provide.

Ebisui asked Robinson if the West Coast was looking to this Council's amendment 14 as a possible solution to their bigeye overfishing issue.

Robinson answered that he thought this Council's amendment spoke to the Council's involvement with the Western and Central Pacific Fisheries Commission. How it structures itself

to participate as a member of the delegation, applied equally to the Pacific Council, and could serve the Pacific Council very well in the same manner.

Martin called on Skillman to provide the international report.

### **10.A.2 NMFS International Division Activities Report**

Skilman noted the following scientific meetings would be occurring:

- The International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean would hold a meeting next week.
- The Marlin and Swordfish Working Groups would meet and follow up on an intersessional meeting they held in Japan a couple of months ago. They will be working toward finishing a stock assessment on striped marlin and also initiating a process for a new assessment on swordfish.
- The first meeting of the Bycatch Working Group of the ISC will also be held. Reports will be made from the Pacific Bluefin Working Group, who held their first meeting a couple months ago and took a stab at doing an assessment of the bluefin in the North Pacific. They will be addressing some issues for continuing that effort and then improving the stock assessment.
- Stock assessment people would be meeting in New Caledonia to do the assessments. Keith Bigelow and Pierre Kleiber would be attending. The assessments that the group will be concentrating on will be a bigeye tuna full assessment, and a yellowfin tuna full assessment. Attempts will be made to improve the assessment of South Pacific albacore and swordfish. They will also look at skipjack tuna.
- Later this summer in August, the Scientific Committee of the WCPFC would be meeting in Manila.

#### **10.A.2.a Purse Seine Report**

Skilman reiterated that in the Western Central Pacific, the greatest impact on yellowfin tuna is the surface fisheries: purse seine fleet, the fleets in the Philippines and Indonesia, the Philippines with a large number of municipal fisheries with anchored FADs, as well as the FAD fisheries in PNG and Solomon Islands. For bigeye tuna in the Western Central Pacific, the greatest impact on the resource is the longline fishery.

In the Eastern Pacific, the impact of the purse seine fishery is much more significant than in the Western and Central Pacific.

Having no questions, Martin asked Graham to continue with the international report.

#### **10.A.2.b Other International Activities**

Graham stated that at the Western and Central Pacific Commission meeting shark conservation, in particular, shark finning and South Pacific swordfish came up but were deferred to the next meeting. The Commission, specifically its Technical and Compliance Committee, has also been trying to put into place some monitoring, control and surveillance tools to use in compliance for its conservation management measures. A vessel monitoring system, high seas boarding and inspection scheme are among the tools being considered by the Commission.

Graham reported on the following meetings:

- The 18<sup>th</sup> Annual Formal Consultation of the Parties to the South Pacific Tuna Treaty was hosted by the U. S. for the first time. The treaty provides the terms for access for the U.S. purse seine fleet to waters of 16 Pacific Island countries. All parties agreed that the treaty was working well and there was no need for major changes. There has been a decline in the U.S. purse seine fleet operating under the treaty.
- The first international meeting on the establishment of the South Pacific Regional Fisheries Management Organization was held in Wellington, New Zealand. The U.S. sent a four-person delegation, including people from NOAA and Department of State. Initially led by New Zealand, Australia and Chile, this organization would be devoted to non-highly migratory species. This meeting made some headway on identifying the priority species including the orange roughy, jack mackerel, some pelagic squids, alfoncin, and pelagics armorhead, among others. Intersessional work will be done to develop species profiles. The group has also recognized a need to review its northern boundaries since some of the species, i.e. pelagic armorhead and afonsin extend beyond that boundary. The next meeting will be in November in Australia.
- The Western and Central Pacific Fisheries Commission will be meeting in December in Samoa. Subsidiary bodies meeting before that include: the Scientific Committee meeting in August, the Northern Committee in Tokyo in September and the Technical and Compliance meeting in November.

Martin commented that the Council appreciated the efforts of the International Division and that international agreements were important in working with the Pacific.

Gibbons-Fly noted that South Pacific Tuna Treaty meeting was hosted for the first time by the U. S. and Graham and his staff are commended for the work they did in organizing it.

Gibbons-Fly added that one of the highest priorities of the Commission is to make sure adopted measures are fully implemented by all parties around the table so no one puts their fishermen at a competitive advantage.

Martin called on Dalzell to report on item 10.B.

## **10.B Hawaii Shortline/Handline Fishery Report**

Dalzell explained that the offshore fishery has been an issue for the Council for a number of years. Not much is known about the fishery aside from innovations in gear such as FADs, the use of Private Fish Aggregating Devices, and the use of short, less than one nautical mile length longlines. There is now some catch data.

Dalzell introduced Ed Glazier of the PFRP project, who has been looking at aspects of the offshore fishery in Hawaii.

Glazier explained that he works for a small social science firm based in Honolulu and is a sociologist. He was going to share the social dynamics of the small-boat fishery that has a relatively small level of production of bigeye tuna and ahi, but is very important to many local people.

There has been an apparent decline in the ika shibi fishery, which has a long history in Hawaii. It is thought that people may have shifted over to PFAD fishing.

He presented some slides about the Cross Seamount fishery that included:

- Their method, which includes historical analysis with help from HDAR data experts and fishermen.
- A graph of the relationship between expert fishermen and some islands with nodes of people who are highly knowledgeable of the fisheries.
- Handline fishing in Hawaii an ancient activity. Early on, it involved the use of fiber, drop stones, ancient pelagic hooks and the use of chum. Some of these methods are still being used.
- There was a period of decline when the social systems involved in developing fishing lures and line were seriously disrupted by European contact.
- Effects of the plantation colony predominated with Japanese immigrants fishing commercially quite early on.
- Tuna canneries and auctions were extremely important and societies of Japanese fishermen worked closely with the auction houses in Honolulu and in Hilo.
- The roots of the ika shibi style fishing were in Okinawa. Some methods resembled those used by Hawaiians.
- Suisan was started in 1907 on the Big Island, and that was an important aspect of fish processing and distribution.
- Fishing ika shibi style is a night fishery with squid or opelu used for bait.
- A parachute that is used to slow the vessel and lights to attract the fish.

- Bigeye is important primarily in the winter season.
- The fishery proliferated in the 1970s; both winter and the summer were important seasons.
- Market participation was competitive in the early 1980s, about the time the State developed the FAD system.
- Production clearly peaked in the early 1980s with some spikes into the 1990s and a serious decline by 2003.
- Burn has been a problem for the tuna throughout.
- There has been a significant decline in catch and effort in recent years.
- Historic photos from Hilo in the late 1970s.
- Resident patterns showed fishery focused around Hilo, especially Pohoiki with some activity on the Kona side. By 2004, activity had shifted over to the Kona side.
- The same pattern is reflected in landings and number of trips taken.
- Today, there's very relatively little fishing from Pohoiki, and all around.
- By last year about a half a million pounds were landed, some of it by productive highliners.
- DAR believes the decline in the mid '80s was related to biological and economic factors, marketing issues, and tuna burn, which continue to be problems in the fishery:
  - o Their suspicion that people moved over to PFAD fishing doesn't seem to be true. Instead they think a lot of the old-time ika shibi guys have aged, the kids are coming into the fishery and people are fishing in a different way.
  - o The closure of the Suisan Auction impacted the fleet with a change in business relationships and seems to be one reason why a lot of people got out of this particular fishery.
  - o Market flooding and pricing problems could be a factor in some cases.
  - o The operational cost of running these vessels in this fishery is pushing some people out.
- A graph depicting the decreasing level of participation in small-boat fisheries in Hawaii for the last ten years. Landings do not hold a discernible pattern.
- FADs have a mixed review among fishermen. Some of the old-timers feel like these

- have shifted patterns of migration, in particular, the patterns of behavior around koas have been altered by implementation of FADs.
- PFADs may have had an earlier history than thought but it has not been established. FADs had become a big issue by the mid '90s on the Hilo side of the Big Island.
  - Some FADs were eventually sunk to avoid interaction with vessels at the surface. GPS readings have been taken and most these FADs were pretty far offshore.
  - FADs require capital outlay, up to \$10,000 for a PFAD.
  - FADs are commonly deployed off Hilo and Puna, with 20 to 25 boats fishing PFADs regularly.
  - The use of chum to get the fish up from the depths, then different methods are used including palu ahi, pole and line.
  - Bigeye and other fish are taken, with an increase in the bigeye take over the last few years.
  - There is a social component to fishing PFADs with groups getting together to invest and fish. There is also secrecy about the old ways of fishing and some cliques have developed around the use of these.
  - Regulatory issues. Better reporting is needed. There has been some misreporting and some reporting problems.
  - It is a lucrative fishery with some sensitivity. Those who are well established and making money would like to be grandfathered if limited entry becomes an option.
  - The Cross Seamount fishery
    - o Was developed in parallel with ika shibi in the 70s, but for a smaller fleet.
    - o It peaked around 1996 with 20 boats with less activity in recent years.
    - o A variety of techniques are used, palu ahi included.
    - o Knowledge of the seamounts and the weather buoys and currents around those areas is critical.
    - o Bigeye landed at these areas were relatively small.
    - o There have been periodic conflicts with the longline fleet out there.
    - o The seamounts and buoys aggregate the target fish.
    - o Some fishermen have developed some new gear types which seem to be fairly effective. They seem to be useful given the nature of the bathymetry around seamounts.
    - o David Itano wrote an article on short longline gear, which is less than a mile long with multiple rigs that can be set at one time at a deeper depth than usual.
    - o Local bait reduces expenses.

- Larger pieces are taken at depth and the fish die on line, which makes them more valuable at market.
- Weather buoys have somewhat less activity, but is an important fishery. Buoy 1 doesn't seem to be fished.
- The participants in the short longline fishery see some logic in limited entry. Gear is highly effective and if everyone shifted over to this gear, it would be damaging.
- The participants are entrepreneurial and willing to explore and at least talk about real potential for producing other species, armorhead, wahoo, and alfonsin.

Gaffney noted that as a Big Island resident, the ice problem was not addressed in this report.

Glazier noted that this was a sensitive subject and they had not done sustained, focused research on it.

Martin asked about the numbers, pieces and weights of bigeye and yellowfin.

Glazier said that the graphic showed pounds and that he would have a more detailed report for the Council at the end of April.

Martin called on Dalzell to report on item 10.C

### **10.C American Samoa and Hawaii Longline 2005 Fishery Reports**

Dalzell said this was the third quarter of the American Samoa longline fishery.

There are differences between the longline fisheries of Hawaii and American Samoa. The American Samoa fishery entered a period of very rapid expansion at the turn of the millennium with the volume of fish caught in 2002 equal to the Hawaii fishery. However, since that peak, there has been a steady decline.

The paradox of an optimistic stock assessment and no one catching fish was the case in the American Samoa fishery up until the end of last year.

Dalzell showed a number of slides depicting:

- The number of hooks set in the third quarter of 2005 is at a record low when compared to the early years of the fishery in the late 1990s.
- The total catch of all species were extremely low in the third quarter. Albacore forms between 65 to 85 percent of the catches in this fishery.
- The catch rates are seasonal with the highest catch rates usually in the first and second quarter.

- The CPUEs have declined precipitously in the past. In 1999, for example, the fishery entered a period when the catch rates were very low when most of the vessels in the fishery were alia catamarans. This is a major difference between this fishery and Hawaii. In Hawaii there is a significant artisanal component of the longline fishery, setting and deploying longlines by hand. The boats then rerig to go trolling and handline fishing for bottomfish.
- After 2000 larger alia, larger conventional longline boats and larger conventional monohulls entered the longline fishery in Hawaii and moving down to the American Samoa fishery.
- After 2001 and 2002, declines in CPUEs were not the lowest over that period, but very low compared to the catch rates of the peaks.
- The CPUE of other species in the fishery, specifically billfish and sharks (largely blue sharks), shows a generally increasing trend of large vessels fishing further offshore.
- The billfish catch was initially very high in the fishery, but with two alia fishing there was a slight decline.
- The fishery has moved offshore targeting albacore.
- The CPUE of wahoo and mahimahi shows the mahimahi trend is completely opposite to what is happening in Hawaii. There is a very strong, regular period in the catch rate with peaks in the trend that are almost like clockwork, but with a general decline.
- Wahoo is more variable, with strong seasonality and a slightly upward trend.

Duerr asked if the water temperature was tracked for the different periods to see how it affects the catch.

Dalzell replied that the sea surface temperature has been studied by the Science Center including the satellite imagery of the isotherms, the temperatures of the waters around American Samoa. There is a seasonal trend in water temperature around the islands, which is related to the abundance of certain fish. You tend to see the skipjack when the water is warmer, versus the peaks in bigeye when the water is cooler.

Dalzell asked if Duerr was thinking of long-term trends, whether the water is getting warmer with global warming.

Duerr explained that he noticed that while fishing traveling three or four miles may show a change in water temperature and then the fishing. During the billfish tournament, satellite pictures showing the water temperature are used and could account for catching more wahoo than mahimahi.

Dalzell noted that those seasonal trends are seen in Hawaii and even in equatorial islands like

Guam.

Tulafono said that in American Samoa, small vessels are used that don't have sophisticated equipment to track temperatures.

Tulafono felt that the decline in American Samoa's longline fleet was due to the fuel cost and having to go further out to fish. Currently there is only one alia fishing compared with the 20 that fished two years ago.

There are a few big boats owned by local fishermen and he hoped there would be additional opportunities to secure bigger vessels to fish further out and perhaps in other EEZs.

Polhemus added that global sea surface temperature data would be available from both U. S. and European governments for research on global climate change. However, what happens at the surface may not reflect what is happening not far below depending on the currents. So interpretations should be taken with a grain of salt.

Martin asked if Dalzell's information related to catch was based on landings or based on the EEZ logbook report since a significant portion of the American Samoa fleets lands fish in other EEZs.

Dalzell replied that the information was based on the logbook reports from fishing in the EEZ.

Martin said there was a report of a U.S. vessel that went out targeting swordfish and was quite successful. The fish were landed in American Samoa then exported to the Continental U.S. indicating there may be an emerging swordfish fishery in American Samoa.

Martin called on Ito to present the longline report for Hawaii.

Ito explained that he was from the Pacific Island Fisheries Science Center and would present the longline logbook report for the fourth quarter and year 2005. This is the 15<sup>th</sup> year that the logbook program has been maintained.

Ito shared slides that included:

- The number of vessels in the fishery, which hasn't changed much over time except for a decrease from the earliest year in '91. Last year there were 124 vessels, down one vessel from the previous year. The number has been increasing since 2002 because of the migration of the vessels that were located in California to Hawaii. Those vessels have targeted swordfish.
- In 2004 there were five vessels that targeted swordfish versus 30 in 2005.
- The number of vessels by quarter reflects how the fleet operates. The values are in the third quarter with highs in the fourth and first quarter when bigeye season begins and overlaps with swordfish in the first quarter of the year.

- There was a dramatic decline in 2001 due to the regulations from the interactions with sea turtles. There has been an overall increase since then.
- Although the swordfish fishery has reopened and is increasing, it is still predominantly a tuna-targeted fishery.
- There were about 1,500 trips last year, 1,400 targeted tuna and about 100 trips targeted swordfish.
- Looking at the number of trips by quarter showed high activity in the tuna segment during the latter part of the year. Swordfishing has the highest activity in the first and second quarter.
- Last year there was a record 35 million hooks, with an increasing trend. The predominant area of operation is outside on the high seas, 17 million hooks. This is followed by the Main Hawaiian Islands with 15 million hooks and two million hooks in the Northwestern Hawaiian Islands.
- Although there is an area closure around the Main Hawaiian Islands that is bordered by the 200 EEZ, there is still a significant area of operation for the fishery.
- The seasonality of the fishery as it contracts during the latter part of the shows bigeye moves close to the Main Hawaiian Island EEZ. When the seas are a little smoother in the second and third quarter there is a lot of swordfish activity offshore.
- The effort last year showed
  - o 130 bigeye caught versus 140 the previous year, half of it caught in the high seas, 40 percent in the Main Hawaiian Islands EEZ.
  - o 20,000 yellowfin, a slight increase. About 50 percent was caught in the Main Hawaiian Islands EEZ and 40percent on the high seas.
  - o 17,000 Albacore with about half caught on the high seas and one-third in the Main Hawaiian Islands EEZ, trending down from its peak in 1997.
  - o Last year, bigeye catches were depressed in the fourth quarter, at about 27,000 fish.
  - o Bigeye CPUE shows a lot of variation in the early part of the time series and depressed from 2000 and thereafter. Part of the reason was that the fishermen that were targeting swordfish converted to tuna and were not as successful as the experienced fleet.
  - o The catch rate was slightly higher in the fourth quarter in the EEZ of the Main Hawaiian Islands and the Northwestern Hawaiian Islands EEZ and substantially

lower than the long-term average of 6.1 in the fourth quarter.

- Billfish tuna catches in 2005 included
  - 24,000 swordfish, up from 5,000 observed last year.
  - 16,000 Striped marlin
  - 4,000 blue marlin
- The predominant area of capture of swordfish is outside the EEZ; the Main Hawaiian Islands has striped marlin and on the high seas, blue marlin.
- Although opened in the second quarter of 2004, it was pretty much past the prime of the season, so swordfish catches did not increase in 2004.
- The catches of swordfish increased in the first and second quarter. The time series reflects the highest catches during those quarters with extreme lows in the third and fourth quarter.
- Catch rate of swordfish by swordfish trips achieved a record high of 15.5 fish in the fourth quarter of last year and the first quarter of this year during the peak of the season. The fleet had to readjust their fishing operations by using different hooks and bait, but managed to achieve catch rates comparable to the earlier part of the fishery under the old terms. Catch rates dropped in the third and fourth quarter to about ten fish per thousand hooks.
- Shark catches by the Hawaii longline fishery, predominantly blue sharks, hit a peak in 1994 and dropped to a low in 2001. A lot of this due to swordfish targeting. There were 66,000 fish caught last year.
- Catch for other sharks showed a total of 3,500, with 3,000 makos.
- Blue shark catch shown by quarter did not have a seasonal pattern and the catches were low due to the closure of the swordfish fishery.
- Under the new fishery, blue shark CPUE does not have as much variation or high catch rates as in the swordfish fishery. It may be gear-related and something to investigate.
- Catch of miscellaneous species:
  - Mahimahi at a record high, about 78,000 fish last year;
  - Pomfrets down from its record high in the previous year;
  - Wahoo catches have gradually increased to about 16,000 fish;
  - 15,000 moonfish;
  - Mahimahi catch by quarter shows a lot of variation and little seasonality;
  - Pomfret catches by quarter showed higher catches in the second quarter and

11,000 fish in the fourth quarter of last year.

- The longline logbook report for the fourth quarter, showed 117 vessels, two more from the previous year.
  - There were 453 trips, about the same as the previous year, with slightly more sets of 4,860.
  - The 9.7 million hooks, a fourth quarter record high, and about half a million more than the previous year.
  - The dominant components of the catch were 37,000 bigeye tuna, 30,000 mahimahi, 24,000 blue sharks, pomfrets and 2,000 swordfish.
  
- For the year 2005:
  - 124 vessels, one less than the previous year.
  - Higher trip activity, 152 more trips than observed last year, 2,000 more sets, and a record high of 35 million hooks, about three million hooks more than the previous year.
  - Dominant components of the catch, 130,000 bigeye, 78,000 mahimahi, 66,000 blue sharks, and 47 pomfrets.
  - Swordfish catches at 24,000 was up from 19,000 the previous year.

Detting asked where the yellowfin numbers were and how they had changed over the years.

Ito responded that the yellowfin is the *second* dominant component of the catch at 24,900, slightly more than swordfish, but *not one of the top four* components of the catch. In the earlier years it had a one to one ratio with bigeye, now it is four or five bigeye to one yellowfin.

(A ten minute break was taken)

Martin called on Beals from the Advisory Panel to present item 10.D.

#### **10.D Advisory Panel Recommendation.**

Beal presented the Pelagic Advisory Panel Recommendations:

1. For small boat fisheries, the Advisory Panel recommended that the Council request that the National Marine Fisheries Service or other institution conduct more research into the dynamics of small-boat fisheries in Hawaii.
2. With regard to fish aggregating devices, FADs, the Advisory Panel recommended that the Council seek professional assistance for the CNMI in developing FAD designs best suited to surviving sea conditions in the typhoon-prone climate of this archipelago.
3. With regard to area closures, the Advisory Panel continues to requested that the Council

make some provision for small troll and handline boats around the American Samoa Island of Tutuila, such as a three-mile horizontal and vertical longline closures around FADs deployed around Tutuila or a six-mile longline closure to horizontal and vertical longline fishing.

4. The Advisory Panel recommended that the Council begin the process of developing longline closed areas for the CNMI in anticipation that longline fishing is likely to expand within the U.S. EEZ around the Mariana Archipelago.
5. The Advisory Panel requested the Council promulgate regulations to restrict longline fishing from a three-mile radius around the FADs in CNMI.
6. With regard to sharks, the Advisory Panel recommended the Council investigate shark interactions and shark population demographics in the Marianas, Guam and CNMI.

McCoy asked what the dynamics were for recommendation 1, were there liabilities, and which small boat fisheries, commercial or recreational.

Beals responded that in Hawaii recreational fishermen are also sometimes commercial fishermen and the group seems to enjoy that status. The advisory panel was recommending research into the dynamics or interactions between longline fishermen, commercial fisheries and residential or recreational fishermen. While there could be the prohibition of people from certain areas, there were some issues that needed to be explored including interactions among some of the fishermen and commercial boats going around the State FADs.

Gaffney asked if the recommendation went further than just the dynamics of the fishery, but into the conflict in the small boat fishery.

Dalzell explained that very little was known about the small boat fisheries due to the volume of participants, as compared to the longline fishery where participants are small and volumes large. Hawaii has the highest per capita level of recreationally caught fish over other U. S. states and the fourth biggest recreational catch.

Motivation of the fishery, factors that influence catches and the impact of fuel costs are unknowns for the small boat fishery. As a regulatory agency, the impacts of regulations on the various fisheries should be understood.

Duerr agreed with the panel, the Council would never get their arms around the fish issue unless all the catch was understood, including the recreational fishermen. There was a lot of fish caught by recreational fishermen that went uncounted and fish sold to restaurants and hotels by noncommercial fishermen. There needed to be a mechanism to count this.

Martin called on Severance to present item 10.E.

## **10.E SSC Recommendations**

Severance reported that the SSC heard the following reports:

- The report on the resolution, both binding and nonbinding from the December meeting at the Western and Central Pacific Fisheries Commission;
- The new bigeye quota;
- The staff's proposal to engage consultants on transferable quotas;
- Glazier's report on the small boat fishery;
- The longline reports;
- A report on the shallow-set certificate program.

The SSC has the following recommendations:

1. The SSC believes that the WCPFC measures did not adequately respond to scientific advice that overfishing of bigeye and yellowfin tuna is currently occurring. The SSC, therefore, urges future U.S. Delegations to the WCPFC to promote conservation and management measures that eliminate overfishing consistent with scientific advice.
2. The SSC endorses the Council staff initiative to engage a consultant to analyze alternative management measures for Council-regulated longline fisheries.
3. The SSC notes with interest an ongoing study of the Hawaii offshore pelagic handline fishery and looks forward to reviewing the final report.
4. The SSC reiterated its concern about the continued increase in fishing effort in the Hawaii limited entry longline fishery as expressed by the total number of hooks deployed annually. In future reports, the SSC would like to see fishing effort in total hooks split between swordfish and tuna segments of the fishery. The SSC also encourages an examination of catch per unit of effort, CPUE, and trends of species such as mahimahi and monchong as indicators of ecosystem effects on fishing.
5. The SSC would like to commend Russell Ito for the quality and diligence of his presentations to the SSC over the past 15 years.
6. The SSC heard with interest a presentation on the economic implications of the Hawaii shallow-set swordfish longline fishery regulations, particularly the subject of the swordfish shallow-set certificate market. The SSC looks forward to hearing further reports on developments in the certificate market.

Gibbons-Fly noted that there was an amendment proposed by Martin that was not reflected in the first recommendation. Gibbons-Fly preferred language relating to the U. S. Delegation rather

than NOAA Fisheries and the Department of State. Other than that he felt Martin's amendment was a good modification and had expected to see up on the screen.

Dalzell directed Gibbons-Fly to the Standing Committee Report, where the language was included.

Martin turned the Chair to Duenas, who was the Chair of the Standing Committee.

## **10.F Standing Committee Recommendations**

Duenas reported that the Standing Committee met on Monday at 10:10 am and discussed the issues presented.

The SSC recommendations were received, however, the Advisory Panel was still in deliberation, so their recommendations were not received until today. He offered the Committee the following SSC recommendations with some modifications regarding the rewording as mentioned by Gibbons-Fly.

Duenas noted that there were some public comments and an additional recommendation from the Standing Committee regarding the emergency closure of swordfish longline industry that was addressed by the Council on the first day of session.

Duenas moved to accept the Standing Committee recommendations, with the modification as stated by the Committee on the U.S. Delegation.

Martin seconded the motion.

Dalzell read the recommendations as amended:

1. The Council directs Council staff to prepare documentation for consideration by the Council at their June meeting regarding options for a permanent change to the rules to expeditiously close the Hawaii swordfish fishery when either of the turtle hard caps is reached. Note: this recommendation came up in the discussion on the emergency closure if the maximum of 17 loggerheads was met. There was a sense that something more permanent be in place by amending the FMP.
2. The Council believes that the WCPFC measures did not adequately respond to the scientific advice of overfishing of bigeye tuna and yellowfin tuna was occurring. Consequently, the Council recommends that the U.S. Delegation to WCPFC continue to advance a position to include conservation measures for all gear types that may affect bigeye and yellowfin tuna stocks within the WCPFC area. Note: Dalzell had combined the SSC and the Standing Committee recommendations.
3. The Council endorses the Tuna Conservation Working Group recommendation to engage a consultant to analyze alternative management measures for Council-regulated longline fisheries.

4. The Council notes with interest an ongoing study of the Hawaii offshore pelagic handline fishery and looks forward to reviewing the final report.
5. The Council reiterated its concern about the continued increase in fishing effort in the Hawaii limited entry longline fishery as expressed by the total number of hooks deployed annually. In future reports, the Council would like to see fishing effort in total hooks split between swordfish and tuna segments of the fishery.
6. The Council encourages an examination of catch per unit of effort trends of species such as mahimahi and monchong as indicators of ecosystem effects of fishing.
7. The Council would also like to commend Russell Ito for the quality and diligence of his presentations to the SSC over the past 15 years.
8. The Council notes the presentation at the 91st SSC on the economic implications of the Hawaii shallow-set swordfish fishery longline fishery regulations and swordfish shallow-set certificate market. The Council looks forward to hearing further reports on developments in the certificate market.
9. The Council recommended that NMFS revise its swordfish longline fishery closure procedures to provide for an immediate closure through a direct notice to the fishermen from the Regional Administrator. Note: this was dealt with earlier in the Council plenary session.
10. The Council requests that the National Marine Fisheries Service or other institution conduct more research into the dynamics of small-boat fisheries in Hawaii. Note: "other institution" was added to allow for the University, PFRP or an independent contractor to do the research.
11. The Council requests the Council staff to seek professional assistance for the CNMI Government in developing FAD designs best suited to surviving the sea condition in the typhoon-prone climate of this archipelago.
12. The Council requests that some provision be made for small troll and handline boats around the American Samoa Island of Tutuila. This could take the form of a three-mile horizontal and vertical longline closure around FADs deployed around Tutuila or a six-mile longline closure to horizontal and vertical longline fishing.
13. The Council directs staff begin the process of developing longline closed areas for the CNMI in anticipation that longline fishing is likely to expand within the U.S. EEZ around the Mariana Archipelago. Such closed areas may include restriction of longline fishing within a three-mile radius around FADs in CNMI. Note: Dalzell combined two recommendations from the Advisory Panel.

Polhemus recommended that the final word in recommendation one be “closely approached” rather than “reached”. If the cap is reached a new Section 7 would be needed.

Martin was not sure what “closely approached” meant. With a hard cap it could be 15, so would the fishery close at 15 and were they starting to tamper with the number.

Polhemus explained this is just what the Council did. The hard cap had not been reached and because these interactions tend to come in clusters, it is better to close rather than hit the cap.

Martin said it was his understanding that they had talked about providing a mechanism to immediately close the fishery when the limit was reached.

Polhemus asked Robinson to clarify.

Robinson said that it was the Council's prerogative to recommend whether they want the fishery closed prior to reaching the hard cap upon either of the species or when the hard cap is reached.

Polhemus posed the situation that the fishery is closed when the hard cap is reached and before that closure can be fully implemented the cap is exceeded, what were the consequences of that.

Robinson responded that the most immediate would be that the National Marine Fisheries Service would be required to re-initiate a consultation on a biological opinion under which the fishery operates.

Polhemus added, and the fishery would remain closed during that time.

Robinson responded that the fishery would be closed for the remainder of the year and the resulting consultation would take 135 days or less according to the standard guidelines.

Polhemus reiterated that this was the point he was trying to make and it would be the Council’s decision.

## **10.G Public Hearing**

McCoy called for public comment. He asked presenters to please step up to the microphone, identify themselves and the organization they represented.

Peter Fifian of the International Game Fish Association, one of the original members of the Council and one of the original recreational members of all councils was the first to present.

(Verbatim)

“I've only been here a short time. It's probably too quick to make a decision, but I'm thinking to myself in reading the paper this morning the Council has matured enough to be able to work with the longliners and shut the switch after literally hours and years, and so forth, of trying to figure out how to do it. Well, they did it. They closed it. I said, good, they've got the commercial side

taken care of.

But the other side of this Council -- and there are two even sides of this Council by the law -- is recreational. We've not spent much time on recreational.

I stood here and told Mr. Hogarth and others that I thought there has been a very poor search of recreational information.

I think today when you have a couple of new Council members who have a very interested foot in recreational fishing that it's time to change, put some effort. I see no effort anywhere in here that would suggest a way of getting a handle on the recreational fisheries in any of these areas.

I think that's long overdue, Mr. Chairman, and I would certainly suggest that some underlying push be done.

The Council has funds at these times. They have backup people. I'm impressed by all of the reports I've heard today.

But it seems to me that we are doing -- the other day I heard someone refer to another person, who was a commercial fisherman, as the industry. That's one of the industries. There are two.

I think we need to, overall, if you will, begin to think about how we get our hands around the recreational side, which is a very important, big, expensive, funny money involved industry.

I thank you for your time, Mr. Chairman.”

McCoy asked for further public comment, having none he called on Robinson.

#### **10.H Council Discussion and Action**

Robinson distinguished the differences in using “closely approached” and “reached”; closely approached to him meant prior to reaching. Whereas, when you reach, you achieve the hard cap.

Ebisui stated that there was a lot of discussion when the Council had established the hard cap; it is an absolute drop dead number. He had asked Martin earlier if he thought the Hawaii Longline Association would consider voluntarily ceasing fishing prior to the hard cap being reached.

Gaffney suggested the wording on Item 1 remove the word "expeditiously" and change it to "immediately" as more appropriate. This request would make permanent the opportunity to do this again in the future.

Robinson noted that as the implementer of the action, he would a more specific number.

Martin agreed with Robinson and suggested that the recommendation be returned to “approach”.

Polhemus withdrew his suggestion.

Martin commented that reaching the hard cap does not require closure, only exceeding. He said that using “immediate” instead of “expeditious” was fine. His concern was that the fishery be closed as close to the incident as possible.

Ebisui noted that a “take” with respect to regulations did not necessarily translate to fatality or mortality. A take is an interaction.

Polhemus explained that his point was not to push the cap back down, but that interactions came in clusters since turtles travel in pods and they did not want to revisit Section 7.

Duenas remarked that the recommendation was just for documentation to be prepared by the staff for the Council to review and not the way it was going to be moving forward.

(Five minute break taken)

Duenas moved that recommendation one be accepted by the Council as read by Dalzell:

**“The Council directed Council staff to prepare an options document reviewing existing and possible mechanisms for closing the Hawaii swordfish fishery when operating under turtle hard caps.”**

Martin seconded the motion.

Having no discussion McCoy called for the question.

Motion Passed.

**Dalzell read number 2: the Council believes that the WCPFC measures did not adequately respond to scientific advice that overfishing of bigeye and yellowfin tuna is currently occurring. Consequently, the Council recommends that the U.S. Delegation to WCPFC continue to advance a position to include conservation measures for all gear types that may affect bigeye and yellowfin tuna stocks within the WCPFC area.**

Duenas moved, Sablan seconded.

Polhemus proposed a change to reflect the concern of the SSC: “to continue to advance a position to end overfishing, including conservation measures for all gear types.”

Duenas and Sablan had no objection.

Robinson noted that according to the scientific report, it would take a substantial reduction in capacity in catch and effort to end overfishing on yellowfin tuna. What is likely to be achievable would fall short of that. Was Polhemus recommending that the U.S. go in with a position to do it all in one piece or was it a goal, recognizing that within the context of the dynamics of international negotiations, we may not get there all at once.

Polhemus understood that it would take some time. But he felt the position to take was to see an end to overfishing.

Polhemus moved that the amendment be approved, Gaffney seconded the motion.

Motion passed.

**Dalzell read number 3: the Council endorses the Tuna Conservation Working Group recommendation to engage a consultant to analyze alternative management measures for Council-regulated longline fisheries.**

Duenas moved and Tulafono seconded the motion.

Martin asked that the Council consider changing the word “longline” to “pelagic” in the recommendation. He felt the consultant should not be confined to addressing only longline.

Duenas called for a point of order, the previous vote was only on the amendment and not on the main motion. He moved that the main motion as amended be accepted. Sablan seconded.

Motion passed.

Gaffney agreed with Martin’s change and suggested another word be added to read “pelagic tuna fishery” since the recommendation was about the Tuna Conservation Working Group. He asked if the Tuna Conservation Working Group was looking at all Pelagic Fisheries or just at tuna fisheries.

Dalzell explained that the group was formed to deal with fallout from the WCPFC, specifically the tuna resolution. However, he foresaw that Commission would come up with additional regulations that would require review. He felt that since pelagic was the biggest fishery, it would be a good idea to keep it broad.

Gaffney withdrew his suggestion.

McCoy called for discussion on the amendment, having none, he called for the question.

Motion passed.

McCoy had a motion to accept recommendation 3. Sablan seconded the motion.

Having no discussion, McCoy called the question, motion passed.

**Dalzell read recommendation 4: the Council notes with interest an ongoing study of the Hawaii offshore pelagic handline fishery and looks forward to reviewing the final report.**

Duenas moved to accept the motion, Dela Cruz seconded.

Duenas suggested that the final report be done by the end of June. Dela Cruz seconded the amendment.

Sablan noted that for Duenas' amendment to be legal, he had to withdraw his motion and start all over again.

Duenas withdrew his motion and offered the new motion.

McCoy asked for discussion, hearing none, he called the question.

Motion passed.

**Dalzell read recommendation 5: the Council reiterated its concern about the continued increase in fishing effort in the Hawaii limited entry longline fishery as expressed by the total number of hooks deployed annually.**

In future reports, the Council would like to see fishing effort in total hooks split between swordfish and tuna segments of the fishery.

Duenas moved to accept the recommendation, Sablan seconded.

Harris amended the motion to read "the Council would want to see".

Severance noted that the SSC recommendation referred to analysis. Grammatically, that could imply action rather than scientific analysis, the grammar needed to be changed.

McCoy asked for further discussion, having none, he called the question.

The motion to amend passed.

Polhemus moved to adopt recommendation 5, Haleck seconded.

Hearing no discussion, the question was called.

Motion passed.

**Dalzell read recommendation 6: the Council encourages an examination of catch per unit of effort, CPUE, trends of species, such as mahimahi and monchong, as indicators of ecosystem effects of fishing.**

Polhemus moved to adopt recommendation 6, Duenas seconded.

Gaffney suggested that the species be broadened to include all species.

Dalzell clarified that the recommendation came about because of trends in mahi mahi and

monchong, particularly in the Hawaii fishery. The SSC felt that ecosystem modeling theory would suggest that particular species such as mahi benefit from intensive tuna fisheries and that the analysis would not be limited simply to mahi and monchong, they were simply named as examples of the type of species to look at. As Gaffney noted there are other species like marlin, wahoo and incidental catch.

Polhemus noted that the motion as originally written was not exclusive, monchong and mahi were examples of indicators, but it was not restricted to those two species.

Gaffney suggest that the word “indicator” be moved before species to read, “trends of indicator species such as mahimahi and monchong.”

McCoy hearing no further discussion called for the question on the amendment.

Motion passed.

The motion to adopt recommendation 5 was moved and seconded.

Hearing no discussion, the question was called.

Motion passed.

**Dalzell read recommendation 7: the Council would also like to commend Russell Ito for the quality and diligence of his presentations to the Council over the past 15 years.**

Dela Cruz moved, Harris seconded.

Motion passed.

**Dalzell read recommendation 8: the Council notes the presentation at the 91st SSC on the economic implications of the Hawaii shallow-set swordfish longline fishery regulations and swordfish shallow-set certificate market. The Council looks forward to hearing further reports on developments in the certificate market.**

Polhemus moved to adopt the motion, Duenas seconded.

Hearing no discussion, the question was called.

Motion passed.

**Dalzell noted that recommendation 9 was dealt with on Tuesday.**

**He read recommendation 10: the Council requests that National Marine Fisheries Service or other institution conduct more research into the dynamics of small-boat fisheries in Hawaii.**

Duenas moved to adopt the recommendation, Sablan seconded.

Gaffney asked that the recommendation be expanded to read: “the Council requests that National Marine Fisheries Service and/or other institution conduct more research into the dynamics of charter sport fishing, recreational and subsistence fisheries of Hawaii.”

Polhemus moved to amend.

Duerr noted that there was testimony by the public that shark feeding was a problem, certain types of chum was a problem. He wanted to see some language to include all noncommercial fishing boats including but not limited to recreational and subsistence fishing craft.

Duenas called for a point of order. Duerr was offering an amendment to an amendment, and a second was needed on the first amendment.

Ebisui seconded the first amendment.

Dalzell reminded the Council members that they have dealt with this issue of shark feeding in the past and he believed it was still an active recommendation that was made two years ago.

Ebisui felt it would be helpful to include it in this recommendation.

Duerr repeated the revised recommendation.

Ebisui asked Duerr where the tour operations would fit in the amended recommendation since they were commercial and did not fish.

Duerr amended the recommendation to read, “include but not limited to noncommercial charter boats, sport fishing, recreational, subsistence fishery.”

DeRoma offered that they would be coming out with a written opinion shortly; the preliminary opinion of this activity does not constitute fishing under the Magnuson Act. So how it can be looked at, if it were incidental to another fishery that the Council has the authority to examine, that was one way it could be brought in.

Ebisui noted that he disagreed with the General Counsel, it depended on how liberal the Act was interpreted.

Duerr agreed with Ebisui. If the business was interacting with the fish, then it should be included in fishery management.

Harris asked if traditional or artisinal fishing occurred on small boats in Hawaii.

Dalzell responded affirmatively.

Harris said that supported the additional language.

Duenas called for a point of order. Shark viewing would be discussed in Ecosystems and Habitat.

Gaffney asked if Duerr would be willing to withdraw the concern about shark feeding because it was unique to the list.

Duerr withdrew his suggestion.

Gaffney said that he intended subsistence to include artisinal and ask that sustenance be substituted for subsistence.

McCoy called for the question on the amendment.

Motion passed.

Polhemus moved to adopt recommendation 10 as amended.

Motion passed.

**Dalzell read recommendation 11: the Council requests that the Council staff seek professional assistance for the CNMI Government in developing FAD designs best suited to surviving the sea conditions in the typhoon-prone climate of this archipelago.**

Sablan moved to adopt the recommendation. Harris seconded.

Hearing no discussion, McCoy called the question.

Motion passed.

**Dalzell read recommendation 12: the Council requests that some provision be made for a small troll and handline boats around American Samoa Island of Tutuila. This could take the form of a three-mile horizontal and vertical longline closure around FADs deployed around Tutuila or a six-mile longline closure around Tutuila to horizontal and vertical longline fishing.**

Haleck moved to accept the motion, Duenas seconded.

Tulafono said that because all of their FADs were in territorial waters, the wording should be, “the Council requests the American Samoa Government Department of Marine and Wildlife Resources, some provisions be made for small troll, . . .”

Duenas moved to amend the recommendation, Ebisui seconded the motion.

There was some discussion about the wording.

Duenas suggested that “to protect small handline and troll fishery” and continue with “regulating the longline fishery around FADs within the territorial waters.”

Tulafono moved to adopt the amendment, Haleck seconded.

Dela Cruz wondered if the DMWR was necessary to include investigating provisions for or for DMWR to regulate the longline fishery.

Duenas felt “investigate” would leave it open for DMWR to do what they feel is appropriate in their area.

McCoy called for the question.

Motion passed.

**Dalzell read recommendation 13: the Council directs staff to begin the process of developing longline closed areas for the CNMI in anticipation that longline fishing is likely to expand within the U.S. EEZ around the Mariana Archipelago. Such closed areas may include restriction of longline fishing within a three-mile radius around FADs in CNMI.**

Sablan moved to accept the recommendation, Dela Cruz seconded.

Harris corrected a typo on the screen

McCoy called for the question hearing no more discussion.

Motion passed.

(Lunch recess taken)

McCoy reconvened the 131<sup>st</sup> Western Pacific Region Fishery Council Meeting. He noted the change in agenda; the meeting would continue with Item 11.

## **11. PROTECTED SPECIES ISSUES**

### **11.B.1 NMFS – Pacific Islands Fishery Science Center**

Pooley responded to questions at the SSC and the Council about how data is collected by the observer program. There are three domestic observer programs run by the regional office: the Hawaii domestic longline, American Samoa domestic longline and the Northwestern Hawaiian Islands bottomfish. The Northwestern Hawaiian Islands lobster observer program was originally run by the Honolulu Laboratory, but once it became part of regulation, it was run by the Regional Office and is currently inactive.

Due to ESA Section 7 Consultation’s requirement to estimate incidental take of protected species, the observer programs were established. Observer data permeates the entire Science

Center. It provides information on life history parameters to estimates of bycatch. Most of the information is used for management purposes.

The Science Center does not field the program or fund it, but has invested heavily in the program as a scientific asset. Observers are trained on species identification and other sample collection methodologies to meet needs. They work with PIRO on the ongoing utility of basic information and often have lively debates on the data. They recently formed a Joint PIRO/PIFSC Data Management Committee to address issues.

They have created the basic data management system for the longline observer data. If funded, they will create the same system for American Samoa.

Marti McCracken is the Science Center representative to the National Bycatch Committee and Workshop and to the National Observer Advisory Team, where all observer programs are represented.

Data collection results in information like the movement of turtles, where observers have put satellite transponders on logs and mitigation experiments to evaluate the impact of light sticks and the efficacy of circle hooks.

Observer coverage varies by fishery, for the swordfish it is 100 percent - one observer on every boat. For turtles, they use various approaches to randomize and maximize the information.

Pooley showed an example of the observer data system and the range of information collected by observers by hand. The observer loads the information into a data system when they return to PIRO, which links to the Science Center Data System.

Observers collect data from basic events, like catch for every fish, down to photos and images to help with species identification. He showed a copy of the catch log where everything coming up is recorded. Similar forms exist for setting of gear, seabird interaction and other activities.

The Pelagics Fisheries Research Program has funded a series of projects to look at the quality of logbook data and observer data, cross-tabulating them, making corrections on species identification and determining how to handle discards of bycatch.

Based on that work, they have been used to provide more precise estimates of the landings, primarily of the nontarget species.

The Science Center has done

- extrapolations on how to estimate the annual takes of sea turtles and seabirds, including albatross;
- Studies on the migration and ecology of sea turtles. Jeff Polovina has been the lead in our Center in looking at the movement of loggerhead turtles across the North Pacific and getting a sense of the oceanographic features which tend to co-locate the

swordfish and loggerhead turtles;

- Developing basic life history parameter to determine the age of various species, particularly swordfish;
- Parallel research will be done with American Samoa longline fishery data and the Hawaii bottomfish data as that begins to get transformed into a way that it can be used by the staff and Center.
- Socioeconomic profiles and impact assessments, and ecosystem models using observer data.

Sablan asked if Pooley planned to use observer programs on the additional CNMI longline vessels.

Pooley responded that the observer programs are fielded by the Regional Office on the basis of protected species interactions. It really depends on how the fishery matures. In the Hawaii longline fishery, observers were fielded before any protected species issues. Only 10 to 15 trips were done to get a sense of what was going on. That would be a good thing to do in any developing fishery, but the issue was funding.

McCoy called on Robinson to report on item 2.

### **11.B.2 NMFS Pacific Islands Regional Office, Protected Species Report**

Robinson noted that he had gone over the PIRO report for the Council on Tuesday and all of the Protected Resources activities. The only additional information he had was they had not heard anything yet on the loggerheads.

McCoy called on Kinan to provide the Turtle Conservation Program Update.

### **11.A Turtle Conservation Program Update**

Kinan mentioned that between 2001 and 2004, the swordfish component of the fishery was closed due to interactions with sea turtles. They realized that traditional fishery mitigation measures and fishery actions in the pelagic environment were not enough to recover turtle populations.

In November 2003 three leatherback turtle conservation projects were begun. Two loggerhead conservation projects were begun in the summer of 2004.

Her presentation would be on the projects through year 2. They have three results of the programs:

1. There is a greater understanding of the issues associated with leatherback and North Pacific loggerhead sea turtle conservation:

- a. Socioeconomic, being those things associated with harvested eggs for school fees;
  - b. Incidental bycatch with small-scale coastal fisheries;
  - c. Nutritional, meaning there are very intense levels of harvest still ongoing in many areas; and
  - d. Environmental, associated with erosion and predation.
2. Projects are strategically positioned to react quickly to issues and local events, such as:
- a. Unusual mortality events;
  - b. Education and outreach necessities, they can motivate very quickly to start a workshop or get communities involved;
  - c. Project management directives, more associated with her work and understanding of who the players are and how projects are outlined, so things can be adjusted for the impact; and
  - d. Environmental impacts associated with projects, relocating nests when necessary and placing grids over heavily predated areas.

Kinan showed an example of reaction to an unusual mortality. Data in 2003 led to the realization that there are great impacts to loggerheads in Baja California. In 2003, 400 loggerheads were stranded on the beach. In 2004, their project started and strandings dropped, in 2005 the numbers were steady until a gillnet fishermen they were working with closed down their fishery. All of a sudden there was a spike in strandings.

They discovered an experimental bottom-set shark fishery that was catching between four to eight turtles per set. They were able to talk with the fishermen and stop that activity right away and the strandings decreased. Had the project not been there, the strandings would have continued to increase as the fishers had no idea that catching turtles was a problem.

3. In the limited areas of the Pacific, where their projects occur, nests are being conserved and hatchling production has been bolstered.
- a. In PNG, their project expanded from one nesting site to four communities that encompassed 20 kilometers of nesting beach protection in the high-density areas in Papua New Guinea.
  - b. Projects have begun the implementation of local strategies at coastal foraging habitats to reduce mortality. In the Kei Islands in Indonesia, boredom was the reason why people go out and hunt leatherback. In December when the community is dealing with Christmas and the holidays, the harvest goes down. Soccer festivals were organized during high boredom weeks to reduce harvesting.
  - c. In Baja, they worked with fisherman, did fishery research, redesigned experiments and tried different strategies for gillnet fishing. Nothing was working well. Satellite tagging, foraging studies, aerial surveys and education and outreach started to build capacity to implement an 18 fathom mark closure.

Fishermen told them that they caught more turtles within eighteen fathoms and more fish in five to eighteen fathoms. Data confirmed this and created a win-win for everyone.

- d. For nesting beach conservation, Warmon Beach, Year 2, over 2,000 nests laid. There were still serious erosion and predation problems with just over 1100 nests conserved and allowed to hatch. In the first year there were 2,800 nests, 800 lost to predation, so there are still serious problems in Indonesia. In Year 3 work will focus on finding solutions with Peter Dutton and others in Indonesia.
- e. Year 2 in Kamiali there is a two-kilometer nesting plot the community is monitoring very intensively where 61 females nested with 197 nests laid in the entire eight-kilometer nesting beach. In 2005, 2006, the project was expanded to 20 kilometers, including four communities. Data received from the sites today show turtles nesting in all of these areas in good numbers, which is very promising.
- f. In Japan there are five of 30 nesting sites that they monitor. About 470 nests were relocated due to management interventions, with approximately 28,000 hatchlings released, about 20 percent of all hatchlings that were produced at these beaches.
- g. Yakushima Island represents 30 percent of all nesting that occurs in Japan. The data shows a little more interactions with turtles, but more turtles nesting.
- h. In Latin America there is a joint project with WWF, IATTC, NMFS and others. The Latin American Circle Hook Exchange Program is promising, working well and getting good results.
- i. There is a tri-national agreement for leatherback conservation between Indonesia, Papua New Guinea and the Solomon Islands, which is gaining momentum. Just last month they had their second meeting. In June they'll have their third meeting where they will sign this agreement.
- j. The Council will be convening a Longline Fishery Panel at the upcoming Symposium in Greece. The panel members will discuss and provide input to entire sea turtle community.
- k. 2006 is the Year of the Turtle. And to raise awareness and capacity for turtle conservation, SPREP and IOSEA have developed a joint initiative to launch in their respective 25 and 10 member countries. The Council will be there to launch its database. The Council will also be supporting a Readers Series, which will be a compilation of turtle stories of school-aged children throughout the Pacific.

Kinan shared a last slide with an estimate of the number of turtles that were not interacted due to the implementation of management measures. In 2005 it totaled 1,600 loggerheads and 400

leatherbacks.

Duenas asked if Kinan had any nesting results like sex ratios, male/female hatchlings.

Kinan responded that the only way to determine the sex was to dissect them. However in PNG there are light and dark sand beaches where the temperatures provide more females on dark sand and more male on light sand. In Hawaii, the ratio is closer to 50/50 given the recapture and stranding rates.

Duenas asked what the mortality was for interaction of turtles with the longline industry.

Kinan replied that in 2002 four loggerheads were captured from both the shallow-set and deep-set fleet. Fleet numbers were not divided until 2004 when there was interaction with one loggerhead. In 2005 there were 15 interactions, all in the shallow-set and all released alive.

Dela Cruz asked if there was any work done by Kinan's group in the CNMI with turtle populations. The last time it was reported that CNMI had only 200 turtles and he didn't believe that was right.

Kinan responded that based on Kolinski's work some 2,000 in-water turtles reside in CNMI. The Regional office works with CNMI, American Samoa, Guam and the territories to support turtle conservation. She did not have any project in the territory areas.

McCoy called on Severance to report on item 11.C.

### **11.C SSC Recommendations.**

Severance reported that the SSC was briefed by Pooley on the observer program. Robinson reported that available funding was not adequate to maintain the mandated 100 percent coverage in the shallow-set fishery and the mandated 20 percent coverage in the regular tuna fishery. The American Samoa observer program is gearing up, but not yet started.

The SSC Recommendations was:

1. The SSC recognizes the scientific value of the data collected by the PIRO observer program in conjunction with support from the Pacific Islands Fisheries Science Center for data management and analysis. To meet this critical need the SSC recommends that the program be provided with adequate funding to meet its obligations.

McCoy asked if there were Standing Committee recommendations.

### **11.D Standing Committee Recommendations**

Martin replied that the Standing Committee did not meet and there was no report.

### **11.E Public Comments**

Hearing no comments, McCoy moved on to Council discussion.

### **11.F Council Discussion and Action**

McCoy stated that for protected species the Advisory Panel has requested an update on the status of the Native Observer Program.

Duenas moved to accept the Advisory Panel request. Sablan seconded.

Hearing no discussion McCoy called for the question.

Motion passed.

(Five minute break taken)

McCoy called the 131<sup>st</sup> Council meeting back to order. He asked Sablan to report on item 12.

### **12.0 ECOSYSTEM AND HABITAT**

Sablan called on Makaiau to report on item 12.A.

#### **12.A NWHI Sanctuary Fishing Regulations**

Makaiau presented a timeline of the development of the Northwestern Hawaiian Islands fishing regulations.

- In 2001, Executive Orders 13178 and 13196 established the Reserve. The orders included:
  - o Conservation principles using a precautionary approach and the use of the best available science.
  - o Reserve Preservation Areas that are closed only to fishing.
  - o Mechanisms to establish caps on fishing and also landing limits based on specific time periods for certain fisheries.
- The Executive Orders did not result in regulations. In procedures under federal law, the Administrative Procedures Act, this is not one of those regulatory regimes that must specifically comply with, they are guidelines to use.
- In September 2004, the Sanctuary Program provided advice recommendations and called for providing goals and objectives:
  - o Specific to fishing, the primary objective was to maintain ecosystem integrity.
  - o In order to comply with the goals, controls or limits fishing using an ecosystem-based management approach are required.

- Some of the objectives are to minimize socioeconomic impacts to those user groups currently utilizing the area.
  - Bottomfish and pelagic fishing is allowed except within sensitive areas.
  - NOAA suggested regulations on models to achieve the goals and objectives, again not law.
- The Council in accordance with the Sanctuary Act Section 304(a) (5) drafted fishing regulations based on the guidance that was provided with the Executive Order and the Magnuson-Stevens Act, another guidance document. The regulations were based on the best available information on the impacts of the fisheries on the ecosystem based on NOAA parameter. Fishing was allowed in some areas and not in others, all consistent with the goals and objectives.
- In October 2005 NOAA rejected the proposed fishing regulations. Some of the reasons they gave included:
    - The proposed moratorium on certain fisheries was not a complete and total ban.
    - For bottomfish, the reason for rejection was there were no closures based on representative habitat.
    - No evidence to support that 17 permits was precautionary.
    - No evidence that the gears posed no harm to the habitat or the ecosystem parameters.
    - For the pelagic recommendation, they rejected that on the basis that no permit catch or catch limits were established to ensure that Pacific-wide stocks are sustained. Also, the large closures for pelagic waters were not included.
- NOAA did give an opportunity for the Council to continue to recommend fishing management measures for the bottomfish and pelagic fisheries under the Magnuson-Stevens Act consistent with the goals and objectives of the proposed Sanctuary.
- In January, the Undersecretary of Commerce sent a letter providing clarification on the opportunity. NOAA is in the process of developing a Sanctuary Draft Environmental Impact Statement, which would include several alternatives to allow fishing. There were three alternatives offered for the Council to provide recommendations:
    - To allow limited fishing either indefinitely;
    - Or until the year 2025; or
    - Allow limited fishing for five years with a ban thereafter.
- The intent of the letter was to inform the Council that NOAA is looking at a range of allowable fishing. And that NOAA was looking for regulations in that area.
- There was a caveat that for one and two, caps on permits and landing levels would be established for commercial bottomfish and pelagic fishing.

- NOAA also indicated that if amendments to the Bottomfish and Pelagic FMPs were submitted by May 1<sup>st</sup>, they would consider implementing them under the Magnuson-Stevens Act instead of promulgating some other regulations of the Sanctuary Act.
- NOAA indicated that "sideboards" were needed for the bottomfish and pelagic fisheries to meet the goals and objectives. Sideboards are an annual limit on the number of permits and aggregate catch based on the Executive Order. Caps and limits are needed to ensure the fishery does not impact ecosystem integrity, supporting the goal of the Sanctuary advice and recommendations document.
- The NOAA proposed sideboards include:
  - o In bottomfish a permit limit of 13 would likely meet that goal.
  - o Bottomfish landing levels of 350,000 pounds could maintain ecosystem integrity.
  - o Nonlongline pelagic permit limits of two would meet the goals and objectives and at the same time also meet the Executive Orders, which laid out calculation parameters.
  - o Landings level of 180,000 pounds, inclusive of both the pelagic landing level from nonlongline fishermen and pelagic species caught by the bottomfish fishery.

The options for the Council include:

1. Take no action:

- continue fishing operations under the current Magnuson-Stevens Act regulations; or
- No action plus the Reserve, which means that the fishery continues under the current regulations, plus the nonregulatory requirements of the Northwestern Hawaiian Islands Reserve.

2. Limited Northwestern Hawaiian Islands Sanctuary fishing based on NOAA's draft alternatives.

Common aspects of the three NOAA scenarios of fishing indefinitely, until 2025 or for five years would:

1. Establish a moratorium on the extraction of crustaceans, precious coral and coral reef species.
2. Maintain the limited entry program for bottomfish, but we would request that NOAA reissue, relinquish or revoke permits that are no longer in use consistent with the caps set for that fishery.
3. Issue the two Mau Zone CDP permits for indigenous use.

4. Remove the minimum landing requirements placed upon the fishermen. Fishermen have been forced to fish to retain their permits; this would eliminate that and help alleviate the stock.
5. Require federal permit and logbook reporting for all fishing in the Northwestern Hawaiian Islands, with the exception of fishing at Midway. Midway has its own Refuge Program for recreational fishing and the proposal going forward would allow them to continue to manage that area.
6. Allow federally-permitted research in all areas.

If NOAA chose to go with fishing indefinitely, the proposal would include:

- Limited commercial bottomfish fishing up to a maximum of 14 permits. The limit on total catch of bottomfish would be 381,500 pounds, 85 percent of the Maximum Sustainable Yield.
- For the pelagic species caught by these bottomfish vessels, would be limited to 91,250 pounds.
- For recreational fishing, the proposal is to issue permits on a case-by-case basis for two years to gauge the interest. The fishery can be monitored and, if appropriate, permits and catches can be capped.
- Limit the number and catch of commercial pelagic fishermen. There are six options to do this.
- Establish Marine Protected Areas, there are two options for that.

If NOAA chose fishing until 2025, all of the above would be the same with the one exception that after 2025 all fishing in the Northwestern Hawaiian Islands would cease.

If NOAA chose the five year scenario, fishing would be allowed to continue as it is today and stop after five years.

The proposed options for Marine Protected Areas that are no take include:

- Proposal A is a box around French Frigate Shoals, an ecosystem parameter view.
  - This area includes an important monk seal breeding colony, a green sea turtle nesting beach habitat, and a number of important coral reef species and habitats.
  - Option A would also include a closure west of 177 Degrees latitude. So there would be no fishing in this zone with the exception of Midway.
  - Midway would continue to operate under its current rules.

- Option B would be to maintain the French Frigate Shoals closure but extend this no-take zone to the 174 longitude, again except for Midway.

The Community Development Program under all three scenarios would provide permits to the indigenous peoples to fish in the Limited Entry Mau Zone bottomfish fishery and require logbook reporting under all conditions.

Logbook reporting across all scenarios.

Bottomfish permits and catch limits were calculated based on the Magnuson principle of optimal yield. Reducing the fishing mortality by 15 percent allows 381,500 pounds. Bottomfish MSY is calculated by the Pacific Islands Fisheries Science Center. The MSY is split between the Mau and Hoomalu zones and is currently calculated at 448,000, 85 percent of that number is the 381,500.

To arrive at the permits, the total of 381,500 was divided by a five year average of the catch per vessel. For example the Mau Zone, 12,243 pounds are landed per vessel. The MSY of 85,000 is divided by that number and yield 6.07 vessels or six permits. This is inclusive of the Community Development Program.

The Hoomalu Zone is the same calculation, 85 percent of MSY divided by the average number of pounds per vessels gives a total of seven vessels that can catch 296,000 pound without exceeding the optimal yield.

For bottomfish pelagic catches, historical data was used. From 1999 to 2003 the average caught by all bottomfish fishing vessels was roughly 91,000 pounds.

Makaiau noted that the materials given to the Council members in their binders were a little different from what was being presented due to the securing of additional information. However, the approach to arrive at the catch limits is the same.

For the number of permits and landings there are six options each.

1. No action
2. Three or less permits and the annual catch would be 50,000 pounds or less. This is based on the five-year average, 1999 to 2003 for the nonlongline permits, not including the bottomfish fishermen who catch pelagic. In those years, three people caught about 50,000 pounds on average.
3. Three or less permits with an annual landing of 70,500 pounds or less. This was calculated using the Executive Order, which specifies one year preceding. The year 2000 catch was used for nonlongline and nonbottomfish and yielded three permits and 70,500 in catch.
4. Fifteen permits with 215,000 pound landing limit. This was calculated by using the

maximum historical nonlongline permits and catch data. Data was selected for nonbottomfish fishermen, small-boat pelagic troll and handline fisherman. In 1987 15 fishermen caught 213,000 pounds in the Northwestern Hawaiian Islands.

5. Seven to ten permits with 219,000, cap landings. This represents a nonlongline average catch of 26,000.
6. 22 permits allowed with an annual landing limit of 386,000. This represents an average nonlongline catch of 26,000 or 7 permits plus the maximum number of nonlongline, nonbottomfish fishermen, which are 15, and associated landings.

There is a challenge in limiting the number of commercial nonlongline fisherman in each of the options. Essentially, this becomes a limited entry program. Figuring out who qualifies for these permits could include

- a weighted point system based on present and historical participation;
- A lottery system; or
- First-come-first-serve basis.

Ebisui noted that at the time of the Executive Order the precious coral fishery was an exploratory fishery for which no permits had been issued. So there was no precious coral harvesting going on. And the lobster fishery was shut down in the year prior to the Executive Order.

There is a perception that this Council is trying to resurrect those fisheries. He wanted to make it clear that this was not the case and never has been the case.

With respect to the interplay between Executive Orders, the Sanctuary Act and the Magnuson-Stevens Act, he pointed out that the Executive Order is specific and it says that the Reserve shall be managed using best available science, applying a precautionary approach, and the Executive Order refers to that section 304(a)(5) of the Sanctuary Act. That section says that the Council will be given first opportunity to regulate or propose regulations for the Sanctuary area.

Robinson clarified for the record that one of the slides that Makaiau put up showed some proposed NOAA sideboards. The process that NOAA goes through to designate the Sanctuary is at a point where NOAA is developing a range of alternatives for the EIS that will go out for public review. Following public review NOAA will make a decision as to which of those alternatives control fishing or nonfishing in the Sanctuary.

In developing those alternatives, particularly for those that contemplated future fishing either indefinitely or for some limited period of time before being phased out, it was determined that there would need to be some restrictions on the fishery, in particular limits or restrictions more restrictive than is currently allowed under the Fishery Management Plan in terms of the number of permits and limits on catch. This would make continued fishing more consistent with the goals and objectives of the Sanctuary should one of those alternatives be chosen.

Those calculations were provided to the Council on an informal basis. They were not proposals

or the specific numbers. The numbers were provided primarily for guidance and discussion with the Council with the intent of having the Council understand what a sideboard is, what the need for limiting the number of permits and the catch was, and to develop a recommendation for NOAA based upon the Magnuson Act rationale, starting with MSY or with some adjustments to MSY.

Robinson wanted to be clear that there was nothing official about those proposed sideboards.

Robinson wanted to emphasize that the purpose of this meeting was not to debate the issue of whether fishing will or will not occur in the future in the Sanctuary, but to look at what the restrictions on the number of permits and catch should be for the purpose of being described in the alternatives to the EIS.

Palawski asked Makaiau how big the circle around Midway was.

Makaiau said that the circle in his graph was not to scale but it would allow the refuge policy to continue around the area.

Makaiau provide input from the round of statewide public meetings held on March 2<sup>nd</sup> through March 10<sup>th</sup> about the Northwestern Hawaiian Islands proposal:

- Comments received by form faxes totaled 70, 34 from Hawaii, 34 for the Continental U.S. and 2 from international sources. The faxes were all the same and called for NOAA to reject the Council's fishing regulations claiming that the proposed regulations were illegal as they violate the Executive Order, Sanctuary goals and objectives and the Fish and Wildlife Service Refuge rules. The faxes also supported extending State of Hawaii Marine Refuge rules to federal waters that ended all fishing in the Northwestern Hawaiian Islands.
- In Hilo, two people read the form fax at the meeting.
- "Let fishermen fish".
- In Kau, the comment was that "these guys travel far in rough waters and they deserve to fish."
- In Kohala, no comments specific to the proposal were received.
- In Kaunakakai, they questioned the scientific reason to further limit, close or cap these fishermen. They also had a strong feeling within the entire group that if fishing was prohibited, then everything should be prohibited, kick everybody out of there.
- In Kapaa, the question was, why there is a need for more fishing restrictions if the science that we have today says that this fishery doesn't impact. But if there was to be caps and limits, they'd rather have the caps and limits than a total closure of the fishery, as some people are advocating.

However, if caps are implemented, they don't want any more entrants to the fishery, because it would exacerbate the problem that there is no ability to grow in the fishery.

- At the Honolulu public meeting last night comments included:
  - o The government has no right to restrict fishing in the Northwestern Hawaiian Islands, it belongs to kanaka maoli and they should have full access.
  - o The proposed limits for bottomfish violate, again, the Executive Orders and the goals and objectives.
  - o Any increase in commercial fishing is illegal.
  - o “Prohibit commercial fishing”.
  - o “Support total protection”.
  - o Four commenters supported continued fishing in the Northwestern Hawaiian Islands under the Magnuson-Stevens Act.

Sablan returned the chair to McCoy to introduce the guest speaker.

### **13.G Report on National Aquaculture**

McCoy introduced Dr. Bruce Anderson, president of the Oceanic Institute and former head of the Department of Health, who would be speaking on the National Aquaculture Policy.

Highlights from Anderson’s presentation include:

- Aquaculture produces about 35 percent of the fish produced in the world today and accounts for virtually all of the growth in the supply of fish. The amount of fish from capture fisheries has been flat for the past 20 years.
  - o Shrimp is the predominant seafood in the U.S. today; aquaculture contributes 45 percent of the world's production. The wild catch has been relatively flat, at least since about 1980. This trend will likely continue.
  - o Most of the growth is in Pacific white shrimp, the same shrimp grown here in Hawaii. The broodstock is being sold to Thailand and China, the biggest producers. They are doing a tremendous job in producing large volumes of specific pathogen-free shrimp.
  - o Diseases were killing the shrimp industry for years, and that's all changed recently.
  - o Seafood continues to increase in demand as a high source of healthy protein and low cholesterol levels.
  - o It is \$28 million-a-year industry and the fastest-growing segment of

diversified aquaculture in the state. It is expected to continue to grow even faster as some of these new companies start developing off-shore cages.

- Hawaii consumes three times as much seafood as the national average. Despite the fact we're an ocean state, 75 percent of our seafood is imported.
- Hawaii has a lot of development and conflicting land use issues, we probably will not see many more ponds or other facilities onshore due to those issues.
- The climate, geography, clean water, native species being present makes Hawaii, and perhaps other places in the Pacific, ideal for offshore aquaculture.
- Hawaii has a rich history of growing fishponds. There are two offshore farms in operation: Cates International has four large biconical cages that are eight feet high, a hundred feet across and anchored in about a hundred feet of water. There is actually some water above the cages where boats can pass and not even know the cage is there. Kona Blue Water in Keahole on the Big Island has four large cages that are submerged and two surface cages. They're growing kahala or kempachi. Both are producing fairly significant volumes of fish and doing well.
- A third company is working through the permit process.

Anderson is a member of a taskforce whose mission is to recommend national standards to ensure that aquaculture in the U.S. didn't pose a significant health threat.

- The chair of the task force is Admiral Pittenger. The people on the task force represent industry, the academic sector and a number of political types. There is an interesting mix of policy-makers and people with some technical expertise.
- It is funded by the Pew Foundation.
- The taskforce has hosted public forums where they have gathered information from fishermen and others. There are contracted studies on specific issues and visitations to a number of sites including Woodshole, Anchorage, Seattle, Florida and Honolulu.
- The contracted studies will be published and a final report will come from the taskforce this summer.
- The issues that have surfaced during their meetings include:
  - Pollution. For aquaculture, many of the cages in offshore aquaculture or nearshore aquaculture were in areas where water circulation is poor and water quality is a major issue. Waste from fish and excess feed all contribute to a nitrification problem. Most of those problem cages have been removed.

- For offshore aquaculture, the current washes away all that comes out of the cages, Environmental monitoring can not even find a signature of the cages 100 feet downstream.
- There are two main factors jeopardizing marine biosecurity, biodiversity:
  - Escapes have been a major concern associated with the salmon industry as they may cause harm to native species or mix with those species and potentially impact on the ecosystems that those animals live. In Hawaii wild broodstock is used to minimize genetic shifts.
  - The second is diseases and parasites. Shrimp are extraordinarily vulnerable to diseases. The Sea Tec facility went under because of a problem with white spot virus.
- Wildlife interactions are a concern with whales and other marine mammals being obstructed by the cages or getting entangled in the supporting structures. These cages are anchored with cables. The concern was that a whale might get stuck in the cable or harmed otherwise. So far no harm to whales has been reported from the Kona farm.
- Cages do attract other species, sharks, for example. They serve as FADs.
- The interaction here in Hawaii has been benign. However, in Puerto Rico, they've actually had some problems with the cages where the sharks have gone and ripped the cages open to get at dead fish at the bottom of the cage. Here in Hawaii the cages are well maintained. They remove any dead fish right away. We have not had the same problem as in Puerto Rico.
- Feeds and associated issues are also a concern. Fish meal and fish oil make up most of the diet for carnivorous marine animals. Fish meal is made from small pelagic fish which are found in large concentrations around the world. Most of these, what they call reduction fisheries, are fully exploited or over-exploited. There has been a lot of discussion among our task force about management measures that could assure sustainability. We're looking at designating sustainable fisheries for this purpose, labeling the source of fish meal or fish oil and putting limits on the amount of fish meal you can put into a diet.
- There is a lot of interest in finding feed substitutes for fish meal. In fact, we're doing a lot of work on that in Hawaii.
- Hawaii and some other states have determined that aquaculture is in the public interest and willing to lease land for aquaculture.
- One of the policies in Hawaii that has been very useful that might be considered by

this Council is to allow for nonexclusivity, essentially allowing the use on a site where a permit has been issued. This has made a big difference for the facilities that are here, can actually fish right by the cage, dive by the cage and do other activities around the cages. So these aren't exclusive zones.

- The state was advocating for an exclusive permit, partly because of liability issues. The aquaculture industry was saying, no, we want to share this with the other ocean users that allow continued fishing activities and other activities around the cages.
- Grow-out technologies are still in their infancy. The technology for culturing fish in captivity is relatively new. We don't even know the life history of many of the fish that we're eating now. Therefore, we can't replicate it in captivity.
- Growing enough live feed to fish is one of the critical parts of aquaculture. You've got to find exactly what they like to eat in order to propagate them. Then you've got to figure out how to grow those things in large enough quantities that you can start producing large numbers of fish. That's not an easy undertaking.
- The Federal Clean Water Act is one of the major laws that regulate the discharge of pollutants. For small facilities you don't need a National Pollution Elimination Discharge System (NPEDS) permit. But if you're producing over 100,000 pounds of fish per year, which isn't a lot of fish, you've got to have a permit. Those are typically delegated to the state by the EPA. Typically, these permits take a year or more to be issued.
- On April 6<sup>th</sup> there will be going to be a hearing before the Senate Committee on Commerce, Science and Technology. They're going to be hearing a bill that would make areas of the U.S. EEZ available for aquaculture, including areas around Hawaii and other places. The bill would grant NOAA authority to issue offshore permits.
- Copies of recommendations from the taskforce were made available to the Council members. One of the recommendations was that the Council be consulted on the process and make sure that they have a major say in how this happens.

Harris noted that in looking at the competitive nature of aquaculture especially in countries such as the Philippines, high end was the way to go. Was Anderson aware of any other aquaculture entities in the United States that have been successful in maintaining stock for production of post-larvae.

Anderson agreed that Hawaii would never be able to compete with the product coming from Asia, so the local businesses are focusing on high end products.

In relation to maintaining stock for production of post-larvae, there are producers in Florida. Right now all of it is moi, but this producer did do the Pacific white shrimp stock for Hawaii from animals here. Hawaii can take some pride in the fact that we actually are the source of the genetics for most of the shrimp that is coming into Hawaii and the rest of the world.

Duenas remarked that he recently read an article where the Pew Foundation said there was too much PCB in farm-raised fish.

Anderson noted that it is important to take a balanced perspective. There is a mix of viewpoints on the taskforce and it has been an interesting dynamic trying to try to come to some consensus on the recommendations.

The Pew Commission has done a lot of work and much of their work is very biased toward environmental protection. They are going to be taking any uncertainty and resolve it in favor of protecting the environment. The taskforce chair was adamant about the fact that whatever recommendation was made would not have to be approved by the Pew Foundation. So there should be some reasonable recommendations.

Anderson noted that PCBs, based on his Health Department background, are found everywhere. They are ubiquitous in the environment and found in every fish ever tested, to some extent, at low levels. It was not a question of whether it was there, it was whether it was toxic or not. The levels that are found in fish are well below any levels of concern from a human health standpoint.

Anderson felt a lot more work and study needs to be done on the extent of these chemicals in the environment and what the health risks are.

Anderson added that very few people eat kahala because of the ciguatera risk. When you raise it on a farm, the lipid content is very, very high, higher than even the wild. These are big, fat, lazy fish. They are being fed and they don't need to chase any other fish. The result is a fish that is safe because it has not eaten wild reef fish. Ciguatera accumulates up the food chain, and if the fish are not exposed to toxic reef fish, they are not going to be toxic.

Simonds asked if Anderson had any sense of whether the NOAA bill had enough votes in Congress.

Anderson said he talked to Margret Komenski, Chief of Staff, and the staff could not really give him a good read as to whether it really would be passing this year. Carlos Guterrez, the Head of Commerce, came out with a very firm statement on offshore aquaculture, so it seems the Administration is behind the bill. Congress seems a little lukewarm on it.

McCoy returned the chair to Sablan to continue with item 12.

### **Item 12.B Western Pacific Fishery Ecosystem Plan Update.**

The Fishery Ecosystem Plans were sent to the appropriate resource management agencies for comment and review. All of the comments were received as of January 31st of this year. Comments were received on the reorganization process; the regulatory process, including objectives; boundaries, management unit species and incorporation of ecosystem principles, such as predator and prey relationships.

There were no substantive comments that would affect the restructuring of the FMPs to place-based or with the Draft Programmatic Draft Environmental Impact Statement under NOAA review.

The comments that were received include:

- Grammatical and technical changes that were given by the island agencies.
- The presence of certain species in certain archipelagic areas, there were five or six that needed to be struck from the document.
- Clarifying jurisdictional boundaries, primarily in areas where multiple or federal agencies have overlapping jurisdiction. NOAA would assist in clarifying the official Commerce position on boundary issues.
- The need to update all of the FEPs to incorporate new ecological information that has come out of recently published RAMP cruises, Resource Assessment and Monitoring Program surveys and other scientific publications.

Between now and the Council meeting in July local agency changes will be incorporated and returned to them for review. The Pacific Islands Regional Office is separating West Coast and Western Pacific Federal Regulations in 50 CFR to reflect our separation from the Southwest Region.

August, 2006 is the target date to transmit corrected FEPs to the state and local agencies, then for Secretarial Review.

For Phase 2, PIRO is working on reorganizing the species-based regulations into place-based regulations.

With respect to the FEPs, there will be the official NOAA public comment and review process with the release of the draft regulations. The next step will be the proposed rule, a final rule, and then the distribution of a Final Programmatic EIS.

There is an issue with respect to pending amendments. The Council is working with NOAA in meeting the timelines for implementation issues that need to be done before the FEPs, Main Hawaiian Islands overfishing, bigeye overfishing, and the Northwestern Hawaiian Islands fishery regulations.

The amendments that are at the end of the NOAA internal review process include: a PRIA amendment including the Remote Island Areas in the Fishery Management Plans; Guam; the bottomfish amendment; and black corals and squid. These amendments have been reviewed, went through public comment, public testimony and will be incorporated into the FEPs prior to implementation.

Sablan called on Tosatto to report on item 12.C

## **12.C NMFS/Council Fishing Regulations Protocol**

Tosatto pointed out that in January NMFS sent a letter to all the Councils which included a request for comments on a flow chart developed by the Sanctuary Program, the Fisheries Service of National Marine Sanctuaries Act and the Magnuson Act interact. Comments are due by April 30<sup>th</sup>.

Tosatto noted that they are in the middle of the Sanctuary Program process and had just gone through the 304(a) (5) process at Sanctuary Designation. This is how NMFS gets input from the Council.

Changes or proposals for fishing regulations follow the 304(a) (5) process. Magnuson Act issues within a sanctuary need to go to the Sanctuary Program. They continue to develop fishery regulations for potential implementation within the sanctuary and have activities requiring the Magnuson Act within sanctuaries. He urged the Council to review the chart.

Sablan called on Everson to report on item 12.D.

### **12.D NMFS Essential Fish Habitat Update**

Everson works for the Habitat and Conservation Division of the Regional Office in Honolulu and would give an overview of the Essential Fish Habitat process, which began in 1996 with the Reauthorization of the Magnuson-Stevens Act. NMFS decided to look at impacts to habitat, not just regulate the fish stocks. Some provisions of that act were added to protect habitat.

The act urges Councils to identify Essential Fish Habitat (EFH) and add provisions in the management plans to protect habitat from fishing impacts. The Interim Final Rule of 1998 set up the guidelines for the Council and outlined the consultation process.

On February 19<sup>th</sup> 2002 the final rule was issued. Everson highlighted some of the statutory requirements:

1. Develop guidelines or regulations to describe and identify EFH and conservation and enhancement measures.
2. Provide EFH recommendations and information for each fishery.
3. Review programs administered by the Department of Commerce to ensure that relevant programs conserve and enhance EFH.
4. Coordinate with and provide information to other federal agencies to conserve and enhance EFH.
5. Recommend conservation and enhancement measures for any federal or state activity that would adversely affect EFH.

In the Habitat Division, they look at permit applications that would impact EFH, nonfishing type

impacts. All federal agencies are required to consult the Secretary on any action that may adversely impact EFH. If the application is found to have adverse impact, the agency is required to respond to conservation recommendations. They use existing consultation procedures in place between NEPA, Fish and Wildlife Coordination Act, ESA, and incorporate concerns within these existing procedures. When not available and with general concurrence, a programmatic process will take place. For severe impacts or potential impacts to EFH an abbreviated or expanded consultation will take place.

This is a statutory requirement for each of the Councils. The Councils may comment on and make recommendations concerning any federal or state activity that may adversely affect EFH. They try to keep the Councils informed during the consultation process.

Hawaii does not have a lot of consultations; the Habitat Division does a lot of preconsultation meetings to resolve issues before it even gets to the consultation stage.

There is expanded guidance on the information that FMPs must contain to evaluate whether and how fishing activities adversely affect EFH. The new final rule is more explicit and provides specific guidelines for Councils on the type of information that should be included.

EFH designations do not necessarily preclude fishing. Active troll fisheries like Georges Bank on the East Coast impact the environment and some of their EFH do preclude fishing. This is unlike Hawaii where most of the gear types are fairly benign and do not interact with the bottom.

Councils must list existing management actions that minimize adverse effects of fishing on EFH. The FMPs must address any adverse effect that is more than minimal and not temporary in nature. The guidance for examining alternatives: FMPs should include a range of options to address adverse impacts. FMPs must explain the reasons for Council conclusions regarding past and/or new actions that minimize to the extent practicable the adverse effects of fishing on EFH. The use of existing environmental reviews, which is the process for the Corp of Engineers and NEPA, is emphasized.

EFH designations are made to the Council FMP process, using the four level, data-driven approach. These include text descriptions of EFH and must refer to geographic boundaries. It is impossible to track fish movements on an EFH basis, so clear geographic reference points are used.

The new final rule is more flexible in guidance for designating EFH when pertinent information is sparse. This allows the Councils to use all available distribution data, not just systematic presence-absence.

Level 1 data is distribution data for the species. Due to the myriad of species in the Pacific, the Science Centers are struggling to get this information. The Secretary prefers to use Level 2 through 4 information in decision making for highest value habitats. That information would include highest relative abundance, growth, reproduction, and survival rates.

The Habitat of Particular Concern (HAPC) is a subset of Essential Fish Habitat and is part each

of the FMPs in the Pacific. There are four criteria for the HAPC designation:

1. The importance of ecological function provided by the habitat;
2. The extent to which the habitat is sensitive to human-induced environmental degradation;
3. Whether the development activities are stressing the habitat type; and
4. The rarity of habitat type.

Bottomfish EFH designations from the Bottomfish FMP look at each life stage: for the bottomfish, it is the water column; for eggs and larvae, it is the water column extending from the shoreline out into the EEZ, down to a depth of 400 meters; for juvenile, adults, it is the water column extending from the shoreline to a depth of 400 meters.

HAPC narrows it down more: for bottomfish survival, the slopes and escarpments between 40 and 280 meters for the adults, and grounds off Oahu and Molokai were designated for juvenile opakapaka.

Maps are now a requirement in all FMPs that show Essential Fish Habitat and HAPCs. There has been a lot of pressure to refine the boundaries. For the past two to three years the Habitat Division has co-funded a project to use high resolution multibeam bathymetry to look at the bottomfish EFH. It is being conducted by the Hawaii Undersea Research Laboratory, Chris Kelley.

All the islands, except for the Big Island have been completed and have shown the 100 to 400 meter depth range to be the center of the habitat for bottomfish.

Everson showed more slides on some of the preliminary data being collected. When the study is complete, the Council will receive a package.

Everson added that the Kuhio Beach sand mining project was currently going through a consultation process. Other hot issues include Kilo Wharf in Guam.

Sablan call on Glazier to present the Ecosystems Social Science Workshop Report.

## **12.E Ecosystems Social Science Workshop Report**

Glazier reported that this workshop was held in January and a detailed report would be forthcoming. The first workshop was held in August, 2005. A third workshop will synthesize results from the two workshops and come up with some policy and implication discussion.

The move to ecosystem-based management by archipelago, has, in social and economic terms, created a region that is quite large. The goal of this social science workshop was to facilitate a forum discussion of social science requirements for ecosystem-based management in the region. The intent was to convene social science experts around from the country, and regional experts, to review social science requirements and potential applications and explore data and models needed, assess the human and institutional ecology of marine ecosystems and explore policy and

policy administration considerations.

Several agencies, NGOs, and academics from the mainland and islands attended. The workshop was facilitated by Mike Orbach, from Duke University. There was a general discussion of social science data, modeling and indicators relative to ecosystem-based management. Then the discussion focused on island archipelagoes.

Some of the challenges and options associated with implementation of ecosystem-based social science approaches in the region include:

- Ecosystem social science should parallel the best possible biophysical science in terms of its importance for management of people involved in fishing and fisheries management;
- Social science planning must address variable social and cultural conditions in the respective sub-regions; and
- Monitoring of social demographic change is critical.

Sablan called on Beeching to provide the shark viewing update.

#### **12.F Shark Viewing Update.**

Sablan noted that for the first time great white sharks were reported in Hawaiian waters.

Beeching responded that there had been sightings and referred the group to a chronology of events in 12.F.2 in their binders. He noted one edit on the top of page 2; the date should have read December 2005, not 2004.

There are five shark viewing operations off the north shore of Oahu. In looking at State data, there is no information for an assessment on whether or not there has been an increase in sharks.

Dr. Grubb has been tagging sharks using a longline method comparable to methods that have been used in the past. His work is not complete, but he believes that once complete, it will provide some idea of changes in the CPUE of inshore waters, at least on the windward side of Oahu. This would indicate whether or not there has been an increase in sharks or if it is just a perception.

Beeching talked about some of the actions elsewhere:

- In Hawaii, there is no feeding of sharks in State waters unless it is for traditional purposes or part of the fishing operation.
- In the Florida Keys National Marine Sanctuary (FKNMS), the action taken was to have education and a sanction on feeding of all marine life. This was just for State waters and did not include Federal waters.
- In Biscayne and Everglades National Parks, feeding, as opposed to bait for fishing, is

banned for all species.

- In North Carolina, sharks occur sometimes in aggregations around wrecks. There is no action to stop people going out and viewing those sharks.
- Off California, in deep, federal water, blue sharks occur. No regulation.
- In Monterey Bay, initially dumping regulations were used to stop people from feeding white sharks. Subsequently, there was action that prevented the activity all together.
- In the Farallones National Marine Sanctuary, where great white occur, there is no chumming allowed.
- In South Africa there is a long tradition of protecting white sharks. If caught, regulations require the entire carcass be brought in and utilized. There are codes of conduct and permits with conditions attached. Chumming is allowed, but only fish products, no mammal products.
- In the Great Barrier Marine Park Authority in Australia, which is a World Heritage Area, shark feeding is not allowed and it is not recommended outside of the park. There are designated zones where feeding is allow outside the park to support the tourism industry and cruise boats.
- In South Australia there are environmental safety conditions for the shark viewing industry within the reserves, especially white sharks. Some exceptions are allowed, but are rare. A fisheries officer is onboard every time they go out.
- Globally, UNEP generally advises divers to stop fishing for all fish species to protect coral reefs. There is some concern that the white shark is endangered.
- Off the Bahamas, shark feeding is allowed. But there have been a lot of incidents between people and sharks, varying from death to mutilation or relatively minor injury.
- Off Egypt, there have been a lot of interactions. There is no evidence to show that it was shark feeding that caused the problem. However, they are extremely dependent on divers coming for other purposes, so a ban has been issued on feeding.

At the last Council meeting it was agreed that until the science behind sharks' behavior, as far as interacting with shark viewing operations, was understood it would be difficult to move forward. It was recommended that there be a tagging study.

Kim Holland submitted a project proposal. The PFRP Committee rejected.

In speaking with Dr. Grubb, he suggested it would be possible to do a comparative study of

CPUE to see there are more sharks in offshore waters. He would not be available for another year and would require travel funds.

**Margo Schutz Horton**, who is the National Marine Fisheries Service Chief for HMS Sustainable Fisheries on the East Coast, says there is no actions whatsoever dealing with the viewing of sharks in federal waters to date.

Ebisui mentioned that the fifth shark viewing boat is ready to start operations. Each boat runs three to four charters day, multiplied by five days makes for a lot of chum and sharks. Ebisui spoke with a world class free diver born and raised in Haleiwa and he said he does not dive Haleiwa any more, too many sharks. A canoe racer from Waimea to Haleiwa also reported having a shark follow him for a while. Residents are becoming concerned.

Duerr noted that the University of Hawaii has been doing studies for some years on tiger sharks: baiting them overnight, tagging and putting transponders on them. They have receivers all along the Kona Coast and have been measuring activity. While he did not know the activity, he knew they had tagged quite a few sharks.

Beeching asked if it was Kim Holland that Duerr spoke of and said he would ask Kim about the study.

Duerr asked if the State permits feeding the sharks and someone is bitten in the area, would the State be liable.

DeRoma responded that no, the State has prohibited that activity in State waters.

Ebisui added that the problem with the shark tour operations is that they purportedly operate outside of State waters. They use State facilities to board passengers, they have ramp permits to launch their vessels, but because they are conducting their operations beyond State waters, they are unregulated.

Gaffney commented that some dive shop operators went on one of the shark dives in Haleiwa and were surprised that the owner, a licensed captain, did not use a GPS system. These experienced divers also didn't feel the boat was three miles offshore. And, they noted that when the boat stopped, the sharks came to the boat, indicating possible behavior modification.

Ebisui added that each time he has gone out and is as much as half a mile from the area where they are chumming, if he stops or even slows down, within a minute there are two or three sharks on the boat.

Sablan asked Makaiau to provide the Advisory Panel recommendations.

## **12.G Advisory Panel Recommendations**

Gaffney asked Makaiau if he knew when the CDP permits first became available for the Northwestern Hawaiian Islands bottomfish fishery.

Makaiau responded that the Council had recommended how to allocate those permits based on weighted criteria, but implementation has not been fully executed.

Gaffney asked if the fourteen Northwestern Hawaiian Islands bottomfish permits were ever been issued, seven for the Mau, seven for the Hoomalu.

Makaiau responded that at the time of the Executive Order there 16 permits issued.

Makaiau read the Ecosystems and Habitat Advisory Panel Recommendations:

1. Regarding fishing regulations in the Northwestern Hawaiian Islands, the Advisory Panel supports bottomfishing in the Northwestern Hawaiian Islands to occur indefinitely with seven permits in each zone, in parentheses, the number ten is incorrect, seven and seven is fourteen, total, and the annual limit of 181,500 pounds. The AP also supports the proposed closure of 177 Degrees West and the area around French Frigate Shoals.

The Commercial AP also recognizes that the historical pelagic catch in the Northwestern Hawaiian Islands represents a minuscule percentage of the Pacific-wide pelagic catch and, therefore, recommends that the highest level of historical catch, 386,124 pounds, and permits, 22, be allowed in the Northwestern Hawaiian Islands.

The AP recognizes that this fishery has not operated under a Total Allowable Catch before and notes that the Council will need to reevaluate a permit allocation for the two zones.

2. Regarding Marine Protected Areas, the Advisory Panel supports Hawaii Legislature House Bill 2587, which requires the Hawaii Division of Aquatic Resources to review the impacts of existing Marine Protected Areas in the Main Hawaiian Islands and recommends that the State of Hawaii not use Marine Protected Areas as the first or only marine management tool to protect resources.
3. Recommends the Council request American Samoa Department of Marine and Wildlife Resources to evaluate the effectiveness of monitoring of coastal MPAs.
4. Recommends that some form of eco-permitting process be adopted for MPAs on Guam for activities other than fishing, e.g., diving, snorkeling, swimming competitions, jet skis, et cetera.
5. Requests the Council for assistance to monitor the effectiveness/benefits of the existing village-based MPAs. There are ten sites.
6. Recommends the Council:
  - a. ensure community involvement in developing Marine Protected Areas throughout the region;

- b. work with local and federal partners and consider social, cultural and economic impacts when developing MPAs; and
  - c. Work with local and federal partners to determine the carrying capacity of all nonfishing activities within MPAs and appropriately regulate them, possibly through an eco-permitting process.
7. Regarding seafood safety, recommends the Council investigate the practice of treating fish with carbon monoxide due to concerns over food safety, as well as its impact on local fish markets.
  8. Regarding the Hawaii Archipelago Ecosystem, recommends the Council prohibit the harvest of tropical aquarium fish in Hawaii.
  9. Recommends the Council regulate, prohibit the engineering of artificial reefs in Hawaii. Over-arching recommendation, any coastal development must disclose any potential impact on the marine environment.
  10. Recommends the Council prohibit fish farming in Hawaii.
  11. Regarding Essential Fish Habitat, recommends the Council work with local and federal partners to identify the extent and quantify the effects of contaminants, such as PCBs, sewage, cruise ship discharge, construction industry, erosion, agricultural and chemical runoff, on Essential Fish Habitat and develop some solutions to mitigate the source of the problem.
  12. Regarding ecosystem management, recommends the Council work with local and federal partners to promote environmental stewardship in the communities via education and outreach to protect the ecosystem. These efforts would include establishing high school and college internships, local resource management agencies, developing and implementation an environmental stewardship curriculum in school systems, developing and promoting programs that teach traditional and cultural fishing methods and the values that go with them, and developing education and outreach materials that provide scientific and traditional information on the spawning and life cycles of various species to inform the community of the best practices that work towards ensuring a diverse and productive ecosystem.

Robinson noted that in recommendation 2 the advisory panel was working with an older version of the bill and the bill has been significantly amended and no longer contains language exactly as referred to.

Polhemus added that the bill no longer contains language that is prejudicial to the use of MPAs. It merely directs the Division of Aquatic Resources to examine all different management tools.

Sablan asked Severance for the SSC recommendations.

## **12.H SSC Recommendations**

Severance reported that the SSC heard similar reports on the basis for revisiting the fishing regulations for the Northwestern Hawaiian Islands. They reviewed the Ocean Conservancy Report and other research reports, including the report on the Ecosystem Social Science Workshop. Their recommendations were:

1. The SSC recommends the Council require federal Magnuson-Stevens Act permit and logbook reporting for all commercial and recreational bottomfish and pelagic fishing in the Northwestern Hawaiian Islands, except at Midway Islands, where the USFWS would continue to monitor the fishery through their catch report. Magnuson-Stevens Act permits would be required.
2. The SSC perceives that the proposed ban on harvest of crustaceans, precious coral and reef fish is designed primarily to satisfy a philosophical agenda and not a scientific one. This SSC, therefore, takes no position on it.
3. The SSC recommends that a regulated recreational fishery in the Northwestern Hawaiian Islands be allowed, but this fishery should be promulgated under the aegis of NMFS and not the Sanctuary to ensure that catch and effort statistics are collected and incorporated into the National Marine Fisheries Service data system. The SSC also suggests that the two-year duration proposed by Council staff is too short and should be extended for enough time to collect sufficient data to credibly evaluate this fishery.
4. The SSC recommends that the proposed limit of fourteen bottomfish permits, seven in the Hoomalu and seven in the Mau, the two CDP permits included in the latter seven in the Mau, be accepted.
5. The SSC understands that the proposed commercial bottomfish catch limit of 85 percent of estimated MSY in the Northwestern Hawaiian Islands of 381,500 pounds per year is a checkpoint that would trigger consideration of further regulation and not a cap that would necessitate closure of the fishery. The SSC recommends that this checkpoint apply to the sum of commercial and recreational bottomfish catch in the Northwestern Hawaiian Islands.
6. The SSC notes that the catch of pelagic species by the bottomfish fishery at the present time is small relative to the pelagic catch in the region and thus takes no position regarding pelagic catch limits for the Northwestern Hawaiian Islands bottomfish boats.
7. The SSC likewise takes no position on the proposed MPA alternatives because no data or analyses have been presented to allow an evaluation of these alternatives. The SSC suggests that clear objectives of these MPAs be articulated by those proposing them.
8. The SSC also reviewed the Ocean Conservancy report entitled, “Bottomfishing in the Northwestern Hawaiian Islands: Is It Ecologically Sustainable”, and did not find the document to be a scientifically credible assessment of sustainability of the bottomfish stocks in the Northwestern Hawaiian Islands. The SSC recommends that the author of this report be reinvited to present this work to the SSC and respond to SSC comments.

9. The SSC reaffirms its conclusion that based on current evidence; bottomfish stocks are not overfished or subject to overfishing in the Northwestern Hawaiian Islands. However, the SSC recommends an archipelagic-wide stock assessment for bottomfish with spatially-specific sub-assessments for the Main Hawaiian Islands and Northwestern Hawaiian Islands be conducted as soon as possible.

(Ten minute break taken)

## **12.I Standing Committee Report**

Sablan reported that the Standing Committee recommended deferred action to the full Council.

## **12.J Public Hearing**

Joe Dettling:

(Verbatim)

“Well, we've had a lot of confusion ever since the Clinton order about pelagic trolling in the Northwestern Hawaiian Islands. It seems like everybody is just as confused as I am. So somewhere along the way it would be nice to have that confusion settled with a permitted and -- a permitted process that has a federal logbook and we bring this activity into the normal regime of commercial fishing.

Going along with that and the pelagic trolling up there in the Northwestern Hawaiian Islands, it's time for all the environmental people to put their money where their mouth is. By the 1st of June of this year I'd like to see that money for the trollers that go up there and fish that pick up debris in that area to get a \$5-a-pound bounty for everything they bring back.

Those are the two points about the Northwestern Hawaiian Islands.

Three, I first brought this up at a meeting about two years ago. It was some Northwestern Hawaiian Island scoping meeting, or something. The big issue was Weather Buoy 1.

My suggestion at the time, I think it was somewhere in the 34 to 36 mile range from Nihoa. Under the Clinton initiative, that put it -- which was a 40-mile boundary, put it inside the boundary.

The reason I talk about this is because the impression was given here today that not much happens at Buoy 1. I'm sure some guys are here to scream and yell about that.

But even myself and Bruce, who is sound asleep, he had to go fish this morning, just to give you an example, in 2002 from June 15th to July 10th, Bruce on the HOKU, and myself on the DOUBLE D, landed about 110,000 pounds of yellowfin in the 50 to 70 pound range that were caught at Buoy 1.

There have been other major bigeye runs there.

There is a possibility, an easy possibility, Buoy 1, wherever the border to the sanctuary is drawn, there is no reason why that buoy couldn't be moved just outside the border so the catch taken off of Buoy 1 wouldn't be an issue to be considered in the Northwestern Hawaiian Islands Marine Sanctuary.

Therefore, our quotas for fishing in the sanctuary wouldn't be all used up in runs on Weather Buoy 1.

I think -- this is kind of a different issue, but I think you guys got bad catch records on monchong.

From my own personal experience, it's a developing fishery and a lot of the monchong catches have been recorded on state forms. I don't know, maybe as we see the clamp down in the bottomfish fishery in the Main Hawaiian Islands, I've got a feeling monchong is going to become a much more valuable fishery. We don't know a lot about it.

I know there's a scientist, Saiki I guess his name is, Mike, I think. Mike Saiki.”

Ebisui interjected: “Seki”.

Dettling continued (verbatim):

“Seki, yeah. He's the one checking it out. But it's something we should get on. It's going to be a hot issue, believe me, soon.

I know a lot of guys on the Big Island. I've happened to have been on the Big Island the last three weeks, are starting to catch on and throw gear at 250 fathoms off the Kona Coast, and it will spread from there all over.

One other thing I wanted to talk about, this doesn't have anything to do with the Northwestern Hawaiian Islands; it has to do around the Main Hawaiian Islands. I think it's time for people to start thinking about a restoration program for the disaster in our local yellowfin fishery. We heard a good -- Ed gave a good talk about the demise of the ika shibi fishery.

I can think of what I would call the last really good run that I can recall was in '87. It basically shut down the entire longline fleet so much good yellowfin was coming off the Big Island, and high quality yellowfin. But I think that was, as I can recall, the last time it really happened.

But my personal experience between '71 and '87, through those years, the first I would say the first seven or eight years of ika shibi out of Hilo, we didn't even call it a fish if it wasn't 150 or 200-pound yellowfin.

I think a couple things need to be done. We've got to convince the kings of fishery management

that they are running around butt-naked. They aren't really looking at their data accurately. It's time to have some seasonal spawning closures for yellowfin, and it's time to remove all those little yellow buoys that the yellowfin live on and everybody pounds those three, five, eight, ten, twelve pounders, the small subspawning yellowfin.

I know it's probably not a popular idea amongst the genius fishery scientists, but I really do think we have a local subpopulation of yellowfin here. The tagging studies pretty much bear this out. I think even the sonic tagging studies bear out the fact that something needs to be done.

I actually think people are ready for a closure during spawning around the Big Island. I've talked to a lot of the guys there in the last three weeks. I don't think there will be as much resistance to that idea. When the yellowfin runs start, when the temperature comes up and they come in to spawn, give them 30 or 40 days.

The fish that come in that time of year are all burnt anyway. When they first come in to spawn, the meat is gray and no good.

Give the yellowfin a break.

Then when the time comes when you see that the spawn is basically over, the yellowfin are just about to a point to leave, then open up the fishery and let everybody catch them.

But it's something I think with the spawning -- the amount of spawning that can go on around the Big Island, I think it's worth a shot. I think everybody should give it a shot.

I don't know. I think that's -- I had one comment for Bill, this Bill over here.

At the end of Jarad's slide show you made some comment about your position was different than the Council's, or something. I didn't really understand what you were trying to explain then. I would like to you clarify what that was. I kind of lost it, it's been so long."

Robinson clarified that he had indicated that the numbers were developed and provided to the Council for discussion in the development of their recommendations were similar.

Dettling clarified: "You mean the recommendation for trolling in the Northwestern Hawaiian Islands was similar but slightly different?"

Robinson responded no, they had developed an analysis based on, in part, the Executive Order and, in part, on Magnuson Act rationale for both bottomfish and pelagics that we provided to Council for discussion and guidance. The numbers were in the same ballpark as Options 2 and 3.

Dettling suggested that if Weather Buoy 1 was pulled out of the discussion for the Northwestern Hawaiian Islands, a lot of headaches would be eliminated.

Junior Afalla

(Verbatim):

“My name is Junior Afalla and I belong to the Alii Holo Kai Free-Dive Club. My president is -- you all know him, I think, Mr. Frank Farm, Junior.

I know you talked about -- well, my topic is feeding the shark. I was concerned, but you all know about what happened, you discussed it already.

My concern is they are coming in. They're in the shoreline. And talking to my divers, in fact, Ed, I could give you -- I could take data reports of sights -- shark seeing, if you wanted it. Because I'm connected with the free dive club in Haleiwa, run by I think Al Lagunte (phonetic), and also members like my nephew there, who is a national free-diver champion. Many of our divers in our club, if you want data on shark sightings.

Recently, two of my divers went out and they were confronted with sharks. They had to defend themselves. Sure, they have powerheads, but they would not shoot a shark unless it's aggressive. They encountered that and they had to spear it.

Another recent sighting was when I went down to Waimea Bay, in that area past Chun's Reef. You see, I used to dive Chun's Reef. It's shallow, three feet to five to seven feet in depth, looking for just reef fish, like aholehole, just for on the table to use. These youngsters using a three-prong spear exit from the diving area. I looked at them and they were white. They were scared.

I asked them, what happened.

They said, we were spearing in that shallow water area and here a great big tiger shark came. I said, is that right, in shallow water?

They said, yeah.

I said, how big was it.

He said, Uncle, more than 12 feet long. They were scared out of their pants. I was aware of that. I couldn't believe a tiger shark would come in that area, Chun's Reef area.

Now, another incident, I talked with my two deacon friends down in Mokuleia recently. We don't dive together. We separate, but dive maybe about 25, 30 yards apart with our flag. We know where they are. But we drifted down.

Our game plan was drifting down, because the week before that we caught a lot of fish in that area. So I said, let's go down and go look for some new area, although we knew the ground.

But one was separated. He encountered a big shark and he had to use his bangstick. Then talking to him, he said -- I said, what happened.

He told me the story. He says he was tangled in his line and the shark came right up to him. He had to use his bangstick.

I said, what else.

He said, well, the shark dove down with his intestines hanging down. I don't know if the shark is dead, but I assume that the bangstick worked properly.

Now, this individual chumming out of Haleiwa, my friends who are commercial fishermen, they're angry. They are angry simply because they would hook up with a fish and sharks around taking their catch. Not only that, the sharks follow them all the way in to the harbor.

Now, sure, Ed said that they are familiar with the propeller noise. These sharks are getting aggregated. They are coming in shallow water.

Like this gentleman said, when are we going to learn when someone gets bitten sharks.

Sure, there are fatalities in the North Shore area. I grew up there.

But if we permit this individual doing his business, supposedly this gentleman said they are chumming, and presumably they are in federal waters, then the federal people are going to permit that. Are you going to permit that, that if something drastic happens to our children -- you know, this is a recreational ground, the North Shore.

Now, when my nephew told Ed -- he didn't mention a name. He said, I don't dive the North Shore area anymore because of the shark infestation, I hope you consider this.

I hope that you consider -- I don't know what you guys are going to do, but get this guy out. They are chumming not only in that area, while they're going out they are chumming, my understanding is. Thank you."

William Aila, Waianae fisherman

(Verbatim)

"I just have a few words, just to say aloha to some of the familiar faces around the table. We had black hair back then, though.

I was sitting in the back of the room, and I was thinking coming to a Council meeting is sort of like trolling, it's hours of boredom interrupted by minutes of madness. So here's the minutes of madness.

With regard to what Uncle was talking about, the shark. I hope PIRO is listening, because for \$25,000, which is a real small sum of money, you can probably get thirty tags and six listening

stations, and even pay a grad student to go out there and tag those sharks and put those listening stations very -- close proximity to the harbor and some of the bottomfishing grounds that are on the north side of Kaena Point, which the trappers are having trouble, the opelu fishermen are having trouble at night because of the increased shark activity there. So for 25 grand, it's real easy to do.

The technology is off-the-shelf stuff that you can buy. Not rocket science.

I would encourage you, Uncle, to encourage them to do that. Then you have the proof that these sharks are coming into that area. No one can argue with the proof.

With regards to the proposed bottomfishing regulations for the Northwestern Hawaiian Islands, we have a lot of real akamai people that are probably going to follow. You had real akamai people that presented, Jarad, right on, nice presentation.

But I will do an analogy real quick, because most of you are fishermen and most of you drive boats.

You have the State on one hand, that's a green blinking light, saying we've got to buy into the sanctuary and for us to buy into the sanctuary we want it to be the most protected sanctuary.

Remember that. It's a green blinking light.

You've got PIRO here that just said a little while ago -- it's the red blinking light, PIRO -- we gave you some numbers, those numbers were based on an analysis of the EOs and Magnuson.

But the presentation and the recommendations that you made were on Magnuson alone.

You've had your first set of rules that you submitted to Washington, D.C. rejected because they didn't meet the goals and objectives of the Proposed Sanctuary and they didn't meet the National Marine Sanctuary Act.

So you have a green blinking light and a red blinking light, and you have a rear-range light, which is the National Marine Sanctuaries Act and you have a front-range light, which is the goals and objectives of the sanctuary.

The same analogy that I made for you at the last Council meeting was, you guys are steering your canoe or your boat into the reef. You are not paying attention to the signs.

So remember, you get this green blinking light, this red blinking light, and these two range lights, which you're supposed to navigate because Magnuson is not -- I'm going to repeat it -- Magnuson is not the overriding statutes that are going to govern the rules if there are any rules in the fishing regulations within the Proposed Sanctuary.

The third time, Magnuson is not.

I just had a conversation with your attorney and if it is, and if you continue to do so, I have lots of experience with Silas over here in Makua, and he assures me that we'll be happy to go before a judge on some of these things again.

So you have the ability to drive your vessel. You have the ability to steer your canoe. Don't make the same mistake again that you made last time in setting up these rules that are not going to meet the goals and objectives of the National Marine Sanctuary Act and the goals and objectives of the Proposed Sanctuary.

To do so means that you're not taking your fiduciary duty seriously.

I want to thank you in advance, that if you continue this path and you continue to ignore the navigational markers that are before, I want to thank you in advance for the National Marine Sanctuaries Program for making the fishing rules in the Northwestern Hawaiian Islands Sanctuary.”

Linda Paul, Hawaiian Audubon Society

(Verbatim)

“I'd just briefly like to remind the Council about the management -- the first two management principles of the Executive Order, which formed a baseline for this proposed National Marine Sanctuary.

The first one is the principal purpose of the reserve is for long-term conservation and protection of the coral reef ecosystem and related marine resources and species in their natural character.

I would like to point out the words "natural character." These ecosystems are what is called endemic ecosystems. More than 50 percent of the individuals on the reefs up there are an endemic species. That's not true of the Main Hawaiian Islands. The Main Hawaiian Islands are not dominated by endemic native species.

The second principle is reserves shall be managed using available science and applying a cautionary approach with resource protection favored when there is a lack of information regarding any given activity to the extent contrary by law.

Now, it has often been asserted, at least by the staff of this Council, that bottomfishing in the Northwestern Hawaiian Islands has not had a negative impact on the marine ecosystems up there.

In fact, the science is just beginning to be done to determine whether or not that's true.

This is one of those unknowns that should trigger the precautionary principle.

We do know that those ecosystems are slow growing. It's cold water. It's subtropical down there

-- up there. They don't recover easily. There's a long history of that. The lobster population, for example.

I'm also, in addition to being associated with the Hawaii Audubon Society, on the Reserve Advisory Council.

The Reserve Advisory Council had a meeting in January and did revise their recommendation regarding fishing regulations up in the Northwestern Hawaiian Islands and recommended that the phase-out be within five years.

They have limited their recommendations to limit extraction to research only if it is consistent with the goals and objectives of the Sanctuary, with the exception that traditional cultural Native Hawaiian practice be allowed.

They also recommended a ban, not moratorium, on harvesting of crustaceans, precious corals, other coral reef species.

In my own capacity as a citizen, I do support compensating the fishermen with a buyout, the bottomfish fishing community.

I also urge this Council, whichever recommendation that they choose to put forward, that they strongly recommend that all vessels, whatever they may be, their hulls be cleaned so that the invasive species problem that we have down in the waters in the Main Hawaiian Islands, which is now over 350 species, which is affecting our fisheries down here, is not transferred up to the Northwestern Hawaiian Islands.

The last thing I would like to say, and this is totally off the subject of the Northwestern Hawaiian Islands, but with regard to the shark feeding operation, you have the Audubon support in regulating these feeding enterprises. We also concur that shark behavior is being modified and we think that there should be federal regulations that ban this practice in all federal waters everywhere. Thank you.”

James Cook

(Verbatim)

“You guys taking a licking. I don't know, these magazines are coming out. You seen this here, Rogues of the Pacific. I read through this myself. There is a lot of truth there, except where it applies to me, I think they made some mistakes.

But this thing has kind of taken on a national deal. I was in the store this morning, I picked up the Globe here. They have this, Duenas Caught With Another Woman. Manny, I don't know if your wife is over here, or what.

But I opened it up to read and then the next thing we get inside here is, The Truth about Kitty's Eating Disorder. So now, you know, you folks try to pay attention to these things.

Kind of close to my heart and it makes me a little bit nervous about my daughters, Sean Martin Robs Cradle with Buddy's Daughter.

It's all here. You can see. I'm not lying.

These are the kinds of things that you should be paying a lot of attention to, structure your policy around this sort of thing.

I was just checking to see if you guys still have a sense of humor.

A few comments about the Northwestern Hawaiian Islands: Since getting some seed money from the Clinton Administration in the late '90s in the form of coral reef money, we've grown really a new industry around the Northwestern Hawaiian Islands. Money has flowed in from all sorts of places, from the Pew Charitable Trust, from the federal government, in many different forms.

We've even got this guy from France, maybe he's bringing us French money.

And the amount of money and the amount of people involved in the Northwestern Hawaiian Islands has become huge. It's totally eclipsed any commercial fishing, probably adds up to more dollars and more jobs than has been in commercial fishing in the whole century prior to this.

I'm not being facetious. I know that's hard for you guys to believe when I say that I think that this is a wonderful thing.

Hawaii is an island state. We need jobs. We need these kinds of jobs. They're clean jobs. We need the money. It's there, and I think we should take advantage of it through the Sanctuary Act.

What I object to is that there seems to be people who think that the success of this great endeavor hinges on throwing the beggars out of the temple. I don't think so.

You've got bottomfishing people here and around here that have a 30-year history in the Northwestern Hawaiian Islands. They know more about the environment. They know more about how to treat the environment. They know more about the fish up there than any of these people who go up there lately, and they deserve a job to be up there.

Now, the State Director of Land and Natural Resources is telling Mr. and Mrs. Hawaii, telling Alan Wong, he's telling, Roy, don't worry, you can import the bottomfish that you folks are eating. You can. People do. And it comes from Tonga. So I can only imagine that the place that the Tongans catch the fish is not the rain forest of the sea.

It comes from Fiji, the capital of unlimited entry, where the Chinese catch the fish so they can bring it up here to Hawaii.

It comes from the Philippines where you know, budabing-budaboomm the paka fly out of the

water using dynamite.

So what we're doing is we're transferring from a well-managed fishery to fisheries all over the world to feed us. I really don't think that that's what this Council or anybody else really means to do.

You know, we are in a time here when we can and we should have it all for the people in the State of Hawaii. We should have our fish. It's very important to us culturally. We should have a sanctuary. It's going to be a huge economic boom for this State.

You guys are in the position to help us with the fish. Please do. Please do your job and allow a well-reasoned fishery in the Northwestern Hawaiian Islands for all time.

Thank you.

Kitty, I'm sorry about the diet comment, but you know, I was looking for alternatives and I came across this other one -- where is it. It's over here. You really lucked out because the other one is -- well, I'll show you later.

Actually, I went easy.

I'll submit these for the record.”

Kris Balliet, Ocean Conservancy

(Verbatim)

“Just a quick statement from me, personally, and not as an employee of the Ocean Conservancy.

I would like to tell you all that I live in Anchorage, Alaska. I fish. I fish with my family. We keep a freezer full of fish and moose, and other things. So I'm not speaking to you today as someone who is anti-fishing. I'm not. I wouldn't be able to eat. I think my son and my husband would be very upset if fishing was out of the question for us. So please take my comments with the knowledge that its organizational comments, I share them, but I do fish and I'm not an anti-fishing person.

I should tell you my new title. I live in Anchorage, Alaska, but I work in the Western Pacific. My new title is, Western Pacific Ecosystems Program Officer. So you guys will be seeing a lot of me. Part of my job is to work in the Northwestern Hawaiian Islands, but also to work at West Pac, and I'm really happy about that new development. You have much warmer weather than we do.

My comments on the Northwestern Hawaiian Islands Sanctuary fishing regulations as you guys have set them out, the first thing I want to say is that Admiral Lautenbacher has already rejected this body's recommendations for fishing regulations in the Northwestern Hawaiian Islands as not fulfilling the goals and objectives of the Proposed Sanctuary and the purposes and policies of the

National Marine Sanctuaries Act.

The current hearing and decision-making process provides West Pac yet another chance to draft regulations as an opportunity that is not envisioned under law or regulation.

This second bite at the apple should not be permitted.

Moreover, whatever the decision you all set forth, there needs to be consistency with the Executive Orders as they are the current underpinning of the creation of this National Marine Sanctuary.

A sanctuary is intended to supplement and complement existing protections that are found in the EO, not erase these protections.

The current process must be governed by the National Marine Sanctuaries Act and not by the Magnuson-Stevens Act.

The current proposals as set forth do not meet the goals and objectives of the Sanctuary. This is for many reasons, including the following:

- Fishing as proposed in these three alternatives would threaten the natural character and biological integrity of the ecosystems in the region of the Northwestern Hawaiian Islands.
- The recent condition of the stocks and levels of fishing is completely incompatible with the goals and objectives of the Proposed Sanctuary.
- Even by fisheries standards, the condition of the stock complex in the Northwestern Hawaiian Islands is marginal and depletion is continuing.
- Further, there is a great deal of uncertainty associated with the status of stocks in the Northwestern Hawaiian Islands with the impact to fishing and with the assessments of the fishery by NMFS and the Council. This mandates precaution.

West Pac's track record of managing fisheries sustainably is very poor and has shown little evidence of a sincere effort to propose regulations that are compatible with sanctuary goals and objectives.

The Council's selection of indefinite bottomfishing in the Northwestern Hawaiian Islands is unjustified given the state of the fishery and the goals and objectives of the sanctuary. The Council has not provided compelling reasons why indefinite fishing would be acceptable and why bottomfishing should not be phased out.

In sum, these three alternatives before West Pac are well below the threshold set by the National Marine Sanctuary Act and none are accurate or adequate for selection of the Department of Commerce.

An honest evaluation by West Pac is required to demonstrate the shortcomings of these evaluations.

The Ocean Conservancy would support a fourth alternative that mirrors the Case bill, with phase-out and permanent retirement of all existing fishery permits whether currently being fished or not over the next one to five years. We fully support fair compensation for those persons who are holding those permits.

Thank you for letting me speak to you today.”

Timm Timoney

(Verbatim)

“I'll try to be brief here and speak to Dr. Robinson's suggestions about the specifics.

Also, Jim really stole my thunder because most of the points he made were things that I was going to make, too, starting with the time limit on fishing. I support fishing indefinitely up there just exactly for the reasons that Jim said. So I'm not going to belabor that point again.

As far as the area closures, if a closure is needed to meet a goal and objective, if this is so, then it really should be at 177 and not at 174. Having that extra bank allows the fishermen to spread out and spread their effort to the widest area available. This is what has been keeping that fishery sustainable up there all this time.

Also, I don't see him here, but Bill Strickland on the FORTUNA asked me to specifically ask the Council to consider making the closures around French Frigate Shoals from the 100 fathom line shallower, because this is really needed as a place to go when the weather is horrid, as it has been these last couple of winters.

The idea was that you would use the lat/longs that are already listed, but just compress them a little bit so that it's really the 100 fathom line that is the delineating closed area.

Bill does not believe that we impact the monk seals at all. He asked me to suggest that Fish and Wildlife Service and National Marine Fisheries Service, both, look at their own policies and programs regarding the seals and those impacts on them.

Next point is about the numbers that were used to get averages and MSY.

I just, on a personal note, wanted to give as an example in two of the years that were used, my husband and I landed less than 10,000 pounds each in each of those years. In our last two trips we've landed that much. So we're hoping for a greater than a 40,000-pound year this year.

The point that I'm making is that when you have so few boats, that making averages like that that you then base MSY and other averages on might be a little skewed. So the real point is that too

many permit holders fishing on too little of a TAC will result in derby fisheries and derby fisheries can result in high-grading and some serious market problems.

My last comment is that I believe our fishery should be the national poster child for sustainable fisheries. I would hope that NMFS would support that position. Thank you.”

Gary Dill

(Verbatim)

“Council, I did speak to you yesterday with my hat that said the Main Hawaiian Islands. Today, it's Northwestern Hawaiian Islands. I'm a Mau Zone bottomfish fisherman.

I have unfortunately wasted three or four years of my life debating, trying to reason with, trying to use science, facts, truth with results of the card we provide to the Council, a couple of whom you've heard right now.

After several years of this, both as a voting delegate on the Council, as well as a general public member, I realize the lack of wisdom in my investment. I'll say I won't waste your time or mine trying to address what's been said today, except to repeat what I said at the Fishers Forum, the highest and best use we could possibly have for the Northwestern Hawaiian Islands is identical to the highest and best use that we have for the waters of the Main Hawaiian Islands, and that use is to use all resources wisely and with a view to the long term for the betterment of the people of Hawaii.

Shutting it up into a sanctuary or a museum of some sort isn't the highest and best use we possibly could have.

So much for philosophy. Particulars.

I couldn't do this at Fishers Forum. I was too upset.

But today I'd really like to -- right now I'd like to address pretty much what Timm said.

I spoke to Captain -- or permittees of three of the Hoomalu Zone boats and three of the other Mau Zone boats, that's me -- that's four. So that's like seven guys. It's not a consensus, not 100 percent.

But in general, we reviewed the alternatives that's been presented and what we're thinking is, in general -- this is the majority sort of a thought -- is that we really hope that you will consider using any kind of number of pounds, Maximum Sustainable Yield hopefully is the number that will be adopted, but any sort of limitation, ceiling, cap or quota in the Northwest only as a trigger, like has been done before in these fisheries.

It triggers a reaction which says, let's find out why MSY is being exceeded, not as a quota, not as a ceiling, not as a cap, not as a limit, not as a hard-fast, set-in-stone number.

That's the first one.

The other one is I talked briefly with Bill now, and also with staff before, on the number of permits. The statistics are valid. If you take the number of pounds over a certain period and you divide them by the number of boats and you get some averages, and then you multiply it all out and you get the numbers.

But, unfortunately, statistics being the cold, hard field that it is, doesn't explain why the numbers were that way. They don't take human considerations into it.

The number 13 I think has been put up by PIRO. The number 14 has been brought up by Council staff.

These numbers, in our opinion, are too high considering the number of fish being landed.

Reasons have to do with the boom and bust of fishing. We don't make weekly wages. We don't make monthly salaries. In some years we have very high, good years. Boom years. In some years, we have absolutely bust years.

If you put the number of permits that might approach this limiting factor number, if it won't allow us to have some boom years over that number with that many boats, which we need in order to survive the bust years. That's one argument.

The other one is the human factor that whenever there is any kind of limit at all, the fisherman immediately say, I'm going to go get mine. You can assure him all you want that it's not a quota, it's not a hard-and-fast sort of thing, they're not going to stop fishing in October when you're three-quarters of the way through your year.

It won't affect fishing -- the fishing mindset is, there's a limit, I'm going to go get mine. I've got to make sure I get my share, kind of a thought.

So the last five years of data have reflected what might be called pastoral fishing, nice, easy-going stuff, the ordinary sort of fishing we've been doing.

Now you change the mindset on us old-timers, who've already got the permits, we're going to be working harder. Production is going to go up. But we've added all these extra permits.

Uh-oh, well, who are they? Well, they're new guys.

New guys? What are new guys going to do?

They're going to work their butts off. They're not going to make the average catches that we made in the last five years. They're going to be making a lot more than that.

If you've got too many permits in the very first year of operation, you're going to exceed MSY real quick.

So we would ask you perhaps to look at the best year in the Hoomalu Zone, and figure that one; and the best year in the Mau Zone, and figure that one. Then maybe figure those together.

But just don't stick with just the statistical averages, because they don't tell the whole story. You need to know the whole story so that we don't run into trouble down the line.

The only other thing was -- I'm forced to mention because they twisted my arm, and that is that when it does come to the permits, either now or in the future, it looks like I may be the only one - I'm not quite sure, maybe two. But I think I'm the only one that's still in favor of the old, traditional lose-it-use-it-and-the-government-takes-it-back principle with the permits. Everyone else in the fishery, if this fishery is going on and if it's going to continue, everyone else other than me -- and maybe Timm, maybe not -- think that they should be made transferrable. They made me say that. Thank you very much.”

McCoy asked for further comments, hearing none, he moved onto Council Discussion and Action

## **12.K Council Discussion and Action**

Ebisui read the first motion:

“The Council recommends that limited fishing be allowed in federal waters of the proposed Northwestern Hawaiian Islands National Marine Sanctuary and managed under the Magnuson-Stevens Act, except for recreational fishing at Midway Atoll, consistent with all codified federal fishing regulations and subject to the following restrictions:

- A. A closure be established indefinitely for all harvests of crustacean, precious coral and coral reef ecosystem species;
- B. All commercial and recreational fishing be subject to Magnuson-Stevens Act permit and logbook reporting requirements;
- C. Recreational fishing permits be issued on a case-by-case basis, and that the Council will evaluate the need for further management;
- D. Limited entry Northwestern Hawaiian Islands bottomfish permits be capped at fourteen, with seven permits for the Hoomalu Zone and seven permits for the Mau Zone, the two Community Development Program permits for indigenous use to be included in the latter and issued as previously recommended by the Council;
- E. The annual bottomfish catch be limited to 381,500 pounds, which is 85 percent of MSY;

- F. Nonlongline commercial pelagic fishing permits be capped at three;
- G. The annual commercial pelagic catch by the nonlongline pelagic fishery and the limited entry bottomfish fishery be limited to 180,000 pounds;
- H. No-take MPAs be established around French Frigate Shoals and West of 174 Degrees West longitude;
- I. The use-or-lose requirements for renewal of commercial bottomfish permits be removed;
- J. Relinquished or revoked commercial bottomfish permits be reissued by NMFS in accordance with the existing procedures for Hoomalu Zone permits and as described in the Council's previous recommendation for Mau Zone permits;
- K. Federally permitted research regarding fishery and ecosystem conservation and management would be allowed in all areas.

Ebisui so moved, Duenas seconded.

Gaffney said that there seemed to be a conflict between Item 1, which excludes recreational fishing from management under the Magnuson-Stevens Act, and then Item B, which suggests that recreational fishing be subject to Magnuson-Stevens Act permit and logbook reporting requirements.

Ebisui explained that item 1 spoke specifically to not managing the recreational fishery at Midway Atoll because it is under the Fish and Wildlife Service.

Gaffney asked if the recreational fishery at Midway Atoll would still be required to follow logbook reporting requirements.

Ebisui responded that he did not think so.

Makaiau reiterated that recreational fishing would be managed under Magnuson everywhere except for Midway Atoll.

Polhemus noted that the State supported an organized phase-out of fishing in the Northwestern Hawaiian Islands be done as expeditiously as possible and believe that current permittees should receive fair market value for their permits via a buyout.

He offered the following amendments that conformed to the goals and objectives of the Sanctuary:

- A. Limited entry Northwestern Hawaiian Island bottomfish permits be capped at eight, that's the existing number, with four permits for the Hoomalu Zone and four permits for the Mau Zone, period. Delete the remainder of that clause.

- B. The annual bottomfish catch be limited to 222,000 pounds, which was the amount caught in 2003 and represented no increase over current levels.
- C. Nonlongline commercial pelagic fishing permits not be issued.
- D. The annual commercial pelagic catch by nonlongline pelagic fishery and the limited entry bottomfish fishery be limited to 91,266 pounds, the ten-year average.
- I. The use-or-lose requirements for removal of commercial bottomfish permits be retained.
- J. Relinquished or revoked commercial bottomfish permits not be reissued by National Marine Fisheries Service, period. Delete the remainder of that clause.
- K. Federally-permitted research regarding fishery and ecosystem conservation and management would be allowed in federal waters.

Gaffney seconded the amendment.

Palawski spoke to the first paragraph and reminded the Council that Fish and Wildlife Service had two National Wildlife Refuges in the Northwest Hawaiian Islands and had been working with the Council for a long time about various issues that come up related to National Wildlife Refuges. He did not want to make a change in the wording. He also reminded the Council that the Midway Atoll was a National Wildlife Refuge and federal law applied, the National Wildlife Refuge Systems Administration Act.

He stated there needed to be consistency with all codified federal regulations.

Ebisui clarified that in item D that Polhemus wanted the permits capped at eight, half of the prior year count as specified in the Executive Order.

Polhemus stated that the State's position was not to support an increase of permits over current levels. The proposed eight were based on existing permits, four in Mau and four in Hoomalu.

Ebisui asked what year the proposed cap on bottomfish catch was based.

Polhemus responded, the year was 2003. He added that the Council was managing for target below Maximum Sustainable Yield, acceptable under the Magnuson-Stevens Act. Which also meant that zero yield could be an acceptable target under MSA.

Martin asked to read a short document entitled, "Response to Questions Concerning Hawaii's Bottomfish Population, dated October 27 of 2005":

"There has been considerable interest recently about the status of bottomfish in the Northwestern

Hawaiian Islands. We would like to clear the record in terms of scientific judgments from the National Oceanic and Atmospheric Administration and, in brief, the populations of snappers, groupers, jacks in the Northwestern Hawaiian Islands are fine.

Bottomfish in the Northwestern Hawaiian Islands are not overfished and the level of fishing effort measured in fishing days is within the established targets as determined by federal guidelines.

Our scientists are confident that bottomfish in the Northwestern Hawaiian Islands remain in good conditions based on over 20 years of monitoring, biological research and stock assessments.

None of the indicators or monitors suggests there is excessive fishing mortality, which in plain English means too much fishing, nor that bottomfish stocks in the Northwestern Hawaiian Islands are depressed.

To give just a couple of examples from the Mau Zone, the limited entry zone that stretches from Nihoa Island, west of Kauai, to Necker Island, the average size of fish has not changed substantially. Opakapaka, pink snapper, were at 10.3 pounds per fish in 1998 and 10.1 pounds in 2003.

The percentage in the catch which were immature, not yet able to spawn, has gone down over this same time period, from 24.9 percent down to 14.5 percent per hapuupuu.

All of these are good indicators that bottomfish in the Northwestern Hawaiian Islands are all right. Total catch and catch per unit effort has gone up and down, but is expected in fisheries. The more complex stock assessment models give the same picture of healthy populations of bottomfish in the Northwestern Hawaiian Islands.

For more details, please visit our website.

By our stock assessment parameters, the Northwestern Hawaiian Islands fisheries are hitting their targets. Of course, we would acknowledge there is uncertainty in any fisheries assessment, and Hawaii's bottomfish are no exception. But we believe there is sufficient information on which to make rational science-based decisions concerning these fisheries.

But to manage and reduce the uncertainty in our work, we have established precautionary measures in the assessment process. To ensure the quality and integrity of our science, we have invited independent, academic experts to undertake their own assessments of this fishery and our methods. We are sure to gain from them in the kind of exchange that makes science what it is, a process of discovering and testing.

Please be clear, NOAA Fisheries has expressed concern about the status of bottomfish stocks in the Main Hawaiian Islands for over ten years, and there are serious conservation issues to address concerning these stocks. We appreciate the State's efforts to implement closures in 1998, but now NOAA Fisheries has indicated that federal action in the Main Hawaiian Islands is appropriate.

We are also concerned with the idea that closing the Northwestern Hawaiian Islands bottomfish fishery will have a positive impact on the Main Hawaiian Islands. This is very unlikely to be the case and may ultimately prove negative for the entire archipelago bottomfish population.

Finally, some critics are using a novel approach applying a definition of ecosystem integrity to fishery management, which has not been vigorously defined and which has not been tested by population dynamic experts. The target levels in the Northwestern Hawaiian Islands bottomfish fishery that are also being challenged are those that are inscribed by the guidelines implementing the Magnuson Fisheries Conservation and Management Act, the federal legislation governing fishery management decisions.

While one could define ecosystem integrity only as those with unfished stocks of fish, we believe this is not useful. Ecosystem can still maintain their ecological integrity which might be viewed as their integrated viability while still being fished.

Almost all evidence in the Northwestern Hawaiian Islands ecosystem suggests that such integrity continues to exist and, indeed, thrive despite decades of fishing in this region.

At the same time, reasonable people can differ on the level of protection to be afforded the Northwestern Hawaiian Islands ecosystem as a whole, but this is quite different from overfishing questions.

While we respect the recent interest in Hawaii's bottomfish, the approach of these critics is simply inconsistent with nationally-accepted methodologies for evaluation of the status of fisheries throughout the United States. We hope this helps put the record straight about NOAA's biological assessment of these fisheries.”

It was signed by Dr. Sam Pooley, the Director of the Pacific Science Center.

He applauded the Science Center for releasing the document and reminded the Council that the Science Center was the scientific body that advised National Marine Service and is part of National Marine Fisheries Service.

Ebisui reminded the Council of the Sanctuary Program recommendation document that included:

- the gear and methods used in the bottomfish fishery are highly selective, minimizing habitat impacts and unwanted bycatch; and
- Gear and methods used in pelagic troll fisheries had little or no impacts on the habitat and very low levels of bycatch.

It rated these two fisheries and awarded these two fisheries at the current levels a plus 3 and plus 2 rating respectively. A negative score would mean incompatibility with the primary purpose. A zero score was neutral. A positive score meant compatibility with the primary purpose of the sanctuary, and thus compatibility and consistency with the goals and objectives of the sanctuary.

Ebisui added that the most recent BiOp concluded that the existing fisheries, again, the bottomfish and the troll fisheries, do not impact monk seals, sea turtles or seabirds. This was presented in November at the Northwestern Hawaiian Islands Scientific Symposium. The findings were that the bottomfish fishery is one of the most sustainable and ecologically sound fisheries in the world. It has healthy stocks. No impact on Hawaiian monk seals, sea turtles, seabirds, fish habitat, biodiversity or the health and integrity of the coral reef ecosystem.

Ebisui asked that Makaiiau be allowed to point out compliance with the Executive Order in the motion.

Makaiiau noted that the Council was not picking an alternative but it saying if fishing was allowed, this is the recommendation.

If NOAA picks the five year or 2025 alternatives, it will meet the State's recommendation of phase out.

The proposal was based on recent guidance from the Executive Order, additional guidance provided by NOAA and the Sanctuaries Program.

Makaiiau confirmed that the Executive Order called for the number of permits that were established, which were 16. There was additional guidance from NOAA that in addition to the Executive Order, the goals and objectives could be use.

For the bottomfish catch limit of 381,000, the Executive Order called for a five year period. The 381,000 is more of a Magnuson because we were provided guidance that we could also use Magnuson as a way to implement the goals and objectives and the intent of the Executive Order. The MSY was guided by Magnuson National Standard of reducing MSY.

The nonlongline pelagic fishing caps was based on the Executive Order.

Annual pelagic catch by nonlongline pelagic fishery and limited entry were not directly addressed in the Executive Order. But the goals and objectives provided some additional advice to work with that based on the historical participation.

Through the guidance of NOAA, 180 permits fell within the six ranges.

Polhemus reiterated that the Council motion, un-amended, proposed increases over current levels. The State proposed targets that are lower under MSA and consistent with the EO.

Duenas called for the question on the amendment.

Duerr felt that the most beneficial use to the people of the State of Hawaii was to allow the limited fishing, because if it was not allowed, there was the possibility of increased pressure on fishing in the Main Hawaiian Islands.

The Sanctuary is a huge area and he didn't think allowing those few fishermen would harm the fishery or environment. If it does the Council could always address it.

McCoy called for the question on the amendment to the motion.

Martin called for a roll call vote. Ebisui seconded.

Ayes: Gaffney, Polhemus,

Nays: Haleck, Ebisui, Tulafono, Martin, Duenas, Harris, Sablan, Dela Cruz, Duerr,  
McCoy

Abstain: Robinson

McCoy announced the count as ten, two and one abstain. The motion did not pass.

Ebisui called for the vote on the original motion, Sablan seconded.

Gaffney asked that the word "fishing" be dropped from the reference to federal regulations governing the Midway Refuge.

Ebisui amended his motion to accommodate the change.

Gaffney seconded the motion.

Gaffney suggest that the same be done on Item K federally-permitted research regarding fishery and ecosystem conservation and management would be allowed in federal waters, not State waters.

Ebisui and Sablan had no objection.

McCoy called for the question:

Ayes: Haleck, Ebisui, Tulafono, Martin, Duenas, Harris, Sablan, Dela Cruz, Duerr,  
Martin

Nays: Gaffney, Polhemus

Abstain: Robinson

McCoy announced the vote as ten, two and one abstain. The motion passed.

Ebisui read the next motion:

"The Council also recommends National Marine Fisheries Service work with the Fish and Wildlife Service and request Fish and Wildlife Service to:

A, reclaim all recreational, slash, sport fishing data collected on Midway Atoll;  
B, apply the same data reporting protocols that NMFS uses in collecting fishery-dependent data;  
C, accurately collect and maintain all recreational sport fishing data collected on Midway Atoll.

Ebisui moved, Duenas seconded.

Palawski wanted to clarify that all of the data has been turned into the NOAA Pacific Islands Fishery Science Center for their analysis.

Polhemus asked to clarify that the U.S. Fish and Wildlife Service supported subsistence fishing in the waters surrounding the National Wildlife Sanctuary.

Palawski stated that the Fish and Wildlife Service supported accurately collecting data, C in this motion.

Polhemus asked what the position of Fish and Wildlife Service was regarding subsistence fishing in its waters.

Palawski replied that in the Hawaiian Islands National Wildlife Refuge there is no subsistence fishing.

At Midway Atoll, it has been a part of recreational fishing, the catching of fish that are used on the island for consumption, if that is included in the definition of subsistence.

Gaffney suggested that A be deleted from the motion.

Ebisui and Sablan agreed to the deletion.

Gaffney suggested that to include all fishing in the area that “recreational sport fishing data” be changed to “noncommercial fishing data”.

Ebisui and Sablan agreed.

McCoy called for the question on the motion.

Ayes: Gaffney, Polhemus, Haleck, Ebisui, Tulafono, Martin, Duenas, Harris, Sablan, Dela Cruz, Duerr, Robinson and McCoy.

Motion passed.

Ebisui read and moved on the third recommendation.

“The Council further recommends that Native Hawaiian subsistence and sustenance uses of the

Northwestern Hawaiian Islands fishery resources be allowed and managed in federal waters of the proposed Northwestern Hawaiian Islands National Marine Sanctuary under the National Marine Sanctuary Act. However, the Council requests that National Marine Fisheries Service work with the National Marine Sanctuary Program to ensure that all catch data is collected so it can be incorporated into National Marine Fisheries Service ecosystem assessments and monitoring of stock sustainability.”

Gaffney seconded.

Duerr noted that to be consistent with 1D, the State requires that there should be a permit process.

McCoy called for the question.

Ayes: Gaffney, Haleck, Ebisui, Tulafono, Martin, Duenas, Harris, Sablan, Dela Cruz, Duerr, McCoy

Abstain: Polhemus, Robinson

Motion passed.

(Five minute break taken)

Ebisui made the following motion:

“The Council further recommends that harvest of Northwestern Hawaiian Islands fishery resources be permitted research, enforcement and management, for example, marine debris clean-up vessels, and Sanctuary management vessels, vessels for onboard consumption, i.e., sustenance, be allowed and managed in federal waters of the proposed Northwestern Hawaiian Islands National Marine Sanctuary under the NMSA.

The Council requests that NMFS work with the Sanctuary Program to ensure that all catch data is collected so it can be incorporated into NMFS ecosystem assessments and monitoring of stock sustainability.

Tulafono seconded.

Polhemus pointed out that if the motion referred to the envisioned sanctuary; it would be co-managed, which would run counter to current state permitting guidelines that require any subsistence fish to be consumed while in the reserve. If this applies to only federal waters, it is not an issue.

Martin suggested “federal waters in the sanctuary.”

Polhemus had no objection.

McCoy called for the question. Motion passed with one abstention.

Ebisui presented the next motion:

“The Council undertake further public scoping of the shark tour operations. Further, Council staff is directed to prepare a plan amendment for regulations complementary to the State of Hawaii's laws prohibiting the use of chum in conjunction with shark tour operations to be ready for final action at the Council's October 2006 meeting.”

Polhemus seconded.

Gaffney asked if this could be done by the next meeting instead.

Ebisui responded that since the next meeting was in American Samoa, the operators would not have the opportunity to be part of the process.

Gaffney withdrew his suggestion.

McCoy called for the question. Motion passed with one no.

Simonds reminded the Council members that this was the first meeting of a two-meeting action on the sanctuary and that the next meeting would be via conference call on April 21<sup>st</sup>.

McCoy read the following recommendations for the Subsistence and Recreational Advisory Panel:

1. The Subsistence and Recreational Advisory Panel requests the Council to provide assistance to American Samoa Department of Marine and Wildlife Resources for monitoring and evaluating the effectiveness, benefits, of the existing village-based MPA. There are ten sites.
2. The Recreational AP recommends that some form of eco-permitting process be adopted for MPAS on Guam for activities other than fishing, e.g., diving, snorkeling, swimming competition, jet skis, et cetera.
3. Recommendation five, the Ecosystem and Habitat Advisory Panel recommends to the Council:
  - A. ensure community involvement in developing Marine Protected Areas throughout the region;
  - B. work with local and federal partners and consider social, cultural and economic impacts when developing Marine Protected Areas;
  - C. Work with local and federal partners to determine the carrying capacity of all nonfishing activities within MPAs and appropriately regulate them, possibly through an eco-permitting processing.

4. Recommendation Seven, regarding seafood safety, the Commercial Advisory Panel recommends that the Council investigate the practice of treating fish with carbon monoxide due to concerns over food safety, as well as its impact on local fish markets.
5. Regarding the Hawaii archipelago ecosystem, recommendation eight, the Subsistence Advisory Panel recommends the Council ban the harvest of tropical aquarium fish taking in Hawaii.
6. Recommendation Nine, the Subsistence Advisory Panel recommends the Council regulate the engineering of artificial reefs in Hawaii. Over-arching recommendation, any coastal development must disclose any potential impact on the marine environment.
7. Recommendation Ten, the Subsistence Advisory Panel recommends the Council ban fish farming in Hawaii.
8. Regarding Essential Fish Habitat, the Ecosystem and Habitat Advisory Panel recommends the Council work with local and federal partners to identify the extent and quantify the effects of contaminants, for example, PCB, sewage, cruise ship discharge, construction industry, erosion, agricultural and chemical runoff, on Essential Fish Habitat and develop solutions to mitigate the source of the problem.
9. Regarding ecosystem management, the Ecosystem and Habitat Advisory Panel recommends Council work with local and federal partners to promote environmental stewardship in the communities via education and outreach to protect the ecosystem. These efforts would include establishing high school and college internships in local resource management agencies, developing and implementing an environmental stewardship curriculum in the school systems; developing and promoting programs that teach traditional and cultural fishing methods and the values that go with them; and developing education and outreach materials that provide scientific and traditional information on the spawning and life cycles of various species to inform the communities on the best practices that work towards ensuring a diverse and productive ecosystem.

Duerr suggested that the list include farming in Hawaiian federal waters versus all fish farming.

Ebisui suggested that more analysis be done on the request and that they defer taking action.

Simonds suggested that the staff review all of the request and to respond appropriately.

Harris moved and Haleck seconded.

McCoy called for the question. Motion passed with one abstention and one nay recorded.

### **13. PROGRAM PLANNING**

### **13.A & B Updates on Legislation and MSA**

Harris deferred to Simonds to discuss Updates on Legislation.

Simonds reported that the Senate Commerce Committee accommodated some of the Council requests:

- The Community Development Programs needs to expand to include more than three to five projects.
- The Fisheries Sustainable Fund was expanded to receive money from any entity.
- A program has been established so that the National Marine Fisheries Service can receive money for Council programs and projects. The Sanctuary Program has such a line item, where they can receive funds to staff salaries, so this was an equity thing.
- The Chairman and Co-Chair of the Commerce Committee are very big on quota management. So allocation is a major part of this Reauthorization. We did convey our concerns that our fisheries are small and that to require that the Fisheries pay for all of the fees could be a hardship for us.
- Implementing legislation for the new commission, we asked for five commissioners and that the Council also be a commissioner. The State Department resisted but we pointed out at the Whiting Convention, the Pacific Council is a commissioner.

Gaffney asked if recreational fishing licenses looked like they were going to proceed.

Simonds responded that only registration would be required for now. The Committee Chair and Co-Chair are trying to move as quickly as possible on this, but would like unanimous consent, which will be difficult.

Harris called on Hamilton to discuss the status of fishery management actions.

### **13.C Status of Fishery Management Actions**

Hamilton reported that Simonds and Robinson are working through what Council recommendations to implement in the FMPs or to hold for the FEPs.

Pages one through seven included the recommendations that will be processed before the FEPs.

There are deadlines that need to be met:

1. The response for the Northwestern Hawaiian Islands will need to be transmitted to PIRO by May 1st.
2. The Main Hawaiian Islands bottomfish, must be transmitted on May 27th.
3. The letter from Bill Robinson to Simonds where they commit to transmit the FEPs to

It will be a challenge for the Council and PIRO staffs.

### **13.D Education and Outreach Report**

Spalding shared some highlights on her report:

- The website redesign is targeted to be online by the end of the month.
- The Year of the Sea Turtle began on March 1<sup>st</sup> and we have developed posters directing people to the website.
- An ecosystem poster contest in the Mariana Islands helped introduce the public to Fishery Ecosystem Plans. The winning posters are going to be put into lunar calendars to help promote traditional knowledge.
- A similar poster contest will be held in American Samoa in April and May, with the winners to be announced in June. Again the winning posters will be made into lunar calendars.
- A Hawaii Seafood Industry Workshop for teachers was held last year and was such a success one will be held on April 15th and maybe another one in the summer.
- Work has begun on a Pacific Marine Educators Conference in Fiji.
- There is one last 30-minute spot on Hawaii Goes Fishing that is being well-received.

Sablan asked if there was going to be an American Samoa and Guam poster contest.

Spalding replied yes and they would be in the appropriate languages.

Harris called on Earl Miyamoto to discuss the State Disaster Relief Program.

### **13.E Fisheries Disaster Relief Program**

Miyamoto explained that the legal notice for the Fisheries Disaster Relief Program was released on the 26th of February with a 31 March deadline for both, 1.6 million dollars in direct assistance to fishermen, along with three million dollars to JIMAR for research in industry-sponsored projects.

At the request from Martin the deadline has been extended to accommodate the fishermen to the 30th of April. The DWG and ESC will then meet sometime in May to review and approve those projects. He would be happy to give a progress report at the June meeting.

Sablan asked for a status report on the request that was submitted for Disaster Relief Funds for

Rota.

Miyamoto responded that the funds he deals with are directly from the State of Hawaii and do not apply to any outside countries. He offered that they may be in the CDP funds.

Robinson noted that he still had not had a response from the agency and hoped they would have one before the next Council meeting.

Harris called on Dalzell to provide the Fishery Data Coordinating Committee Report.

### **13.F Fishery Data Coordinating Committee Report.**

Dalzell noted that he was providing the report for Dave Hamm.

Dalzell also announced that Michael Quach, who is the now the new steward of West Pac FIN, was not available this evening because he's gone to Washington to receive a bronze medal for his leadership that developed the West Pac FIN Document Imaging and Archival system, which has been used throughout the island agencies for digital archiving of fishery data documents.

The committee had a meeting on Monday, March 10<sup>th</sup>. Highlights of the meeting included:

- Grant management is going to transfer from PIRO to PIFSC.
- All of the FY '06 budgets have been submitted and approved for the third and final year of the current multi-year cooperative agreements. No additional resources have been obtained to date. The next three-year agreements will be drafted and used in the same budgets as the current agreements.
- Quach will be coordinating with members to see if a Data Workshop can be scheduled for mid July to help develop plans on priorities to address new fisheries data needs in the islands, especially supporting FEPs and new international data requirements.
- A similar workshop was held 10 years ago. Since that time the data requirements have increased in magnitude and include recreational data coming on stream, international fishery commitments, recreational fishery registration and also TACs will again be a significant increase in responsibility for data.

### **13.H Standing Committee Recommendation**

Harris presented on recommendation from the Standing Committee and offered it as a motion:

“The Standing Committee recommends that the deadline for submission of applications for State Disaster Relief funds be extended beyond March 31st, 2006 to April 15th, 2006.”

Martin asked Harris to amend the date to April 30<sup>th</sup>.

### **13.I Public Comment**

There was no public for comments.

### **13.J Council Discussion and Action**

Having no discussion, McCoy called for the vote.

Motion passed.

(Brief break taken)

## **14. ADMINISTRATIVE MATTERS**

### **14.A Financial Reports**

Simonds explained that the Administrative or Financial report showed the following active agreements until March 31<sup>st</sup>: Coral Reef '04, Coral Reef '05, '04 Turtle and the multi-year award.

The report shows the budget request for all of the agreements, what has been spent to date, what's closed, and what isn't.

Funding will not be received this year for the Magnuson Community Demonstration projects, which is usually \$500,000 a year. We anticipate receiving that in '07.

For a separate Community Development Program under the Magnuson Act, the Commerce Committee has required the Secretary conduct training and education for indigenous people. This fits into the ecosystem approach to management.

### **14.B Administrative Reports**

Other administrative items included:

- the annual audit;
- the lease has been renewed for the office, same building, same lease payment per month;
- The five-year cooperative agreement was distributed via the Council member boxes. The program is separated into tasks that include the administrative budget, turtle, coral and EIS. The administrative budget was provided, however, since funding has not been totally received, it is expected to change.

### **14.E Council Family Changes**

McCoy detailed the Council changes that included:

- Dr. Ignacio Dela Cruz replaces Richard Seman.
- Dot Harris has alternates Miki Leon Guerrero and Tony Lamorena, or Adrienne Loerzel.
- Ray Roberto, DFW Data Section replaces Mr. Manny Ramon on the Bottomfish Plan Team.
- Coast Guard Commander Bob Wilson is retiring and being replaced by Commander Mark Young.

Duenas read the Council resolution for Commander Bob Wilson:

“A resolution in recognition of United States Coast Guard Commander Robert Wilson for his Service to the Western Pacific Regional Fisheries Management Council.

Whereas, Commander Wilson of the United States Coast Guard District Fourteen Maritime Security Branch, has represented the United States Coast Guard on the Council since 2002;

Whereas, Commander Wilson began service in the United States Coast Guard as a seaman and with hard work, excellent planning and a height advantage, was able to rise through the ranks to become Commander;

Whereas, in his capacity as Chief of District Fourteen's Maritime Security Branch, Commander Wilson has upheld the United States Coast Guard mission of Maritime Safety, Mobility and Security, National Defense and the Protection of Marine Resources within 14 million square miles of the Pacific Ocean;

Whereas, during Commander Wilson's tenure as Chief of the Maritime Security Branch, he was responsible for the detection of several law enforcement violations such as foreign fishing vessels engaged in illegal fishing within the U.S. Exclusive Economic Zone, the most recent being a Taiwanese vessel caught illegally fishing within the US EEZ surrounding the Commonwealth of the Northern Marianas;

Whereas, Commander Wilson has been a shining example for all to follow, a beacon on the high seas, blinding violators of maritime law as well as anyone else who dares to stare too long;

Where, like the United States Coast Guard predecessors on the Council, Commander Wilson has never had a hair out of place or a wrinkle in his uniform;

Whereas, Commander Wilson's leadership has improved the maritime security of the Western and Central Pacific Region;

Therefore, be it resolved, that the Council thanks Commander Wilson for his outstanding dedication and service to the Council and to the nation; and

Be it further resolved, that in light of in his retirement after 28 years of service in the United States Coast Guard, the Council wishes Commander Wilson fair winds and following seas.”

Sablan moved to adopt the motion, Harris seconded.

Motion passed.

#### **14.G Public Comments**

McCoy noted there was no public comment.

#### **14.F Standing Committee Recommendations**

McCoy noted there were no Standing Committee recommendations.

#### **14.C 2006 Meetings List**

Simonds reviewed the 2006 meetings list.

- Robinson and Simonds will be keynote speakers at the Pacific Rim Fisheries Conference. The title of their speech is "Who Gets the Fish."
- March 28<sup>th</sup> to 30<sup>th</sup> - The State Directors and Recreational Fishing Community meeting follows that conference. Eric Kingma will be attending in Simonds' place and Fred Duerr will be representing the Council members. That's March 28th to the 30th.
- The 26th Sea Turtles Symposium: Kinnan, Simonds and Dalzell will be attending.
- Black Coral Workshop is being sponsored with the State.
- Ecosystem meeting, PICES. The Council staff is supporting the PICES meeting.
- Pelagic plan team meeting.
- Coral task force meeting.
- The Chairman's meeting and Executive Director's meeting in Philadelphia which the Chairman, Vice-Chairman and Simonds would be participating in.
- The NOAA Fish Fry: Bill Hogarth is asking all of us who normally go to the Fish Fry to please come this year in support of the Gulf fisheries.
- The junk fish and the fresh fish booth was talked about earlier with Bruce Anderson.
- The Council meeting.
- The IATTC meeting: Dalzell, Simonds and Robinson will be attending. The IATTC

bigeye quota will be reviewed and an attempt made to increase that for our fishery.

- The Council is hosting the data workshop through the auspices of West Pac FIN.
- The Hawaii Green Sea Turtle Interagency Workshop.
- Billfish tournament, the first ten years of the Council's summer meetings and a great way to meet the international billfishers.
- Dalzell is going to the Western Pacific.

Gaffney suggested that since Duerr was going to Washington that he do a poll with all the anglers from other states to get their input on what's working for them and what's not.

Simonds said that Dalzell and DeMello could work this out with the sponsors of the tournament. Continuing with the calendar:

- The Scientific Committee meeting for the Tuna Commission in Manila, Dalzell is the Chairman of the Bycatch Committee.
- The Northern Committee meeting in Japan, Simonds would be attending.
- The Technical Committee on Compliance.
- The Billfish Symposium, Gaffney and Ebisui will attend.
- The October Council meeting.
- The December Tuna Commission meeting.

Harris asked once the Western and Central Pacific Fisheries Convention gets ratified by the United States, would the Council be able to assist in attendance.

Simonds said yes. Island representatives would always be supported by the Council. The State Department and PIRO would be approached for funds.

#### **14.D SOPP Changes**

McCoy reported that the Council met in closed session on March 14th, 2006 at noon to discuss concerns regarding Council and staff operations raised by Council Member Gaffney. A motion was made to adopt anti-lobbying provisions in the Council SOPP. However, based on existing lobbying restrictions in the OMB Circular, the Council voted not to incorporate such language at this time.

#### **14.H Council Discussion and Action**

(Meeting adjourned at approximately 7:25 p.m.)

