



WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL

MINUTES OF THE
169th MEETING OF THE
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

March 21–23, 2017

Ala Moana Hotel

410 Atkinson Drive, Honolulu, Hawai‘i

Ahupua‘a o Honolulu, Moku o Kona

Mokupuni o O‘ahu

Approved by Council:

A handwritten signature in blue ink, appearing to read "Edwin A. Ebisui Jr.", is written over a horizontal line.

Edwin A. Ebisui Jr., Chair
Western Pacific Regional Fishery Management Council

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I. Welcome and Introductions

The following members of the Western Pacific Regional Fishery Management Council were in attendance:

- Edwin Ebisui Jr., chair (Hawai‘i)
- Michael Duenas, vice chair (Guam)
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- McGrew Rice, vice chair (Hawai‘i)
- Bruce Anderson, Hawai‘i Department of Land and Natural Resources (DLNR Hawai‘i) (designee for Suzanne Case)¹
- Matthew Brown, US Fish and Wildlife Service (USFWS)²
- Cmdr. Rula Deisher, US Coast Guard (USCG) (designee for Rear Adm. Vincent Atkins)
- Michael Goto (Hawai‘i)
- Christinna Lutu-Sanchez (American Samoa)
- Henry Sesepasara, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Matt Sablan, Guam Department of Agriculture (DOA)
- Dean Sensui (Hawai‘i)
- Archie Taotasi Soliai (American Samoa)
- Michael Brakke, US Department of State
- Mike Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)

Also in attendance were Council Executive Director Kitty Simonds, NOAA Office of General Counsel Elena Onaga and Frederick Tucher, and Scientific and Statistical Committee (SSC) Chair Jim Lynch. Council Member Richard Seman, CNMI Department of Lands and Natural Resources (DLNR CNMI), was absent.

II. Approval of the 169th Agenda

Moved by Rice; seconded by Duenas.
Motion passed.

¹ Arrived late

² Arrived late

III. Approval of the 168th Minutes

*Moved by Soliai; seconded by Duenas.
Motion passed.*

IV. Executive Director's Report

Simonds reported on issues of significance since the 168th Council meeting. President Trump has signed several new executive orders (EOs). Wilbur Ross, the new Secretary of Commerce, in his first address to Department of Commerce employees, said that “obtaining maximum sustainable yield is a critical function of the Department on a short list of challenges that must be addressed.” Simonds said Ross’s priorities are reducing the trade deficit and supporting US jobs, since 90 percent of the seafood consumed in the United States is imported.

The Council Coordination Committee (CCC) at its Feb. 28 to March 1 meeting adopted two letters: one to Ross, congratulating him on his confirmation and describing the role and value of the regional fishery management councils in managing US fisheries, and one to President Trump, providing an overview of the economic value of US fisheries and the 2016 CCC resolution on the establishment of marine national monuments (MNMs) under the Antiquities Act.

President’s budget proposes a \$250 million reduction in the Department of Commerce’s fund for coastal research programs, grants, education and research, including \$73 million that supports the Sea Grant Program. Simonds quoted from the President’s budget, which states that these programs are a lower priority than core functions maintained in the Department of Commerce budget such as surveys, charting and fisheries management.

Lastly, Simonds reported that the chairman of the House Committee on Natural Resources and the congresswoman from American Samoa signed a letter to the President asking him to remove all MNM fishing prohibitions. Subsequently, a subcommittee of the House Committee on Natural Resources held a meeting on March 15 to examine the creation and management of marine monuments and sanctuaries. Brian Hallman of the American Tunaboat Association spoke on the impacts on US tuna fisheries operating in the region. Simonds noted that the CNMI congressman criticized the Council for not supporting conservation and alleged that the Council opposes every major conservation initiative. Simonds said the Council has led the way in implementing seabird and sea turtle conservation measures to make the Hawai‘i longline fleet a model fishery today.

V. Agency Reports

A. National Marine Fisheries Service

Alan Risenhoover, NMFS Acting Deputy Assistant Administrator for Regulatory Programs, provided broad agency updates. Secretary Ross is in place and is assembling his team. Ben Friedman is the Acting Administrator for NOAA and Samuel Rauch is the acting NMFS Administrator until nomination for these positions have been confirmed.

Risenhoover said Ross has been supportive of fisheries in a general sense. Specifically, he is committed to decreasing the seafood trade deficit by increasing US production through wild harvest and aquaculture programs. The new administration regards the open, transparent, stakeholder-based decision-making process of the Council as a good one.

NOAA will work to flesh out the President's budget with more specifics for delivery in the early summer timeframe. Rauch said fisheries and the Council process seem to be one of the standards upheld as a good part of the government. There is still no final budget for Fiscal Year 2017, but a continuing resolution is in place through April. There is some talk of additional cuts to this budget.

Risenhoover said that NMFS is operating with 300 to 400 fewer employees than in previous years because of the government-wide hiring freeze. The agency hopes that enforcement personnel will not be subject to the hiring freeze.

The new administration has issued three presidential actions on federal rulemaking. The first was that the new administration would review all new regulations before publication. Fisheries regulations, including those derived under the Council process, are being approved (e.g., in-season actions). Second, an EO requires two regulations be removed for every new one and for new regulations to be cost neutral. This EO only applies to significant rules, with costs of over \$100 million, of which the Department of Commerce has only a few of every year. This will not likely affect the Western Pacific Region. Lastly, a new EO establishes the government's regulatory agenda, which involves nominating a person from each cabinet department to serve as a regulatory officer. The EO also requires departments to establish a Regulatory Task Force to ensure the department appropriately implements the president's regulatory reform agenda.

Simonds asked if the regulatory officer must come from inside or outside the department.

Risenhoover said a current career employee will likely fill the position until additional direction is received from the political appointees, once they are in place. Many of the General Counsels at the Department of Commerce level are political. Risenhoover said he anticipates that one of them will serve as the regulatory officer.

Ebisui asked about the prospective role of the Council on Environmental Quality (CEQ) in the new administration.

Risenhoover said he believed CEQ has moved offices and its head has not been named.

1. Pacific Islands Regional Office

Tosatto reported on several regulatory actions. PIRO issued the final rule for the 2016 annual catch limits (ACLs), with associated accountability measures. The regional office is producing two programmatic environmental impact statements (PEIS): one for aquaculture and one for the deep-set longline fisheries. The aquaculture PEIS evaluates the Council's recommended amendment to implement an aquaculture program. The deep-set longline PEIS evaluates the continued operation of the fishery because much of the information in the

environmental analyses is dated and there have been changes in the fishery, such as international catch limits and large marine protected areas (MPAs).

Since October, several international meetings were held, which PIRO will provide reports later in the meeting. PIRO is preparing for the next round of meetings this summer and the December Western and Central Pacific Fisheries Commission (WCPFC) meeting in the Philippines. Congress passed legislation for the United States to be a member of the South Pacific Regional Fishery Management Organization (SPRFMO) and the North Pacific Fisheries Commission (NPFCC). The United States participated in SPRFMO as a cooperating non-member with Tosatto leading the US delegation. There are no direct fisheries in that region under that international body, but the United States is playing a key role in the development of the organization.

Simonds asked when the Council may send in names for the US Commissioners representing the Council for the two new regional fishery management organization (RFMOs).

Tosatto said the president put a signing statement in the legislation. PIRO is working with General Counsel and advisors at the State Department and Department of Justice to clarify provisions of those acts. NMFS will approach the Council when it is appropriate.

Simonds said the release had a statement about Council members becoming Commissioners, differing from the WCPFC Implementation Act.

Tosatto said the language was not identical. It is generally viewed that Congress had some intent to have Council participation. At the same time, the president says commissioners serve at the president's intent.

2. Pacific Islands Fisheries Science Center

Michael Seki, director of the Pacific Islands Fisheries Science Center (PIFSC), provided the PIFSC report. Frank Parrish was selected as the new ecosystem science division director. The division is restructuring the coral reef ecosystem, oceanography and socioeconomics programs.

The NOAA ship *OSCAR ELTON SETTE* is currently performing the spring insular bottomfish survey and will perform the pelagic ecosystem, Kona Integrated Ecosystem Assessment and the Northwestern Hawaiian Islands (NWHI) cruise. *HI'IALAKAI* has been delayed on the trip for the Marianas Reef Assessment and Monitoring Program. The *OKEANOS EXPLORER* is in its final year of ocean exploration in the central and western Pacific, focusing on American Samoa, Pacific Remote Island Areas (PRIAs) and Phoenix Islands.

In recognition of the 10th year anniversary of the Hawaiian Monk Seal Recovery Plan, the Pacific Islands Region has named 2017 the Year of the Monk Seal. The monk seal population is the highest in decades with an estimated population size of about 1,400 seals, with 1,100 in the NWHI and 300 in the main Hawaiian Islands (MHI). The NWHI population is stable or growing, which is a first for many years. This increase is attributed to efforts put into the recovery of the species, the opening of the Ke Ola Kai monk seal hospital on Hawai'i island and through favorable environmental conditions.

The turtle program has been working with local agencies to perform surveys in the Mariana archipelago, which resulted in 84 observations, 21 captures (18 greens, 3 hawksbills), 16 tags and several biological samples. Field nesting work was also conducted at Rose Atoll. Thirty-six individual turtles were encountered, 17 tags deployed and 13 nests counted. Each nest had an averaged 98 eggs, for a total of 1,300 turtle eggs counted. Turtle program staff attended the first national protected species assessment workshop, at which Summer Martin reported on the relationship between environmental variables and green turtle egg survival. Her work suggests an increase in females and reduced egg survival with increasing beach temperatures.

PIFSC Ecosystem Science Division staff continues to work on the relationship between climate and catch per unit effort (CPUE) of bigeye tuna in the Hawai'i longline fishery. Jeffrey Polovina, PhD, retired last year, and Phoebe Woodworth-Jeffcoats, PhD, has taken on his role investigating the influence of oceanography on Hawai'i longline catch patterns. Recent work indicates that the fishery's effort has shifted spatially, from predominantly southwest of the MHI to northwest of the MHI above 26° N latitude and to the east of 150° W longitude. Scientists found that in the core area catch rates tended to drop in the third quarter of every year when it picks up in the northeastern part of the fishing grounds. Preferred bigeye habitat likely occurs in the northeastern area where fishing competition from foreign fleets is reduced. Because of the shift, lancetfish have become the most abundant animal caught by the Hawai'i longline fishery. Catch rates for lancetfish are highest above 16° N latitude.

The PIFSC coral reef program held workshops to generate coral reef report cards across the region to assist coral reef managers to measure coral reef health.

The PIFSC life history program collected bumphead parrotfish samples throughout its range. It found that environmental conditions such as sea surface temperature and chlorophyll explain the variation in life history throughout its range, while on the local scale, fishing pressure and predation drives the variation in life history.

The bottomfish fishery independent survey is using two types of sampling technologies. Commercial fishers provide an estimate of catch rates, and cameras observe abundance. Biological samples are also collected to support stock assessments. Preliminary results should be available in the summer.

Simonds thanked Seki for the bottomfish work and asked when the final report will be available.

Seki said he hopes by the end of the year. The fishing portion of the work occurred during high wind periods, which fishers say is the single variable that has the most influence on the catch.

Simonds reiterated the importance of the surveys to the State of Hawai'i in considering the effectiveness of the Bottomfish Restricted Fishing Areas (BRFAs). The Council's recommendation was to remove the BRFAs and begin cooperative research with the fishermen in newly opened BRFAs.

Rice said weather is a factor in the bottomfish fishery, and mother nature regulates when fishermen can fish in those areas.

Gourley asked if the coral reef workshops will recur or were they a one-time occurrence.

Seki said he is not sure about annual workshops, but he believes that the report cards are expected to continue.

Gourley asked if the workshops are open to the public or just the agency.

Seki said he didn't know. They are driven by the coral reef community and not by PIFSC.

Sensui said the disparity in the measures of abundance between the camera surveys and the research fishing was conspicuous.

Seki again cautioned that the data he showed was in its grossest form. Each gear has its own biases in what it produces. It will take time before the results are finalized.

B. NOAA Office of General Counsel, Pacific Islands Section

Tucher said the Council's hard copy report is dated, even though it was prepared on March 16, as the court made a relevant decision yesterday. He then reported on the following three cases in active litigation.

Turtle Island Restoration Network and Center for Biological Diversity versus NMFS and USFWS is a 2012 action filed against the Hawai'i shallow-set fishery. This is a continuing appeal of the Amendment 18 litigation, which began around 2009 and resulted in a settlement. NMFS completed the biological opinion, which supported hard caps for two species of sea turtles for that fishery. The biological opinion and rule were again challenged by the same plaintiffs, on which NMFS prevailed. That was appealed to the 9th Circuit, with oral argument occurring in June 2016. NMFS is awaiting a decision.

The second case involves critical habitat for the MHI insular false killer whale. Natural Resources Defense Council asserts that NMFS did not meet the Endangered Species Act (ESA) requirement to designate critical habitat, which NMFS admitted. A settlement agreement between the plaintiffs and NMFS occurred recently. Under the terms of the settlement, NMFS will issue a proposed critical habitat designation by Oct. 31, 2017, and final critical habitat designation by July 1, 2018.

The last case is American Samoa versus NMFS. Tucher reviewed the Council's action to address changed circumstances that exist in American Samoa with respect to large longline vessels. Under the previous regulatory regime, the Large Vessel Prohibited Area (LVPA) applied a 50-nautical mile (nm) closed area around American Samoa for large fishing vessels. The Council recommended amending the closed area to allow certain longline vessels to fish in that area between 12 and 50 nm, with annual review to determine the effects on coastal and artisanal fisheries. The governor of American Samoa submitted public comments opposing that action. The Council and NMFS responded to those objections in the responses to public comment in the

final rule. The plaintiffs asserted that NMFS acted arbitrarily and capriciously when it did not consider the Deeds of Cession. NMFS argued in court that it was not required to consider the Deeds of Cession, but, even if it did, NMFS adequately addressed concerns from American Samoa by responding to each and all substantive objections to implementation of the modification of the closure. The court filed a very narrow decision, which NMFS has not had the opportunity to discuss within the agency. The court supported American Samoa's positions that the agency was required to consider the Deeds of Cession and is obliged to protect cultural fishing in waters that were subject to the Deeds. The agency has not determined whether it will file a request for reconsideration, an appeal or other action.

Lutu-Sanchez asked Tucher to explain what cultural fishing is. She also asked about the issue discussed at the last Council meeting brought forth from the Advisory Panel (AP), regarding the reference to indigenous people in the LVPA rule.

Tucher said he cannot as a lawyer define what indigenous means. That term does not appear in the decision, so it is up to the Council and NMFS to provide a term for indigenous people if they find it appropriate and necessary. With regards to cultural fishing, the agency took the position it did because the Deeds do not provide directives to agencies. The Deeds speak broadly of things, without mentioning cultural fishing. The concern moving forward is interpreting the Deeds to obligate the agency to consider certain things. The National Standards (NSs) have specific guidance on evaluating impacts of fishery management actions on communities. In this rulemaking, NMFS relied on NSs 5,6 and 8 to ensure that relief was provided to the longliners without adversely impacting catch rates and resulting in localized depletion for smaller coastal and artisanal fisheries. The Court's decision does not define cultural fishing, but it does direct NMFS to consider the need to protect cultural fishing.

Lutu-Sanchez said that is a question she has as an American Samoan. Since the court ruling is from a judge based in Hawai'i, maybe she used a different definition of indigenous peoples. The recommendation from the last Council meeting was relevant to this court hearing, in which the plaintiffs were claiming harm to indigenous rights. Who are those indigenous peoples?

Tucher said they claimed certain indigenous peoples were being harmed, without saying who was being harmed. There was not a definition of the indigenous people, but the primary objection was harm to the alia and troll fisheries. He was not sure if they used the term indigenous people.

Lutu-Sanchez asked how the ruling impacts the other decisions that are made for managing fisheries in American Samoa, such as the original LVPA and longline limited entry program.

Tucher said the LVPA modification is the only regulation affected by this decision. Because the court issued an order vacating and setting aside the 2016 rule, it is as if it doesn't exist and the 2002 rule is in effect. Tucher said this is preliminary advice, and he has not had an opportunity to discuss the ruling within NMFS. Generally, when a court vacates a regulation, the

regulation is voided. How this affects future decisions is a big question, which will be discussed with the Council, NMFS and others.

Lutu-Sanchez asked when will the longliners will be kicked out of the 50-nm zone.

Tucher said that the effect of the order is immediate and NMFS will provide guidance. This does not mean that the agency will not ask to lessen the impact of the ruling. The 2002 rule is the applicable closure.

Lutu-Sanchez asked Tosatto for an answer.

Tosatto said there is no final answer.

Sesepasara asked if the 2002 rule applies considering the order to vacate.

Tucher said the agency usually has time to develop a response. The general effect from an order to vacate and set aside is usually an order to say the final rule is of no legal effect. It doesn't mean we cannot appeal or stay the effect, but until that happens, the effect is to render the LVPA exemption rule void.

Sesepasara asked what the deadline is for the agency to appeal.

Tucher said filing a notice of appeal is generally is 60 days. Some local rules may apply for reconsideration that may be over a shorter period. The agency will consider which avenue will apply. The reconsideration motion can be as short as 14 days or up to a year, depending on what the agency alleges to be the error.

Soliai asked how soon the legal team will be able to prepare an action plan with respect to the decision, recognizing this was just released yesterday.

Tucher said he does not know and has not had the opportunity to speak with other people within the agency. Depending on the desired course of action it could be quick or take some time. The civil time clock is a lengthy and slow process. As is evidenced in the Amendment 18 litigation, a civil case may be active for five years without a final decision. Part of the reason is people must be educated on voluminous administrative records while criminal dockets must be handled very quickly. Even if reconsideration or appeal were pursued, that is not to suggest early relief even if the agency were to prevail.

Soliai said this has been a very contentious issue for the last 18 months or so. He requested an expeditious response that pursued all available remedies.

Simonds said that, during the pelagic section of the meeting, PIFSC will show that small boats were not impacted by longliners fishing within 50 nm. Lutu-Sanchez's questions make it clear that the longliners are not able to do anything until they hear from NMFS.

Lutu-Sanchez asked if the Deeds of Cession were considered during the 2002 LVPA ruling.

Tucher said the Deeds were mentioned in the fishery management plan (FMP) but were not analyzed for impact nor were they considered part of the decision to implement the closure, which was part of our brief. The court did not consider this argument and said that, as a procedural matter, the agency was required to consider the Deeds.

Simonds said that she hopes the Council has some influence on who will be litigating if it goes back to court and that Tucher should have delivered the oral argument.

C. US Department of State

Brakke provided a few updates from the Department of State. The major update is the previous President's ratification of the SPRFMO and NPFC. With regards to the South Pacific Tuna Treaty, after many years of difficult negotiations, the parties reached agreement on amendments, and these were adopted on Dec. 3 in Fiji just before the WCPFC meeting. The amendments include a general framework for fishing access over the next six years that allows additional access and stability for the industry. The United States is implementing the new amendments to the extent possible while waiting on the ratification. The other update was regarding the Secretariat of the Pacific Community (SPC) Head of Fisheries meeting in Noumea. SPC is divided into an oceanic and coastal fisheries division. A major theme of the discussion last week was concern by several Pacific Island countries that coastal fisheries have been neglected in favor of oceanic resources. Given their importance to food security there was a desire to increase support for coastal fisheries. Several discussions were relevant to the Territories, the State of Hawai'i and the Council. Brakke encouraged the Council to coordinate with the heads of the territorial local fishery agencies, as the members drive the work of SPC.

D. US Fish and Wildlife Service

Brown reported that Chris Swenson recently relocated to Portland, Ore., and is the USFWS point of contact for Pacific programs. Brown thanked the US Department of State and NMFS for their efforts in exploring best management practices in large-scale MPAs with other nations. He said the *KAHANA* is on a marine debris cruise in Papahānaumokuākea with personnel from USFWS, NOAA and the State of Hawai'i and are due back in April. USFWS maintains a year-round field camp at Midway, Palmyra and Johnston Atoll.

Simonds asked how many people are stationed year-round at Johnston.

Brown said about five.

Simonds asked what they do.

Brown said they battle the yellow crazy ant, an invasive species that decimated the seabird population. Eradication is almost complete. The population has started to rebound.

Simonds asked about the mission of the large MPA effort.

Brown said the mission of the each MPA is different, but the trip sponsored by the State Department was for sharing tools and approaches in managing large MPAs.

Simonds asked Brakke for a report on the activities of other nations.

Rice asked Brown if he oversees the Sports Fish Restoration Fund.

Brown said USFWS is.

Rice asked how much the State of Hawai‘i receives.

Brown said he could supply that number.

Rice asked what the uses of that fund may be.

Brown said it is primarily for recreational and charter fishing. He would get more specific information.

Duenas asked for that information as well.

Brown said he would get it for all the jurisdictions.

E. Enforcement

1. US Coast Guard

Deisher introduced Lt. Cmdr. Adam Disc, the new fisheries policy officer who will be moving into her job. She also introduced an instructor from the Pacific Regional Fisheries Training Center, who is on island teaching a class for USCG boarding officers, and Capt. Hendrickson, chief of response.

Hendrickson said he has been attending Council meetings for 17 years and looks forward to working with the Council again. He said enforcement exists for stewardship and safety. The regulatory scheme is for enforcement officers to be respectful and professional when they come onboard. He said he hoped they receive the same respect from fishermen. Both fishermen and enforcement have tough jobs. Stewardship means having a level playing field for everyone in the fishery and includes environmental protection.

Ebisui thanked Hendrickson and said that the importance of the USCG’s help in crafting enforceable regulations cannot be overstated.

Deisher presented a summary of USCG fisheries law enforcement activities in the Western and Central Pacific for the reporting period. In late September, the USCG boarded four US purse-seine vessels, noting one with an expired life raft, and eight foreign fishing vessels on the high seas under WCPFC rules with no violations detected. In October, *WASHINGTON* patrolled the Guam and CNMI, noting no foreign vessel incursions. During October through December, a USCG boarding team was on a US Navy asset that patrolled the US exclusive economic zones (EEZ) around Hawai‘i, Kingman Reef and Palmyra Atoll. They assisted a Vanuatu shiprider with the boarding of eight foreign fishing vessels registered to fish in Vanuatu’s EEZ and found no violations.

In November through December, the *ASSETEAGUE* and the *WASHINGTON* conducted multiple patrols of the US EEZ around Guam and the CNMI; no foreign vessel incursions were noted. In December, the *SEQUOIA* deployed in the US EEZ around Guam and CNMI and conducted five high seas boardings under the WCPFC, noting eight potential violations. Most of those potential violations included missing turtle dehooking devices, some unidentified shark species in the log and missing visual markings on the pilothouse.

In January, *WASHINGTON* embarked with a Palau shiprider. They patrolled the US EEZ around Guam and conducted three boardings of foreign-flagged vessels in Palau's EEZ. No violations were noted. In January and February, a USCG law enforcement team on a US Navy asset patrolled the US EEZ around Hawai'i, Kingman Reef and Palmyra Atoll. They embarked a Tuvalu shiprider and conducted two boardings in Tuvalu's EEZ. One was of a US-flagged purse seiner, and the team noted a minor violation of hull numbering. There were five high seas boardings under the WCPFC with no violations. During the last half of that patrol, an embarked Nauru shiprider and personnel from the NOAA Office of Law Enforcement assisted in nine boardings in Nauru's EEZ, including one of a US-flagged purse seiner; no violations were noted.

In January, the *WALNUT* patrolled Hawaiian waters, conducting three boardings of US-flagged vessels. There were nine safety violations and one violation for operating without a valid federal permit to fish. In February, the *SEQUOIA* and *WASHINGTON* conducted a joint patrol with the Federated States of Micronesia (FSM) and two Australia Fisheries Management Authority shipriders. A fish carrier was boarded on the high seas with no violations. Nine boardings in FSM's EEZ found no violations. Multiple C-130 aircraft patrols were conducted around the Hawaiian Islands, and individual patrols of Johnston, Wake, CNMI and Guam occurred. No foreign vessel incursions or domestic violations were noted.

Gourley asked if there is a distinction in conducting enforcement surveys between marine sanctuaries and monuments and if there was funding, and how much, for enforcing these areas.

Hendrickson said the general budget for operations includes search and rescue, fisheries enforcement, countering drugs, etc.

Gourley asked if sanctuaries and monuments are equal.

Hendrickson said their budget is incredibly stretched. To prioritize they choose by the biggest threat, which varies.

Gourley said a sanctuary doesn't offer additional protection.

Deisher said it depends on the regulations.

McGrew said that the USCG outreach and education to the small boat fleet has been a lot more visible over the last few years, which was very much appreciated.

Soliai asked if there were plans to increase enforcement in the remote US areas such as American Samoa.

Deisher said the USCG has very limited assets and will continue to conduct enforcement as assets allow.

Soliai asked if Deisher was at liberty to discuss the February boarding of the US purse seiner in Pago Pago harbor, which is not noted on the report.

Deisher said the fishing vessel was boarded in American Samoa. It will be included in the next report.

2. NOAA Office of Law Enforcement

Bill Pickering, from the NOAA Office of Law Enforcement, reported there were 258 incidents since the last Council meeting. They were mostly protected resources, fishery management and sanctuary cases. There were 39 incidents with respect to port state measures agreements, mostly in American Samoa but also in Hawai'i and Guam. An elementary school outreach program in Hawai'i received a lot of attention and participation. The joint mission completed several weeks ago with the Department of Defense (DOD) was also well received. The USCG, NOAA, and DOD signed a memorandum of understanding in 2012, and the joint exercise was a way to fulfill the agreement. When the USCG boards on the high seas, that team brings knowledge of RFMOs and fishery laws, which adds a degree of professionalism not seen elsewhere in the Pacific.

Pickering said in December a WCPFC member nominated the first US flag vessel as an illegal, unreported and unregulated (IUU) vessel. He acknowledged Duane Smith, Tosatto, Brakke and Tom Graham who successfully negotiated during the interim meetings the removal of the vessel from the provisional IUU list. Samoa at the time withdrew that nomination. Part of the thanks go to the agent who discovered the case before any other nation and took swift and appropriate action, which helped the other WCPFC members support removal from the IUU list.

There were no questions for Pickering.

3. NOAA Office of General Counsel, Enforcement Section

Duane Smith, from the Office of General Counsel, Enforcement Section, reported that 13 cases are under consideration for civil penalty, seven are in active prosecution. His office resolved five cases since the last report, which are listed in the written report. There were some purse-seine, longline and non-vessel cases.

There were no questions for Smith.

F. Other Items

1. President Trump Executive Orders and Memorandum

Risenhoover reviewed some of the EOs that could affect federal regulations. He said the bottom line is our regulations are moving. The freeze has affected the agency in the sense that the administration must be briefed on the regulations that are moving forward, which is expected

with any change in administration. Fisheries management and protected species regulations are moving through with the additional time needed for review. Critical regulations and specifications are also moving through. The EO on “2 for 1 regulations” saw additional guidance from the Office of Management and Budget, which directed that it only applies to regulations that cost over \$100 million to the industry or impose particularly novel or legal problems. The significance determination is the same as it has been in the past. All proposed regulations are identified in the OMB’s unified agenda. There are very few significant regulations on the website that OMB has implemented. Part of the significance determination means that OMB will review the regulation for up to 90 days. NMFS will be briefing the Regulatory Reform Task Force associated with the recent EO on the regulatory reform agenda.

Simonds asked if NMFS is consulting on the issue of overlaying national marine sanctuaries on the Pacific MNMs and how the agencies determine duplication and federal overreach.

Risenhoover said the overlay of fisheries regulations will likely involve Tosatto and issues would be elevated to the DC level. In the past, there were regular conversations with the Sanctuaries office to work out those details and develop a policy. He said he was not aware of any specific issues or draft regulations.

Tosatto added context. Two frameworks are around when monuments and sanctuaries are created and what fishing regulations within each marine managed area mean. Monument regulations have been created within the Council process, with the exception of the inaugural Papahānaumokuākea MNM. Within a sanctuary, absent a monument, the Sanctuaries Act is controlling, and this law includes a process for developing sanctuary fishing regulations with Council consultation. The overlay areas are new and unusual, and the request to be considered for a Sanctuary came from the CNMI and Friends of the Marianas Trench Marina National Monument group. NMFS is the lead in the Monument, and the Sanctuaries process, following the request, was to place the monument on the inventory list to consider if it should be a sanctuary. NMFS will engage with the National Ocean Service on the Sanctuary inventory list.

Simonds said she hopes the people who have questions about why the sanctuary is a good idea will engage the people who should know about it. The sanctuary process results in increased federal work force. It’s a broad picture.

Tosatto said future designations, to be supportable, would have to add a benefit or value that is not there today.

Gourley said proponents in the Marianas claim that sanctuary status would increase enforcement actions, over the monument. That is not necessarily correct, as Deisher stated. Gourley said the document supporting the Marianas sanctuary proposal indicates that the request is not simply a sanctuary overlay but rather to use the sanctuary process to enlarge the area. The Pew vision is a sanctuary covering 57 percent of the Mariana Archipelago, overlaying the monument and extending to the edge of the EEZ.

Simonds said she hadn't read the document, but NMFS enforces Sanctuaries. She asked if there is other enforcement there besides the USCG. She said it is interesting that an increase in enforcement is a reason for a Sanctuary and that she did not see how NOAA could accept that as additional value over the monument.

Smith said sanctuary designation provides a lot of authority, which leads to more tools available, but not necessarily equal enforcement action. Someone can say with a straight face that an area is provided greater protection through the authority of the National Marine Sanctuaries Act as opposed to the Antiquities Act, but perhaps we are talking apples and oranges, he added.

G. Public Comment

Karlinna Sanchez provided public comment on the LVPA litigation. She asked if it is possible to request a stay on the order if the Council requests further information.

Tucher said a stay is one option being explored.

Sanchez said for the consideration of the Deeds of Cession, if it was not considered in 2002, would this also void the 2002 ruling if this is being noted by a judge in the recent ruling?

Tucher said the Deeds were not considered applicable law in the 2002 Final Rule that established the 50-nm closure; however, at the time that rule was not subject to challenge in court. The time requirements have since lapsed for challenge. The order would not invalidate the 2002 rule.

Sanchez said the Deeds refer to property rights and asked if they refer to cultural fishing.

Tucher said the Deeds are codified in federal law, which is what the court reviewed. The court was not concerned with the ownership of the waters or whether cultural fishing is an attribute or quality that can be conveyed by the Deeds. The court focused on the activity as being subject to the Deeds without examining if they could be conveyed.

Sanchez said there is a concern with cultural fishing because by definition there is no cultural fishing present in American Samoa. An alia is a type of boat, and longline is a type of fishing. An alia can also do longline fishing. If there's no cultural fishing in American Samoa, who are they protecting? How is it allowed that the government protects a non-existent organization instead of the main export?

Tucher said the agency was not successful, and one of the arguments it raised was that the injury in the complaint was speculative and, by the substantial evidence in the record, the action would not adversely impact the coastal fisheries. The court did not reach those arguments because the judge stopped at the agency's failure to consider cultural fishing, whatever that means, under the Deeds and other applicable law. The judge did not get to the issue of whether people were adversely affected.

Sanchez asked why it is mandatory to consider things that don't exist, for example, cultural fishing.

Tucher said that the definition offered isn't the only definition for cultural fishing, and the role of a fishery management plan is to consider all fishing interests and ensure sustained participation by all measures. Cultural fishing can mean different things to different people.

Sanchez asked if alia fishing is considered cultural fishing even though it sells fish, should longline fishing also be considered cultural fishing if owned by Samoans like her mom.

Tucher said one of our arguments was to consider the impacts on the fisheries that were intended to benefit from the action, which were the large longliners.

Sanchez said the alia fishing is the cultural fishing that people are trying to protect. Alia fishing is not a means of fishing in Samoan culture, however. Alia are not canoes, and longlines are not spears or other traditional gear types. There is no alia fishing with longlines. She said the labor force is lazy, and the longliners are the only ones who are exporting. She said the Council should appeal the decision or the longline fishery will sink to the ground.

Judy Guthertz, AP chair, cautioned the federal agencies to be careful because of recent federal actions that are impacting the island groups represented at the Council meeting. Two federal actions over the last three weeks challenge indigenous people from being able to ensure the continuity of their traditions and cultures, which are the federal court action to challenge the right of indigenous people to determine their political future through a self-determination vote, and a notice from the US Department of Justice that challenges the constitutionality of the Chamorro Land Trust, which is akin to the Hawaiian lands program. Fishing is a traditional activity that brings significant autonomy and pride to native people of Guam, as does land and the right to determine future political status to the Territory. The federal government is challenging those things on Guam, which is creating a lot of disharmony on Guam. Guthertz asked federal representatives at the meeting to not allow their colleagues to be condescending to Guam, American Samoa and the CNMI as US territories. Don't allow your colleagues to propose standards that are not respectful to indigenous lands, cultures and water, she pleaded, asking that they instead work together to find solutions. She said the people of Guam are concerned about the future. She noted the proposal to expand the Marianas Trench MNM and its effect on Guam and CNMI fishermen. She said native people have respected the water and land since time immemorial without these federal regulations and asked that the federal government work with them.

H. Council Discussion and Action

There were no Council actions for the agency reports section of the agenda.

VI. Program Planning and Research

A. Analysis of the Fishery Ecosystem Plan Management Unit Species for Ecosystem Component Designation (Action Item)

Marlowe Sabater, Council staff, presented an analysis of the management unit species that the Council is considering designating as ecosystem component species, consistent with NS 1. The 2006 reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) required the establishment of ACLs and shifted the Council's management efforts from ecosystem-based management to approving and refining the ACL implementation mechanism. The analysis to determine ecosystem component species will bring the Council back to using an ecosystem strategy rather than quota-based management.

The Council adopted the ecosystem component species classification in its ACL amendment for later designation. Species with a management history that predates the introduction of the "ecosystem component species" classification into the NS 1 regulatory guidance include non-NWHI crustacean, deep-water shrimp and potentially harvested coral reef taxa.

The NS guidelines encourage the designation of ecosystem component species to obtain ecosystem objectives for species that are not caught predominately in federal waters and are not overfished or subject to overfishing. Species will not be removed from the fishery ecosystem plans (FEPs); they will be reclassified and monitored to determine if they are in need of conservation and management. A multi-dimensional scaling approach was used to plot similar species based on the following variables: 1) total catch; 2) mean catch; 3) total number (pieces of fish); 4) total occurrence; 5) maximum depth; 6) proportion of habitat in federal waters; and 7) expanded species biomass.

The analysis used 4 of the 10 criteria in the NS 1 guidelines. The four criteria were 1) the stock must be predominately caught in federal waters; 2) the stock is caught by the fishery; 3) the stock is a target of the fishery; and 4) the stock is important to commercial, recreational or subsistence fisheries. Each of these criteria was assigned a data proxy. A decision tree was developed to filter species to the ecosystem component bin using quartile cut-off points. Guam was chosen to pilot the analysis because the Guam has over 2,000 species on its list.

Sabater acknowledged the PIFSC staff that provided data and review of the analysis. The SSC provided its input into the analysis, recommending that the Council convene an expert working group to examine the filtered species lists to retain species of social, cultural, economic, biological or ecological importance for which federal management may be beneficial.

Sesepasara said the analysis of bottomfish species was interesting. He asked Sabater the best way for American Samoa to supply information for the analysis.

Sabater said PIFSC has provided the data and asked that the chief fishery biologist from DMWR be part of the expert working group to determine the final species list. This would

ensure agreement between the Council and American Samoa on the final species list determined to need conservation and management for the American Samoa FEP.

Sesepasara said he is willing to help with the analysis and data collection concerns.

Sablan asked, in jest, if Sabater is at liberty to name the DOA biologist who identified all of Guam's species.

Sabater said the DOA Division of Aquatic and Wildlife Resources (DAWR) division chief approved the data request.

Gourley said, if Sabater needs any help from CNMI, they would be happy to provide numbers including the biosampling data.

Sabater said direct access to the biosampling data would help, as that was one of the SSC recommendations.

B. Aquaculture Amendment Scoping Report and Draft Alternatives

Kevin Kelly reported on the progress since October on the aquaculture PEIS. In 2012, the Council recommended that the FEPs include a permitting mechanism for aquaculture. NMFS initiated the PEIS in 2016 to amend the five FEPs. The proposed action of the PEIS is the development of a management regime for offshore aquaculture. Kelly presented the current set of alternatives. Scoping occurred between Aug. 23 and Oct. 1, 2016. The Environmental Protection Agency is a cooperating agency because it regulates water quality.

During the scoping period, 38 distinct comments were received. Friends of the Earth submitted about 28,000 anti-aquaculture form letters. This group opposed the Gulf of Mexico aquaculture plan as well. NMFS sorted 158 substantive comments into 18 topics. Comments informed the development of alternatives and issues to be analyzed in the PEIS.

The Western Pacific Region does not have a cohesive aquaculture management program, which has made it difficult for industry to develop in federal waters. This program will streamline those efforts while still maintaining the integrity of the ecosystem, which is a concern for most people who commented on this action.

Alternative 1 is the status quo, or no action. Getting a permit under the status quo is not easy. Alternatives 2 and 3 establish an aquaculture management program in federal waters, guided by NMFS, with various actions considered under the two alternatives for permitting eligibility and transferability; application requirements, operational requirements and restrictions; permit duration; allowable aquaculture systems; siting requirements and restrictions; allowable species; recordkeeping and reporting requirements; framework procedures; and program capacity. The draft alternatives have been approved through PIRO. The draft PEIS will be available this summer, and NMFS anticipates delivery of the final PEIS by early 2018.

Goto asked about the economic impact of aquaculture on wild caught fisheries. While a mature aquaculture program will take years to develop, how fish flows in and out of the islands

is not well understood. Aquaculture has a potential to saturate the market. Even though the market is not clearly defined, a project like this will have an immediate economic impact on those fisheries that are currently operating. A study on the marketing and economic impacts is imperative going forward.

Kelly noted that two types of comments were made related to marketing. One requested that the program not allow aquaculture permittees to flood the market and hurt the wild fisheries. The other requested that Hawai'i aquaculture products be sold in Hawai'i only.

Goto said that the right direction would be to avoid diluting the market to the point that neither wild fisheries nor aquaculture is economically feasible.

Simonds said an analysis of the impact on fisheries will be included in the PEIS.

Kelly agreed.

Simonds asked if the Council will have to revisit the recommendation that was sent to NMFS four years ago.

Kelly said that the Council's recommendation from four years ago did not include the details necessary for establishing an aquaculture program. By enacting a permitting regime, new details may arise which may require additional Council consideration.

Tosatto said the purpose of the document is to evaluate the recommendation that was received from the Council and consider broad implementation of an aquaculture program. NMFS envisions submitting the completed document to the Council for its use when revisiting the recommendation for FEP amendment.

Simonds thanked Tosatto.

Sesepasara asked about the attendance at the scoping session in American Samoa and if written comments were received.

Kelly said he was not at the meeting but he believed there were three people in attendance and written comments were received.

Sesepasara asked if the region has any active aquaculture projects in federal waters.

Kelly said the Velella project existed in federal waters under an experimental two-year permit but it is no longer active.

Tosatto said the Velella project was a series of three projects. The first experiment was self-maintaining and drifted in the gyre. The second operation was a small-scale, moored experiment. The third project is a moored pen that may be larger than the other two projects. The permit is for kahala. This project is different from the net pens off Ke'ahole Point, which are in state waters.

Sesepasara asked if this was for yellowfin tuna.

Tosatto and Kelly said it was yellowtail, or kahala.

Sesepasara asked about a Southern California project.

Kelly said the only details he could provide was that that grant-funded operation in partnership with Scripps was sited near the Channel Islands. There was an offshore research project in Puerto Rico, which has moved to Panama for commercial operations. Some of the kampachi researchers may be gearing up to perform commercial work in Mexico. Aquaculture projects have moved from US waters to other waters.

Sesepasara thanked Kelly.

Rice said the Vellella stationary pen broke loose and asked if it would be put back.

Tosatto said the project proponents are working to find funding for the project, since the pen broke lose in heavy weather and was scuttled. Details are not yet set for the way forward.

Rice said this was the best fish aggregating device (FAD) around Hawai'i island.

C. Report on the Data Integration Workshop

Sabater reported on the workshop to assist the Council in developing the data integration chapter of its Stock Assessment and Fishery Evaluation (SAFE) reports. This was one of the Council's efforts to operationalize ecosystem-based fisheries management. Participants included PIFSC, PIRO and Council staff. Background information during the workshop related to the NMFS Ecosystem-Based Fisheries Management Roadmap, the Council's Five-Year Program Plan and SAFE Report requirements, and the intersection between the Council's fishery management objectives and the SAFE report. Participants brainstormed how different indicators in the fishery performance and ecosystem considerations chapter of the SAFE reports may relate to one another and inform Council decision-making. Participants then prioritized these relationships for the first iteration of the data integration chapter.

The workshop outcomes for insular fisheries resulted in a list of fishery dependent variables combined with fishery independent and environmental variables, which a contractor has been hired to analyze for the 2017 SAFE reports. The 2016 SAFE report for the Pelagic FEP will include recent research results related to three areas: factors that influence bycatch of protected species; factors that influence catch of target species; and attrition in the American Samoa deep-set and Hawai'i shallow-set longline fleets. It is recognized that the SAFE reports will improve every year.

There were no questions for Sabater.

D. Report on the National Standard 1, 3 and 7 Guidelines

Risenhoover presented the details of the final NS 1, 3, and 7 Guideline revisions. This final rule revised the guidelines for NS 1, 3, and 7 of the MSA and the General section of the NS Guidelines. This action was necessary to improve and clarify the guidance within the NS Guidelines. The purpose was to facilitate compliance with MSA requirements to end and prevent overfishing, rebuild overfished stocks and achieve optimum yield (OY).

Councils have broad latitude to designate what species require conservation and management. The keys are whether the stocks are subject to overfishing or overfished and are predominately caught in federal waters. The 2016 guidelines removed the criteria for ecosystem component species and instead provide guidance on the need for conservation and management.

The NS revisions provide flexibility in the provisions for carryover of ACLs. If a fishery does not reach its ACL in one year, a Council may add the difference between the ACL and the total catch to the following year's ACL, provided the following year's ACL with adjustment is less than the acceptable biological catch (ABC). A Council would take advantage of this flexibility by amending its control rules for each managed stock.

The NS revisions also addresses issues with data-limited stocks. The guidelines now allow status determination criteria (SDC) to be based on maximum sustainable yield (MSY) proxies and assessed stocks with SDC to be used as a proxy for a complex, instead of pulling the newly assessed stock out of a data-poor species complex. Lastly, the NS revisions clarify that the ACL is an annual expression of how Councils try to achieve OY, a long-term average. Qualitative determinations of OY are acceptable when quantitative data do not exist on social, economic and ecological factors used to specify OY as reduced from a stock's MSY.

NMFS will consider questions posed at the CCC meeting in February 2017 as frequently asked questions. NMFS will distribute the answers to the Councils and make them available on the NMFS website. NMFS is considering revising the 1998 Restrepo technical guidance and publishing technical guidance on data poor stocks.

Simonds said the Council sent Risenhoover a list of eight questions, which it hopes he can answer on the record.

Risenhoover said he has the questions, and the answers to all Council questions will be distributed in a week or two.

Gourley said the guidelines state that, for the Secretary of Commerce, the peer review process should provide the scientific information necessary. Gourley asked if NMFS as a representative of the Secretary may deviate from the peer review process.

Risenhoover said this was not a question submitted to the CCC and asked for the context.

Simonds said these questions were submitted to Tom Nies and sent to Risenhoover.

Risenhoover said this is a likely a specific assessment on which the SSC has made a recommendation.

Sabater said this is the Kona crab situation. The Western Pacific Stock Assessment Review (WPSAR) policy dictates that management action may be taken based on a peer-reviewed assessment only after it has undergone a Tier 2 review. The Kona crab assessment underwent a Tier 1 review only. If the SSC doesn't agree that the Kona crab assessment is suitable for management, the alternative is average catch. The SSC may revert to the previous management reference point.

Tosatto said in general the policy is NMFS determines the best scientific information available, consistent with the guidelines and the WPSAR policy. The SSC provides its opinion and participates in peer review, but the status of the stocks is a NMFS policy determination.

Simonds said she hopes they will work together and consult on decisions before they are made.

Risenhoover said NMFS is producing a NS 2 policy that will address some of these issues.

Gourley said the Council looks forward to an in-depth answer to the best scientific information available question. He asked about the process the Council may use to determine which species need conservation and management.

Risenhoover said the process used is the same for any decision in front of the Council. The Council is already using a robust quantitative method for four of the 10 factors used to determine which species need conservation and management. The other factors may not lend themselves to a qualitative analysis, but the expert working group could address them qualitatively.

Gourley asked how NMFS interprets the clause "predominately caught in federal waters and are overfished or subject to overfishing." Does it mean that stocks needing conservation and management must meet the two requirements?

Risenhoover said stocks may be added to an FMP without meeting both requirements. The stock must be included in a federal plan if it meets both requirements.

Gourley asked if the fishing mortality associated with the 30 percent spawning mortality ratio (SPR) can be used as a proxy for the maximum fishing mortality threshold.

Risenhoover said the SPR can be used for an overfishing determination but not an overfished determination.

Gourley asked if the 30 percent SPR can be used as a proxy for the minimum stock size threshold.

Risenhoover reiterated that the SPR can be used for an overfishing determination but not an overfished determination and that the Councils would receive written responses to their questions.

Gourley asked if the guidelines allow for the use of SPRs for a stock that is data limited and there is little information to determine MSY and SDCs.

Risenhoover said the guidelines allow for this circumstance.

Gourley asked how a long-term OY may be specified in cases where a stock is relatively unfished and the fishery can extract above MSY on an annual scale. This situation exists when an assessment has generated an overfishing limit (OFL) above MSY, resulting from a large biomass.

Risenhoover said frequent stock assessments would probably be required in this circumstance, as fishing above the biomass at MSY is not likely to result in an OFL above MSY in the long term.

Gourley asked how Councils can use the carryover provision of unused ACLs without burdening the SSC with ABC adjustments.

Risenhoover said the Council would design a control rule that accounts for the data lag, which may include providing alternative catch level scenarios in stock assessments. He reiterated that the Councils will get the answers. He added that the NS 3 and 7 Guideline revisions consolidated the stocks in need of conservation and management guidance into NS1. When the 1996 amendments passed, one of the first things he did was to come to the Western Pacific Council to give a presentation on them.

E. National Scientific and Statistical Committee Workshop Updates

Sabater reported on the National SSC 6 planning initiative. The Western Pacific Council hosted the National SSC 5 in Honolulu. The Pacific Council will host the National SSC 6 on Jan. 17-19, 2018, in San Diego. SSC member Steve Martell is serving on the steering committee for the Western Pacific Council. The planning committee chose the theme of management strategy evaluation as a tool to provide management advice, picked four subthemes and identified focus questions for National SSC 6 participant discussion. The SSC endorsed the focus questions, the theme and four subthemes and provided a list of six SSC members for participation.

There were no questions for Sabater.

F. Report on the Council's 2016 Program Review

Mark Mitsuyasu, Council staff, reported on the Council programs for 2016. The Five-Year Program Plan runs from 2014 through 2019 and includes the work associated with the Council's pelagic fisheries, island fisheries, ecosystem, fishing and indigenous communities, and education and outreach programs. In 2016, the amendments for the American Samoa LVPA exception for large longline vessels; removal of the large and medium bottomfish vessel closure

around the southern islands in CNMI and Alamagan; and refinement of Hawai'i Archipelago essential fish habitat (EFH) and habitat areas of particular concern for bottomfish and seamount groundfish were implemented. NMFS specified the bigeye tuna territorial limits and allocations and the MHI bottomfish Deep-7 ACL.

Five priority areas included in the Council's Program Plan are the FEP review; integration of ecosystem information in the FEPs; support of monitoring, data collection and research; support for capacity building and fisheries development; and international fisheries management. The FEP objectives amendments and living document conversion, the result of the FEP review, are under development. With respect to incorporating ecosystem information, last year's SAFE reports included an inaugural chapter with information on protected species, climate change, marine planning and habitat.

Various protected species and habitat activities took place in 2016 as related to the Council's ecosystem program. Data collection improvement projects through the Cooperative Research Program, Territorial Science Initiative and Coral Reef Conservation Program advanced the Council's objectives with respect to monitoring and data collection. Capacity-building projects and fisheries development included finishing the Guam fishing platform; developing the Yigo and Northern Islands Community-Based Fishery Management Plans; hosting the Puwalu 9; supporting the Promise to Pae'aina; and initiating improvements to the CNMI fish base area. Staff participated in various international fisheries management meetings throughout 2016.

In 2016, the Council, PIFSC and PIRO finalized the Regional Operating Agreement, including the ESA-MSA Integration and EFH Agreements. There were also changes in the Council's advisory bodies. AP members meet monthly and hold formal meetings that generate recommendations to the Council in association with Council meetings. AP members also participate in community events. Membership changes introduced stronger stock assessment representation on the SSC.

Sesepasara asked Mitsuyasu to elaborate on the implementation of the LVPA amendment.

Mitsuyasu said the amendment was implemented, but the court ruling vacated the record of decision to implement the amendment; therefore, there will be more changes on that Council action in the future.

G. Regional, National and International Outreach and Education

Sylvia Spalding, Council staff, presented on international outreach and education activities since the last Council meeting. She conducted an informal survey with the communications staff of other Councils before the February CCC meeting. All staff said they could see improvement in the relationship with NMFS on data, funding, rulemaking, stock assessments and communication. Spalding also presented an overview of the changes to the Council's communications framework. The key issues this year are catch limits, marine national monuments, bigeye tuna international management, foreign crews, fisheries development and access, and the American Samoa canneries. The Council and its advisory bodies were added as

an audience, as were seafood retailers. The framework includes general messaging on each of the issues for each of the audiences. The Council has produced two newsletters since the last Council meeting. She announced the scholarship winners for the Pacific Territories Fishery Capacity Building Scholarship and reported on events in which Council advisors and staff participated.

Brakke said the SPC has a fisheries newsletter, an impressive publication that shares viewpoints from around the region. It could be a helpful outlet in terms of sharing the Council's views.

Spalding said the Council occasionally shares stories with SPC and can try to share more.

H. Advisory Group Report and Recommendations

1. Advisory Panel

See Joint Advisory Group (JAG) recommendations below.

2. Noncommercial Fisheries Advisory Committee

See JAG recommendations below.

3. Fishing Industry Advisory Committee

See JAG recommendations below.

4. Community Demonstration Project Program Advisory Panel

See JAG recommendations below.

5. Joint Advisory Group

Guthertz reported the JAG met the week previously and developed the following recommendations for the Council to consider on enhancing its programs in the Pacific area.

Regarding program planning, the JAG recommended the Council explore enhancing learning opportunities to fulfill marine education and training priorities.

Regarding program planning, the JAG recommended the Council include key information on important fisheries science on the Council website.

Regarding program planning, the JAG recommended the Council work with partners to provide marine debris trash bins on each island in the region like the one located on Pier 38 at Honolulu Harbor.

6. Scientific and Statistical Committee

Lynch reported that the SSC supported Sabater's overall analytical framework and the assumptions used for the data and proxies developed for the four NS1 criteria. The SSC offered

six specific suggestions to improve the analysis and recommended the same approach be applied to American Samoa and CNMI. The SSC also assigned several members to attend the National SSC 6 workshop, provided feedback to NMFS on the Stock Assessment Improvement Plan and formed a working group to review the plan in greater detail. Lynch resented the SSC recommendation on program planning, as follows:

Regarding program planning, the SSC reviewed the results of the Data Integration Workshop and recommended that ex-vessel prices of fresh, frozen and cannery species be added to the list of fishery-independent variables for the island fisheries data integration contract.

I. Program Planning Standing Committee Recommendations

Gourley reported that the Program Planning Standing Committee met on Monday and developed the following recommendations:

Regarding ecosystem component species, the Standing Committee recommended that the Council direct staff to finalize the ecosystem component analysis incorporating the SSC and PIFSC comments and apply the analysis to American Samoa and the CNMI.

Regarding ecosystem component species, the Standing Committee recommended the Council direct staff to convene an expert working group to examine the species that are filtered out to ensure that the final listing requiring federal management includes species of social, cultural, economic, biological and ecological importance.

Regarding ecosystem component species, the Standing Committee recommended that the Council request that PIFSC expedite the additional data requests, if necessary, to be filed by Council staff to incorporate comments provided by PIFSC and the SSC.

Regarding the National SSC 6 Workshop, the Standing Committee recommended the Council endorse the focus questions and appoint the following SSC members to represent the Western Pacific Region: Debra Cabrera, Shelton Harley, Justin Hospital with Craig Severance as the alternate, David Itano, Steve Martell and Graham Pilling.

Regarding the NMFS Stock Assessment Improvement Plan, the Standing Committee recommended the Council direct staff to convene the SSC Working Group, comprised of Frank Camacho, Shelton Harley, Ray Hilborn, Don Kobayashi and Domingo Ochavillo to review the Draft Stock Assessment Improvement Plan and draft the comment letter prior to the June 15, 2017, deadline.

J. Public Hearing

There were no public comments.

K. Council Discussion and Action

Regarding ecosystem component designation, the Council 1) directed staff to finalize the ecosystem component analysis incorporating the SSC and PIFSC comments and

apply the analysis to American Samoa and CNMI data; 2) directed staff to convene an expert working group to examine the species that are filtered out to ensure that the final listing requiring federal management includes species of social, cultural, economic, biological and ecological importance; and 3) requested that NMFS PIFSC expedite the additional data requests (if necessary) to be filed by Council staff in order to finalize the additional analysis provided by NMFS PIFSC and recommended by the SSC.

Moved by Gourley; seconded by Rice.

Motion passed.

Gourley said making this species list for fishery management purposes is important. He complimented Sabater on his analysis and fully supported all three recommendations.

Regarding the data integration chapter of the SAFE report, the Council directed staff to work with the PIFSC Socioeconomics Program to identify socioeconomic variables that can be monitored and used as fishery indicators that may inform fishery performance and dynamics in the data integration chapter of the SAFE reports.

Moved by Gourley; seconded by Rice.

Motion passed.

Regarding the National SSC 6 Workshop, the Council endorsed the focus questions and directed staff to assign SSC members to represent the Western Pacific Region.

Moved by Gourley; seconded by Rice.

Motion passed.

Simonds said the names of SSC working group members should be removed from the recommendation because they may be federal employees.

Sesepasara asked if the motion was to appoint new members to the SSC or fill in vacant positions.

Sabater said the motion is to endorse a delegation of Western Pacific SSC members for participation in the National SSC workshop, held every two or three years.

Regarding the NMFS Stock Assessment Improvement Plan, the Council directed staff to convene a SSC working group to review the draft Stock Assessment Improvement Plan and draft the comment letter prior to the June 15, 2017, deadline.

Moved by Gourley; seconded by Duenas.

Motion passed.

Regarding Education and Outreach, the Council 1) directed staff to explore distance learning opportunities to fulfill the MSA Section 305 Marine Education and Training priorities; 2) directed staff to include in its “Fishermen Resources” portion of its

website, key information on important fishery science information such as reproduction at size/age to provide a “library” of scientific information that is useful for fishermen; and 3) directed staff to work with partners to explore the feasibility of placing marine debris bins on each island in the region, like the one located on Pier 38 at Honolulu Harbor, to provide a place for fishermen to deposit the marine debris collected in the ocean and provide further outreach and education on marine debris.

Moved by Rice; seconded by Gourley.

Motion passed.

Duenas said the Guam JAG discussed that the mayors may be able to assist with the third item because they have access to free dumping.

Simonds said the recommendation is fine as written and will undergo further development.

VII. Protected Species

A. Western and Central Pacific Fisheries Commission Joint Analysis of Sea Turtle Mitigation Effectiveness

Keith Bigelow reported on the Joint Analysis of Sea Turtle Mitigation Effectiveness Workshop organized by WCPFC and held at the Council office in February and November 2016. Shelley Clarke, the WCPFC’s coordinator for Areas Beyond National Jurisdiction, and Sylvan Calliot and Tom Peatman from SPC were instrumental in convening the workshop.

WCPFC Conservation and Management Measure (CMM) 2008-03 for sea turtle mitigation established reporting, safe release and handling and gear requirements for WCPFC members. Swordfish longline fisheries must use circle hooks and finfish bait or develop a mitigation plan to be reviewed by the WCPFC Scientific Committee and Technical and Compliance Committee. These measures apply to six members of the WCPFC, including the United States which uses circle hooks and finfish bait.

Thirty-eight participants from 16 countries attended the workshop. The data used included observer data from 1989 to 2015 from the Regional Observer Program, SPC member countries, the United States, Japan and Chinese Taipei. This is the largest compilation of observer data for turtle interactions with a total of 34 fleets and more than 2,300 turtle records. The species included in the analysis were leatherback, green, loggerhead and olive ridley. Only the mitigation measures for longline fisheries were included in the workshop because turtle bycatch in the purse-seine fisheries is a relatively rare event.

The analysis used three models for gear features, hook position and condition. The gear features model focused on the type of bait and hooks. Hook position was modeled because the shallow hooks typically catch more turtles. The condition model accounted for factors that impact on the mortality rate of the turtles, such as soak time. The workshop also generated relative abundance maps for each species using a Delphi survey conducted by Dragonfly Data

Science. The survey asked turtle experts to identify regions of low, medium and high abundance for each turtle species across the Pacific.

Using the model, simulations were conducted to estimate overall turtle interactions and at-vessel mortalities. Simulations were conducted separately for shallow-set swordfish fisheries and deep-set fisheries, to correct for use of large circle hooks, finfish bait and shallow hooks in shallow sets. Simulation results were shown in a color-coded matrix with mitigation measures for shallow-set fisheries on one side and deep-set measures on the other.

There were limited reductions in interactions for the four species of turtles and even more limited reductions in at-vessel mortalities, resulting from strengthening mitigation for the fisheries already regulated by CMM 2008-03. Shallow-set mitigation measures deliver substantially weaker reductions in at-vessel mortalities compared to deep-set mitigation measures. This effect is due to lower at-vessel mortalities in shallow-set fisheries and because some WCPFC members have already implemented mitigation based on CMM 2008-03 for their shallow-set swordfish fisheries.

Deep-set mitigation measures deliver stronger reductions in at-vessel mortalities compared to interactions. This is because sea turtles caught in deep sets have a higher probability of at-vessel mortality due to asphyxiation as documented in previous studies. Deep-set mitigation measures result in a greater reduction in overall interactions than shallow-set mitigation measures. Although interactions are more likely in shallow sets, the greater amount of effort in deep-set fisheries, which is typically about four times the effort in shallow-set, contributes to this result.

The effect of large circle hooks, defined as size 16/0 or larger, in reducing interactions is greater than the effect of fish bait, but the degree of difference varies across species and across sectors. In reducing both interactions and at-vessel mortalities in deep-set fisheries, mitigation involving removal of the hook position closest to the float is similar in effectiveness to changing to finfish bait. Removal of the two hook positions closest to the float is similar in effectiveness to changing to large circle hooks.

Simonds asked which of the countries are using the three allowable gear types.

Bigelow said that shallow-set vessels must use one of the measures. Japan, the United States, Australia, New Zealand, the European Union and one other member country, likely China or Chinese Taipei, have shallow-set fleets.

B. Tri-National Loggerhead Turtle Recovery Team Progress

Dawn Golden, PIRO Protected Resources Division, reported on the status of the North Pacific Loggerhead Turtle Recovery Team. NMFS published a Federal Register notice on Oct. 12, 2016, announcing a five-year review and development of recovery plan, and solicited information for both actions from the public. NMFS received several comments, including from the Council. Japan and Mexico have agreed to work with the United States to develop a Tri-national Recovery Plan for North Pacific Loggerheads. The plan is modeled on the Bi-national

Recovery Plan for Kemp's ridley turtles between the United States and Mexico. The Loggerhead Recovery Plan is composed of government-designated experts from Japan, Mexico and the United States. The team met in November 2016 and March 2017 to develop the threats assessment. Drafts of the five-year review and recovery plan are anticipated to be ready for public review in February 2018.

There were no questions for Golden.

C. Pacific Scientific Review Group Meeting Report

Erin Oleson, PIFSC, reported on the Pacific Scientific Review Group (PSRG) meeting in February 2017. Of the topics covered, the publication of the List of Fisheries was delayed due to the transition, the MHI insular false killer whale abundance will be presented to the SSC in June 2016, and a publication on the stock structure of short-finned pilot whales is forthcoming.

PSRG membership changes included the resignation of two members in 2016 and the appointment of Itano and Scott Baker. Four additional seats will be reviewed in 2017. The new Guidelines for Assessing Marine Mammal Stocks are being implemented in the 2017 stock assessment reports. Additional changes to the guidance including calculating potential biological removal with outdated abundance information is forthcoming in 2017.

Other topics discussed included the inaugural Protected Species Assessment Workshop, Pacific Islands cetacean research update, rough-toothed dolphin stock structure, and humpback whale ESA-listing and Marine Mammal Protection Act (MMPA) stock structure. Cetacean surveys in the Pacific Islands will be on a rotating schedule through a jointly funded effort by NMFS, the Navy, the Bureau of Ocean Energy Management, and USFWS, and start in 2017 with the Hawaiian Cetacean and Ecosystem Assessment Survey. Analysis of rough-toothed dolphin population structure in the central North Pacific suggests multiple insular populations within Hawai'i, and this information will be reviewed in advance of the 2018 stock assessment reports. Following the designation of 14 humpback distinct population segments, NMFS assembled a working group to examine the alignment of ESA and MMPA population designations. Changes in MMPA stock structure will be considered for the 2018 stock assessment reports.

Rice asked what brought on the rough-toothed dolphin work.

Oleson said that they looked at whether there are island-associated stocks for several species a few years back. At the time the rough-toothed dolphin was deferred, but new information has since become available to conduct a more detailed assessment.

Rice said they never saw rough-toothed dolphins until FADs were deployed.

D. Department of Defense Protected Species Research

This agenda item was taken immediately following lunch on March 21.

Julie Rivers reported on the marine mammal monitoring by the Navy's Pacific Fleet (PACFLT). This program started in 2005 in support of the authorizations under the MMPA and

ESA. PACFLT provides the funding and requirements while the Navy Facilities Engineering Command Pacific provides the technical expertise and oversight. Much of the fieldwork is performed under contract by government, university and independent researchers.

The plan, goals, project and annual monitoring reports are available to the public through the marine species monitoring website. Each year, plans, goals and projects are prioritized. Many projects are multi-year to answer multi-year questions. There is an obligation to monitor the effects of detonations and other training and testing activities across the range of those activities. They use a variety of monitoring tools including visual, passive acoustic, autonomous recording devices, photo identification, tagging and biopsy. All data are publicly available, but some of the larger data files are currently being archived and may be requested.

NMFS and the PACFLT use the same abundance data to feed into impact assessments and stock assessment reports. Three ranges with hydrophone arrays are located in the Bahamas, off Southern California and at the Pacific Missile Range Facility on Kaua'i. Because much of the training occurs on the range, marine mammals can be recorded before, during and after training events. Automated detection algorithms for the detection, classification and localization of marine mammal signals are under development and work well for baleen and beaked whales.

PACFLT's annual report includes appendices with individual researcher's reports. A glider was sent into an area that is difficult to survey based on the average sea states. Usually Pacific Command does not perform experimental work, but this is a good technique to get a sense of occurrence in areas that are difficult to survey.

Many visual surveys from aircraft have been performed. PACFLT got a small aircraft to record behavioral data off the bow of a ship. The data provided a few good samples, which were overlaid with passive acoustic data from the surface ships, so researchers could measure acoustical changes in the animal's behavior. During the entire six-year effort with surveys once or twice a year, there were no gross behavioral changes. In 2009 and 2010 there was some concern of unobserved stranding events, so PACFLT initiated aerial surveys of the coastlines following the training events. There was no correlation between stranding and training events.

A focal research question is how the animals respond to sonar. In the case that animals return to the Pacific Missile Range Facility after a sonar event, researchers can conduct more response analysis. Robin Baird of Cascadia Research has used these data for false killer whale critical habitat, for example.

In 2012, the aerial or vessel surveys study area narrowed to Hawai'i. The georeferenced atlas with all of the survey track lines is available on their website. Reports are submitted in April under their MMPA authorization. The Navy's environmental impact statements (EISs) are on a five-year schedule because the MMPA authorization lasts for a maximum of five years.

Ebisui asked if the DOD protected species group has been involved in any mass stranding investigations.

Rivers said there is a protocol for mass stranding events. For major events like RimPac, there is a three-day notification process and everyone's awareness is up during that time. If there is a stranding event during a training event, the Navy works with NMFS to conduct an investigation. The same process is used for all the ranges. The Bahamas stranding resulted in a joint Navy-NMFS paper, which is the most robust investigation of a stranding event she could think of.

Simonds asked if the RimPac participating countries are notified of areas to avoid.

Rivers said the Hawai'i-Southern California Training and Testing EIS covers at-sea events, including some nearshore and on-shore activities. All the mitigation and protective activities are developed through consultations with NMFS and USFWS. There are strict protective measures, like sonar must be turned down if a marine mammal is detected at a certain distance. Surveys are also conducted before training exercises to detect turtle nesting. Rivers said that the details are included in the MMPA final rule, and they can also provide the USFWS biological opinions that are not posted online.

Simonds asked for the size of Rivers' budget.

Rivers said the Pacific budget is about \$5 million a year. A disproportionate amount is spent in Hawai'i and Southern California because the two instrumented ranges are there, so they can research more robust scientific questions. About \$1.5 million is probably spent in Hawai'i. The program in the Mariana archipelago is exclusively coordinated with PIFSC; the focus is looking at baseline occurrence of species. The first line transect survey in the Mariana archipelago was conducted in 2007, which resulted in the first density estimates for the area. They have since been working with Oleson's group and Todd Jones' group at PIFSC and provide a decent portion of the funding for both cetacean and sea turtle programs in the Mariana archipelago.

E. Updates on Endangered Species Act Consultations

1. Deep-Set Longline Fishery Consultation

Golden reported on the deep-set longline fishery ESA consultation. NMFS reinitiated formal consultation on April 13, 2016. The reconsultation was triggered when the fishery exceeded the incidental take statement of loggerhead, green and olive ridley turtles. The green turtle distinct population segment revised listing was also finalized on April 6, 2016. NMFS will be issuing a supplement to the 2014 biological opinion in March 2017. The proposed federal action analyzed for the consultation is the continued operation of the deep-set fishery under the Pelagic FEP with an annual effort anticipated at approximately 1,305 trips and 46 million hooks. The anticipated annual level of interactions for each species and distinct population segments were presented.

Sensui asked if it was correct that 46 million hooks were deployed in 2016.

Golden said that the number analyzed is approximate and a small increase is not considered significant.

Sensui said that he noticed that the number of interactions is small for 46 million hooks.

Golden said yes, but given the 20 percent observer coverage each interaction is expanded by about five so the observed number may be small and is considered a rare event.

2. Other Consultations

Asuka Ishizaki, Council staff, reported on the reinitiation of the shallow-set longline fishery ESA consultation. It will request a supplemental biological opinion and include the Guadalupe fur seal and green turtle distinct population segments. Pursuant to the ESA policy directive and the regional ESA-MSA Integration Agreement, Council staff and PIRO Sustainable Fisheries Division staff are collaborating on the biological evaluation document that will be used to request reinitiation of the consultation. Additional details on the analysis were presented to the SSC, which will be reported later in the SSC recommendations.

There were no questions for Ishizaki.

F. Rare Events Bycatch Workshop Report

Ishizaki reported on the Rare Events Bycatch Workshop Series convened in 2016 in response to a Council recommendation from the 163rd meeting. In the past, there have been cases where the time between completing a biological opinion and incidental take statement has been short. Methods used to estimate the anticipated level of interactions have changed over time. The workshop focused on the deep-set longline fishery for which there is added uncertainty due to the 20 percent observer coverage level. Setting the anticipated level of interactions is a balancing act of allowing for accurate assessment of fisheries impacts on protected species and avoiding unnecessary reinitiation in response to short-term variability.

The workshop explored a range of methodologies and considered alternative approaches to estimating anticipated levels of incidental take and how the methods may be used in ESA Section 7 consultations. The workshop was held as a series with a webinar in September and an in-person meeting in October. Participants included Council, PIFSC and PIRO representatives and invited experts. Discussion highlights included recognition of the well-designed sampling scheme and emphasis on the importance of articulating regulatory and statutory constraints so that appropriate tools can be developed for management purposes. Options for improvement discussed during the workshop included considering interactions on a longer-term time horizon than one to three years, which would help smooth the inter-annual variability in observed interactions.

Council staff will continue to coordinate with PIRO on consultations and consider applying workshop findings in future consultations. There was interest in developing a tool to use for these consultations and be considered for future consultations.

There were no questions for Ishizaki.

G. Overview of Endangered Species Act Critical Habitat (purpose and impacts to various activities)

Lance Smith presented an overview of critical habitat, at the request of the Council in October 2016. Critical habitat meets the primary purpose of ESA by protecting the habitat of listed species. This is especially important for habitat areas where individuals of listed species are not present because of seasonal migrations, natural mortality events or other reasons. Critical habitat places a requirement for federal agencies to consult with NMFS or USFWS if actions they fund, authorize or carry out may affect critical habitat.

Non-federal entities such as state or local governments, private companies, landowners or other citizens may be affected by these consultations if they are involved with federal actions. For example, a federally permitted shoreline protection project next to monk seal critical habitat could be important for protecting someone's land from erosion. If consultation slows down or changes the shoreline protection project, then the landowner could be affected. However, critical habitat is not an area where natural resource use is regulated, unlike MPAs, sanctuaries or parks. Critical habitat designation also does not restrict public access.

Critical habitat can only be designated on US lands and waters if designation is prudent and determinable. Prudent means that a critical habitat would be helpful for the conservation of the species, and determinable means that there is enough known about the habitat requirements of the listed species to delineate its critical habitat. ESA states that critical habitat should be designated when a species is listed or, if more information is needed, within a year from when a species is listed.

The location of critical habitat is driven mainly by the physical and biological features essential to conservation, which are referred to as essential features. The Hawaiian monk seal critical habitat, revised in 2015, included both terrestrial and marine components, with military exclusion zones. Critical habitat for the Caribbean *Acropora* coral species designated in 2008 used hard substrate needed for coral settlement and growth as the essential feature. The main way that critical habitat provides conservation value is by protecting the essential features of the listed species habitat whether individuals are present or not, such as monk seal pupping areas or areas where coral mortality events have occurred.

In terms of impacts to human activities, critical habitat may affect federal actions through delays due to Section 7 consultations or through required protections of the essential features that otherwise would not be required in the absence of critical habitat. Since the revision of monk seal critical habitat, there have not been any examples of federal actions being impacted because consultations were already required on the listed species and no additional requirements to federal actions have been added due to critical habitat to date. Coral critical habitat in Florida, where a disease outbreak reduced the population by over 90 percent, may cause more stringent requirements than there would be in the absence of critical habitat.

In the Pacific Islands Region, NMFS is working on proposed critical habitat for several listed marine species or distinct population segments including green turtles, false killer whales and listed corals.

Gourley said it was mentioned that Section 7 consultations are to ensure that agencies do not adversely affect critical habitat but later there was a mention about minimizing impacts. There can be a big different between minimizing and not adversely modifying critical habitat. For instance, if you build a pier that is 20 feet long, does that adversely modify critical habitat? Gourley asked if the ESA defines those terms.

Smith said destruction or adverse modification of critical habitat would be like the jeopardy determination. Adverse modification, as defined in new regulations published last year, is to significantly diminish the value of critical habitat to the conservation of the species. If the action would destroy or adversely modify critical habitat, then NMFS would have to come up with a reasonable and prudent alternative to minimize impact.

Gourley said it seems like people in certain agencies consider that critical habitat would be adversely modified if one tree is cut down, if that tree is listed as an essential feature. He asked if there is a threshold for adverse modification and whether it is numerical.

Smith said there is no numerical threshold but there is a definition. The threshold would depend on the action and the listed species' critical habitat, so professional judgment is used. Smith said there are differences of opinion when it comes to professional judgement.

Gourley asked about the status of the coral critical habitat designation.

Smith said that they are working on a proposed critical habitat that occurs in US waters, and they are working with the Southeast Region on two proposed rules simultaneously: one for their region and one for the Pacific Islands region.

Gourley said he noticed that the critical habitat around Puerto Rico for staghorn coral is extensive.

Smith said it depends on the bathymetry. The map shown was the critical habitat for the two species that were listed in 2006 for which the designation was based on 0 to 30 meters.

Gourley asked if the critical habitat for staghorn corals was based only on depth and not bottom substrate.

Smith said it depends, but the designation was based on both the essential feature of hard substrate and the coral depth range, with the exceptions for areas such as navigational channels and harbors.

Gourley asked if NMFS would be receptive to excluding certain areas such as where harbors need to be maintenance dredged. He said there is a critical habitat designated in CNMI within the right of way of a road, which will become a problem in the future, but those comments were ignored. He said it would seem logical that exclusions could be made to lessen regulatory burden from actions that are likely to happen sometime in the future.

Smith said they will look at presence or absence and the quality of essential features. If there is a navigation channel and the essential feature is defined as hard substrate, some hard

substrate may occur in the navigational channel but not much. The Southeast Region excluded navigational channels and harbors in 2006 because they were not considered to be high quality habitat. ESA specifically says that the entire current range of the listed species cannot be included within critical habitat, so areas of low habitat quality will be considered as part of the decision-making process.

H. Updates on Endangered Species Act and Marine Mammal Protection Act Actions

Golden and Kevin Brindock provided updates on various ESA and MMPA actions.

1. False Killer Whale Recovery Planning Workshop

Golden reported that a false killer whale recovery plan workshop was held in October to bring together a diverse group of experts and to review the threats assessments. NMFS is currently working on a species status assessment, a recovery plan and an implementation strategy if necessary. All parts will be peer reviewed, and the recovery plan will go out for public comment. The workshop summary is available on the website, and that information will be considered in the recovery plan developed in-house. The information from the workshop will also inform the proposed rule for the insular false killer whale critical habitat.

2. False Killer Whale Take Reduction Plan Implementation

Brindock provided the annual update for the False Killer Whale Take Reduction Team (TRT), which was formed in 2010 and tasked with developing a take reduction plan (TRP). The scope of the TRP, which went into effect in 2013, is specific to the longline fishery and provides measures to reduce mortality and serious injury to false killer whales.

The TRT did not meet in 2016, but a webinar is planned for June 2017 to provide an update on the interactions that occurred since TRP implementation, research updates and the status of plan implementation. In 2016, Brindock was hired as the new TRT coordinator, replacing Jean Higgins who filled the position after Nancy Young vacated the position.

Seven interactions were observed in 2016 in the deep-set fishery and one interaction so far in 2017. Of the 2016 interactions, five resulted in serious injury determinations. One was a non-serious injury in which the animal was freed from gear without the hook straightening. One interaction resulted in a “cannot be determined” injury determination, in which the animal was entangled but it was unknown whether any gear remained attached to the animal once it became free. One serious injury occurred within the EEZ and counted toward the Southern Exclusion Zone trigger, but the zone did not close in 2016.

Twenty-eight false killer whale interactions have been observed since the TRP went into effect in 2013, with 27 of those observed in the deep-set fishery. There is no clear trend on the annual number of interactions in the four-year time frame. Seventy-three percent of the interactions since 2013 have had serious injury determinations, 15 percent were non-serious injury determinations, 8 percent “could not be determined” and one was a mortality. The injury determinations are largely driven by where the animal was hooked and if gear remains attached.

Thirty-six percent of the observed interactions were categorized as being hooked in the mouth; 28 percent were hooked in the mouth or ingested; 18 percent were hooked in the head, mouth or ingested; and 18 percent had unknown hooking locations. Most of the interactions last from one to five minutes or five to 10 minutes. In terms of interaction outcomes, about 11 percent of the interactions resulted in the hook straightening as intended; another 11 percent resulted in the animal freeing itself from the gear; 36 percent of the interactions resulted in the line breaking; and 32 percent resulted in the line being cut.

PIRO is working with PIFSC to review the interaction information to present to the TRT during the webinar. The TRT will discuss how to move forward given the information.

Sensui asked if there is a way to keep track of the animals after the interactions to see what the long-term effects may be.

Brindock said there is currently no effort to put a tag on the animal because the focus is on freeing the animal in a manner following the handling techniques with minimal injuries. Tagging would require pulling the animal close to the vessel or bringing the animal aboard. Instead, the intent is to free the animal as quickly as possible from the gear.

3. Oceanic White Tip Shark Proposed Listing

Golden reported that the proposed rule to list the oceanic whitetip shark as threatened was published on Dec. 29, 2016. The 90-day public comment period ends March 29, after which those comments and any new information will be considered in the final decision. The final rule is due in December 2017. The oceanic white tip is caught as bycatch in all three longline fisheries.

Ishizaki provided additional details on the proposed rule and presented the staff draft comments on the rule for Council input and direction.

The proposed rule is for the global population of oceanic whitetip sharks as NMFS determined earlier in the process that distinct population segments would not apply to this species. NMFS found that the species has undergone significant historical declines throughout its range and will likely continue experiencing declines. The most significant threat was the high rates of fishing mortality driven by demands of the international trade in shark fins and meat, as well as impacts related to incidental bycatch and IUU fishing. Catch rates and size in longline and purse-seine fisheries have declined over time, and there is a stock assessment for the species in the western central Pacific Ocean. NMFS determined that the RFMO management measures for non-retention of whitetips are inadequate in terms of their implementation and enforcement, except for US fisheries. Based on these reasons, NMFS determined the species has a moderate risk of extinction and is on a trajectory toward a high risk of extinction in the foreseeable future.

Staff reviewed the information contained in the status review, which was a fairly extensive volume of references including the stock assessment and documents presented to the WCPFC. The SSC provided additional materials which had not been cited in the status review, and those have been incorporated into the draft letter. The Council draft comments focus on the

Hawai‘i and American Samoa longline fisheries. The amount of oceanic whitetip shark bycatch in these fisheries are relatively small compared to other shark species, and the amount of catch in these fisheries combined amounts to approximately 1 percent of the total catch estimated in the 2012 stock assessment. These fisheries do not target sharks and operate under gear configuration recommended for reducing oceanic whitetip catches. State and federal regulations on shark finning resulted in most sharks being released alive since 2001, well in advance of the non-retention measures implemented at the international level. Additionally, PIFSC is currently conducting a post-release survivorship study on several shark species including the oceanic whitetip shark, which is expected to further inform better methods for releasing sharks to improve survivorship. The Hawai‘i and American Samoa longline fisheries also appear to have stabilizing CPUE trends while elsewhere the decline continues. The stabilization may be attributed to the suite of measures already taken in the Hawai‘i and American Samoa fisheries. The draft letter acknowledges the overall decline but recognizes that the impacts of the Hawai‘i and American Samoa fisheries are likely minimal. The ESA Section 4(d) take prohibition rule is not necessary or appropriate because most of the threats to this species occur outside of US waters. There is a precedent for not applying take prohibitions in the scalloped hammerhead shark listing. Ishizaki asked the Council for direction on the letter.

Sensui said that during the public comment on non-agenda items someone mentioned that around 80,000 sharks are being hooked. What was not mentioned was that 70 to 80 percent of those are released alive.

Ishizaki said most of those sharks are not oceanic whitetips. Blue shark is one of the more common species, and all species of sharks are mostly released alive and not retained.

4. Other Actions

Golden reported that the ongoing coral actions include development of the proposed critical habitat rule, recovery planning and ESA Section 7 consultations. There have not been new developments since the last report in October.

Green turtle critical habitat is also in development. A proposal is supposed to come out in 2017, but there is no timeline.

The proposed rule to list the giant manta ray as threatened was published in January 2017. A request to list the reef manta ray was also submitted, but NMFS determined that listing for that species was not warranted. The 60-day comment period for the giant manta ray closed on March 13, and the Council submitted comments in response. The giant manta ray is caught as bycatch in all three longline fisheries, although it is very infrequent.

The bluefin tuna positive 90-day finding was published in October 2016. NMFS is working on a status review to determine whether listing is warranted.

There were no new updates for the Chambered nautilus, for which a positive 90-day finding was published in August 2016, or the giant clam petition, for which the 90-day finding is pending.

NMFS is working on the final rule for the humpback whale approach, which will be a rule under the MMPA to replace the former ESA approach rule. The 2017 List of Fisheries under MMPA was published in January 2017, but the effective date was delayed until today. There were no major changes to the List of Fisheries for this region.

The spinner dolphin rule was covered at the last meeting. The public comment period closed in October. NMFS received a lot of comments and is in the process of reviewing them. There is no estimated time on the publication of the final rule.

There was a lawsuit regarding false killer whale critical habitat because as it had not been designated within one year of the listing. NMFS has been gathering information and plans to have the proposed rule published in the fall of 2017.

Rice asked if the spinner dolphin rule is in effect now.

Golden said no and explained that there was a public comment period on the proposed rule but there is no estimated time frame on the final rule.

Rice asked who will be enforcing the spinner dolphin rule.

Golden said she thinks it will be a partnership between the federal and state agencies.

Tosatto said it is a federal rule, but a joint enforcement agreement allows the Division of Conservation and Resource Enforcement (DOCARE) or DLNR Hawaii to enforce federal authorities.

Rice asked if nothing is going to be enforced until the final rule is implemented.

Tosatto said that the spinner dolphin rule will not be enforced until the rule comes into effect, but prohibitions on harassing marine mammals are in place and are being enforced.

Sensui asked if the giant manta ray rule may affect the night dive activities and whether impacts to those activities are being considered.

Golden did not know the answer. If there are any impacts to the species, then the activity may also be affected. The only authority would be under Section 7, but there may not be any consultations if there is no federal nexus. The species is proposed to be listed as threatened, so it is currently unknown whether take prohibitions would be applied.

Tosatto said if the question is whether dive operators or commercial enterprises around the species have any impact on whether the species is listed or not, then the answer is yes and no. If those activities produce threats and adequate management is not in place, it could be a factor that comes into the listing decision-making. If the species is listed as threatened, then it would need an ESA Section 4(d) rule to put take prohibitions in place for any activities that need to be restricted. If the species is occurring in state waters and if the activity is not federally funded or permitted, then there is no consultation requirement so NMFS would only rely on those take prohibitions if they are in place.

Rice said the manta dive activity is the number one activity in Hawai‘i on Trip Advisor.

Golden said they will see if they receive public comments on whether the activity is impacting mantas.

Tosatto said that a listing under the ESA does not mean absolutely no commercial activity. An example is the Hawai‘i whale watching industry for the humpback whale, which was listed until recently. Wildlife watching activity and ESA listing can co-exist if done correctly such as through guidelines.

Simonds said humpback whales recovered when commercial fishing stopped. She asked how many species on the endangered and threatened list have recovered.

Golden said the humpback whales in Hawai‘i, a population of gray whales and a Steller sea lion population were delisted.

Simonds said that we just keep adding more species.

I. Advisory Group Report and Recommendations

1. Advisory Panel

Recommendations were reported under the JAG agenda item.

2. Non-Commercial Fisheries Advisory Committee

Recommendations were reported under the JAG agenda item.

3. Fishing Industry Advisory Committee

Recommendations were reported under the JAG agenda item.

4. Community Demonstration Project Program Advisory Panel

Recommendations were reported under the JAG agenda item.

5. Joint Advisory Group Meeting

Gary Beals said the JAG was concerned about the inadequate notice or opportunities in the islands for the turtle and coral listings. The notice for meetings was short, and the community didn't understand what was being asked of them. He presented the following JAG recommendation:

Regarding protected species, the JAG recommended that the Council request that NMFS provide more advanced notice (i.e., 30 days); appropriate methods (e.g. radio, newspapers, language translators at hearings, translation of notices, etc.) to facilitate opportunities for the community to provide input; and education and outreach on the issue, for any current or future on proposed ESA rules.

6. Scientific and Statistical Committee

Lynch reported the SSC protected species recommendations:

Regarding the green turtle and Guadalupe fur seal consultation, the SSC recommended that a Bayesian analysis be done that uses existing data on pinniped incidental take as an alternative to using abundance estimate ratios.

Regarding the oceanic whitetip proposed rule, the SSC recommended that PIFSC conduct a CPUE standardization analysis for oceanic whitetip takes in the American Samoa longline fishery. In addition, SSC also requested additional information on within-year variability in observer data to supplement the analyses.

J. Public Comment

There were no public comments.

K. Council Discussion and Action

Regarding the proposed oceanic whitetip shark ESA listing, the Council directed staff to send a letter to NMFS responding to the proposed rule, including issues identified at the 169th meeting. The Council recommended NMFS PIFSC to conduct a CPUE standardization analysis for oceanic whitetip shark catches in the American Samoa longline fishery. Additionally, the Council requested PIFSC provide information on within-year variability in observed oceanic whitetip catches in the American Samoa and the Hawaii longline fishery.

Moved by Rice; seconded by Gourley.
Motion passed.

Regarding the ESA consultation analysis, the Council directed staff to work with NMFS to consider incorporating a Bayesian analysis to account for uncertainties in unidentified pinniped interactions in the shallow-set longline fishery.

Moved by Rice; seconded by Gourley.
Motion passed.

Regarding future ESA listings, the Council requested the NMFS provide more advanced notice (i.e., 30 days) and appropriate methods (e.g., radio, newspapers, language translators at hearings, translation of notices, appropriate meeting venues, etc.) for an opportunity for the community to provide input, and provide education and outreach on the issue, for any current or future on proposed ESA rules. Such outreach is necessary to ensure meaningful input from the communities that are likely to be disproportionately affected by ESA listings.

Moved by Rice; seconded by Gourley.
Motion passed.

Duenas added that consideration be made to the meeting venue. The chosen meeting venue may segregate certain segments of the community, so multiple meeting venues should be considered to accommodate certain island areas.

Tosatto said he appreciated the recommendation even with the word “disproportionately.” He conveyed two things he wants to work on going forward. NMFS recognizes that there have been a few misses in the past in fielding regulatory input-taking events throughout the region. A lot of times it is difficult to predict how communities will react, and NMFS personnel stand alone in a big room. In all cases NMFS needs to connect better with the local community through the Council ‘ohana around timing and venue in the target areas for fishery management actions and potentially ESA actions. There is a reduction on administrative travel as a mandate for federal government, with 30 percent reduction taken several years ago and over time the ability to travel through the region has been reduced to 50 percent, so that has had a significant impact. Tosatto said he has tried to convince NMFS that some of the administrative travel is mandated under the statute and may be different than what other parts of NOAA or Commerce may be doing for administrative travel. He supports having a lean and mean government but they need the ability to do their job. Currently, they do not. With those two issues in mind, Tosatto said he supported the recommendation and will try to carry it out.

Gourley said he echoes Duenas’ comment given that there is a similar issue in the CNMI. Under ideal situations it would be best to hold community meetings for all the villages or to separate the islands in general areas, but he understood that is not possible. Gourley said he would recommend staying away from hotels. The multi-purpose center seems to work well because the residents are used to going there for government functions. Venue is important because Saipan is a small island and driving more than 15 minutes to a meeting is considered too far. He said we can try to improve on the public hearing aspect together.

Lutu-Sanchez said she also supported the recommendation. There is a lot of concern about understanding what those proposed rules are. The example is with corals, where there is not only the translation issue but also the lack of photographs, which makes it difficult to identify them. Fishermen do not know scientific names. It is best not to assume everyone knows. Additional efforts to have more resources for the people to understand what is coming up is useful. She suggested using different modes available to reach more people in the community, such as the Office of Samoan Affairs where community groups can be reached more efficiently.

Public Comment on Non-Agenda Items

Ebisui opened the public comment period, which he limited to three minutes per speaker.

Narissa Spies spoke about the Papahānaumokuākea MNM. She said she is a native Hawaiian and in her culture the place is revered as a kupuna [elder] and she refers to it as “my kupuna islands.” She said it is where her ancestors originated and where we will go after we pass away. She said that “allowing destructive and highly controversial longline fishing in the area is a huge mistake.” She said, with the expansion of the Papahānaumokuākea monument it was settled that there would be no fishing allowed and it seems that the Council is almost trying to go back on the EO. She said she has friends that work as NOAA observers and claimed that the

amount of bycatch that comes off the longlines is appalling. She said the latest report is 85,000 were caught in the Hawaii region alone. She said her aumakua [family god] and it hurts to know that the aumakua could be affected this way. She said she would like to see no further commercial fishing allowed in the monument. She added that the *HIKIANALIA* left this morning from Sand Island to meet its sister vessel *HOKULE'A* in Tahiti. The *HOKULE'A* set out a couple of years ago with the message of Malama Honua, to care for the earth and oceans. Spies asked what kind of message is being sent if the agreement is broken to not fish in this monument and to protect this place. She said corals around the world are failing and marine ecosystems are in trouble, so she questioned if it is sensible to add to the problem by making protections weaker instead of enforcing them.

Marjorie Ziegler introduced herself as the executive director of the Conservation Council for Hawai'i, a 67-year old native Hawaiian wildlife organization that supported the Papahānaumokuākea expansion last year. Ziegler said she had three points to make. One, public support and scientific justification for expanding the monument are tremendous. Two, the longliners catch 5 to 10 percent of their fish in the expansion area in some years. She said it's easy for them to make up that loss somewhere else. Three, it is totally inappropriate and possibly illegal for the Council to lobby the Trump Administration and the Congress to roll back protections for Papahānaumokuākea, the Pacific Remote Islands and other monuments around the country. She said they support all the monuments that have been established. She urged the Council to question its role and hoped that it would reconsider and back off.

Doug Fetterly, representing the Sierra Club's National Marine Action Team, said, point one, he was disappointed that a fisheries management council goes against its charge of protecting fish populations, long-range fisheries and ecosystems. Point two, that fish stocks are unquestionably in a serious decline worldwide and absolutely need protected areas. Point three, he asked, is the Council planning on leaving little to nothing for future generations?

Robert Richmond introduced himself as a research professor and director of the Kewalo Marine Laboratory of the University of Hawai'i at Manoa. He said he has worked on marine resource issues in Hawai'i and the Pacific Islands for the past 38 years. He said his key point is the science backing the exclusion of commercial fisheries from Papahānaumokuākea and three of the Pacific Remote Islands is sound. He said more than 2,000 scientists from last year's Coral Reef Symposium supported the exclusion of these commercial fisheries. He said the Council on Environmental Quality, which advises the White House, vetted the quality and the quantity of the science and came to the same conclusion. He said we live in a changing world and, as Spies noted, we're currently seeing the complete collapse of marine ecosystems tied to the movement and expansion of the Western Pacific Warming Pool, the movement of plankton masses and the movement of pelagic fish. He said without bold moves today, nothing will be left for the future. He said he was speaking as a scientist who has been working with many of the people worldwide and it is apparent that decisions need to be based on good science to avoid risking what happened with the collapse of the NWHI lobster fishery.

Hanohano Naehu said he is from the island of Moloka'i and a *kia'i loko*, or fishpond guardian. He said Hawaiian fishponds are 800-plus years old and *kupuna* went past fishing and started farming fish. He said money can make smart people stupid. He reminded the Council

members that they're here because they were considered smart. He said the science is there and if they listened to their na'au, or gut, they would know that this is not right. He said he previously testified with a hip-hop song, which he didn't think everybody got so he would do a poem.

Pacific Ocean is where we come from.
All one people under the sun together as one.
Time to stand and fight for all, not just some,
Not run or succumb to the dumb ones.
No offense because we not trying to make trouble.
But what you said you're taking is really more like double.
Environment and rubble, tipping point is on the bubble.
Fish you rustle when the politicians you hustle.
And our feathers get ruffled when our cries get muffled.
We all struggle while you cuddle and snuggle.
And when you smuggle, you laugh at us and chuckle,
Taking what you like, flexing your military muscle.
But your reality is truly insanity,
An epic tragedy for all of humanity.
Ironically, you fail to see that for family
We will fight to protect this world for eternity.
Kanaloa, Tangaroa, our ocean is way more
than what you know from the surface to floor.
Because when you open our native doors,
it is secrets that lie in myths, legends and lore
and at the core of what we need to restore
is being sustainable, not needing your store.
And your need for greed and your consumption
is causing the food chain to malfunction,
A system broken because of your corruption.
Species destructions on your instructions.
And it's causing us to have a spiritual eruption.
And we got to fight now before you leave us with nothing.

He said they could see that he represents the grassroots, the common people, the fishers and the farmers. The 'aina (land) is their mama. They love their islands and ocean like family, and he said he swore to protect her. He said he didn't come to make threats or act tough, but he had to stand up, testify and do whatever to try to protect the ocean and the future of the planet and their children. He said he could see good inside all of them and hoped they respect them, aloha the ocean and planet as much as they do and don't let money make them stupid.

Makaala Kaaumoana said she came from Hanalei, was born in Kane'ohē and is the vice chair of Hui Ho'omalū I Ka 'Aina. The organization was founded in the early 1980s as a grassroots taro organization of traditional practitioners of Moku Halelea to address threats and impacts to the natural and cultural resources of Kaua'i and was founded by farmers and fishermen, weavers and hunters. They seek to provide context for issues related to the ecology of their ahupua'a. The organization actively advocates for native things and ways that are

disappearing. It is an activist organization and not a nonprofit. She said the organization strongly supports Papahānaumokuākea and objects to the Council trying to remove the protections. She said they have much at stake in this issue as they are the people of Papahānaumokuākea. Several of their members can trace their genealogy to Nihoa and live on the north shore of the closest inhabited island today. They depend on the ocean for their food and they see the steady decline of the resources. She said protection of the fishery of Papahānaumokuākea is their savings account and provides a fishing future for their families. Without the rules, their fish would be gone like lobster under Council management. They believe the Council has no legal right to lobby or press to remove the rules in place. She asked the Council to do its job and work on the issue of the longline fishery in the places it is legal to fish and not in Papahānaumokuākea. She said they are committed to protecting what is left for their future generations.

Cameron Sato said he spoke on behalf of many concerned young people who see that the Great Barrier Reef is dying and that several fisheries have been depleted. He said they see this as an investment in them and the future so that they continue to have fish. He compared it to putting money from your paycheck into your pension for retirement as a commonsense financial practice. He said setting aside 5 percent of the possible catch would make sure that they can continue to have fish throughout the Pacific Ocean. He said this setting aside is an investment in them. He asked the Council to please consider the future of the fishery and the future of Hawai‘i and the world in having a sustainable fish supply.

Dave Raney introduced himself as a resident of Hawai‘i since 1968. He said he served as the first secretary of the NWHI Coral Reef Ecosystem Reserve and is one of the many members of the public who supported and welcomed President Obama’s expansion of the Papahānaumokuākea and the Pacific Remote Islands MNMs. He said he opposed the actions taken by the Council and its consideration during the meeting to allow commercial fishing within the boundaries of these MNMs. He said his concerns were based in part on the Council’s March 20th press release, which states that the Council’s advisory bodies made up of fishermen and indigenous experts, which met March 15 to 17 in Honolulu, jointly supported the removal of fishing provisions in the NWHI and other MNMs in the region. The group recommended that the Council continue to express its concerns to the new Administration regarding the impacts to fisheries from the monument designations and their expansions as well from military closures and other MPAs in the region. Randy said he was also aware of the presentation by Simonds and Ebisui to the CCC meeting held Feb. 28 through March 1 in Arlington, Va. He said the presentation is an attack on the Antiquities Act, which Presidents of both parties have used over the years to secure permanent protections for many national treasures, including the relatively recent recognition of the need to protect special marine areas. Raney said the presentation ends with a call for action, which is lobbying, by the CCCC to request the Trump Administration remove the monument fishing provisions with an explicit reference to Trump’s Make America Again campaign slogan. He said to suggest opening fully protected MNMs to commercial fishing will make America great is a perverse notion. He said he had simple requests: Do not attempt to rollback or weaken the protections won by such a wide spectrum of the public, including strong support from native Hawaiians, fishers, environmentalists and others. Do not attempt to promote regulations for the Papahānaumokuākea expanded monument area that would weaken the prohibition on commercial fishing there. Follow the laws, regulations and guidelines prohibiting the use of federal funds to attempt to exert political influence on actions affecting the Council.

Ebisui thanked Raney and said the Council received his written comments.

Marti Townsend introduced herself as the director of the Hawai‘i Chapter of the Sierra Club. She said the Sierra Club was part of the effort last year to garner broad public support for the protections of the monument and the expansion of the monument. She said it stands by that public outreach effort. She said support for protecting the area was overwhelming. She echoed previous testifiers noting that the oceans are in decline and protecting special areas like the NWHI help to ensure the overall health and future sustainability of the oceans. She said she was extremely concerned and bothered by reports that the Council or its representatives are considering lobbying the Trump Administration. She said the Sierra Club is committed from Hawai‘i to DC to standing by the Antiquities Act and in Papahānaumokuākea and the Pacific MNMs.

Liana Sablan Hofschneider introduced herself as a CNMI resident and president and founding member of Matua, Council for Chamorro Advancement. She recognized Sen. Wil Castro and former senator Gutierrez, saying they were her Chamorro family from Guam. She asked the Council to consider some of the documents and program material that it supports and distributes. She said the Matua Council advocates for local and federal social and political policies that affect the lives of the Chamorro, who are the indigenous people of the Mariana islands, including Guam. Regarding the Council’s indigenous program, she asked for clarification on who is indigenous in the Mariana islands and on the native fishing rights in the Mariana Islands. She said the Council’s document says that the native Hawaiians, Samoans, Chamorros and Carolinians are indigenous and native fishing rights and limited entry in the CNMI. She said the Council’s communications framework presented by Spalding needs to be clarified. She also said she would like to get information on who is indigenous. She also referred to the Council’s monographs and calendars. She said she is part Carolinian from North Chuuk and not Refaluwasch. She said she is Chamorro and Carolinian Chuukese. She also told Simonds that when she was at the Council several years ago, maybe in 2010, she had asked that the agenda be corrected. She said, because she is familiar with Carolinian, she knows that “arongol falu” means island report. But she asked Gourley to please change it to Island Report or Information Mariana because she doesn’t speak Carolinian and doesn’t want to be represented like that. She said it misrepresents and insults the Chamorro people. She apologized for her disrespectful tone. But asked the Council to consider how it sends its documents because they are federally funded. She said the Council’s indigenizing a group of people who are not indigenous to the Mariana Islands is making it harder for the Chamorro from Saipan, Tinian, Rota, Guam, Pagan and the entire Mariana Island chain to move forward, like the Hawaiians, with their issues and to inafamaulek come together and reunite in the concept of reunification and peace.

Richard Hofschneider introduced himself as Chamorro, German and Yapese from the island of Colonia who grew up all his life in Tinian. He said he speaks Chamorro and is Chamorro like a lot of these fellows on Guam. He said the Council is a body of the US government. He said he agreed with some of the Council’s policies but, as with the previous speaker, thought that the Council is pushing for the definition of indigenous. He said the Carolinian only in the early 1800s came to the Mariana Islands because it was colonized by the Spanish. In 1898, Guam was colonized by the United States, just like Hawai‘i was overthrown. The Northern Mariana Islands was sold to the Germans by the Spanish Government. He said

their history is more than 3,000 years old as Gourley knows. He said they've been fighting for their ancestral burial ground where the casino built two years ago as Gourley knows well. He said the ancestral Chamorro moved to Guam forcibly by the Spanish. He asked the Council to look at the definition of indigenous and to seek legal counsel before it publishes anything. He said he went to high school with Council staff Jack Ogumoro, although they don't know each other. He said Ogumoro speaks Chamorro and Carolinian. Hofschneider said he grew up on Tinian, where there are no Carolinian, no Refaluwasch. He said the Chamorro call anyone from Palau, Yap, Chuuk, Pohnpei and the south as gupallao. He asked Gourley to correct this as unfortunately Seman is not present. Lastly, he recognized the Chamorro people from Guam. He said that their fight today is to unify their cultures and that indigenous fishing rights is a cultural issue. He said, like the Hawaiians that spoke up, it's not a commercial issue, it's a culture issue and their diet is directly linked to their indigenous fishing rights. He said Gourley knows they get a lot of Spam in Saipan and have buy fish from the Filipino fishermen. He said everybody fishes on the reef and he used to throw net in Tinian many years ago. Now he has to compete with outsiders and eats Spam because there is very little fish to catch. He asked the Council to address that.

Ebisui concluded the public comment portion of the agenda and offered observations on the MSA. NS 1 requires Councils to prevent overfishing while achieving OY. The federal mandate defines the Councils' challenge to balance, analyze and apply best available science to make decisions consistent with the NSs.

VIII. Pelagic and International Fisheries

A. Update on Foreign Crew Issues in the Hawaii Longline Fleet

Goto reported on the accusations in the Associated Press (AP) article of maltreatment and slavery of foreign fishermen in the Hawai'i longline fleet. Despite much evidence to the contrary, some politicians and others continue to allege that the foreign fishermen in the Hawai'i fleets are undocumented and work for low wages. The Council heard the steps the Hawai'i longline fishery is taking to address the allegations, including the universal crew contract that is required for vessels to sell at United Fishing Agency's auction. All crew members are documented. An industry task force is putting together a code of conduct with input from various agencies to encompass national and foreign guidelines. There is also a matching commitment from the both the industry and the fishing communities to conduct outreach with foreign fishermen. The notion that passports were kept by captains to maintain crews on vessels is wrong; it is common practice for captains to hold crew passports for safe keeping. Further, crewmen are legal on US soil but must stay within close radius to boats and are able to request leave to return home. The fish auction and the Hawai'i Longline Association (HLA) have never had to deny a longline vessel based on its failure to comply with these regulations. The fishing industry didn't find it necessary to reach out to the original reporter about the story, but the Council did send a letter to the author explaining the truths of the matter.

Brakke asked if there had been efforts to contact the AP journalist and set the record straight. He recalled that a member of the Hawai'i congressional delegation intended to introduce legislation to address some of the crew visa issues.

Goto said the visa process had been explored for many years through other mechanisms, but he had no idea what stage the process had reached. He added that the industry was comfortable with the way it has handled the situation and had not contacted the AP.

Simonds said that HLA member Jim Cook spoke with the AP journalists about misrepresentations in the story. The Council also wrote a letter about the issues with the AP article. Two bills were introduced into the Hawai‘i Legislature based on faulty information. The 1987 legislation that permitted the employment of foreign crews was via California senators for US purse-seiners. West Coast albacore vessels also hired foreign crew under the visa mechanism.

Lutu-Sanchez said the reporting was irresponsible and shouldn’t go unchallenged. However, it could be a blessing in disguise because now the rest of the world can see that this is proper business and the Hawai‘i longline fishery is following the law. The foreign workers are repeat contractors, vetted through the governments, while there is actual slavery in other places.

Sensui said he graduated in journalism from the University of Hawai‘i and was taught the importance of getting both sides of the story. Many allegations had been made but none were found to be true. Unfortunately, this left the Hawai‘i longline fishery with a bad reputation.

Soliai said that there were also implications for the American Samoa longline fishery as crew were flown to the territory and then picked up. He asked if there was any effort by the Customs and Border Patrol to evaluate the process by which these crewmen are being brought in so that they can be brought in legally.

Goto said the agency had fine-tuned its protocol to ensure that any crewman coming into Hawai‘i has a proper standing as a foreign laborer. He noted some economic repercussions. Whole Foods dropped Hawaii longline caught fish as soon as the AP story broke, and Costco was on the verge of doing so. However, the retail sector was reassured by the response of the fishing industry, and Whole Foods has resumed sourcing Hawai‘i longline caught fish.

Simonds said the issue went beyond Hawai‘i to the Congress and the House Resources Committee, which held a forum on the issue. Correspondence had been exchanged between the Committee and both NMFS and the USCG. The Committee members were apparently unhappy with the responses and may yet pursue the issue.

B. Hawai‘i and American Samoa Annual Longline Fisheries Reports

NMFS PIFSC staff Russell Ito and Bigelow reported on the 2016 performance of the Hawai‘i and American Samoa longline fisheries. The Hawai‘i report included the deep-set and shallow-set fisheries targeting bigeye tuna and swordfish, respectively, while the American Samoa fleet targets albacore.

Ito said the Hawai‘i longline fishery effort has been increasing over last decade. There has been more deep-set targeting bigeye, with increasing effort on the high seas and higher effort in the eastern Pacific. The bigeye catch dropped from the record catch of 2015. Yellowfin catch increased in 2016, while it was a poor year for swordfish. There has been a large increase in

spearfish catch that now exceeds blue and striped marlin combined, as well as a record number of ono. The average sizes of monchong (pomfret) and opah (moon fish) have increased, based on auction monitoring. The major markets for swordfish are on the US East Coast. Shipping to these markets has become increasingly difficult, while there is only a small swordfish market in Hawai'i. Part of the increase in high seas effort may be due to cheaper fuel allowing longline vessels to venture further.

Bigelow said that the American Samoa fishery effort and participation are in decline, with numbers of vessels dropping below 20 in 2016. Only 70 percent of the 2016 logbook reports have been processed, so the numbers may change.

Lutu-Sanchez asked why there was a delay.

Bigelow said the reasons include the lengthy trips taken by the fishery and the delivery of the log sheets, some of which are mailed from American Samoa or picked up by PIFSC staff on trips to the territory.

Eric Kingma, Council staff, reported on a new bill to modify the final rule of the Billfish Conservation Act. The NMFS proposed rule issued in April 2013 followed the language in the act, which included an exemption for sales of billfish to the US mainland from domestic landings into Hawai'i and the other US islands of the Western Pacific Region. However, the rule was never finalized. The proposed amendment alters the original language and would shut down the long established US market for US fisheries operating within the Western Pacific Region.

Sesepasara asked if the amendment would prohibit blue marlin landings on the mainland and if this applied to processed fish such as smoked marlin.

Kingma said it applied to all billfish products. He also summarized the recent stock assessments, which showed that the Pacific blue marlin stock was healthy but that striped marlin in the northwestern Pacific was overfished and subject to overfishing. However, a WCPFC CMM requires members to stay within annual limits, and the United States has been below its nominated level of striped marlin.

Rice said tournaments on the mainland kill many marlin and tournament winners donate some or all their winnings to the International Game Fish Association and Wild Oceans, which were lobbying for the proposed amendment.

C. American Samoa Large Vessel Prohibited Area and Recent Fisheries Statistics

Bigelow reported on the performance of the American Samoa longline fishery subsequent to the LVPA exemption regulatory amendment as well as the performance of the American Samoa troll fishery.

Lutu-Sanchez thanked Bigelow for the LVPA statistics and asked if there had been any physical gear interactions between longline, trolling or alia vessels.

Bigelow said none to his knowledge.

D. Update on Pelagic Deep-Set Longline Programmatic Environmental Impact Statement

Ariel Jacobs, NMFS PIRO staff, reported on the progress of the Pelagic Deep-Set Longline Draft PEIS. NMFS initiated public scoping for the development of the PEIS on deep-set longline fisheries managed under the Pelagic FEP. The last EIS on the deep-set longline fisheries was published in 2001. Public scoping meetings were held in February and March throughout the Western Pacific Region. NMFS will provide a report on the public scoping meetings and next steps in the process.

Sesepasara said one of the venues for the scoping meetings in American Samoa is the Fono Guest Fale. He wondered if there has been contact with the Fono for the use of its building.

Jacobs said her colleagues worked with the Office of Samoa Affairs to find appropriate venues.

Sesepasara said NMFS should extend an invitation to the legislators. He asked if the scoping meetings would include an interpreter.

Jacobs said that there was no official plan to have interpretation services but she hoped NMFS staff would assist in this.

Sesepasara recommended that NMFS PIRO identify someone to interpret and to help translate for the hearing.

Lutu-Sanchez said that Fatima from NMFS Habitat Conservation Division has helped translated fishery terms and was a great asset for those services.

E. Update on American Samoa Longline Marine Stewardship Council Certification

Kingma provided an update on the Marine Stewardship Council certification for the American Samoa longline fishery. The Star-Kist cannery in American Samoa, which receives virtually all the albacore catch from the fishery, is financially supporting the certification. If certification is successful, the cans of albacore from the American Samoa fishery will bear the certification logo. Seafood sustainability and eco-labeling has become important to consumers in some parts of the world, especially in Europe.

There were no questions for Kingma.

F. Legislation on New Regional Fishery Management Organization Membership

Kingma reported that the United States had passed implementing legislation for SPRFMO and NPFC membership. Both organizations are focused on transboundary species and

stocks not covered by the tuna RFMOs including saury, chub mackerel, armorhead, jack mackerels and squids. The implementing legislation authorizes the president to appoint commissioners to represent the United States at meetings of the RFMOs. For both RFMOs, the chair or his/her designee of the Western Pacific Council will be named as a US commissioner. Committees to advise the US commissioners for both RFMOs will also be established, with the chair of the Council's Advisory Panel filling obligatory seats on the committees.

Simonds said that the Council had testified in support of this legislation in May 2016. At the time the government did not agree with including the Councils in this legislation. The Council made the case that the way the US manages most fisheries is through the regional councils and that they should be represented.

G. United Fishing Agency and Tri-Marine Partnership Training Program

Goto gave an update on the United Fishing Agency's work to establish an employment training program that would utilize workers displaced by the closure of the Samoa Tuna Processors/Tri Marine cannery in American Samoa.

There were no questions for Goto.

H. International Fisheries Meetings

1. Western and Central Pacific Fisheries Commission 13

Valerie Chan, NMFS PIRO, reported on the 13th WCPFC meeting. The Commission adopted CMM 2016-01, which will replace CMM 2015-01 for tropical tunas. The CMM rolled over certain 2016 provisions to 2017, particularly the high seas fishing effort limits for certain purse-seine fleets. The Commission agreed that there will be no catch limits for yellowfin tuna in 2017. Most of the provisions of CMM 2016-01 have been implemented, but new regulations will be needed to establish fishing effort limits for the US purse-seine fleet for 2017 and possibly to reduce the 2017 longline bigeye tuna catch limit if there was an overage of the 2016 catch limit.

Other issues discussed at WCPFC 13 included a CMM for Pacific bluefin tuna, which is overfished. The Hawai'i longline fishery annual catch of this species ranges between 0 and 1 metric ton (mt). The Commission adopted a CMM for the protection of fishery observers and for the eastern high seas pocket. The new measure requires that members prohibit their fishing vessels from transshipping on the high seas in that area, starting in 2019.

Lutu-Sanchez said the push to put in place a target reference point for albacore has been there for several years. She said that, when informing the fishing community and stakeholders in American Samoa, NMFS should clarify what a target reference point is and how it affects fishermen targeting albacore. She suggested it be incorporated into future publications or meetings.

Tosatto agreed wholeheartedly and said that the United States and American Samoa must think hard about how we are engaging about South Pacific albacore, particularly as the US interest lies in canneries. He added that NMFS PIRO had been leaving the framework in the

hands of the Territories and helping them exert their leadership, as the US does not want to be heavy handed within WCPFC in dealing with Small Island Developing States.

2. Development of a New Tropical Tuna Measure

Kingma presented a schedule for developing a new tropical tuna measure by the WCPFC in 2017. A WCPFC-convened workshop will likely be held in August in Honolulu, with Council staff handling meeting logistics. The objective of the workshop would be for members to present views and/or management options related to a new measure.

Simonds asked for a short summary of the measures that work the most in reducing bigeye take and what hasn't worked.

Kingma gave the example of the purse-seine FAD closure. Without the closure, it is expected that more bigeye tuna would be caught in the Western and Central Pacific Ocean. Kingma said the purse-seine FAD issue was probably the biggest challenge for bigeye tuna conservation. Proposals have ranged from a total closure to retaining the seasonal FAD closure. The Parties to the Nauru Agreement want to charge purse seiners for FAD sets in its waters. There are still questions about the best approach to bigeye tuna conservation and multiple perspectives. Further, Japan was catching only about 70 percent of its bigeye longline quota. Could other nations catch the balance of Japan's longline bigeye tuna allocation and still maintain the conservation objectives?

Ebisui said one of the most unsettling things about bigeye tuna management is the US longline fleet, which has a quota that is roughly 1.5 percent of the Pacific-wide quota, is the only member nation to have approached the quota and stopped fishing.

3. 91st Inter-American Tropical Tuna Commission Extraordinary Meeting

Kingma reported that the Inter-American Tropical Tuna Commission (IATTC) has not adopted a comprehensive measure for tropical tunas in the Eastern Pacific Ocean. Having failed at its 90th meeting in June-July 2016 and at the next session in October, it held a 91st extraordinary meeting in February 2017. The United States sought unsuccessfully to have the bigeye limit for longline vessels over 24 meters in length raised from 500 mt to 750 mt. The 91st meeting instead was focused almost entirely on a measure for purse seiners that involves total purse-seine catch limits by set type and 62-day closure periods.

I. Advisory Group report and Recommendations

1. Advisory Panel

Recommendations were reported under the JAG agenda item.

2. Non-Commercial Fisheries Advisory Committee

Recommendations were reported under the JAG agenda item.

3. Fishing Industry Advisory Committee

Recommendations were reported under the JAG agenda item.

4. Community Demonstration Project Program Advisory Panel

Recommendations were reported under the JAG agenda item.

5. Joint Advisory Group

Guthertz reported the following recommendations from the JAG concerning Pelagic and International Fisheries:

Regarding Pelagic and International Fisheries, the JAG recommended that the Council:

- a) Oppose proposed federal legislation that would prohibit the sale of Western Pacific billfish to the US mainland. The advisors agreed that this bill would unjustly interfere with interstate commerce and be inconsistent with the sustainable fishery management program in the Western Pacific Region.
- b) Request each of the region's agencies responsible for FAD deployment evaluate its current FAD design to reduce and/or mitigate FAD loss.
- c) Request NOAA provide information to the Council on levels of radiation within the pelagic ecosystem from the Fukushima spill study.
- d) Explore options for establishing minimum landing requirements under the American Samoa Longline Limited Entry Permit Program. This will require permit holders to land the minimum required amount of 5,000 pounds for vessels over 50 feet and 500 pounds for vessels 50 feet and under at least once every three years in American Samoa.

6. Scientific and Statistical Committee

Lynch reported the following SSC recommendations for Pelagic and International Fisheries:

Regarding future longline logbook data summaries, the SSC recommended that the Council request that NMFS PIFSC provide the following: a) percentage of total effort captured on the non-confidential data visualization maps; b) spatial fishing effort, catch and CPUE maps by quarter for bigeye taken in the deep-set fishery; and c) delineation of the 150° W line on the maps.

The SSC recommended the development of web-based applications for query and visualization of non-confidential longline data.

The SSC recommended that the Council request that PIFSC provide an updated report for the American Samoa longline fishery for the June SSC meeting.

J. Pelagic Standing Committee Recommendations

The Standing Committee recommended that the Council undertake the following:

- a) Direct staff to provide information to the Secretary of Commerce on the stock status of Pacific billfish and the economic impact of the newly introduced amendment to the Billfish Conservation Act that would limit the sale of billfish caught in Hawai‘i, American Samoa, Guam and CNMI on the US mainland, and further request information from NMFS on the estimated number of billfish killed in sport fishing tournaments and whether or not the billfish retained goes to local consumption.
- b) That the Council direct staff to write to NMFS to request continued development of the US government proposal to the IATTC to increase the longline bigeye catch limit of vessels greater than 24 meters within the Eastern Pacific Ocean.
- c) That the Council recommends that, for the next WCPFC tropical tuna measure, NMFS develop spatial longline management options that account for regional bigeye exploitation rates.

K. Public Comment

There was no public comment.

L. Council Discussion and Action

*Regarding legislation to amend the Billfish Conservation Act, the Council **directed staff to provide information to the Secretary of Commerce on the stock status of Pacific billfish and the economic impact of newly introduced amendment to the Billfish Conservation Act that would limit the sale of billfish caught in Hawai‘i, American Samoa, Guam and CNMI on the US mainland, and further request information from NMFS on the estimated number of billfish killed in US mainland sport fishing tournaments and whether or not the billfish retained goes to local consumption.***

Moved by Rice; seconded by Soliai.
Motion passed.

*Regarding the IATTC, the Council **directed staff to write to NMFS to request continued development the US government proposal to the IATTC to increase the longline bigeye catch limit of vessels greater than 24 meters within the Eastern Pacific Ocean.***

Moved by Rice; seconded by Soliai.
Motion passed.

Regarding development of a new WCPFC tropical tuna measure, the Council recommended, for the next WCPFC tropical tuna measure, NMFS develop spatial longline management options that take into account regional bigeye exploitation rates.

Moved by Rice; seconded by Soliai.

Motion passed.

Regarding the North Pacific and South Pacific fisheries commissions, the Council a) directed staff to request that the US Department of State provide information on the process to designate US commissioners to the North Pacific and South Pacific fisheries commissions and for NMFS to provide information and the timeline to establish advisory committees for the respective North Pacific and South Pacific fisheries commissions; and b) recommended the Executive Committee convene to consider individuals to recommend for Council-affiliated commissioners and advisory committee members for the North Pacific and South Pacific fisheries commissions.

Moved by Rice; seconded by Soliai.

Motion passed.

Regarding spatial fishing maps provided by NMFS PIFSC, the Council requested NMFS PIFSC provide the following: a) percentage of total effort captured on the non-confidential data visualization maps; b) spatial fishing effort, catch and CPUE maps by quarter for bigeye taken in the deep-set fishery; and c) delineation of the 150° W line on the maps. The Council further recommended the development of web-based applications for query and visualization of non-confidential longline data.

Moved by Rice; seconded by Soliai.

Motion passed.

Regarding the US District Court's decision on the LVPA exemption rule, the Council directed staff to work with NMFS and NOAA General Counsel on reviewing the judge's decision and to evaluate next steps, which could include requesting the Court to stay the decision pending reconsideration or appeal of the courts' decision; and directed staff to present options for consideration at the June Council meeting for a Council recommendation on any necessary or appropriate LVPA regulations.

Moved by Rice; seconded by Soliai.

Sesepasara abstained ~~and later said he opposed.~~

Motion passed.

Regarding the American Samoa longline limited entry program, the Council directed staff to review the limited entry program provisions with regards to minimum harvest requirements and whether establishing requirements for minimum landings within American Samoa are consistent with the MSA and other applicable law.

Moved by Rice; seconded by Soliai.
Motion passed.

Regarding local jurisdiction FAD programs, the Council **requested each of the region's agencies responsible for FAD deployment to evaluate its current FAD design to reduce and/or mitigate FAD loss, including seeking the advice of regional experts, and to report back to the Council.**

Moved by Rice; seconded by Soliai.
Motion passed.

Regarding the Fukushima nuclear accident, the Council **requested that NOAA provide information on levels of radiation within the pelagic ecosystem from the Fukushima nuclear accident.**

Moved by Rice; seconded by Soliai.
Motion passed.

IX. Mariana Archipelago

A. Guam

1. Isla Informe

Sablan introduced Shawn Wusstic, DOA DAWR, to present the Guam island report and enforcement issues. Sablan said he would present on the Guam fishing platform project, and Castro, a member of the Guam Senate Committee on Agriculture, Land and the Environment, would present the legislative report.

Wusstic presented shore-based creel survey data for 2016, including participation counts, aerial surveys and interviews. Of 24 scheduled aerial surveys, 16 were conducted. Aerial surveys are only conducted when wind speeds do not exceed 20 knots. *Naso unicornis* was the top species caught in the shore-based survey. Hook and line is the top gear type. Talaya or cast net, the gillnet and the surround net are the next most common gear types. Surveyors did not encounter the scuba spear gear type from shore.

In the boat-based surveys, *Katsuwonus pelamis*, or bonita, is the top species. Micronesian boat-based fishermen target this species with handlines; this sector of the fishery is made up of about nine boats. Mahimahi, yellowfin tuna, marlin and wahoo make up the remainder of the top five species in the boat-based survey.

DAWR's boating access program partners with the Port Authority of Guam and the fire department stationed in the basin to water blast the basin. Water blasting is a safety measure because it removes algae growth.

Wusstic showed before and after pictures of the condition and repairs at Merizo Pier. DAWR will use Sport Fish Restoration Program funds to remove slips at Agat Marina, Dock B

next. DAWR may receive a funding match from the Port Authority, which charges slip fees. Plans call for replacing the ramp at Ylig bridge with the Talofofa Bay boat ramp.

DAWR continues to issue special permits for seasonal take of bigeye scad and juvenile goatfish, jacks and rabbitfish at Piti Bomb Holes and Achang Reef Flat Marine Preserves. Special terms and conditions apply for gear type and the hours of fishing to minimize bycatch.

DAWR received reports of small and large box jellyfish during 2016. The parks and recreation department may choose to close beach parks due to jellyfish reports. Jellyfish come in with the tides and high surf conditions. A Cuvier's beaked whale was found stranded on a beach in Agat in March of 2016, and it survived. This was the only marine mammal incident in 2016.

The FY15 FAD grant was awarded and has been increased and extended through Sept. 30, 2017. The grant of \$505,344 includes FY15 and 16 budgets. DAWR is considering changing the name of the NOAA FADs and will be requesting assistance from the public in renaming this particular FAD system. DAWR has received clearance to resume in-water work and will soon issue an invitation to bid for deployment of the nine FADs stored at DAWR. The department is also working with their partners at the Guam General Services Administration and the USCG on bringing the shallow water mooring systems at Blue Hole, Alutom Island, Gabgab 1 and 2, and Western Shoals online.

DAWR maintains the fishing platforms at Ylig and Togcha 1 and 2 in the shoreline areas. In-water work on the platforms is delayed with the USFWS Section 7 consultation with NMFS.

For enforcement, 2016 cases occurred in the Guam Marine Preserves and one case at Tanguisson Beach. There was one lobster case with multiple charges because the lobster was speared, undersized and gravid.

Rice asked if the Sport Fish Restoration Program funds the harbor restoration projects.

Wusstic said it is the boating infrastructure grant under the Sport Fish Restoration Program.

Rice said, in Hawai'i, box jellyfish arrive monthly six or seven days after the full moon.

Wusstic said he would look to see if the jellyfish arrive at the same time.

Sensui said the University of Hawai'i found that box jellyfish venom can be broken down by heat. When stung, do not use an icepack. Soak the area for about 20 minutes at 118° F and then at 128° F for five minutes.

Miyasaka asked why no scuba spear gear types were encountered in the shore-based creel survey.

Wusstic said they did not encounter any in 2016.

Miyasaka asked if that was because it's not commonly used from shore or if the surveyors just did not encounter the gear type.

Wusstic said it is a more common gear type in the boat-based sector because of limited shoreline access, which affects the surveyors, but it is a common gear type in both sectors.

Duenas asked what the hooks and gaffs gear type is.

Wusstic said the hooks and gaffs gear type refers to snorkelers who do not have a spear gun but do have a straight spear with a hook on the end. This is used primarily to target octopus.

Duenas asked for the stage and timeline of the Talofofu Bay boat ramp.

Wusstic said the fire department and DAWR are splitting the bill for the boat ramp, because it provides faster search and rescue times for access to Guam's eastern waters and provides greater access for fishermen.

Duenas asked if there is a timeline.

Wusstic said the goal is midway through 2017. The makeshift ramp at Talofofu Bay is rubble, and dredging will remove storm debris in Talofofu Bay. The environmental assessment has been submitted. DAWR is awaiting information on the required agency consultations.

Sablan said this project is in the 2017 Marine Conservation Plan (MCP), which will be submitted to the Council in June.

Sablan said the Guam fishing platform is complete. The governor was very appreciative of the project. He thanked the Council for its support. The platform is Americans with Disabilities Act (ADA) compliant, and its elevation prevents lines from snagging when fishermen cast.

Simonds said kids could do a mural on the platform.

Sablan said five senior high schools are planning to paint a mural in portions. DOA would like to extend the platform over the water with the bigeye tuna allocation funds.

Sesepasara asked the cost was for Phase 1 of the project.

Sablan said \$549,370.

Sensui said this would be nice to have at Kaka'ako Waterfront Park.

Simonds said it would probably cost twice as much here.

Sablan said the weatherproof materials are ordered from off island.

Soliai asked what the funding source was.

Sablan said Phase 1 funding came from the Council, NOAA and USFWS.

Sensui asked what the deck material is.

Sablan said Venture fiberglass.

Wusstic said it is Global Grid mini-mesh fiberglass composite, resistant to sunlight and saltwater exposure. Hooks, canes and crutches won't slip through the mini-mesh.

Sablan said the US Army Corps of Engineers granted the permit for 500 feet, which is to the Fishermen's Cooperative Association.

Duenas said the location was based on the community input and the central location, parking availability, power supply and ADA compliance.

Sablan said disabled people used to wait in the car when their families went fishing and now they are a part of the fishing activity.

Sesepasara asked how long it took to receive the US Army Corps of Engineers permit for this project, as the permitting process is a stumbling block for some.

Sablan said it took about three years.

Sesepasara said there was funding to perform a similar project in American Samoa, but the funding had expired before the Corps issued the permit.

Sablan said the challenge was a back-and-forth with the Corps.

Gourley said this project, which he worked on gratis, was a Corps structure, which complicates the permitting process. The platform had to be pulled back from the waterline.

Sesepasara said he must do a fishing pier that extends in to the water and, by the sound of it, the Corps permitting process takes twice as long if the structure goes into the water.

Gourley said, if it's just a pier with pilings, the permit is a Rivers and Harbors Act Section 10 permit, which is simpler to obtain. Filling submerged lands below the mean high water line triggers the Section 404 process, which is more difficult. Designing the projects to minimize the permitting burden is key.

Simonds reported that Phase 3 is underway.

Sensui asked if pilings could be used to take the platform to the water's edge.

Gourley said the Corps did not want to use pilings.

2. Legislative Report

Castro reported that seven of the 15 senators are new senators. Castro said he serves on the Committee on Agriculture, Land and the Environment, chaired by Sen. Tom Castro Ada. The 33rd Legislature passed the Guam Ocean and Fisheries Conservation Act, which establishes an ocean fund and the Guam Ocean and Fisheries Management Council.

Simonds ask if the Legislature would be increasing the DOA budget.

Castro said he would do everything he can to fight for it, but he is in the minority.

3. Enforcement Issues

This was covered in a previous agenda item.

4. Community Activities and Issues

a. Report on Yigo Community Planning

Charles Ka'aiai, Council staff, reported on the Yigo Community Based Fishery Management Plan. The draft is nearly complete. The challenge is incorporating the Governor's 50/50 Plan, which gives broad guidance on the issues Guam wants to address over the next 50 years. The Council will seek mayoral and community approval with finalization targeted for this summer.

There were no questions for Ka'aiai.

Duenas asked Deisher if she had information on the USCG plan to expand Kilo Wharf's danger zone from 500 yards to 1,000 yards, or the community's request to hold a public meeting on the action.

Deisher said the USCG published a notice of proposed rulemaking for a permanent safety zone around Naval Kilo Wharf at 500 yards. A public meeting is scheduled for this evening from 5 to 7 p.m. in Guam.

b. Report on Guam Coral Reef Fisheries Mapping

Rebecca Walker, Council staff, reported that the Guam phase of the coral reef fisheries mapping project had wrapped up and the project is moving to CNMI in 2017. The goal is to make baseline fishing effort information available to managers and planners in a map format. The project combines existing creel survey data with participatory mapping workshops and data validation to create an atlas that can be used as an aid in decision-making for marine planning and data collection purpose and highlights data gaps for future studies. Participatory mapping is a qualitative process, so the maps portray fishermen's perceptions about fishing access, effort, target species and catch. The project participants are knowledgeable about every sector of Guam's fisheries.

Walker summarized the results of the project with a map that showed that all parts of Guam's coastline are of some significance to the fishing community. Fishermen chose 500 meters as the reporting grid for data confidentiality purpose. While the project initially sought to map fishing effort, fishermen brought up issues such as pollution and access limitations. Walker showed a draft fishing access map, in which areas of the shoreline are classified by different access constraints such as MPAs and DOD lands. The project in CNMI is in the stakeholder engagement phase.

Duenas said he participated in some of the workshops, and the maps produced are very detailed. The access maps show the large footprint of DOD lands on Guam.

5. Education and Outreach Initiatives

Carl Dela Cruz, the Council's Guam island coordinator, reported on community outreach and education. The first major event this year was the groundbreaking for the Guam Fishermen's Cooperative Association building on Feb. 28. The project entails making a two-story building with a fully functional fish processing area, a retail fish market, two restaurants, a gift shop, a dive shop and a 240-foot boardwalk-type seawall along the back. The vision is a facility on the waterfront to support fishermen and tourism. Space on the second floor may be used for museum, meeting and classroom purposes.

Simonds asked if the cooperative benefits from taxes.

Duenas said the money comes from the hotel and occupancy tax. The cooperative is hopeful that a two-dollar marine user fee will be added to all visitor arrivals in Guam, which would help to fund the projects identified for the upstairs space.

Dela Cruz said 102 schools participated in the lunar calendar competition, culminating in the 9th Annual Chamorro Lunar Calendar Festival. The festival was held at a cultural center in Tumon with lots of local and tourist participation.

There were no questions for Dela Cruz.

B. Commonwealth of the Northern Mariana Islands

1. Arongol Falú

Ogumoro, the Council's CNMI island coordinator, reported on projects identified for the CNMI MCP. DLNR CNMI received seven projects in response to its solicitation. They ranged from training in fishing methods to developing a fish market. A review committee of seven members from the government and non-profit sectors will make recommendations to the secretary of DLNR CNMI on project selection.

2. Legislative Report

Ogumoro reported that House Bill 20-09 would require scuba dive shop operators to impose a \$10 surcharge per tank usage to fund the purchase, installation, operation and

maintenance of a decompression chamber. House Bill 20-037 would prohibit the taking and selling of certain sizes of fish species for commercial purposes. This is the 3rd attempt by the Legislature to pass this bill.

House Resolution 339, which was introduced after the opening of the 115th Congress, just passed by the US House of Representatives. The bill will increase the number of CNMI only transitional workers for 2017 from 12, 998 to 15,000. The legislation is needed for the construction workforce required to build hotels that are either planned or in the construction phase.

3. Enforcement Issues

Ogumoro reported that from October to December 2016 DLNR CNMI Division of Fish and Wildlife (DFW) conservation officers performed at sea patrols, 11 vendor inspections and outreach activities benefiting 66 students and 145 fishermen.

4. Community Activities and Issues

Ogumoro reported that the 12th Mahi Fishing Derby will be held on April 8. Council outreach materials will be available at the Council's booth. He will distribute prizes to the winners of the lunar calendar competition. The 2nd Marianas Trench Fishing and Seafood Festival will take place May 26 to 28 and will include a fishing derby, seafood preparation competition, a concert and other activities.

Simonds asked Ogumoro if House Resolution 339 created a loophole to increase the number of foreign laborers allowed entry to CNMI. She said it looks like the same thing as the 1987 legislation that allowed entry for foreign fishermen on vessels targeting highly migratory species, which some people have referred to as a loophole.

Miyasaka asked if House Resolution 339 is because locals are not applying for construction jobs.

Ogumoro said CNMI has a lack of manpower, especially in construction.

Lutu-Sanchez asked for the status of the resolution.

Ogumoro said it has not moved since it was passed in the House. There is no word on Senate activity.

Gourley said that CNMI has passed a milestone two weeks ago by closing the Puerto Rico Dump, a 20-year project. Part of the mitigation for the project included the installation of six perimeter buoys marking the boundaries of the Managaha Marine Preserve. The mitigation included installing six mooring buoys in dive sites to prevent anchoring by dive boats.

Gourley also reported that the Section 902 Consultations Report to the President was now available. Section 902 of the Covenant, defining the relationship between the governments of the United States and the CNMI, offers an avenue for the CNMI and the federal government to meet

to resolve issues that either government has with the other. The report says that Farallon de Medinilla (FDM) may be worthless by the time the lease runs out, which led to conversation around compensation for the loss of fisheries. The area is the best shallow-water bottomfishing area in the CNMI that's readily accessible to Saipan and Tinian fishermen, so the Section 902 report is good news.

a. Report on Northern Islands Community Planning.

Ka'ai reported on the Northern Islands Community Based Fishery Management Plan. He said that mapping of the last two islands would become part of the implementation plan. The project was delayed with the passing of the Northern Islands mayor, Jerome Aldan.

There were no questions for Ka'ai.

5. Education and Outreach Initiative

This was reported on in a previous agenda item.

C. Update on Marianas Trench Marine National Monument

Tosatto reported that the submerged lands in the Islands Unit of the Marianas Trench MNM were conveyed to the CNMI in December. NMFS and the USFWS plan to publish the draft management plan, environmental assessment and draft regulations when the regulatory freeze ends. Tosatto said NOAA has considered the nomination package for a national marine sanctuary in the Marianas sufficient to be placed on the inventory list.

Gourley asked what the next step is in the sanctuary process.

Tosatto said the Office of National Marine Sanctuaries nomination process has six steps. The Marianas sanctuary nomination is somewhere between steps three and four, which are a sufficiency review and a national significance review. These two steps must be completed before NOAA places a nomination on the inventory list. Part of the national significance review includes consultation with other federal, state and territory agency stakeholders. Tosatto said NMFS, USFWS and the CNMI government were not consulted. Step five is the management review, which considers what type of management might be needed. Development of a draft management plan, scoping and draft proposal based on its purpose and objective make up the sanctuary designation process, during which nominations are removed from the inventory list.

Gourley said the nomination package is from an off-island non-governmental organization (NGO) called the Pew Charitable Trust and Friends of the Marianas Trench. Pew created the Friends of the Marianas Trench organization after failing to identify a local NGO to support the original monument designation in 2007. Pew employees garnered support from CNMI politicians before announcing the sanctuary nomination. The nomination includes 57 percent of the entire EEZ around the Marianas. While the nomination includes Guam waters, proponents have had only one meeting on Guam. The justification is the creation of a marine sanctuary to the edge of the EEZ will not seriously impact fishing. It doesn't consider the right to

extract other resources. Gourley said NMFS had not received all the information behind the nomination package and the designation process would be unpleasant.

Tosatto said the nomination process begins with a community-based development of a nomination that should demonstrate broad support from a variety of stakeholders. The word overlay is a problematic word from the NMFS policy perspective because areas designated as a monument must be the superior designation in all cases. Follow on designations can only underlie and not overlay. Tosatto clarified that Guam's waters are only to 3 nm, while the nomination package includes waters in the US EEZ around Guam.

Simonds asked if NMFS, USFWS, NMFS monument and Office of National Marine Sanctuaries staff need to all be involved in the management of waters around these small islands.

D. Advisory Group Reports and Recommendations

1. Advisory Panel

Recommendations were reported under the JAG agenda item.

2. Non-Commercial Fisheries Advisory Committee

Recommendations were reported under the JAG agenda item.

3. Fishing Industry Advisory Committee

Recommendations were reported under the JAG agenda item.

4. Community Demonstration Project Program Advisory Panel

Recommendations were reported under the JAG agenda item.

5. Joint Advisory Group

Richard Farrell, CNMI AP chair, reported the following recommendations from the JAG concerning Mariana Archipelago fisheries:

Regarding Mariana fisheries, the JAG recommended that the Council undertake the following:

1. Support annual meetings of the Mariana Archipelago AP and for one of those meetings to be held on the island of Tinian or Rota.
2. Based on the MSA and other applicable federal laws, request NMFS General Counsel provide a legal opinion on the rights/cultural practices of indigenous fishers of American Samoa, Guam, CNMI and Hawai'i that are recognized by federal law.
3. Request the CNMI government to evaluate the impacts to trolling and atulai fishing operations due to the anchoring of prepositioning ship off the island of Saipan and, if

appropriate, seek compensation from the federal government for the loss of access and damages to benthic habitat.

4. Request from the National Marine Sanctuary Program the geographic, management and conservation measure details associated with the overlaying a National Marine Sanctuary over the Marianas Trench MNM. The JAG further recommended the Council express the fishing community's concerns opposing a potential national marine sanctuary designation.
5. Request CNMI DLNR to work with the AP and broader fishing community in the development and formulation of the local rules and regulations that will apply to the territorial waters that are now under CNMI authority.
6. Support the placement of FADs on the west side of Rota, marina repairs on Rota and improvements to the boat ramps in Saipan, Rota and Tinian (including the addition of a boat ramp on the east side of Saipan) and strongly encourage it be identified as a high priority in the CNMI MCP.
7. Support identification of the Inarajan boat ramp repair as a priority in the Guam MCP.
8. Express its dissatisfaction with the Federal Aviation Administration approval of the 12-nm restricted airspace surrounding FDM and recommend that the DOD a) complete an assessment of unexploded ordnance and military dump sites throughout the CNMI and clean up the sites, including Chiget Point and Suicide Cliff on Tinian, the west side of Agiguan Island near Naftan Rock and nearshore areas around Saipan; and v) engage with the fishing community to determine appropriate compensation and mitigation for impacts to fisheries resulting from the additional restrictions at FDM.
9. Request NMFS conduct education and outreach in the CNMI on federal fishing regulations given the transfer of submerged lands.
10. Request NMFS provide an update and inform the local community on mitigation and planning activities in the Manell-Geus Habitat Blueprint Focus Area.
11. Request DOA review and prepare a report on the efficacy of the Guam marine preserves to determine if they have met their management objectives and provide a presentation to the Guam fishing community.

6. Scientific and Statistical Committee

The SSC did not have any recommendations.

E. Public Comment

Gourley called on Joey P. San Nicolas, mayor of Tinian and Agiguan for public comment.

San Nicolas extended thanks to the Council members, the chair, the vice chair, Seman and Ogumoro and recognized the AP members from Saipan, Tinian and Rota. He said he'd like to comment on the proposed sanctuary over the Marianas Trench MNM. He said he was one of the politicians who was approached by Pew, which does have members from the Commonwealth, such as Angelo Villagomez and Ike Cabrera. He said they visited his office a little bit before Christmas, and he agreed to endorse a letter in support of the designation of the Sanctuary over the monument. However, he said what he didn't know until yesterday was that the end result would be the further reduction in fishing and mining grounds and access to the US EEZ around CNMI. He said this is problematic and not what he signed up for. He said, when he goes back to the CNMI, he would sit down with Seman, the governor and the former Secretary, who is now our Senate President, Arnold Palacios to talk about this important issue. He said he anticipated there would be a change of position, at a minimum for the municipality of Tinian and Aguiguan.

San Nicolas said several proposals are in place to use Tinian Island for military activity. He said everybody is aware of the military buildup in Guam but may not be aware that a part of the buildup is to train marines on Tinian. In addition, there is the Air Force divert activities, the Mariana Islands Range Complex, Mariana Islands Testing and Training and the CNMI Joint Military Training activities. Even before all of these activities were proposed, San Nicolas added, Tinian already gave up two-thirds of its island as part of the Covenant. He said he is a member of the 902 Consultation Team, which under the 902 provision of the CNMI Covenant is authorized to meet with the President's personal representative and her team. In fact, they met about seven months ago in the Ala Moana Hotel to talk about the proposed military activities. The position of the CNMI government, as it is highlighted in the 902 report, is further talk about these proposed activities is needed because they will affect the CNMI economy, access to important cultural and fishing sites, and the way of life on Tinian and in the CNMI. He added that part of the technical agreement of the Covenant states that the upper two-thirds of Tinian will be closed off to the population whenever there's any military activity. Fishermen go to some areas on a regular basis to fish but not sell. He said he liked what the gentleman from American Samoa said earlier, we don't play with our food, we eat it. Those on Tinian do the same thing. They go to Unai Chulu [and other northern beaches] not to mess around but to harvest what God gave them and conserve for future generations, which is part of their life and tradition. They feel the proposed military activities and what is envisioned under the CNMI Joint Military Training will take away from that right, despite existing access rules.

He said there is already enough lack of access to these areas on Tinian and he was afraid that, should the MNM become the sanctuary envisioned by Pew, it would be another lack of access for the CNMI population. CNMI would lose 57 percent more of its fishing and mining grounds, and its residents would have less access. He didn't recall any public hearing with respect to this proposed designation. He said he cannot fault Pew but faults himself for agreeing to sign in support of this. He expressed his gratitude for being invited to the Council meeting to be educated and provide comment. He said he would go back to the CNMI and see what he could do to help make a difference.

He added that he wholeheartedly endorsed the AP recommendation regarding the Federal Aviation Administration 12-nm restriction. He appreciated Ogumoro's outreach efforts and

requested that Ogumoro continue outreach to school kids and adults in CNMI and on Tinian. He noted that he is the president of the Association of Mariana Island Mayors and would be more than happy to help convey Council causes to the mayors of Guam.

Gourley thanked San Nicolas and called on Liana Hofschneider.

Hofschneider said she was happy to hear a lot of the reports not only from Guam but also from the CNMI. She asked Ogumoro if she could see the Island Report on 9.B.1.1. Regarding the CNMI legislative report for the CNMI, she said she is a CNMI resident and the transitional workers are a contentious issue with the local people. She noted to Tosatto that the minority stakeholders, which she said are the grassroots, do not endorse this because the CNMI unemployment rate was at least 13.8 percent in 2016. Regarding the people lacking like construction skills, she said there is a lot of funding to train people but the program is a farce as it's only for about six months of training and it doesn't end with a job. She said, with all due respect to the mayor, she didn't support the additional transitional workers even though broad support came from the leaders.

Hofschneider said most importantly she wanted to address the marine monument. She said she came to the Council office for the first time several years ago because she was furious about the introduction of 80 coral species into the ESA without any data. Of those 80 species, 60 were found in the Marianas. There was no data whether they were threatened or not. It was just that they existed there. She said, when people look at the coral for other people, they think they need to protect them. However, for the indigenous, it is their way of life and they protect the ocean as their food source, their refrigerator. She thanked the Council, particularly Simonds, for publicizing the issue. She said she understood the number of coral to be listed has been reduced. She said, if all 60 species were ESA listed, then then the ocean would be like an aquarium and she hates aquariums where species are to look at. She asked, then what would they eat? Spam? She said she didn't like Spam.

She said she wanted to remind people, like Tosatto and Brown, about this because of the marine monument. She said they know what is there, but the CNMI people don't know due to lack of community engagement and education, such as at the colleges, to understand the geological environment and natural resources. Hofschneider said that Dr. Ballard in a 2013 or 2014 *National Geographic* discussed the natural minerals found in the US EEZ. She added that last year two NOAA scientists came from the University of Hawaii to do a presentation, and only eight people attended. They learned that the technology will be available in 10 years to mine titanium. She asked how would the people benefit from these natural resources. She said the covenant that established the United States relationship with the CNMI specifically said that their livelihoods would improve, but she doesn't see it. She said the people need more information, and she did not understand why Ike Cabrera and Villagomez (whose father she respects as he was her husband's mentor in law school) think there is broad community support. There is not and that is why her request for the federal government to take this issue back.

She said recently more than 700 ancient Chamorro ancestors were desecrated from their graves in ancient Chamorro ground dating to 1180. She said broad support came because a casino would be built and it was promised to bring in \$1 billion. She said a petition signed by

hundreds of indigenous Chamorro and non-Chamorro said they were misled because they were never told it was an ancient burial ground. Did the government know? Yes, they knew. Did the investor know? Yes, they knew. And, she said Gourley knew.

Hofschneider then discussed FDM, which she said is not only one of the largest spawning reefs, which is their food, but also an island called No'os, like Kaho'olawe. She said for the Chamorro, it is their ancient Chamorro place called No'os and FDM is a colonial name, No'os as an island will be a memory for the future generation, she predicted, because it will no longer exist in 60 years. She expressed her respect to formerly US Sen. Patsy Mink for fighting to stop the bombing at Kaho'olawe. Hofschneider said she hoped someday No'os would be like that. She said she is not a boater or a fisherman, but she has a lot of friends that are. They tell her and gave her pictures of how it was then and how it is now. She said the 12-mile extended radius was never part of the agreement nor was the payment of \$20,000 to bomb the island. She said the 12 miles being taken is their refrigerator.

Lastly, she thanked Farrell for bringing up the mooring [anchorage]. She said she has been stalking a Navy guy to tell him to move the big old ship from the reef. He argued that it is not close, and she said it was. She said she knows it's close because she and her friend measured the distance. She said she approached the Navy man several times at a coffee shop about moving the boat, and he finally did. However, she added, fishermen had often told her that the reefs are broken and damaged. She thanked Farrell and said that the issue needed to be clarified and discussed and compensation is due.

Gourley thanked Hofschneider and called Diego Blanco.

Blanco said he was from Saipan and recently enlisted into "Gourley's army." He said, when he goes back to Saipan, he will oppose the creation of the sanctuary because he believes it would unfairly limit them from accessing their own waters. He said the federal government took 197 miles of the EEZ without any compensation to them. He said, if they establish the sanctuary, they would be "pretty much screwed."

Regarding FDM, he noted that it was suggested that CNMI might ask for more compensation for expanding the bombing range from 1 to 2 miles to 12 miles, which was recently approved by the Federal Aviation Administration and different from the original lease. He said, they have nothing coming. The island was already taken for 99 years for \$20,000, and there may be no island left for their great grandchildren.

Blanco concluded by asking, if they establish the sanctuary, what could the indigenous fishermen do in that sanctuary? Could we fish?

Tosatto said every sanctuary designation process has an engagement with the community. While the nomination might say that the designation is for a certain purpose and should have certain limitations, ultimately NOAA would engage with the community with a scoping, drafting and environmental analysis process and establish its objectives. Tosatto said it is too soon to speculate what might or might not be allowed. National regulations prohibit extraction of minerals, for instance, so mining would be prohibited, as well as discharge and anchoring.

Gourley said the Pew proposal says it will protect and preserve culture as well as internationally significant resources inside the EEZ. He said at least 130 seamounts are outside the monument. Basically, if Pew has its way, they would shut out extraction. Gourley said the nomination document even says it wants to require permits for access to the Sanctuary.

Blanco asked if sanctuaries are so good why do Hawai'i and American Samoa oppose theirs. He said he understood they want to remove them.

Sesepasara said Gov. Lolo Moliga has requested the removal of the marine sanctuary in American Samoa.

Blanco said so it's not good.

Sesepasara said it's not good because it closes the traditional fishing grounds for their people.

Blanco asked if they can still fish traditionally.

Sesepasara said yes.

Blanco said he wants to fish commercially as a local.

Sesepasara said the restriction applies to commercial and traditional subsistence fisheries in the territorial waters, not federal water.

Sensui said Hawai'i is disturbed, as far as sanctuaries are concerned, that the claim is made that the nomination area is pristine. This means whatever activity has been taking place up to now has not done any damage. The people who are in the CNMI have such a great dependence upon that resource. He said that must be taken into serious consideration before they are cut off from it. He said they are going out there to feed themselves and not for recreation.

Blanco said he wants to make money.

Sensui said commercial fishing is important to everyone because without it the markets would have no seafood. Commercial fishermen fish for people who can't fish. He reiterated that these points need to be seriously considered before fishing grounds are closed as they mean a lot to a whole lot of people. Sensui said resource conservation is important, but it's possible to conserve and still have it available, which is what has been going on for centuries.

Blanco said they supported the monument because they promised economic development, which has not materialized.

Gourley thanked Blanco and called Richard Hofschneider.

Hofschneider said he was representing himself and was an advisor to a non-profit organization. He said he was in Honolulu for a medical appointment and not on an official trip. He is a cancer survivor of 11 years, has only one kidney and was diagnosed in 2004 with stage 4

kidney cancer. He thanked his wife, the mayor, State of Hawai'i and others for his ability to be there. He said he mentioned his personal information because it was relevant to the day's discussion. He said Farrell and the AP mentioned about the cleanup in Tinian and Aguiguan Island. He said he was born in Saipan because there was no hospital during the Trust Territory government in early 1960s. He was born in 1959 and was raised in Tinian as a farmer. There were only 600 to 700 people at that time and no military base. The people who originally came to Tinian had been expelled from Yap Island right after World War II because the Yap chiefs and Yap government asked the United States government and military to expel the Chamorro. His grandfather, Henry Gigibi Hofschneider, who was half German and half Yapese went to Tinian with the military because he spoke eight languages. That is how they ended up in Tinian. The mayor's family and others went to Saipan. But they were originally from the Mariana Islands and Guam, which is the southern Marianas.

He said the document on the DOD Marianas Range has a lot of papers, which he has a hard time understanding sometimes. However, he said, cleanup is important. He said he was not against the military and honor a lot of what they are doing on the islands. Each day the newspaper, CNN or Fox News mentions that North Korea is threatening Japan, and CNMI is the westernmost boundary of the United States jurisdiction. They voted to become part of the United States in 1972 to 1976 during the Covenant negotiation. In 1978, his uncle was the covenant negotiator. Hofschneider said his dad's younger brother negotiated the military deal regarding No'os as well as Tinian. He recalled the US losing in Vietnam, the Nixon impeachment, Watergate and Henry Kissinger's famous saying, who cares about 100,000 people out there? Hofschneider said he would like to ask Kissinger why he said that about this respectful place. He said that there is nothing fake here and that when they stand up here, they speak from their heart.

Gourley said public comment should be limited to 15 minutes.

Hofschneider acknowledged Gourley and then continued saying he witnessed the bombing of Aguiguan island when he was in the fifth or sixth grade. They came from Vietnam and bombed at night. He witnessed flashes many times at Andersen Air Force Base, Guam. He said his farm is close to Suicide Cliff where the Japanese jumped and where bombs remain that have never been cleaned up. He said he was not a regular smoker but loved to fish and is a farmer. His stage 4 kidney cancer means something is wrong with the environment. He asked for support to clean up the area and other places in the Marianas, including Guam, Saipan and FDM.

Regarding the proposed sanctuary in 57 percent of the 200-mile economic zone, Hofschneider said he was at the University of Hawaii at Hilo when the Law of the Sea conference was being held in the early 1980s. He could not go in because CNMI was an observer. When President Reagan endorsed the Law of the Sea, he issued an EO to measure the boundaries of the United States, including the CNMI. Hofschneider said the Covenant has a timeline for implementation. He mentioned the lawsuit against the federal government and said he was here in 2005 when the Ninth Circuit Court denied that CNMI had control of the waters out to 200 miles. He said he asked Congressman Gregorio Kilili Camacho Sablan, that if he endorsed the recommendation of the US Supreme Court, to introduce an amendment recognizing the Supreme Court decision but reserving the right of CNMI to control the 197 miles for future negotiations. But the Congressman refused. Hofschneider said he is trying to absorb the

Antiquities Act that President Bush brought in and the monument, including the three northernmost islands, and now this 57 percent sanctuary control. He said what is needed is good public hearings, and he asked the Council to request additional public hearings so every island, especially those with indigenous Chamorro who have lived there for 3,000-some years, have a voice. He said he was worried that the commercial fishermen would rule over the indigenous and traditional fishing rights. He said the question is whether the sanctuary would include traditional access rights. He reiterated that he was a fisherman, who threw net for many years, going out 20 miles before he got married. He knows the resources. He is also an environmentalist and is cautious. He agreed with Gourley when he said Pew is deceitful. Hofschneider said Pew is trying to undermine, which is what special interest groups do when they have a motive, whether they are environmentalists, commercial fishermen, indigenous rights, etc. He provided the ancestral burial ground as an example. He said the Republican party has been in control in the CNMI for many years and they rammed the development without knowing that there's an ancestral burial ground recommended for US National Registry. He said that archeologists and scientific consultants knew about this and that the development will desecrate 400 Chamorros who are directly linked to relatives in Southern Guam. Hofschneider said Aguiguan is the battleground for the Spanish and the Chamorro. He said that it takes time to absorb things and that is why he supports the mayor's position to withdraw the Pew proposal as they don't know what the motive is.

He also asked the Council to support a federal definition of and policy for indigenous rights and indigenous fishing. He mentioned the 24-foot latte stones built a thousand years ago on Rota, Guam, Tinian and throughout the Marianas. He said the chief did and they didn't eat taro, breadfruit, yam and fish. They caught unicorn fish, uhu, etc. Hofschneider said he has a family of politicians but this is not the decision of the politicians and he has apprehension about political decisions. He said an open forum is needed and the ability to debate in their language. He said Pew and others should go to Tinian, Saipan, Rota and Guam and speak in Chamorro, English and whatever other language that needs to be spoken to discuss about the impact.

Gourley said he thought the Council could do something with Hofschneider's recommendation.

F. Council Discussion and Action

Regarding Mariana fisheries, the Council supported holding an annual Mariana AP meeting that will rotate between island jurisdictions, including convening of meetings on Rota or Tinian, if possible.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding Mariana fisheries, the Council requested the CNMI government to evaluate the impacts to trolling and atulai fishing operations due to the anchoring of positioning ships off the island of Saipan.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding Mariana fisheries, the Council directed staff to prepare a letter for Council signature to the Secretary of Commerce about the proposal to overlay a National Marine Sanctuary on the Marianas Trench MNM and to communicate concerns related to the geographic scope of the proposal, federal overreach, regulatory duplication and increased administrative costs.

Moved with approved amendments by Duenas; seconded by Sablan.
Motion passed.

Regarding Mariana fisheries, the Council requested CNMI DLNR to work with the Council staff, the AP and broader fishing community in the development and formulation of the local rules and regulations that will ensure coordinated and consistent management between territorial and federal EEZ waters.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding Mariana fisheries, the Council requested NMFS and DFW conduct education and outreach on the CNMI on the effect of federal fishing regulations given the transfer of submerged lands.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding Mariana fisheries, the Council requested NMFS provide an update and inform the local community on planning and mitigation activities in the Manell-Geus Habitat Blueprint Focus Area.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding Mariana fisheries, the Council requested Guam DOA and CNMI DFW review and prepare a report on the efficacy of the Guam marine preserves and CNMI MPAs to determine how they have met their management objectives and provide a presentation to the Council and Guam and CNMI fishing communities.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding MCPs, the Council supported the placement of FADs on the west side of Rota; marina repairs on Rota; improvements to the boat ramps in Saipan, Rota and Tinian, including the addition of a boat ramp at Laolao Bay; and reclassifying FADs as the highest priority in the CNMI MCP.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding MCPs, the Council supported the repair of the Inarajan boat ramp be identified as a priority in the Guam MCP.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding military activities in the Marianas, the Council requested that the DOD and the CNMI, in consultations to establish continued US interest in the island of FDM for military training and testing, include the fishing community in determining appropriate compensation and mitigation for damage to fisheries as referenced in the Section 902 Consultation Report to the President. The Council additionally noted that the recent lateral expansion of Federal Aviation Administration Restricted Airspace from 3 to 12 nm and increased frequency of bombing has further impacted local fishing community through reduced access to prime fishing grounds and increased transit times.

Moved by Duenas; seconded by Sablan.
Motion passed.

Regarding military activities in the Marianas, the Council requested that the DOD complete an inventory and assessment report of all military dump sites throughout the CNMI, including surrounding waters around Chiget Point, Dump Coke and Suicide Cliff on Tinian; the west side of Aguiguan island near Naftan Rock; and nearshore areas around Saipan. The report shall be presented to the governor, mayors and the Council.

Moved by Duenas; seconded by Sablan.
Motion passed.

X. American Samoa

A. Motu Lipoti

Sesepasara gave an overview on DMWR's four main divisions: Fisheries, Enforcement, Boating Access, and Education and Public Information. The Fisheries and Enforcement Divisions have several other programs. The enforcement staff has a good relationship with NOAA as they collaborate under a memorandum of agreement and share resources. The Boating Access Division maintains the floating alia docks and boat ramps and provides security and repair work at those facilities. The Education and Information Division works closely with local schools, providing workshops for teachers during the summer and coordinating field trips to marine areas.

Sesepasara described the various fisheries of American Samoa that the Fisheries Division oversees, including nearshore spearfishing, gleaning, rod and reel, throw net, bottomfishing,

pelagic (trolling and longlining) and sports fishing. He said he commercial receipt book data collection program collects data from the stores that sell fish. This program identifies the species sold and determines whether they are locally caught or imported. Most imported fish are brought in from neighboring Samoa.

The FAD program has been identified nine areas for FADs but currently only three FADs deployed: one in deep water, and two nearshore (anchored at about 300–400 feet), which are used by small recreational and alia fishing boats. There are funds to deploy more FADs, but the permit process with federal agencies has caused delays. DMWR is currently in the process of deploying two FADs after receiving permits for them in late 2016.

DMWR's coastal restoration efforts include Leone Village, which has one of the largest wetland areas in American Samoa. This area was affected by the 2009 tsunami. Funds from USFWS were used to remove debris and trash. Efforts to re-grow corals in that area were successful. The process to obtain federal permits caused delay in project implementation, particularly with the removal of marine debris. Since receiving the permits last summer, DMWR has worked with Leone Village Council to initiate the debris removal efforts.

Regarding the foreign longline vessel that ran aground on the reef in Nu'uuli Village, the USCG helped remove the oil and the fuel from the vessel, but the vessel remains on the reef, causing damage to the coral. This was exacerbated last December when high winds and surf moved the vessel 40 feet closer to shore. During the US Coral Reef Task Force meeting in Washington, DC, Sesapasara requested funding from USCG to assist with removing the vessel. He was told Honolulu's USCG Regional Office would be contacted regarding this request. He noted that 11 longline vessels were grounded in 2005 during a cyclone and USCG's \$38 million for their removal. He requested an update from Deisher.

Deisher said the USCG does not have any additional funding for the removal of this vessel. The oil has been removed, and the Environmental Protection Agency and USCG have determined that it is not an oil pollution problem.

Sesepasara asked Deisher if she had any suggestions for assistance with the vessel's removal.

She advised him to go back to the task force.

Sesapasara reported on the department's Disaster Relief Fund. The funds were obtained from USFWS following the 2009 tsunami and were earmarked for the bottomfish fishery. He has reviewed the list of projects and not all of them have been completed. There was still money available in the fund. He has reprioritized the projects in an amendment to utilize the funds prior to September to complete the projects. This amendment has been sent electronically and in hard copy to NMFS. In describing some of those projects, Sesepasara spoke about the repairs for the alia floating dock in Fagatogo that was damaged during the 2009 tsunami. Delays in the project stem from the permit application process with the Army Corps of Engineers, which has been lengthy. The completed permit was obtained from the Corps, and the department is now routing

a request for proposals through the local procurement office. Sesapasara was optimistic that a contractor would be identified soon.

Regarding the alia boat repair project, he said a media headline the previous week mistakenly reported that \$1 million was going to Manu'a islands to repair their boats. That was misleading and has been corrected. The first phase of DMWR's contract with the Shipyard Services Authority is for \$60,000 to repair 10 alia boats. If the work is satisfactory, a second contract will be executed for another \$60,000 to repair more alia boats. If the work is not satisfactory, however, they will seek out a contractor to complete the second phase of repairs. Shipyard Services has already begun assessing the first 10 alia. He was hopeful the repairs would be underway soon.

Other equipment and supplies to be purchased with those funds include an ice machine that has already been purchased for the alia boats. They are currently working on a contract and a request for proposals with the local procurement office to have the ice machine installed and a building erected to house it near the floating docks. He anticipated this would be completed in about a week. Also under the equipment and supply portion of the fund was the purchase of floodlights that have been installed at the Malaloa Marina and floating dock area. Alia fishing trips often begin very early or late at night, and there was a need for light to assist the operators and enhance safety.

Sesepasara said DMWR has improved its data collection process recently to enhance accuracy. Eleven villages participated in the MPA program. The village councils are given the opportunity to make their own cultural regulations for fishing and allowable gear types, while DMWR assesses the resources to inform the councils on the health of the resources. For example, Vatia village permits large *lau* (hukilau) fishing and the catch being divided amongst the chiefs' families from that village. This program has been successful in creating a good relationship between DMWR and the villages.

Sesepasara reported on the boat ramp project portion of the Disaster Fund. DMWR relocated the ramp site from its proposed location in the Malaloa area to Pago Pago Village due to conflict with Port Administration's Harbor Master Plan. The Department of Public Works is working with DMWR to produce the plans for the new boat ramp, which will be used to remove alia boats from the water for repairs and put them back in the water. Along with the ramp project, two boat trailers will be purchased and used by alia boat owners. This is important because currently alia are rolled over 4-inch galvanized pipes on the boat ramp when being put in and pulled out of the water, which can damage the bottom of the vessels.

Lutu-Sanchez asked Brown to share the allocations of Sport Fish Restoration Program funds for the territorial areas.

Brown said that the information was provided for the Council members on a handout. The allocation of 2016 funds are determined by a formula. Year to year there is little change to the amount and allocation of funding. The exact amounts are available online. The use of the funds is at the discretion of the territories. Projects using these funds must meet the criteria established for the funding and compliance with the project proposal.

Sesepasara that that \$84,000 was allocated to American Samoa in 2014. He asked if the funds available would be affected by the lack of a continuing resolution for the FY17 budget.

Brown said that is why the Sport Fish Restoration Program has not decided on the amounts for 2017, though the funds come from different sources like the Coral Reef Conservation Program. The funding will be available, but the allocation needs to be worked out. Brown presented the available funding.

Rice asked if the funds are not used do they have to be returned.

Brown said that he will need to check and get back to the Council on that question.

Simonds asked whether reports on Sport Fish Restoration Program projects and are on-line at the sportfish website.

Brown said he believed that all the information would be on the website. Historical information on the program is also available on the website.

Sesepasara said he would have money available to build fishing piers.

Simonds asked about the status of Council funding for the longline docks in American Samoa.

Sesepasara said that he needed to talk to the Port Authority on that issue. There was a conflict with a boat ramp planned for that area and a master plan for that area.

Simonds was familiar with the Master Plan and wanted to know the dock location.

Sesepasara said that it could be built at the DMWR yard.

B. Fono Report

Nate Ilaoa, the Council's American Samoa island coordinator, report on legislation in American Samoa. In January, the Fono began its 135th Legislature. Following the election in November 2016 there are 19 new senators and representatives. The senators aren't elected. Six new representatives were elected. Sesepasara was confirmed as the new DMWR director, a return position for him at DMWR and the Council.

Ilaoa said the other change to note is the purchase of four Rapiscan units, priced at \$10 million by the local government, with money from the American Samoa bond sale in 2016. With the new scanner fee schedule comes additional costs for companies to move containers, pallets, some heavy equipment vehicles and even the smaller commercial parcels.

Sesepasara said members of the American Samoa House of Representatives are elected every two years. Senators are selected by the County Chiefs. Conflicts in the selection of senators sometimes end up in court with one chief claiming a higher rank than the chief selected.

He added that his confirmation required two confirmation hearings before he was finally selected, unanimously, as the DMWR director.

C. Enforcement Issues

Ilaoa gave the American Samoa enforcement report. Sixteen land patrols and 10 at-sea patrols covered east and west village MPAs and sanctuaries. Eight of the at-sea patrols were in response to village MPA reports and two were for the National Marine Sanctuary of American Samoa. The sanctuary responses resulted in warnings for improper use. One postal parcel was confiscated that contained dried sea cucumbers and shark fins. Sea cucumber is under moratorium. Three citations were issued for undersized lobsters, illegal sea cucumber take and possession of shark body parts and fins. One warning was issued for selling of illegal catch.

Under the joint enforcement agreement, dockside boarding and inspections continued. Sixteen longline registered vessels were inspected for compliance, restricted gear and current permits.

The DMWR assisted with boarding investigations of 53 foreign flagged vessels, with violations on markings, gear cover, vessel monitoring system and the 96-hour call-in requirement as an ongoing monitoring process.

Sesepasara reported on an additional incident. Enforcement officers discovered shark parts on a foreign longliner that they boarded when it came to port. Since the vessel was fishing outside the territorial waters the matter was referred to NOAA Office of Law Enforcement.

Ilaoa said that American Samoa has a ban on possessing any shark part. It doesn't match the federal law, which allows landing the whole shark.

D. Community Activities and Issues

Ilaoa gave an update on the longline dock project. The Council previously provided funds to the American Samoa Government through its Port Administration for the design and feasibility study of the longline dock extension at the Malaloa Marina to alleviate dock space issues and provide a dedicated dock for the longline vessels in American Samoa. Currently, longline vessels are shuffled around the harbor to accommodate cruise liners, fuel ships and container ships. This creates safety issues for the vessels and harbor. The Port Administration requires more funding to conduct a geotechnical study of the location for the dock. The Council AP suggested that the local government consider past geotechnical studies that may have been done when that Malaloa dock was constructed and use those studies for the longline extension. The Port Administration is also looking at the construction phase of the project. The estimate is between \$2 million and \$3 million. The Port Administration wants the project listed as a capital improvement project of 2017 for the territory. The capital improvement request to the cabinet comes after the Gov. Moliga's request for projects.

1. Status of Aunu'u Ice Plant

Ilaoa reported on the progress of the Aunu'u Ice Plant and other Council projects. The Council is providing Aunu'u with an ice making machine to support the development of an alia fishing association for the island. The Council kickstarted a small boat fishing cooperative, now housed in Fagatogo Fish Marketplace and operated by the American Samoa Department of Commerce. While the Department of Commerce invites fishermen to sell their fish at the market, there is an upfront fee of 25 cents a pound for bottomfish and 15 cents a pound for pelagic fish. The Department of Commerce also received funding from the Council for a super alia project. The department has a final design from Armstrong Boat Builders in Washington, but a press release for the design, request for proposals for the first build and the identification of funding for the build are under development. The build would be used as a demonstration vessel for training purposes.

Ilaoa reported that the Governor's legal counsel and DMWR drafted, reviewed and approved a revised shark law for the territory. The existing law forbids any shark possession. The newer version mirrors the federal law, allowing landing of the whole shark. The law will now go through a public vetting process.

Ilaoa reported that the closure of Tri Marine's Samoa Tuna Processors' canning operations put nearly 800 employees out of work. Efforts are underway to assist the workers in gaining employment. Goto reached out to Samoa Tuna Processors and made efforts to bring some of those workers up to Hawai'i to work for United Fishing Agency. StarKist hired some workers, and the government assisted in trying to provide jobs for the former cannery workers.

Sensui asked Sesepasara how big the village MPAs are and who oversees them.

Sesepasara said that the size depends on the village. The village polices the MPA themselves. In the village cultural structure, the untitled men police fishing activities. DMWR monitors the resource and reports to the villages on the health of the resources.

Goto asked for more details about efforts to assist the 800 displaced Samoa Tuna Processors workers and if anyone from Alaska reached out.

Sesepasara said a company came to American Samoa and interviewed 300 workers. He believed that the company would be hiring about 100 workers.

Goto said that he did not know what company or fishery went to American Samoa but he noted that Alaska fisheries are seasonal whereas Hawa'i fisheries are year-round.

Lutu-Sanchez said there has been an ongoing effort by Alaska companies to recruit for their seasonal fisheries. There are conditions for those that are hired, but, at the bottom line, they provide job opportunities for the people.

Ilaoa said nearly 80 percent of former Samoa Tuna Processors workers may be foreign passport holders, mainly from neighboring Samoa.

2. Report on Pago Pago Fish Market

This was reported on in a prior agenda item.

E. Education and Outreach Initiatives

Ilaoa displayed the winners of the Council's 2017 art contest for the American Samoa. The contest was open to school children, and the art was used for the Council's Lunar Calendar.

The announcement was made in January for the 2017 US Pacific Territories Capacity-Building scholarship. It was sent to the schools. The goal of the scholarship is to build stronger capacity in marine resource fields with a stronger local workforce. Interested applicants can apply for the scholarship to go to either of the University of Hawai'i at Manoa or Hilo, Hawaii Pacific University or the University of Guam. Undergraduate programs that are eligible under the scholarship are in marine science and oceanography. Students interested in working on graduate degrees are eligible to study marine biology, marine science, tropical conservation biology, environmental science or biology. The Council is currently reviewing those applications.

Sesepasara said that he met two students from American Samoa attending the University of Hawai'i at Hilo. They are anticipating graduating this summer with bachelor's degrees in marine science. He was excited to have these students come back home and work for DMWR. Quite often, students from Samoa who come to Hawai'i or to the mainland to seek further education never return home. He thanked the Council for the opportunities given to the island students to further their education in the marine science field.

Soliai thanked the United Fishing Agency and others organizations that were helping support the displaced employees. He said Tri Marine and StarKist are competitors, but American Samoa is a small-knit community and the canneries have helped each other the last few years. StarKist hired some of the displaced workers. The challenges have not changed. In 2016, there were four week-long unplanned closures, mostly attributed to lack of supply. Storage is another challenge. While Soliai was not able to discuss the details, he reported that negotiations are continuing with the local government.

Soliai said the 2016 Government Accounting Office's report on American Samoa says that, while American Samoa may show some signs of economic stabilization in comparison to previous time periods, the overall economy continues to rest upon a highly unstable foundation. Some of the factors that really affect the industry are minimum wage, foreign government subsidies, such as the fishing boats in the Eastern hemisphere, and uncertainty around federal policies. Variations on raw materials and raw costs are a challenge.

Lutu-Sanchez said challenges continue for the longline fishery as well. One cannery instead of two equates less income for island consumers. Lutu-Sanchez said it's general knowledge that the loss of access by some of the seiners and closure of the cannery has led to some seiners to deliver elsewhere, which is an economic loss to the island because they no longer provide local taxes, buy fuel or supply there.

Lutu-Sanchez said the American Samoa longline fleet is a US fishery that is down to 17 vessels operating in 2016, with much less catch and CPUE despite the Council's efforts to help the fishery recover. The recent LVPA court ruling is a reminder of the rights of the native peoples. Lutu-Sanchez reminded the Council members that the LVPA exemption was a response to an outcry and a desperate plea from the fishermen for some relief. In 2016, even though the LVPA area was amended, the numbers have decreased dramatically in the fishery. Boats in the fishery remain out of sheer hope and faith that something will happen. Because the owners are American Samoan, they don't have anywhere to go.

From December to March, not too much happened with the longliners as the season just started. The recent court ruling will be a shocker. Access is key. It is important for the plants to get the supply of fish, because the US fleet based in American Samoa is the sole source of US albacore to StarKist. Lutu-Sanchez said pursuing the longline dock is an important safety issue for the longliners. She thanked the Council for the funding. Access and the longline dock are the two main issues for the longline industry.

Soliai said StarKist sees the value in working together with the longline fleet to pursue Marine Stewardship Council certification. They hope to finalize the process before the end of the year.

Soliai said the boat grounded on the reef is in his village, one of the most beautiful villages in American Samoa. He asked for funding to remove it.

Sensui asked if the value of the vessel in terms of scrap metal exceeds the cost of removing it.

Sesepasara said that the hull is fiberglass.

Sensui asked if it was a steel vessel.

Sesepasara said it is fiberglass, which breaks up in pieces in high wind and high surf and debris is deposited on shore.

Soliai said the cost of removal is estimated to be \$3 million.

F. Advisory Group Reports and Recommendations

1. Advisory Panel

This was reported during JAG report.

2. Non-Commercial Fisheries Advisory Committee

This was reported during JAG report.

3. Fishing Industry Advisory Committee

This was reported during JAG report.

4. Community Demonstration Project Program Advisory Panel

This was reported during JAG report.

5. Joint Advisory Group

Guthertz reported the JAG recommendations for American Samoa.

Regarding American Samoa fisheries, the JAG recommended the Council undertake the following:

- a) Evaluate catch statistics of commercial and noncommercial fishing operations that occur on the American Samoa offshore banks. There is a concern that commercial-export fisheries, if developed, could impact local stocks occurring on the small offshore banks which have limited productivity.
- b) Request the American Samoa Government to reprioritize funding to support fisherman training and loan programs rather than build a super-alia or any redundant infrastructure, for example, new fish market next door to existing market.
- c) Direct staff to draft a letter to the Governor of American Samoa inquiring if the longline dock project remains a priority. The advisors identified its completion as a priority. If this project is no longer a priority for the American Samoa Government and it is unable to contribute its portion of the dock evaluation project by July 1, 2017, the JAG recommended the Council evaluate options to reprogram the funds provided to Port Administration. Further, the advisors recommended expanding the dock project's scope to include components that may be utilized by other fisheries, enhancing the economic benefits and functionality of the project, thus making it more attractive to the local government.
- d) Request NOAA Legislative Affairs to work with Congress to authorize the American Samoa Government to receive criminal fines from violations of the Clean Water Act and the Oil Pollution Act in support of projects listed in the American Samoa MCP.

6. Scientific and Statistical Committee

Lynch reported that the SSC had no recommendations in this section.

G. Public Comment

Sanchez thanked the Council for the opportunity to be at the meeting as a high school junior and said she learned and observed a lot. She said there were a lot of presentations on education in the territories and she admired the effort, especially as her sister wants to be a

marine biologist if she doesn't make it in the acting business. She also enjoyed the education part because she leads a debate team. They recently tried to do the Sea World debate, and they didn't know what marine conservation was. She hoped the Council could broaden its education scope. She said the calendar art competition was one of her favorite competitions in elementary school. She urged the Council to continue that competition because even though no one gets paid, it's really fun even if you can't draw.

As for the alia, she supported the recommendation by the advisory group to not build the super alia. She says behind the McDonald's in the village next to her own village, Fagatogo, there is a ton of alia that no one uses. She said that building a super alia instead of using the alia already in existence is a waste of funds. The same for the new fish market. The existing fish market, which was just built for the benefit of local fishermen, is empty much of the time when she passes by it a lot after school. Not a lot of fishermen use it consistently, so she didn't think a new fish market is required.

Sanchez noted that the DMWR director had mentioned that the alia near-water FADs are at 300 to 400 feet. She said the [longliners] need the 50 miles since one mile is 5,600 feet and the FADs are placed at 300 to 400 feet. She said the director said a lot of the cultural fishing is nearshore. The people stand on the reef to do that. She said 50 miles out isn't safe, and she didn't think the near-water fishermen need that 50 miles. But the longliners need it because they are significant to the local economy. Sanchez said when she was a freshman she wrote an essay for a contest about trade deficit. It made her realize that the longline fleets, which are the main supply of albacore, are extremely significant. She was baffled that they face so many problems because if they don't supply fish, then the cannery wouldn't exist and then they'd be in even more debt.

Regarding the American Samoa Economic Development Authority bonds, she said she didn't support them because she would have to pay them off when she grew up. She said when she picks up boxes for her mom at the airport she has to pay \$10 per box.

As for the longline dock, she said the boats are stacked up at the marina and her father, who has a bad knee, has to climb over all those boats. She said the longline dock should be a priority, especially since the people in the harbor and the dock are always forcing the longliners to move for other boats, sometimes on a very short notice. With the fautasi (long canoe) season coming up, it will be hard to move around with all of the practices and the races going on.

Sanchez reiterated that the 50 miles is super important because the longliners are not as long as and can't go as far as the purse seiners. To get back in time with the limited amount of fuel and food that they have, it is good to stay within the waters, especially if something goes wrong and there's always something going wrong with the boats and repairs needing to be made. Those are expensive but significant to the boat's function.

She said a non-monetary problem that has to be faced is US longliners flying the US flag, which makes them a US fleet, meaning they can fish in US waters. She said the director had mentioned the foreign longliners many times and the problems they've been causing for the island. However, Sanchez said, the current administration has also called the US flagged longliners that fish in US water as foreign longliners, which makes them less significant even

though they are extremely significant, as she had discussed before. She said she was baffled that the government calls them foreign when they are boosting their local economy. She asked that the Council help to recognize that the US longliners are not foreign and that they deserve to fish in US waters.

For employment, foreign employees who get shipped in are extremely important, Sanchez said. She learned from the Department of Commerce that people who come to the territory to work has increased 6.6 percent from 16.2 percent to 22.8 percent. This business migration is much greater than the territory's tourism, except for people visiting family, which is 1.3 percent higher than the business migration. Sanchez said she hears these foreign individuals get bullied and are treated unfairly not by their employers but by the community for being fishermen. She said there is a lot of stereotypical ideas around fishermen that are not true. They are an important part of the community, and their significance should be recognized because they do the hard labor that others don't want to do and they boost the local economy and businesses. She said people should be grateful for them and not try to kick them out.

She said her mother owns a longline fleet. Recently, they put the PRINCESS KARLINNA up on the shipyard and did all our own repairs, saving a lot of money instead of paying the shipyard workers. She said the longliners are highly prejudiced against. At one point, they had to put for sale signs on their boats to show them that there is a problem and they can leave if they are made to leave. She said it is important to recognize the significance of the vessels, and, while it's good to conserve and to reserve lands for cultural fishing, it's important to be practical and logical. She urged the Council to help with this LVPA. She said she was sure that it was the intention to cut off the longliners as they are a major business entity. She said we need to fix this. She said they have a good relationship with NOAA and with their village communities. She concluded, if one doesn't have a good relationship with one's commercial fishermen, then one will not have a good relationship with one's own economy.

H. Council Discussion and Action

Regarding American Samoa fisheries, the Council recommended NMFS PIFSC evaluate catch statistics of commercial and non-commercial fishing operations that occur on the American Samoa offshore banks as well as any other fisheries related information that could be used to assess the productivity of the small offshore banks.

Soliai moved; Lutu-Sanchez seconded.

Motion passed.

Regarding American Samoa fisheries, the Council requested the American Samoa government prioritize funding to support fishermen training and loan programs rather than building a super alia or any redundant infrastructure (e.g., new fish market next door to existing market).

Soliai moved; Lutu-Sanchez seconded.

Motion passed.

Sesepasara notified the Council that he would vote no as the representative of the American Samoa government.

Lutu-Sanchez added that the recommendation came from the American Samoa AP after thorough review of the super alia project and infrastructure needs of the fishermen.

Regarding American Samoa fisheries, the Council directed staff to prepare a letter to the Governor of American Samoa informing the Governor that the longline dock project is a priority for the Council given the lack of dedicated longline vessel docking space in Pago Pago Harbor and given the funds provided to the Port Authority for the development of the longline dock.

Soliai moved; Lutu-Sanchez seconded.

Motion passed with a vote of no by Sesepasara.

Regarding American Samoa fisheries, the Council recommended the American Samoa government work with Congress to authorize the statutory fines associated with violations of the Clean Water Act and the Oil Pollution Act be directed to the American Samoa government in support of projects listed in the American Samoa MCP.

Soliai moved; Lutu-Sanchez seconded.

Motion passed.

Regarding American Samoa fisheries, the Council reiterated the direction provided to staff to work with NMFS and NOAA General Counsel on reviewing the judge's decision and to evaluate next steps which could include requesting the Court to stay the decision pending reconsideration or appeal of the court's decision, and further noted the urgency to provide regulatory relief for the American Samoa longline fleet because it continues to face dire economic conditions.

Soliai moved; Lutu-Sanchez seconded.

Motion passed with a vote of no by Sesepasara.

Sensui asked about the potential conflicts with other fishing operations from the exemption.

Lutu-Sanchez said that was why she asked about gear conflicts during the pelagic discussion yesterday. The LVPA was created to decrease gear conflict. In the report, there were no gear conflicts. The fleet has diminished in size for all vessel classes. There is little potential for gear conflicts now. The commercial fleet is also working with the recreational fishermen to avoid conflicts.

Sensui said that it seemed everyone knows each other and it's a cooperative environment.

Lutu-Sanchez said that everyone is encouraged to fish from the dockside or on a boat or on the reef. So, hopefully, everyone will understand.

XI. Hawai'i Archipelago and Pacific Remote Island Areas

A. Moku Pepa

Anderson presented the island report for Hawai'i. The Hawai'i Division of Aquatic Resources (DAR) has been active in replacing the FADs as it recognizes their important to the fishing community. DAR is still developing a coral reef bleaching recovery plan, which may have a major impact on the state's rules. Bleaching can't be stopped, but management measures may assist in the recovery of corals after bleaching events. Measures include reducing runoff, sedimentation and chemical pollution or limiting the take of herbivores and other fish that are critical to reef health.

The Community-Based Subsistence Fishing Area for Moloka'i is a community proposal that came to DAR for consideration recently. Hearings were held on Moloka'i and O'ahu, and another is scheduled for Maui. The proposal would limit the take of 'opihi, lobster and certain parrotfish species in the area around Mo'omomi on the north shore of Moloka'i, from Ilio Point to Pelekunu Valley, a mile out to sea. Commercial fishing would be prohibited out to a mile along that long shoreline. He said that the state's land board has to approve the plan and hold additional public hearings, based on a rule package developed through the community and DAR, and the Governor has to sign off on it. The process will take a year at minimum.

Anderson said that Hawai'i is the only state in the country without a noncommercial fishing license. A committee reviewed options for a noncommercial fishing license in Hawai'i and developed a good report. While a preferred option has not been recommended, a fee-based license program with a modest fee seems to be the best option. The fishing community has offered conditional support, if the monies go toward enforcement, monitoring, and education and outreach about fishing rules.

DAR will be working on Administrative Rules related to dealer licensing and fees for the commercial marine licenses. It plans to propose that the commercial license fees be increased from \$50 to \$100 in the first year and then up to \$150 per year. He also said that DAR is looking at a possible dealer licensing and an option of vessel licenses instead of individual commercial licenses, but it is still in the process of evaluating recommendations.

Sensui said that DAR has been holding monthly meetings with the fishing community, so the director gets a lot of direct feedback from fishermen who are in the business and activity of fishing. He also said that he read the Mo'omomi proposal and noticed that the minimum size for 'opihi is 1¼ inches. Chris Bird at Texas A&M University has done a lot of research on 'opihi and found that 1¼ inches is still too small, but he has not determined an appropriate size limit with respect to spawning. Sensui encouraged Anderson to look at that issue closely.

Anderson said the Mo'omomi plan is a proposal and it is incumbent upon the agency to look at the information on which the regulations would be based. He said DAR is also considering increasing the minimum size of kumu based on size at maturity.

Rice said he met with most of the charter fleet and some of the recreational fishermen three weeks ago to provide issues to the Council and the state. The fishermen are happy to have pavement on the north side of Honokohau Harbor and the new wash-down rack, but the solar lighting isn't hooked up. The boat ramp closest to the restaurant side is finally being fixed. One of the big issues now is getting electricity on the north side of the harbor. Rice questioned how Hawai'i uses its \$3 million annual Sport Fish Restoration Program funding. He said the harbor probably produces quite a bit of that money through taxes and tackle and the fishing community would like to see a portion of that money go into fixing up the harbor facility at Honokohau.

Anderson said he would take those comments back to the Harbors Division of the Department of Transportation. Sport Fish funds are limited to supporting recreational fishing, but he was not aware of all the constraints. He said some of the funding is tagged for FAD replacements and the artificial reef program.

Rice said FADs have been an issue on his side of the island because they were replaced without structure and do not work without wind and current. Fishermen would rather the state use the money for harbor repairs than for the FAD program, unless structure is put under the FADs.

Sensui said, according to this Sport Fish Restoration Act, 2 percent of the funds can be distributed for boating infrastructure, so they could help Honokohau with its problems. He said, according to recent research, bottomfish move a lot, crossing channels and going from island to island. Spatial closures like BRFA's aren't providing protection, and other management tools like ACLs may be more effective.

Anderson said legislation this year would require DAR to open six of the BRFA's and see what the impacts are from those openings, but the agency testified that it is premature to open six BRFA's. There is a situation of overlapping jurisdictions and regulations. The catch limits help, but they haven't been reached recently. Onaga was the most threatened species when the BRFA's were established. According to recent reports, that population seems to be sustainable. The value of the BRFA's is undetermined. Bottom camera and other studies are inconclusive. There are confounding factors, and it's hard to determine the value of the BRFA's. Bigger fish are found in some of the BRFA's, so they may help aggregate or hold the larger fish, which are more important for reproduction. He said he'd like to put together a group to develop a study that would help DAR in making that decision. He said that DAR certainly doesn't like the legislature telling it what to do. Opening up six BRFA's is an option. He said that his PhD is in biostatistics, and he would certainly want to see a case control type of approach used, comparing three newly open BRFA's to three that remain closed. He said he appreciated the concerns of the fishermen; it is a serious issue that comes up at every fishermen's meeting.

Sensui agreed and said the Pacific Islands Fisheries Group has developed a good relationship with the bottomfish fishermen and is a tremendous resource to assist the state.

Lynch provided more information on the issue of the BRFA's. The SSC has considered the issue of BRFA's numerous times and has expressed serious concerns with the scientific justification of the BRFA's, given that baseline information hasn't been collected to compare

against. The SSC is engaged in this issue, and it may be a good opportunity to formulate some studies to get at the issue. He welcomed further conversation on that at some point in the future.

Anderson said that would be the appropriate group to engage in putting together a proposal that would help answer the questions.

B. Legislative Report

Anderson reported on legislation that might be of interest to the Council. The first half of the legislative season was interesting, and they are currently at crossover. Several bills were targeted at longliners, requiring as a condition of issuing a license to the longliners that they present themselves and the state identify the individuals. This seemed to be an attempt to either shut down the industry or impose a moratorium on issuing any licenses for the industry. This followed the AP report claiming there were slave-like conditions on the boats, but a lot of that information has been dispelled by industry actions. The owners, fish auction and others did a good job of addressing the concerns that were raised. The legislation has died. Most of the problems centered on labor issues or working conditions and low pay. DAR tried to tactfully point out to legislators that the mission of DAR and DLNR was not to ensure labor laws were enforced. The only reason they issue licenses is to get good data on who is catching what and where. Their business is not to ensure appropriate working conditions or appropriate pay.

Anderson described the previously mentioned bill that would allow bottomfish fishing in six of the BRFA's. He said they would like to see a more thoughtful approach and hopefully get good data leading to reliable results to make management decisions. Several bills proposed a moratorium or ban on the aquarium collection industry. The bills would have placed a moratorium on the issuance of all aquarium permits until DAR could determine catch limits for more than a thousand species of fish. He said that this isn't new in Hawai'i as legislation has been introduced to try and stop or inhibit aquarium fish collection for more than 20 years.

Another bill proposed that the state establish and operate an in-lieu of fee mitigation program. Last year DAR received approval for a mitigation bank, and the amendment to that bill would allow the upfront collection of fees for various mitigation projects. The program would allow for offsets to damage from construction activities or other planned activities that cannot be avoided. The state could then collect fees from harbor improvement projects and use those for some enhancement project that would be approved by the Army Corps of Engineers as an offset.

Legislators are also considering a ban on the use of sunscreens that contain oxybenzone, an active ingredient that impacts corals. This impact may be substantial in Hanauma Bay and other places with lots of swimmers and restricted circulation. People have come up with a dozen different ways to address the issue, including labeling the products, banning the products and public outreach and information. DAR supported the public outreach and information approach, rather than a regulatory approach. One measure would charge DOCARE with enforcing a law that would ban the application of sunscreens that have oxybenzone.

Sensui said another bill would have required propeller guards on all boats operating anywhere through inshore waters. It was tough trying to convince some of the legislators that it

wouldn't prevent people from getting killed because they get killed by the hard impact of the boat and end up drowning. He said watching boat speed is effective for swimmer safety.

Simonds said another bill that the Council is interested in relates to the community-based subsistence fishing areas. It directs DLNR to adopt rules no later than two years from the date of receipt of a proposal and, if they fail to do that within the required time, provide an explanation. She asked Anderson for the State's position on the bill.

Anderson said community-based subsistence fishing areas are proposed for Mo'omomi and established only in Ha'ena after 20 years. DAR appreciates the intent of this measure. It supports the community-based concept, but establishing five additional community-based fishing areas in the next eight years is unpredictable. He said setting any number would be a mistake because it is critically important that communities reach consensus on what they need and want before DAR begins the rule-making process. The process shouldn't be forced.

Simonds asked if the definition of native Hawaiian as any descendant of the races inhabiting the Hawaiian Islands prior to 1778 was a legal definition for the State of Hawaii.

Anderson said no, but there is not an attorney general's opinion on the record. He said that the bill is problematic from many standpoints, other than the definition of Hawaiian.

Sensui asked if a contested case on the BRFA's opening led to the legislation.

Anderson was unsure and deferred to Miyasaka.

Miyasaka said a group of fishermen asked a legislator to support the previous consideration of opening six BRFA's. There were statewide meetings with the Council that formed the basis for where that six came from.

Sensui said there was also a contested case to get six BRFA's open as well. Studies showed half of them had an increase in large fish or number of fish and the other half did not show any increase. The fishermen made the point that BRFA's weren't working for a number of reasons, one of which is that the fish tend to move.

Miyasaka said the study looked at only four areas with mixed results. There was no contested case hearing because there was no decision before the Board of Land and Natural Resources on the BRFA's. It would have had to have been a question posed to the board, and then during that meeting a contested case hearing would have been suggested, but it was never brought before the board in that respect.

Rice said, regarding noncommercial fishing licenses, everyone was for it if the money is used for infrastructure to the facilities.

Anderson said that the points were well taken and that no one wants to see the money go to the General Fund, but that's something that will be discussed. A resolution in the legislature would require the noncommercial license study to be reported to the public and feedback solicited on the options. Up to 300,000 people a year engage in noncommercial fishing compared

to 3,400 commercial licenses, which raises a question on fees and disposition of funds. Most states use the money for better monitoring, enforcement and data collection as it relates to the noncommercial fishery. Other states don't require catch reporting but follow up with surveys after a license is issued.

Rice said Hawai'i is the only state that requires the charter boats to have a commercial marine license even if they don't sell any fish, so it gets the charter data.

Gourley asked about a harbor improvement project involving the relocation of 50,000 corals and the State's track record for transplanting coral.

Anderson said the record is bad to very bad. Paul Jokiel and John Naughton wrote a recent report on how successful transplant efforts were throughout the Pacific and all other papers he read on the subject report that almost all of them failed for one reason or another. He said corals were put in places where there was no coral, and no corals were there for a good reason. High surf or whatever else caused problems with other transplant efforts. He said it sounds good on paper, but it's a tricky business and most of the coral transplant efforts have been ineffective.

Gourley said they had a similar situation, in which they had to follow the 2008 compensatory mitigation rule where corals are moved, performance standards developed and transplanted corals monitored for five years. He said that leads to a potential issue, when mitigation standards are not met, of having to earmark more money after five years. He said they convinced the Army Corps of Engineers to authorize out-of-kind mitigation. Instead of transplantation and monitoring, they put perimeter buoys around some MPAs and mooring buoys for vessels to tie up so they wouldn't throw their anchors.

Anderson said that was a very good point and they agree entirely that they should look at other uses of those funds. Their sea urchin out-planting projects were out-of-kind projects and seemed to effectively keep algae off the reefs. These efforts were funded because of a vessel grounding incident. They would much rather see the money used for supporting other activities that would effectively protect or enhance the reefs rather than transplant corals as it's too simplistic and often a waste of resources.

C. Enforcement Issues

Anderson introduced Robert Farrell, who has been the chief of DOCARE for a few months and has extensive experience in marine enforcement and roots in Hawai'i. Farrell served for 20 years as the assistant chief of the California Department of Fish and Game. After he retired in 2015, he spent a year as an enforcement officer in Hilo.

Farrell greeted the Council and said he had experience with the Pacific Fishery Management Council. Many of the state issues are intertwined with the federal issues in terms of management, and enforcement is one component of compliance. He suggested that the Council create a standing group to handle enforcement as it may be a valuable component of the Council process and help preserve some institutional knowledge.

Simonds said that the Council has an Enforcement Standing Committee that may meet prior to the Council meeting, and that the staff convenes a meeting of all the enforcement representatives to discuss enforcement issues. She said that he would be welcomed to that group as the State's enforcement representative.

D. Community Issues

1. Promise to Pae'aina

Joshua DeMello, Council staff, presented on the Promise to Pae'aina initiative including a background and update on commitments made as part of the initiative. The promise was made to effect change in the ocean management by the time the Hokule'a returns from its worldwide voyage. Since it is returning in June, the group is in the home stretch in terms of finishing up its commitments to its island home, future, livelihood, responsibility and heritage.

The Council has been involved in the livelihood commitment. The targets are to explore stronger fisheries management frameworks, strengthen fishpond restoration and systemize marine monitoring. A study group, put together with Conservation International and the Council, invited fishermen and others to determine the feasibility of developing a registry, permit or license for non-commercial fishing in Hawai'i. The report is out and provides a framework by which managers may look at the different issues and understand the impacts of providing a registry, permit or license. There will be more outreach on the report and non-commercial fishing licenses.

Work has been done on a framework to understand how the nearshore ecosystems are functioning now and provide a type of scale for the nearshore ecosystem. A group made up of The Nature Conservancy, University of Hawai'i, NMFS PIFSC, Castle Foundation, Conservation International and the Council has been reviewing different approaches and produced ecological indicators based on the moku scale.

2. Report on the Puwalu 'Eiwa

Ka'ai'ai presented a summary of Puwalu 'Eiwa held Nov. 28 and 29, 2016, at the Ala Moana Hotel in Honolulu. Attended by more than 80 participants, the gathering focused on moving the 'aha moku system of natural and cultural resource management forward. This initiative has been active for the past 10 years since the first Puwalu in August 2006, which began with an effort to honor the ancestors, Ho'ohanohano I Na Kupuna, and document practices in traditional marine resource management.

Puwalu 'Eiwa focused on the future of 'aha moku, broadening the participation and encouraging the participation of the youth. It provided the original participants the opportunity to review and assess the progress of the 'aha moku initiative. The presentations highlighted the past 10 years of development of the 'aha moku system. Presenters from local organizations and the State of Hawai'i made recommendations on how this community-based initiative could be used to improve the management of natural resources, help to empower communities to participate in natural and cultural resources management, and assist the State of Hawai'i to achieve its goals

for 30 percent effectively managed marine areas by the year 2030. Two resolutions were adopted at the Puwaloa. The outcomes included the development of an association of 'Aha Moku Councils, support for the adopted rules of the 'Aha Moku Advisory Committee and support for the effort to involve the youth in 'aha moku.

Simonds said that, upon asking who the executive director of the 'Aha Moku Advisory Committee was, the response was that there is no executive director. She said there is confusion about whether there was an executive director or not. She asked Anderson for clarification.

Anderson was unsure, but thought her assumption was correct. He said he could follow up with her to make sure that is accurate.

E. Report on Essential Fish Habitat Consultations for State Projects

Anderson said he sent a letter to NMFS in January 2016, suggesting that PIFSC continue to review the bottomfish EFH, as it was believed then that the current definition was overly broad and likely included more areas than are scientifically or biologically supported. He said that as it is now, these EFH areas extend from shoreline out to deep depths. He understood that the bottomfish EFH is currently being reviewed and using updated information. He hoped the review would significantly narrow the definition to more essential habitats. He said that in this case he cannot imagine anyone finding scientific support that a constructed harbor is essential for bottomfish populations or many coral reef species.

He said over the last year the State of Hawai'i has had to spend millions of dollars moving corals and other organisms because they were considered EFH. That money could have been much better spent for other purposes. In a follow-up letter, the State asked NMFS to focus its attention on the shoreline areas where bottomfish EFH was designated from 0 to 400 meters. The State is most concerned about the zero meter and shoreline portion of the EFH designation, especially for deep bottomfish species. He said it seems illogical that less than a foot of water would be essential for bottomfish when they normally occur in 40- to 400-meter depths. EFH is also designated from the shoreline for coral reef species. He would agree that corals grow on pilings, piers and other hard substances or surfaces within developed harbors. However, he said one could argue that the corals in harbors are not equivalent to corals and other natural reef systems outside of harbors with far more robust ecological functions. The State was asking the Council to reconsider EFH and whether it should include the shoreline. He also said that including highly modified harbor environments as EFH has unintended consequences of increasing the regulatory burden on harbor improvement projects. He noted that larvae that spawn from coral reef fish with free-floating eggs move further offshore in nearshore and pelagic areas rather than inshore toward the shoreline before returning to settle on the reefs.

Gourley said there are similar issues in the Marianas. The Army Corps of Engineers' regulatory guidance letter says corals growing on manmade structures will not be jurisdictional under its regulatory program. He asked Tosatto if EFH consultations would still have to be done.

Tosatto said that an EFH consultation would be required. He was not aware of the letter; however, if it says something contrary to law, it will get resolved within the government. He said

he knows the original EFH designations were broad. Progress is being made with the Council and the available information to refine the definitions. The EFH provisions are to protect the EFH so fisheries remain sustainable. He hoped the Council could maintain that focus. He said it is not problematic for him to have a broad definition if that outcome is to trigger a consultation.

Tosatto said there is issue with removing corals, dredging them and removing those coral heads in harbors and other hardened structures. Those impacts to EFH must be prevented or mitigated. Providing conservation recommendations under the EFH consultation and assisting the Corps to develop mitigation under the Clean Water Act are two different processes, which are linked. The requirement of the Clean Water Act is to replace lost ecosystem function, which is different from preventing or mitigating the impacts to EFH and that's what leads to the discussion of replacing corals. In the long run, a few difficult conversations are needed about what the consultation objectives are.

Anderson said that the word from NOAA is it is looking at this issue with blinders on as it relates to these corals. NOAA wants them all moved and it doesn't care how much it costs or even what the value is. He said that while the Army Corps has the last word on the subject, the State isn't getting a reasonable interpretation from NOAA on the matter.

Rice asked if NOAA gives the State money to move the corals.

Anderson said the State pays for it, entirely. He had estimates of up to 200,000 pieces of coral, which he didn't think anyone would find reasonable. Having a better, less broad definition would be a good starting point for everyone. He urged the Council to consider a recommendation along those lines.

F. Report on Boating Access Sport Fish Funds

Agenda Item was deferred as the presenter was not in attendance.

G. Developing Fishing Regulations for the Monument Expansion Area in the Northwestern Hawaiian Islands (Action Item)

DeMello provided the results of the scoping sessions on the fishing regulations for the Monument Expansion Area in the NWHI held last year at the Council's direction. He provided a brief background on the issue and noted that staff held public scoping sessions in Hilo, Kona, Maui, Kaua'i, O'ahu and Moloka'i.

DeMello summarized the public comments. Research fishing was conducted in the area, and, if fishermen are not allowed to go back up there and fish, they won't be able to retrieve tags or add more tags for research. Because charter fishing is considered commercial under state law and noncommercial under federal law, scoping session participants were concerned how the activity would be treated under the regulations. Distant-water charter outfits might be interested in taking folks out there as there were inquiries into it in the past.

The public was concerned about several administrative issues, including permit duration, tracking customary exchange, and the permitting process. In terms of subsistence, some opposed

customary exchange and said existing definitions of subsistence should be considered. Fishing regulation recommendations included spatial options, temporal options, and individual quotas and limits. There were comments that said the Council doesn't have any business doing this and should just go and do what the Proclamation says and stop commercial fishing.

DeMello said that the original timeline for the amendment was possible, but staff was requesting to push the initial options paper to the next meeting. Staff would be looking at the commercial catch data from the State to see if they could be used in the analysis. He also said there is a need to regroup with partner agencies to better coordinate efforts between the management plan and fishing regulations.

Anderson asked if action was being deferred at this point.

DeMello said that if the Council would like to see any options that were not brought up in the public scoping sessions or weren't among those listed, staff would be happy to entertain them and put them in for the next meeting.

H. Report on the Hawai'i Fish Flow Workshop

Mitsuyasu presented on the Hawai'i Fish Flow Workshop held in February 2017 with participants from seafood dealers across the state. The workshop was held over one afternoon with 12 different companies with distribution or processing facilities on multiple islands participating. The Council had done some work with regards to fish flow, or how fish moves through the market, on reef fish and bottomfish in the past but never had an opportunity to look at pelagic species. It was important, especially with regard to the NWHI monument expansion, to try to determine how much fish that comes into Hawai'i goes to the mainland.

Danika Kleiber, NMFS PIFSC, summarized the workshop goals, objectives, process and results. She said an important part of the workshop was to share information about key management issues, so the understanding was that some of these distributors might not know the role of the Council or some of the major issues that the Council considers. Participants discussed emerging markets, developing trends and other issues.

Participants provided their top local species that they ship or sell and the top nonlocal products that they sell. Facilitators also asked broader questions about the percentage of their total products including where they come from, how much is local pelagic versus non-local pelagic, where do they go, and who buys them. She said they also had group discussions on other issues related to the distribution of local products.

Kleiber said the workshop showed most of the local product comes to O'ahu, with majority coming through the auction and only 26 percent bought directly from fishermen. She provided results of other discussions including movement, which showed that most of the catch stays on the same island it was caught and very little is exported internationally. They also asked about nonlocal products, fish coming from outside of Hawai'i and where it comes from.

Participants also discussed issues with distribution and noted issues with seasonality that can affect quantity and quality. Other issues were productivity due to El Nino and La Nina,

sustainability of fisheries and reaching quotas, and the lack of industry representation in national and international regulatory decisions. Challenges to the industry are that fishermen absorb changes in oil prices; Hawai'i does not have freezing or canning facilities; and cargo space is limited. Participants noted that the local market in Hawai'i is for fresh fish; demand in Japan for fresh fish is declining; and the demand in the mainland is increasing. Overall, the participants had a great deal of pride in Hawai'i seafood products, especially the quality. There was a call for greater cooperation amongst them. The participants were interested in giving more information and suggested a market survey of seafood consumers to see if they could tell the difference between local products and nonlocal products.

Goto said he participated in the workshop and thought it was a successful and well-planned meeting. He gave credit to the Council staff because part of the process was a crash course for the marketing sector to learn about the regulatory process under which fisheries operate, specifically, the Hawaii longline fleet. It was a good first step in bringing this last leg of the industry, the marketing sector, into the industry fold. Goto said more relevant and useful information can be provided to PIFSC regarding the market. Although some information might get withheld because of vendor competition, everyone surprisingly shared all the information.

Lutu-Sanchez asked if there was any discussion about labeling the fish.

Kleiber said that there wasn't anything directed at that issue.

Goto said multiple companies were represented and everyone has a different marketing technique to sell product, so it would be difficult to have a consensus on the best labeling option. A lot of times, just mentioning the product of origin, Hawai'i seafood, is enough to sell it.

Anderson asked if there was any discussion about the longline labor issues and if it caused any problems from a marketing standpoint.

Kleiber said the participants did mention that negative press can hurt demand but the general impression was they weathered that storm, so they were looking more optimistically to the next.

Goto said the main reason participation was high was the industry issues are directly affecting the marketing sector. Quotas were always an issue and not everyone put it together right away, and the monument was an issue but no one really knew what the effects would be, but the AP article was a direct jab into the marketing sector of the fishing industry. It went right to the heart of the consumer base, specifically the more liberal stores like Whole Foods, which decided to drop Hawai'i product at that point. Also, legislation, like the billfish legislation in Congress right now, potentially could cut out accessibility of Hawai'i product to mainland markets. Factors will constantly intrude on the market, but they navigate the best that they can.

Sensui said one key is educating the consumer on understanding the difference in terms of quality and what it means to our fishing industry, as well as to their own health and well-being when fish comes from a known and trusted source. Labeling could be part of that, but it must be a two-prong approach so that people are looking for it and the product is available.

Goto said it still goes back to the connectivity of the consumer to the source and there are things in between when it comes to quality and preference. They still have that huge knowledge gap. When average local Hawai‘i residents go to Nico’s to buy a poke bowl, even though they are at the pier and see the boats, they still don’t connect the dots. Getting the information for PIFSC to analyze and use is a good thing, but the public must be willing to learn.

Simonds said whatever one can afford will be the deciding factor in what one buys. When the issue was tailpipe tuna, Sen. Daniel Inouye was instrumental in getting stores to agree to label where the fish came from so one knew that one was buying something from the Philippines, Indonesia or wherever because one’s pocketbook will determine the choice.

Tosatto said marketing and sales and the developmental and promotional nature of the products in competition are among the reasons to better understand the local fish flow. He said it appears like we’re eating most of it here, but there is a national and international effort around the traceability of seafood to prevent IUU fish. The local fisheries would have to comply with designations or trade restrictions that go into place.

I. Report on the Western Pacific Stock Assessment Review of the 2017 Hawai‘i Coral Reef Fish Stock Assessment

Erik Franklin, Hawai‘i Institute of Marine Biology and SSC member, summarized the Western Pacific Stock Assessment Review (WPSAR) for the 2017 Hawai‘i Coral Reef Fish Stock Assessments. The overall goal was to provide a benchmark review for 28 species of reef-associated fishes in the Hawaiian Islands, performed by Marc Nadon of NMFS PIFSC. The WPSAR meeting occurred Aug. 29 to Sept. 2, 2016, in Honolulu. Reviewers were himself, Kevin Stokes and Howard Choat. The WPSAR covered the terms of reference and included presentations from the stock assessor and other supplementary materials and discussions.

The WPSAR panel reviewed the stock assessments to determine if the requests made by the previous Center for Independent Experts (CIE) review were addressed. The panel found a consensus yes or yes with caveats for six of the sub questions; for four of the sub questions they found a no or no with caveats. The WPSAR panel found consensus yes or yes with caveats for 13 of the species and a majority yes or yes with caveats for 15 of the species.

The panelists had significant concern with overall data quality. The panel wasn’t specifically tasked with identifying or reviewing data, but it is something going forward that needs to occur if these assessments are to be viewed with confidence. Franklin also provided the WPSAR panel’s suggestions and comments on the assessments on how to identify the best alternative to aid decision-makers and how to improve the assessment.

General conclusions from the WPSAR were that the approach is generally appropriate to assess data-poor Hawaiian coral reef fish stocks but should be applied carefully on a species-by-species basis. Second, the approach is likely to provide scientifically sound results but only after further methodological improvements. Lastly, the WPSAR panel determined that the draft stock assessments in the report were not yet sufficient for advisory or management needs without refinement.

Sensui asked what a negative fishing mortality means.

Franklin said, when one draws from the distribution of fish lengths, one can get a length that's larger than a reasonable maximum length for a certain fish population. This generates a negative fishing mortality estimate. The CIE and WPSAR panelists suggested a method to improve that result. It still needed some work because it creates impossible results in that circumstance.

J. Final 2017 Stock Assessment of 27 Coral Reef Fish Species in Hawai'i

Nadon presented on the stock assessment of 27 reef fish species recently completed and published in a NMFS technical memorandum. The stock assessment has gone through two reviews, one in 2015 and one in 2016. He provided an overview of the approach used in the assessment and selected examples from the 27 species.

The stock assessments were conducted at the scale of the MHI with a stratification by sector. The stock structure and biomass data from the Coral Reef Ecosystem Program diver surveys, catch data from State of Hawai'i commercial marine license reports, recreational catch information from the Hawai'i Marine Recreational Fishing Survey, and life history information using either local growth curves and maturity or non-local growth curves from elsewhere in the Pacific were all inputs to the model. Limitations in the datasets included the lack of species level data, which means that species may be pooled at the family level, and a fairly short time series for recreational data, which means that the proportions of commercial and recreational catch cannot be assumed to be constant. There is some indication that the total catch might underestimated.

Nadon said they focused on the source of data in which NMFS had the most confidence, which was mainly the size structure data and life history parameters, which resulted in an SPR approach. He said that this approach takes life history, growth curve and maturity combined with the size structure and mainly the mean length in the catch to calculate a current fishing mortality rate. From the life history parameters and the fishing mortality rate, he calculated an SPR. He said that SPR is the ratio of current spawner biomass per recruit divided by spawner biomass per recruit when no fishing is occurring.

There are two different ways of obtaining an OFL in this context. The first, most straightforward one is simply calculation of F30, or the fishing mortality rate that would lead to an SPR of 30 percent, using the life history parameters. F30 is the reference point used in this analysis, which is a proxy for the fishing mortality at MSY as the sustainable fishing rate. F30 is then combined with the diver-derived biomass, C30, which is the current catch limit that would lead to the sustainable harvest rate. The median of the projected diver-derived biomass values estimated from the Monte Carlo simulation provide an OFL.

Nadon then provided a summary of the results using this approach. He focused on the results of F over F30 and said that if the score is above 1.0, one is fishing higher than F30, so the SPR would be below the 30 percent reference point and overfishing may be occurring. The

results showed numerous species may be under overfishing conditions. He went through specific examples and the differences between the catch-derived biomass and the diver-derived biomass.

He said the strength of this approach is the low data requirement. He added that the weakness is that it's a simple model and all that can be said is if there's overfishing based on the current mortality rate.

Gourley asked if fishing regulations are considered in the assessment and if they affected the analysis. He provided an example of the scuba-spearfishing ban in Saipan.

Nadon said that could mean the two datasets yield different estimates of biomass but in Hawai'i there may not be the extreme examples that may be explained in Saipan.

Gourley said that would assume a uniform size distribution of the fish among the shallow and deep waters.

Nadon said that there isn't a specific dataset that allowed them to make that comparison because they have the DAR commercial catch, which goes in the nearshore and the offshore waters, and then diver observations from 0 to 30 meters.

Sensui asked how the recreational catch was estimated.

Nadon said a report by Ivor Williams and Hongguang Ma provided the dataset. He said that, while he understands the concerns, it's the best estimate of total catch available in Hawai'i.

Sensui also had concerns about the diver surveys and how to compensate for unobserved fish that scatter when the divers enter the water.

Nadon said most fish will hang around and it depends on the species whether they return to the area or not. He said there isn't a specific bias correction per species, but that could be future work to refine biomass estimates.

Sensui asked if there is a plan to use technology, like small cameras or remote cameras to try to do these observations without a human presence.

Nadon said the coral reef ecosystem program has a baited remote underwater program, which has performed shallow- and deep-water trials in the NWHI and MHI. Papers coming out in the upcoming month will compare the diver and camera surveys. He said he didn't know of a plan to move toward camera work as there's a lot of work involved with processing the data with the camera. With divers, the data is entered at night and figured out when the cruise ends; when using cameras, there are many months of processing.

Tosatto said stock assessments help set an OFL which drives an ABC and/or ACLs and also helps determine stock status. He said this stock assessment doesn't determine overfished or biomass status because it relies on the SPR frame. He said, although the term overfishing was used, the stock status for these species is unknown because the FMPs or FEPs stock status

determination criteria differ from what was presented. There is a need to make the status determination criteria match the best available science.

Anderson said that the condition for almost all these species varies considerably from place to place. He asked how refined could the assessment get in terms of determining whether an area were overfished.

Nadon said it depends on the dataset and the species, noting that the diver dataset does not have enough observation to break everything down by island, though the commercial data set may have this information available. He said that the question that also comes up is the connectivity between the islands in terms of larval exchange. For now, given the data limitation and some of the work done with connectivity, they decided to go with the entire chain.

K. Process for Annual Catch Limit Re-specification for 2017 and 2018

Sabater presented on the process for specifying the 2018 ACLs for the Hawai'i coral reef management unit species and the non-Deep 7 bottomfish complex. After providing a background on the history of the specification process, he said that the 2014 method used a biomass-augmented catch MSY approach that allowed for the specification of OFL, ABCs and ACLs for multiple years. He provided an update on the catch relative to those ACLs, noting that most of the catches are below the limit except for coral reef ecosystem groups, crustaceans and mollusks. He said the previously reported stock assessment for 27 species is the driver to re-specify ACLs.

Sabater said National Standard 2 requires that any conservation and management measures shall be based on best scientific information available. The assessment for these 27 species was released during the third year of the four-year specification. The new information from the assessment may lead to potential changes to the specification of OFL, ABCs and ACLs, which staff will be targeting for completion by October 2017. The SSC will determine if the stock assessments are the best scientific information available and may recommend changes to the OFL and ABCs, including P-star and social, economic, ecological and management uncertainty analyses, at which the point the Council may then provide a revised specification for ACLs. He said that the SSC will have to provide justification for or against the science and determine if the assessments warrant a single species or complex ACL specification.

There were no questions for Sabater.

L. Education and Outreach Initiatives

Spalding presented the outreach and education initiatives in Hawai'i since the last Council meeting. The Council continued to co-sponsor the *Go Fish!* radio talk show with Mike Buck, Staff presented to the NOAA Scientific Advisory Board Ecosystem Science and Management Group about indigenous management traditions. Staff participated in a natural and cultural resources group at the Hawai'i Sea Level Rise and Vulnerability Adaptation Workshop, discussed protecting cultural sites and coastal lands threatened by coastal hazards.

Spalding also said that Council is announcing its high school summer course at Moanalua High School and provided a list of upcoming events with which the Council may be involved.

She said that 2020 will be a big year for marine education in Hawai‘i as the National Marine Educators Association will hold its annual conference, potentially coordinated with the International Pacific Marine Educators Network biennial conference. In addition, the Festival of the Pacific Arts will also be held in Hawaii that same year.

M. Advisory Group Reports and Recommendations

1. Advisory Panel

Recommendations were reported under the JAG agenda item.

2. Non-Commercial Fisheries Advisory Committee

Recommendations were reported under the JAG agenda item.

3. Fishing Industry Advisory Committee

Recommendations were reported under the JAG agenda item.

4. Community Demonstration Project Program Advisory Panel

Recommendations were reported under the JAG agenda item.

5. Joint Advisory Group

DeMello presented the recommendations from the JAG meeting which included the recommendations from the AP, the Noncommercial Fisheries Advisory Committee, the Community Demonstration Project Panel and the Fishing Industry Advisory Committee:

Regarding Hawai‘i fisheries, the JAG recommended that the Council undertake the following:

- a) Request that the State of Hawai‘i consider, as a requirement of closing an area to fishing, developing a plan that includes regular monitoring of the management area and a periodic assessment to determine if management objectives have been met.
- b) Request that the State of Hawai‘i develop guidelines for the establishment of marine conservation area(s) and consider the following:
 - Stock assessment using science based analysis;
 - Evaluation of all factors that may affect stocks, including overfishing and impacts of land based development;
 - Community meetings with stakeholders;
 - Environmental, social, cultural and economic assessments;
 - Plans that include specific performance metrics to evaluate the effectiveness of the measures through goal-appropriate regular monitoring;

- Provisions for such program or management regimes to be modified or removed based on the review of the performance metrics; and
- Development of a realistic and achievable enforcement plan.

6. Scientific and Statistical Committee

Franklin presented the SSC's Hawai'i Archipelago recommendations:

Regarding the assessments for 27 coral reef and non-Deep 7 stocks, the SSC recommended that in addition to the length data, the assessments incorporate the use of the abundance data from surveys comparing the low fishing pressure areas and high fishing pressure areas to validate the mean length information. There is a large-body of literature on simulation testing of data-poor stock assessment methods. The SSC recommended that this assessment method undergo similar simulation testing using an independent operating model to fully understand the potential biases related to the assessment model assumptions and input data. To meet the requirements of re-specifying OFL, ABC and ACLs for fishing year 2017, the SSC endorsed further evaluation of two species caught predominantly in federal waters, *Carangoides orthogrammus* and *Aprion virescens*, which can be completed in an expedited manner. For the remaining 25 species, the SSC did not recommend further evaluation at this time; the SSC noted that these species are caught predominantly in state waters. Establishing new ACLs for these species will not provide significant conservation benefit from federal management. Concurrently, the SSC will examine each of the 27 assessed species and determine which species meet the criteria of NS 2 on a schedule to be further determined by the SSC in consultation with Council staff.

Regarding the Monument Expansion Area, the SSC recommended staff explore the utility of existing data (from the Midway sport fishing and the Hawaii Tuna Tagging Project). The SSC recommended an analysis be undertaken of the potential impacts on protected species from effort redistribution related to the Monument closure. The SSC suggested that the researchers work with PIFSC Socioeconomics Program to evaluate how management actions such as Western and Central Pacific Ocean limits or economic factors may have influenced fleet reliance on fishing grounds in the northeast Pacific.

7. Standing Committee

DeMello presented the Hawai'i Archipelago Standing Committee's recommendations:

Regarding management conservation areas, the Hawai'i Standing Committee recommended that the Council undertake the following:

- a) Request the State of Hawai'i to consider, as a requirement of closing an area to fishing, developing a plan that includes regular monitoring of the management area and a periodic assessment to determine if management objectives have been met.

- b) Request the State of Hawai‘i to develop guidelines for the establishment of marine conservation area(s) and consider the following:
- Assess stocks using science-based analysis;
 - Evaluate all factors that may affect stocks, including overfishing, impact of land based development, etc.;
 - Conduct community meetings with the stakeholders;
 - Prepare environmental, social, cultural, and economic assessments;
 - Provide plans that include specific performance metrics to evaluate the effectiveness of the measures through goal-appropriate regular monitoring;
 - Include provisions for such program or management regimes to be modified or removed based on the review of the performance metrics; and
 - Develop a realistic and achievable enforcement plan

Regarding 2017 Hawai‘i coral reef fish stock assessment, the Hawai‘i Standing Committee recommended that the Council undertake the following:

- a) Recommend NMFS PIFSC, in addition to the length data, incorporate the use of the abundance data from surveys comparing the low fishing pressure areas and high fishing pressure areas to validate the mean length information.
- b) Recommend the coral reef fish stock assessments undergo simulation testing using an independent operating model to fully understand the potential biases related to the assessment model assumptions and input data.
- c) Direct the SSC Working Group to examine each of the 27 assessed species to determine which species meet the criteria of NS 2 and present its findings to the Council by October 2017 for ACL specifications for fishing year 2018.
- d) Direct staff to explore the utility of existing data (e.g., from the Midway sport fishing and the Hawai‘i Tuna Tagging Project) and recommend NMFS PIFSC conduct an analysis of the potential impacts on protected species from effort redistribution related to the monument closure.

O. Public Comment

No public comment was offered at the meeting; however, two letters of public comment were received. Maui County Mayor Alan Arakawa requested that the Council “maintain the monument expansion in the Northwestern Hawaiian Islands as off-limits to commercial fishing” and said that Native Hawaiian regulated fishing provision should not allow the fish to be sold, bartered or traded. Phil Fernandez, president of Hawaii Fishermen’s Alliance for Conservation and Tradition, commented on the Council’s “full support” of a management proposal for Mo‘omomi, Moloka‘i.

P. Council Discussion and Action

Regarding management of nearshore fishing areas, the Council requested the State of Hawai'i, to consider as a requirement of closing an area to fishing, develop a plan that includes regular monitoring of the management area and a periodic assessment to determine if management objectives have been met. The Council further requested the State of Hawai'i develop guidelines for the closure of any area to fishing that considers the following where possible:

- a) Using science-based analysis for determining stock status;
- b) Evaluating all factors that may affect stocks, including impacts of land-based development, fishing, recreation, etc.;
- c) Mandating community meetings with stakeholders early and often;
- d) Preparing environmental, social, cultural, and economic assessments;
- e) Including specific performance metrics to evaluate the effectiveness of the measures through goal-appropriate, regular monitoring;
- f) Including provisions for such program or management regimes to be modified or removed based on the review of the performance metrics; and
- g) Developing a realistic and achievable enforcement plan.

Moved by Rice; seconded by Sensui.

Motion passed.

Anderson supported the idea behind the policies and said that they were consistent with what the DAR is trying to do now. He had concerns about preparing the assessments to go along with the rule-making. He noted that the agency does its best to determine impacts but the assessment process to prepare formal documents is more detailed. He said that part may be problematic but the rest of the list is consistent with what the agency does and he appreciates the intent behind the recommendation.

Regarding 2017 Hawai'i coral reef fish stock assessments, the Council recommended NMFS PIFSC incorporate the use of the abundance data from surveys comparing the low fishing pressure areas and high fishing pressure areas, in addition to length data, to validate the mean length information. The Council further recommended the NMFS PIFSC coral reef fish stock assessments undergo simulation testing using an independent operating model to fully understand the potential biases related to the assessment model assumptions and input data for the next stock assessment updates.

Moved by Rice; seconded by Sensui.

Motion passed.

Regarding 2017 Hawai‘i coral reef fish stock assessments, the Council directed the SSC Working Group to examine each of the 27 assessed species and evaluate which species-level assessments meet the criteria of NS2 on best scientific information available for the Council for potential fishery management decisions and recommendations on OFLs and ABCs. The Working Group must present its findings to the SSC and Council by October 2017 for ACL specifications for fishing year 2018.

Moved by Rice; seconded by Sensui.

Motion passed.

Regarding the Monument Expansion Area, the Council directed staff to explore the utility of existing data (e.g., from the Midway sport fishing and the Hawai‘i Tuna Tagging Project) in the development of options to amend the Hawai‘i and Pelagic Fishery Ecosystem Plans and to present draft options to the Council at its 170th meeting. The Council recommended NMFS PIFSC conduct an analysis of the potential impacts on protected species from effort redistribution related to the monument closure for inclusion in the staff analysis of options.

Moved by Rice; seconded by Sensui.

Motion passed.

Regarding EFH, the Council directed staff to develop options to consider excluding harbors, degraded habitat, manmade structures or other modified or non-essential habitats of low value from all EFH designations. The Council further directed staff to work with NMFS to include information that identifies the habitat value of nearshore areas to bottomfish and coral reef ecosystem species in EFH reviews.

Moved by Rice; seconded by Sensui.

Motion passed.

Regarding the Fish Flow Workshop, the Council supported continued efforts to work with Hawai‘i seafood distributors and businesses to document the movement of domestic and imported pelagic fish and seafood products through Hawai‘i’s seafood network.

Moved by Rice; seconded by Sensui.

Motion passed.

Regarding community-based management, the Council reaffirmed its continued support of community-based management in the Western Pacific and directed staff to support a meeting, following the State’s public meetings on the Mo‘omomi proposal, of the State of Hawai‘i with Hui Malama o Mo‘omomi and the impacted fishing community to provide an opportunity to discuss proposed management measures, review relevant fishery data and provide comments in order to identify management measures that are acceptable by the whole community.

Moved by Rice; seconded by Sensui.
Motion passed.

Regarding the BRFAs, the Council directed staff to reconvene the bottomfish working group comprised of representatives from the SSC, State of Hawai‘i, PIFSC, University of Hawai‘i and bottomfish fishermen to review available information and develop a study and a plan that would provide options for opening the BRFAs.

Moved by Rice; seconded by Sensui.
Motion passed.

Anderson suggested adding the SSC to the bottomfish working group to get their input.

Regarding boating infrastructure, the Council directed staff to support a meeting between the State of Hawai‘i (Division of Boating and Ocean Recreation and DAR) and the fishing community to address boating infrastructure concerns and resolve issues regarding fishing boat access and facilities.

Moved by Rice; seconded by Sensui.
Motion passed.

XII. Administrative Matters

A. Financial Reports

Simonds reviewed the financial report for the November 2016 to March 2017 period and said that categories, such as compensation, travel, supplies and operational line items, are the same from previous years. She identified the Council liaison line from the multiyear grant and its funding for the three territories and support for travel to meetings other than Council meetings. She reviewed ongoing and completed grant projects.

The CCC Management and Budget Update presentation was distributed to Council members previously. Simonds said it is a detailed status update of the budget and is informative about the grants. She suggested the Territories and State review the Saltonstall-Kennedy process to apply for those grants and suggested they have their staff work with the island coordinators.

B. Administrative Reports

Simonds reported that there have been no staff changes since the last Council meeting.

Staff met in January to review the Council’s five-year program and met with PIRO Sustainable Fisheries Division staff to discuss and prioritize Council actions and documents. There was an administrative meeting held in conjunction with the CCC meeting. During that meeting participants met with General Services Administration representatives and NOAA’s Office of General Counsel.

C. Update on Information Inquiries and Responses

The Council received a letter from the Mayor of Maui on the monument action and two letters from Cates and the Hawaii Fishermen's Alliance on Conservation and Tradition, Inc. about Mo'omomi that the Council will respond to accordingly.

D. Updates on the New Administration

This agenda item was reported in a previous agenda item.

E. Council Family Changes

Mitsuyasu reported on changes to the Plan Team and AP memberships. He suggested the Council solicit for alternate positions available in several of the islands and to replace the Community Demonstration Project Program AP members.

F. Meetings and Workshops

Simonds reported on the schedule, beginning with the Council related meetings, and deferred to Council staff for questions. She said the Councils' Communication Group meeting is still up in the air. The executive directors and chairs are discussing whether the communications staff should meet since there is a new administration.

Brakke asked about the intended participation in the UN Ocean Conference.

Simonds said the Council made a request to be invited to that meeting and participate as part of that delegation.

Goto asked about the WCPFC intersessional meeting in Hawai'i.

Simonds said it will be held at the Hilton Hawaiian Village and there are additional venues available for sleeping accommodations.

G. Other Business

Sesepasara requested time to clarify the record on his vote on the LVPA issue. Sesepasara said he received an email from his boss in American Samoa asking why he didn't vote against the LVPA recommendation. He said he emailed back to the legal advisor to the Governor that his vote was no and is now requesting that the Council and the chair to note that his vote was no, not abstained.

Ebisui said the record will so reflect.

The Council recognized Deisher for her service and contributions to the Council through a resolution. Deisher thanked the Council.

Ebisui said the last item for other business is related to the press release put out by a Hawai'i coalition of NGOs having to do with the Council's activities at the CCC meeting in Virginia this past February. All eight regional councils signed a letter to President Trump asking

him to visit the prohibition against commercial fishing in the marine national monuments. Ebisui was asked by Hawaii Public Radio (HPR) to comment on the media release. He reported on what he discussed. Ebisui said he took exception to how the press release speaks about prohibited lobbying and a potentially unlawful anti-monument campaign. He said he advised the HPR reporter that NOAA General Counsel was involved along each step and that he was comfortable with the process and the CCC letter. Ebisui said he reminded the HPR reporter that Council members are sworn to uphold the MSA, and NS 1 says to not only prevent overfishing, but to achieve OY. In his opinion, a ban on 600,000 square miles of American EEZ against commercial fishing by domestic fisheries does not facilitate OY.

Simonds said Ebisui received a formal invitation to visit with HPR face-to-face for an in-depth discussion or do it on the telephone. They will decide later which. She also reported on the letter sent to the Hawai'i congressional delegation by a few NGOs describing similar things.

Sensui said Ebisui's message, as reported by HPR, was good but incomplete.

Gourley said Council members have been checking with NOAA General Council for compliance with legal requirements and suggested that the Council continue the same path in writing a letter to the president.

Miyasaki said that the Hawai'i governor and the DLNR chair supported the expansion effort has not been able to speak with the chair about what position she wants to take. If a vote was taken or consensus among the members to proceed, he would abstain until there is a discussion with the chair.

Duenas echoed Gourley's comments to move forward and added that the letter include language about the sanctuary overlay.

Brakke asked for clarification that if such a letter is developed, who it would come from and if the letterhead would list the members of the Council, including the non-voting federal officials, by name.

Simonds clarified that Brakke is not an entity of the letterhead.

Brown said, as the Council moves forward, the USFWS will continue to work on implementing the provisions of the proclamations and managing them successfully with its partners.

H. Executive and Budget Standing Committee Recommendations

1. Advisory Panel

Recommendations were reported under the JAG agenda item.

2. Non-Commercial Fisheries Advisory Committee

Recommendations were reported under the JAG agenda item.

3. Fishing Industry Advisory Committee

Recommendations were reported under the JAG agenda item.

4. Community Demonstration Project Program Advisory Panel

Recommendations were reported under the JAG agenda item.

5. Joint Advisory Group

Peter Perez, Guam AP chair, reported on several JAG recommendations.

Regarding Administration, the Joint Advisory Group recommended the Council:

1. At the request of the Hawaii AP, remove Dan Roudebush from the Hawaii AP and replacing him with alternate member Kelvin Char. The Joint Advisory Group further recommends the Council open the solicitation process to fill the alternate positions on all of the APs.
2. Re-solicit members for the CDPP AP and increase its role to advise the Council on all community fishery issues.
3. Continue to request NMFS to provide funding for the MSA-mandated CDPP and Marine Education and Training Programs.
4. Communicate its concerns to the appropriate entities regarding the potential impacts to fisheries in the Western Pacific Region due to cuts in the budget of the US Coast Guard and requesting the USCG has sufficient funds to provide adequate enforcement and support, including safety and security at sea, for the US Pacific Territories. The advisors were concerned that the loss of billions of dollars in funding for the USCG will cause the agency to decrease its presence and monitoring for fisheries and the potential for illegal fishing vessels entering the US EEZ.
5. Continue to express its concerns to the new Administration regarding the impacts to fisheries from the marine national monument designations and expansion, such as the Rose Atoll Marine National Monument, Papahānaumokuākea Marine National Monument, Pacific Remote Islands Marine National Monument and Mariana Trench Marine National Monument. The Joint Advisory Group also supports the removal of the fishing provisions of the Marine Monuments so as to allow commercial fishing because the designation, which was done with a stroke of pen, negatively affects the culture, practices and economics of the Pacific Islands. The Joint Advisory Group further recommends the Council continue to advocate for fishing opportunities in expanded or designated Marine National Monuments, National Marine Sanctuaries, military area closures, or other marine protected areas in the Western Pacific.
6. Send a letter to NOAA to ensure appropriate “subject matter” representatives are considered and appointed from the U.S. Pacific Islands on Federal advisory bodies (e.g. MPA Federal

Advisory Committee), as appointment of members from a single island area (or from other regions) are not able to provide adequate representation for the entire region. The Federal advisory bodies should also provide the opportunity for travel to the meetings for those members in the Pacific Islands to equally participate in the meetings.

7. Consider a resolution expressing hope for the new President of the US and his administration and requesting his support for programs that are intended to assist and enhance fishery management in the US.

6. Scientific and Statistical Committee

There were no recommendations from the SSC.

I. Public Comment

Guthertz thanked the chair, executive director and Council members for their hard work. She said what the Council does for the people of the region is tremendous and important to them. The Council is one of the few forums that the four jurisdictions have, particularly Guam, American Samoa and the CNMI, to bring forth challenges and issues that affect their marine resources, fisheries and lives. She said the representatives of the federal government that are present said they've learned a lot about the island areas and the region. Guthertz said she was pleased to hear that because not everyone in the federal government knows the region and understands the sensitivity, support and cooperation it requires. She reiterated the critical role of the Council to the island areas and noted that the Council for 40 years has helped care for their waters and marine resources.

Guthertz noted that the current time is filled with unknowns. There is a new president, and his success could help the jurisdiction. Guthertz said she believed the Council has a responsibility to communicate with the President to let him know how he can the region and the jurisdictions that are represented by the Council. She said the Council is the best forum as it has credibility, leadership and a history of protecting the resources in the region and supporting the fishermen and their work in the region. She reiterated that the Council is the appropriate entity to provide the President with objective information about the region's fisheries, marine resources, challenges, issues and hopes for the future. Guthertz invited all of the federal members of the Council, whether voting or not, to share their experiences with other federal officials, to educate them about the islands and the differences within the noncontiguous areas of the United States in terms of political rights, cultural practices and traditions, and their history as part of the great nation of the United States. She encouraged all to write respectful letters to the President to acquaint and inform him, the leaders and officials about the region's fisheries, marine resources, challenge and issues and how the Council family tries to remediate those challenges.

J. Council Discussion and Action

Regarding indigenous fishing rights, the Council **directed staff to work with the Fishing and Indigenous Community Sub-panel of the AP to review available information to develop the legal, cultural and historical basis and justification for obtaining**

indigenous fishing rights in the Western Pacific region and report its finding for future Council consideration.

Moved by Rice; seconded by Soliai.

Motion passed.

Regarding MNMs, the Council directed staff to draft a letter to President Trump for Council chair signature requesting the removal of fishing prohibitions from within the Marine National Monuments in the US Pacific Islands, therefore reestablishing management of those fisheries under the authority of the Council and the MSA.

Moved by Rice; seconded by Gourley.

Motion passed.

Regarding funding, the Council recommended NMFS increase funding for the MSA-mandated Community Demonstration Project Program and Marine Education and Training Program.

Moved by Rice; seconded by Soliai.

Motion passed.

Regarding enforcement, the Council directed staff to send a letter to the appropriate entities expressing its support for the USCG to maintain its capacity and funding to effectively monitor and enforce illegal fishing and support safety at sea in the US Pacific Island EEZs.

Moved by Rice; seconded by Soliai

Motion passed.

Regarding appointments to federal advisory bodies, the Council recommended NOAA ensure appropriate “subject matter” representatives are considered and appointed from the US Pacific Islands on federal advisory bodies (e.g., MPA Federal Advisory Committee) that can effectively represent the Pacific Island Region. In addition, NOAA should provide the opportunity and funding for the representative to travel to, and participate in, formal meetings of the advisory body.

Moved by Rice; seconded by Soliai.

Motion passed.

Regarding the advisory body, the Council appointed Kelvin Char to the Hawai‘i AP to replace Daniel Roudebush. The Council directed staff to solicit for alternate positions on all of the sub-area APs and re-solicit for new Community Demonstration Project Program AP members.

Moved by Rice; seconded by Soliai.

Motion passed.

*Regarding the Plan Team, the Council **endorsed the following changes to the Plan Team:***

- Kirsten Leong (Human Dimensions & Social Science) to replace Justin Hospital (Human Dimension)
- Minling Pan (Economics) to replace Justin Hospital (Economics)
- Joseph O'Malley (Life History) to replace Ed DeMartini (Life History)
- William Trey Dunn (CNMI Data Program) to replace David Benavente (CNMI Data Program)
- Hal Koike (Hawaii Data and Ecosystems) as a new member
- T. Todd Jones (Protected Species) as a new member

Moved by Rice; seconded by Soliai.

Motion passed.

*Regarding the Fishery Data Collection and Research Committee–Technical Committee, the Council **endorsed** Brett Taylor (Life History) to replace Robert Humphreys (Life History); William Trey Dunn (CNMI Data Program) to replace David Benavente (CNMI Data Program); and Jay Gutierrez (Guam Data Program) to replace Celestino Aguon (Guam Data Program)*

Moved by Rice; seconded by Soliai.

Motion passed.

*Regarding the Fishery Data Collection and Research Committee, the Council **endorsed** Henry Sesepesara (DMWR) to replace Ruth Matagi-Tofiga (DMWR)*

Moved by Rice; seconded by Soliai

Motion passed.

XIII. Other Business

Motion to adjourn.

Moved by Sesepesara; seconded by Rice.

Motion passed.

APPENDIX: List of Acronyms

ABC	acceptable biological catch
ACL	annual catch limit
ADA	American with Disabilities Act
AP	Associated Press
BRFA	Bottomfish Restricted Fishing Area
CCC	Council Coordination Committee
CEQ	Council on Environmental Quality
CIE	Center for Independent Experts
CMM	Conservation and Management Measure
CNMI	Commonwealth of the Northern Mariana Islands
CPUE	catch per unit effort
DAR	Division of Aquatic Resources (Hawai'i)
DAWR	Division of Aquatic and Wildlife Resources (Guam)
DFW	Division of Fish and Wildlife (CNMI)
DLNR CNMI	CNMI Department of Lands and Natural Resources
DLNR Hawai'i	Hawai'i Department of Land and Natural Resources
DMWR	Department of Marine and Wildlife Resources (American Samoa)
DOA	Department of Agriculture
DOCARE	Division of Conservation and Resource Enforcement (Hawai'i)
DOD	Department of Defense
EEZ	exclusive economic zone
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
FAD	fish aggregating device
FDM	Farallon de Medinilla
FEP	Fishery Ecosystem Plan
FMP	Fishery Management Plan
FSM	Federated States of Micronesia
HLA	Hawai'i Longline Association

HPR	Hawai'i Public Radio
IATTC	Inter-American Tropical Tuna Commission
IUU	illegal, unreported and unregulated
JAG	Joint Advisory Group
LVPA	Large Vessel Prohibited Area
MCP	Marine Conservation Plan
MHI	main Hawaiian Islands
MMPA	Marine Mammal Protection Act
MNM	Marine National Monument
MPA	marine protected area
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSY	maximum sustainable yield
mt	metric ton
NGO	non-governmental organization
nm	nautical mile
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NPFC	North Pacific Fishery Commission
NS	National Standard
NWHI	Northwestern Hawaiian Islands
OFL	overfishing limit
OY	optimum yield
PACFLT	Navy Pacific Fleet
PEIS	Programmatic Environmental Impact Statement
PIFSC	Pacific Islands Fisheries Science Center
PIRO	Pacific Islands Regional Office
PRIA	Pacific Remote Islands Area
PSRG	Pacific Scientific Review Group
RFMO	regional fishery management organization
SAFE	Stock Assessment and Fishery Evaluation
SDC	status determination criteria
SPC	Secretariat of the Pacific Community

SPR	spawning potential ratio
SPRFMO	South Pacific Regional Fishery Management Organization
SSC	Scientific and Statistical Committee
TRP	take reduction plan
TRT	take reduction team
USCG	US Coast Guard
USFWS	US Fish and Wildlife Service
WCPFC	Western and Central Pacific Fisheries Commission
WPSAR	Western Pacific Stock Assessment Review