



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

**MINUTES OF THE 161<sup>st</sup> MEETING OF THE  
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**October 21–23 2014**

**Laniakea YWCA, Fuller Hall**

**1040 Richards Street, Honolulu**

**Ahupua`a o Nu`uanu, Moku o Kona**

**Mokupuni o O`ahu**

Approved by Council:

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

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



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## **1. Welcome and Introductions**

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

- Edwin Ebisui Jr., acting chair (Hawai`i)
- Michael Duenas, vice chair (Guam)
- William Sword, vice chair (American Samoa)
- Lt. Cmdr. Rula Deisher, US Coast Guard (USCG), District 14
- Michael Goto (Hawai`i)
- John Gourley (CNMI)
- Julie Leialoha (Hawai`i)
- Alton Miysaka, Hawai`i Department of Land and Natural Resource (DLNR)
- Domingo Ochavillo representing Ruth Matagi-Tofiga, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Manny Pangelinan, Acting Secretary, CNMI Department of Lands and Natural Resources (DLNR)
- Claire Poumele (American Samoa)
- McGrew Rice (Hawai`i)
- Mariquita Taitague, Guam Department of Agriculture (DOA)
- Mike Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)
- Susan White, US Fish and Wildlife Service (USFWS)

Also in attendance were Council Executive Director Kitty Simonds, Council Scientific and Statistical Committee (SSC) Chair Chuck Daxboeck and Kamaile Turcan, NOAA Office of General Counsel (GC). The Council member representing the Department of State was not in attendance.

### **A. Swearing In of New and Reappointed Members**

Tosatto delivered the oath of office to Council member Gourley.

## **2. Approval of 161<sup>st</sup> Agenda**

The 161<sup>st</sup> agenda was approved by consensus.

## **3. Approval of the 160<sup>th</sup> Meeting Minutes**

*Moved and seconded.*

*Motion passed.*

## **4. Executive Director's Report**

Simonds reported the Council spent a considerable amount of time over the summer trying to convince the Obama Administration not to expand the Pacific Remote Islands Marine National Monument (PRIMNM) to the full extent of the US exclusive economic zone (EEZ). The Council was partially successful. The monument boundaries were expanded around Wake, Johnston and Jarvis Island; however, the 50-nautical mile (nm) boundary remained intact around Howland and Baker Islands, Palmyra Atoll and Kingman Reef. Council members Duenas, Ebisui, Goto, Palacios and Poumele and traveled to Washington, DC, to meet with the White House.

Shortly after the Monument boundary extension was announced, the US concluded the new tuna treaty with the independent nations of the Pacific represented by the Forum Fisheries Agency (FFA). Kiribati reduced the US purse-seine fishing days from 2,459 to 300 and sold the balance of prior US fishing days to China and Taiwan.

The Council is preparing for the annual meeting Western and Central Pacific Fisheries Commission (WCPFC), which will take place in Apia, Samoa, in December. The Council, with the support of NMFS, held a workshop in September to address the definition of disproportionate burden, which was reinforced last year with Conservation and Management Measure (CMM) 2013-06, requiring all CMMs to include an analysis for disproportionate burden. The Permanent Advisory Committee (PAC) of the US Delegation to the Commission was asked to review the workshop's summary report. The PAC and the US Delegation agreed to forward the report to the Commission to inform discussions in the WCPFC pre-meeting workshop on disproportionate burden.

The Endangered Species Act (ESA) coral petition resulted in 15 instead of 59 species of coral listed as threatened. No coral species are found in Hawai'i, but some of the species are found in the Mariana Archipelago and American Samoa. The Council is scheduled to discuss impact to the Council-managed fisheries by the threatened listing.

The US Coral Reef Task Force was held on Maui in September, at which time the Council reiterated its request from 20 years ago for Regional Fishery Management Councils to have representation on the Task Force. The request will be put forth at the Council Coordination Committee (CCC) at its 2015 meeting.

The Council's Fishery Data Collection and Research Committee (FDCRC) met recently and signed an agreement to work together to improve data collection tasks as a region and

actively monitor the progress of the data collection programs. The next steps are to prioritize the tasks and seek funding.

The Council will work with the Pacific Islands Fisheries Science Center (PIFSC) and PIRO to review the Western Pacific Stock Assessment Review (WPSAR) process by revisiting the roles and responsibilities of the signatories to the process, the timeline to generate an assessment and the reviews conducted and ensuring that the fishing community be allowed to provide input on the draft assessment. The Council will review the results of the review.

### Discussion

Ebisui noted the meeting with the White House's Council on Environmental Quality (CEQ) regarding the PRIMNM went well. The meeting was attended by John Podesta, Counselor to the President of the United States, at which Council staff and Council representatives gave compelling reasons for moving cautiously with the proposed monument expansion. After consideration, the CEQ backed off a substantial portion of the proposed monument expansion. Recognition of the effective fisheries management in the Western Pacific Region was one reason the full expansion was not required.

Simonds said the expansion will not be successful without adequate enforcement. She had expressed the need for more enforcement, and Podesta agreed. Some non-government organizations are working with South American countries to improve enforcement. There was also discussion regarding the need for research in the area.

## **5. State of the Ecosystem**

Jeff Polovina, from PIFSC, updated the Council on the 2014 El Nino Southern Oscillation (ENSO) forecast. The current forecast projects a moderate to weak El Nino beginning in late 2014. After a brief refresher on the equatorial system, the overall summary of the most recent weekly update from the Climate Prediction Center stated a neutral condition exists currently, meaning no El Nino or La Nina. Some conditions exist in the Eastern Pacific that suggests El Nino conditions are favorable during the next one to two months, lasting into the northern hemisphere until spring 2015. Positive equatorial sea surface temperature anomalies continue across most of the Pacific Ocean.

Some historical El Nino effects include purse-seine and longline fleets from the Western Pacific shifting eastward by up to 2,000 kilometers and Hawai`i longline catches around Palmyra Atoll increasing. Sea levels dropped around American Samoa and the Mariana Archipelago and the US Pacific Remote Island Areas (PRIAs) exposed shallow corals to bleaching. In addition, monk seal pup survival was enhanced one to two years after the El Nino in the northern atolls of the Hawai`i archipelago.

Polovina reported on changes of interest evident in the mid latitudes that may not be related to El Nino. Considerable warming north of Kaua`i up to the Gulf of Alaska has occurred over the summer due to changes in the ocean circulation. The longline fishery for swordfish uses this area. The sea surface height in the same region has steadily increased, suggesting that westerly winds are weakening and moving further north. The water from the subtropical gyre is expanding north, and the heat content is rising, deepening the thermocline. Concurrently, the

mean position of the center of the catch for the Hawai`i swordfish fishery has moved 3 degrees North and 6 degrees East, and the center of mass for the deep-set fishery catch has moved towards the northeast. There is ongoing effort examining whether this is a response to changes in productivity and local depletion or related to other operational factors.

## Discussion

Rice asked if the current warmer-than-usual water temperatures around the main Hawaiian Islands (MHI) are part of the El Nino conditions.

Polovina posited that it is not a response seen in a typical El Nino but more related to changes seen in the mid latitude circulation. Strengthening of the subtropical high north of Hawai`i is changing the wind field and allowing warmer conditions to persist.

Ebisui asked about the comment regarding increased monk seal pup survival.

Polovina said, as the atmosphere shifts southward, the westerly winds intensify and a stronger frontal system develops, which seems to have provided better prey recruitment available for monk seal pups in Midway, Kure, Pearl and Hermes.

Rice asked if the increased catch of swordfish and bigeye during El Nino conditions were correlated.

Polovina said, during the 1998 El Nino, the fleet shifted its effort around Palmyra Atoll, which resulted in almost half of the bigeye catch during that time. A cruise planned for spring of 2015 will look at the conditions relative to increasing sea surface height and the shift of the swordfish fishery to the East.

## **6. Agency Reports**

### **A. National Marine Fisheries Service**

#### **1. Pacific Islands Regional Office**

Tosatto introduced the new Sustainable Fisheries Division (SFD) staff members, Sarah Elgin and Mary Wunderlich from the Alaska Regional Office, Ariel Jacobs from the West Coast Regional Office and Nick Metah from the Southeast Regional Office. They are part of the rotation of staff among SFD offices in an effort to nationalize staff experience.

The Amendment 7 final rule was published. The notice approving Marine Conservation Plans (MCPs) for Guam and CNMI was also published. The American Samoa and PRIAs MCPs are still effective. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) and Marine Mammal Protection Act (MMPA) actions are scheduled for discussion later in the meeting. PIRO will be engaging with the Council on how to complete consultations on all of the Council fisheries for the newly listed corals and finalizing the decision to list the Indo-West Pacific distinct population segment (DPS) of scalloped hammerhead shark as threatened as well as endangered.

In addition to working on the expansion of the PRIMNM, PIRO staff traveled to CNMI to facilitate the development of the Marianas Trench Marine National Monument (MNM) Visitors Center and to work in collaboration with the CNMI government and USFWS on an agreement for coordinated management to allow transfer of the submerged lands in the Islands Unit of the Monument. They are on a good path to getting the agreement done in a timely manner.

### Discussion

Gourley asked if there are plans to address the similarity of appearance with respect to the coral listing, as many corals look similar, which could present problems.

Tosatto replied in the negative. The issue may be addressed in consultation as a matter of general protections afforded to corals in a variety of other ways. ESA protections for coral species listed initially are seen as sufficient. Impacts may change as time passes.

Gourley asked if there is a possibility of workshops being held for identification of corals or whether the Mariana or American Samoa governments could seek assistance from PIRO in conducting coral surveys.

Tosatto said the work to determine whether coral species warrant protection of the ESA has concluded. The Coral Reef Program is looking at corals and coral identification. Coral science is a burgeoning field of research. There are more regulatory steps under the ESA, which includes considering a 4(d) rule. First step is to consider whether critical habitat is prudent and determinable and establish the location of critical habitat, as well as develop a recovery plan and the implementation of those actions that are necessary. It is uncertain when and how workshops and surveys would be conducted. The ESA does not mandate the action agency to conduct surveys to collect new information for consultations, unlike some provisions under other laws such as essential fish habitat (EFH) and permits under the Clean Water Act, which can require an action agency to conduct a survey. Information gathered from those surveys could then be used in an ESA consultation, so all agencies including the Army Corps of Engineers, Department of Defense (DOD) and Marianas or American Samoa governments should coordinate and be looking at the same information the same way. The work on Guam started to develop tools for coordination, and the work in Tinian is continuing to push resource agencies together with the Territory agencies. The DOD is a formidable action agency so it behooves the agencies to stay together.

Ochavillo said he recently conversed with a USFWS grant manager in American Samoa regarding the Section 7 application. He asked for clarification as to what next steps American Samoa should take as it appears the Section 7 application is going to be reopened due to the coral listing. If the application is reopened, they will need data such as distribution and location information, and many of their grants may be affected.

Pangelinan said he has been asking where the corals are located and distributed in the CNMI, which would be helpful information to provide enforcement for threatened and endangered species of corals. He asked if the coordinates for the corals listed in the Marianas could be provided.

Tosatto said, under Section 4 of the ESA, exactly where any coral is located is irrelevant in consideration of its overall status and whether it is endangered or not. It is more important to know its overall geographic range and abundance than where it is found because those are things that are relevant to its status and its risk of extinction and need for protection. PIRO has been collecting coral maps, survey data and information from researchers with the aim to make them available to everyone. The final rule included general information about the species' distributions based on the best available information. Determining each species' presence or absence is the next step. Going forward, when a proponent is looking to conduct an action, then the question will be asked whether the coral species is likely to be present in that area. If the answer is yes, then we have to determine how much is there, and, in some cases, a survey may be needed before a consultation can be complete.

Pangelinan said it is very relevant to know where a listed endangered species is located.

Simonds asked if the information the agency has been collecting in its determination as to whether to list as threatened or endangered is available and, if so, where. It is important to have more information on the corals because the consultations will be difficult without them, which is why she asked earlier how the listed corals might affect the annual catch limits (ACLs).

Taitague noted the approval of the Mariana MCP for Guam and said she hopes it moves faster than the last three years.

Simonds said it is not the plan but the work to be done to accomplish the projects within the plan. Cooperation from the government of Guam and the Army Corp of Engineers is needed to accomplish the projects quicker.

Leialoha asked if PIRO is on track for completing the negligible impact determination (NID) and the permit.

Tosatto replied in the affirmative. The NID and permit have been published. The biological opinion is completed. The NID and the permit were to allow for completion of the final rule for Amendment 7. The biological opinion was a re-consultation on the fishery. The next step is the final rule.

Gourley asked if it is necessary to reinitiate Section 7 for the work in progress at the Puerto Rico Dump in Saipan considering that all of the permits have been re-issued through the Army Corp of Engineers, etc., due to the listing of the corals.

Tosatto replied he would get back to him with the answer by the end of the meeting.

Ochavillo asked what the next step might be and impact to the fisheries in one village in American Samoa where the listed coral is found.

Tosatto said all species were listed as threatened and do not have immediate protection from take. PIRO is undertaking work to decide what take prohibitions might be necessary and will likely be determined region by region, not species by species.

Pangelinan asked if CNMI DLNR needs to have Section 7 consultation on development that has to do with submerged lands within CNMI 3-mile waters.

Tosatto replied not necessarily the CNMI government, but any federal agency funding an action authorizing an action or doing an action would. The requirement for consultation is on the federal agency. If federal funds are used then that consultation needs to happen.

Pangelinan said he was referring to the development of a marina in Saipan or Rota.

Tosatto said in general Section 7 consultation requirements are on federal agencies. Some private actions do not have those same consultation requirements, but Section 10 of the ESA requires the states and territories to consider impacts on protected species. The state has to come forward to provide that coverage for that private entity or that risk remains with the private entity. Different ways exist to provide a vehicle for coverage versus a Section 7 consultation, which is a hard requirement for a federal agency and the action cannot proceed without it.

## **2. Pacific Islands Fisheries Science Center**

Mike Seki, PIFSC deputy director, presented recent information on the activities of the Science Center since the last Council meeting. He introduced Ned Cyr, who is the PIFSC acting director in Hawai`i while recruitment is being conducted for the permanent director. Cyr is the director of the NMFS Office of Science and Technology (OST).

PIFSC's activities have involved many cruises taking place in the Mariana archipelago. Due to a delay in departure, a scheduled cetacean and ecosystem survey was postponed until spring of 2015. Surveys were conducted in CNMI and Guam. The *HIILAKAI* also did the triennial survey throughout the archipelago. The surveys had the intent to support the fisheries research proposals in the interest of the CNMI agency colleagues and was the result of the workshop held in 2013 that included the CNMI Division of Fish and Wildlife (DFW), Bureau of Environmental and Coastal Quality (BECQ), CNMI Biosampling Team and others, all of whom participated on main legs of the various cruises.

One cruise focused on the Marianas Trench MNM, and the second focused further south to the Islands of Pagan, Alamagan and Sagrigan. Most of the work looked at deep-slope resources, such as snappers and large grouper, which are taken in the Mariana Trench MNM waters. The agencies also did shallow reef fish, snorkel spear fishing. BECQ conducted intertidal water quality sampling and benthic surveys. The ship provided a platform to facilitate the local agencies to do their respective sampling.

While in Guam, one cruise focused on biological collection to support the Barcode of Local Life. Participants were mostly from the University of Guam (UOG). A short survey of the shallow mesophotic reefs, primarily using camera systems, was conducted to get a sense of some of the shark concerns. The shark depredation study was not undertaken. The effort was to determine whether cameras could pick up some of the concerns that have been raised with the sharks and to get some documentation of the situation. There was a fair amount of outreach, particularly in Saipan, less so in Guam.

The Coral Reef Ecosystem Program conducted its Mariana Archipelago Reef Assessment and Monitoring Program (MARAMP) survey during March and June 2014, which is now a triennial sampling program. The *HIIALAKAI* is scheduled to travel to American Samoa for their triennial survey.

The vessel is currently in the Northwestern Hawai`ian Islands (NWHI) conducting marine debris surveys and removal at Pearl and Hermes Reef and so far has removed 38 metric tons (mt) from Maro, Pearl and Hermes, Lisianski and Midway. Everywhere they have visited they found extensive coral bleaching. They also found three whole derelict boats, which they've pulled out. There is research in process to find out if they could be from the Japan tsunami.

The monk seal field season was conducted through the summer. The Marine Mammal Center opened the monk seal hospital, Ke Kai Ola, in Kona this summer. Four seals were brought in earlier in the year for rehabilitation and were returned on the cruise in the summer, one to French Frigate Shoals and three to Laysan. A number of seals were translocated from French Frigate Shoals to Laysan and Lisianski. One female weaned pup collected from Kure and one pre-weaned female from Laysan were returned to Kona where they will go into rehab before returning to the NWHI after rehabilitation.

Two high-frequency acoustic recording packages (HARPs) were recovered. The Cetacean Program deploys the HARPs for a year at a time to collect passive acoustic data on vocalizations on cetaceans. The team also recovered the gear from the monk seal camps that had been left behind due to an earlier hurricane.

Shore-based cetacean surveys conducted on windward Moloka`i focused on collecting information on the false killer whale (FKW) populations in the area. The project was a collaboration involving PIFSC, the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS), National Parks Service and Cascadia Research in September. Satellite tagging was conducted, a HARP was deployed, and 11 survey days and 1,000 kilometers of effort were accomplished. Conditions were quite poor and marginal for marine mammal sightings. It resulted in six sightings, a Blainville's beaked whale, a short-fin pilot whale, unidentified beaked whales and blackfish, and an unidentified toothed whale. It also collected more than 1,000 identification samples and photos, but no biopsies nor tag deployments. The recovered HARP is being analyzed.

For the WCPFC area, the cumulative catch of bigeye has been average. Its current trend is higher than what was seen at this time in 2013 but less than in 2012. The projected forecast of reaching the 3,763 mt US limit is late November.

In the Inter-American Tropical Tuna Commission (IATTC) area, in the Eastern Pacific East of 140 degrees, catches are not unusual. Larger vessels, greater than 24 meters in overall length, have already reached record high levels as seen in 2013.

PIFSC participated in the 14th Meeting of the International Tuna Committee of Tuna and Tuna-Like Species of the North Pacific. The working group found the North Pacific albacore and Western Central North Pacific (WCNP) swordfish are not overfished but experiencing overfishing. Eastern Pacific swordfish are experiencing overfishing. The working group



reiterated its earlier findings that bluefin tuna and striped marlin are both overfished and experiencing overfishing.

PIFSC hosted the Kona Integrated Ecosystem Assessment (IEA) Science Symposium in Kailua Kona, which was well attended. It also hosted the China-USA Sea Turtle Workshop in August, a collaborative workshop convened with the NMFS Bilateral Initiative with the Chinese Academy of Fishery Science in Beijing. Last September PIFSC hosted the NMFS Science Board. There is a fair amount of interest for national meetings coming to town due to the Ford Island facility.

### Discussion

Gourley noted his appreciation for the opportunity provided to the private sector, the CNMI Biosampling Team, to go on the *SETTE* cruise in the Mariana Islands.

Seki noted his appreciation to all who participated as it made for a successful effort and many samples were collected.

Pangelinan asked if shark depredation is being looked at specifically in the Marianas or rather its geographical range.

Seki said there is currently no study on shark depredation. PIFSC is trying to get a sense of what the problem is. While in the Mariana waters, they conducted preliminary surveys to assess the nature of the problem.

Pangelinan asked if there has been any research to obtain a baseline on the number of sharks in their waters.

Seki replied in the negative. There is still exploratory work going on, with much of the effort focused in Guam.

Duenas said he was fortunate to join the cruise out of Guam conducting some cooperative bottomfish research. He thanked PIFSC for the opportunity and for including the Guam fishermen. It was a good start to address shark interactions and can be expanded upon. He was able to see what sharks species are involved in the interactions.

Chris Boggs, from PIFSC, updated the Council on the tuna status. Nov. 13, 2014, is the most recent estimate for when the Western Pacific limit will be reached. He heard the West Coast region is moving to close the large vessel fishery in the Eastern Pacific at the end of October. Notifications will be posted soon. The dates have moved up as the fishery is hot.

### **B. NOAA Office of General Counsel, Pacific Islands Section**

Turcan provided an update on the litigation over the special permit NMFS had issued to Kona Blue Kempachi. The litigation was filed in 2011. The final order was issued in July 2014. In 2011 the lawsuit had alleged that NOAA did not have the authority to issue a special permit for the culture and harvest of a management unit species and claimed that NOAA's Environmental Analysis had been inadequate on a number of bases. In 2012, the District Court

ruled in favor of NOAA. It was appealed. In 2013, the Ninth Circuit affirmed most of the District Court's ruling and upheld the ruling that NOAA did have the authority to issue the special permit. The National Environmental Policy Act (NEPA) claim was remanded on the vessel assessment. In July 2014, the District Court again ruled in favor of NOAA, that NMFS had adequately analyzed the environmental impacts of issuance of the special permit.

### **C. US Fish and Wildlife Service**

White reported that in recent years USFWS offices have lost 30 percent of its staff. Over the last few months most of its efforts have been focused administratively, which included a reorganization of offices through the Refuges and the Monuments Office within the USFWS. The Papahānaumokuākea Office is combined with the Pacific Refuge and Monument Complex, similar to the Monuments Program Office at PIRO. The reorganization has yet to be finalized and determined. Barry Stieglitz will be the head of the Monuments Program. They have received approval to hire a person to fill the position left by Don Palawski upon his retirement.

The PRIAs expansion has been a topic of involvement, as well as the transfer of submerged lands to the CNMI, in coordination with the NMFS and the USFWS. Discussions are ongoing with the CNMI government.

Regarding the Rose Atoll Comprehensive Conservation Plan (CCP), USFWS has worked with NMFS, the Sanctuaries Program and the American Samoa government on a gap analysis reviewing what protections are provided currently with the monument and whether the direction laid out by the President has gaps. Efforts will be made to fill them.

A team was redeployed to Laysan, after being closed in 2013. Funds were recently received to continue work at Laysan. A team will be redeployed in the spring of 2015. Teams continue to eradicate the invasive yellow crazy ant on Johnston, with funding available for the work for the next couple of years.

Meetings have been held in CNMI with the local communities to gather information on where a visitor center might be located and how it might be funded. Additional meetings convened with the Mariana Trench Advisory Council have been fruitful.

Representatives from the USFWS, NMFS and the Department of State participated in the meeting of the Advisory Committee on the Agreement of Conservation of Albatross and Petrels (ACAP) that convened in Uruguay in September. The ACAP members were pleased to welcome Andrew Torres from NMFS Hawai'i's Office to help the Seabird Bycatch Working Group clarify its understanding of the mitigation techniques, such as side setting, that have been proven effective in the Hawai'i pelagic longline fisheries.

The Rose Refuge has issued a permit for the Intergovernmental Committee for the Rose Atoll Monument for a trip to Rose that was anticipated in September but was rescheduled to take place in December. It will include Google mapping and provide access for Google Street View. Work is also ongoing with the NOAA Turtle Program in planning a trip to Rose Atoll in November to continue marine turtle tagging work.

USFWS is working with the Coral Reef Ecosystem Division Program to participate in the upcoming cruises to Johnston, Howland, Baker, Jarvis, Rose, Palmyra and Kingman planned for the spring of 2015.

## Discussion

Gourley asked for information on the status of the Marianas Trench MNM Plan.

White said the plan is in progress. USFWS and NMFS are putting the plan together. The public release is anticipated to be in early 2015.

Gourley asked about the progress on the approval process. Will the CNMI government be required to sign off on the plan? What will happen if it does not approve of the plan?

White said the USFWS is involved the Trench Advisory Council through the planning process and would work closely with the CNMI government in its review of the plan. Approval will depend upon the management coordination regime that is developed and how the overall structure is finalized with the CNMI government. Currently, it is a federal plan and would not require CNMI approval. The USFWS wants to ensure that CNMI is comfortable with the proposals contained in the plan.

Tosatto said the approval of the plan is linked with the transfer of the submerged lands. Knowing that the plan is being developed for the Monument as a whole, they are working to transfer the submerged lands of the Island Unit to CNMI, which would give CNMI direct jurisdiction over a portion of the monument managed in accordance with the Proclamation. To have a consistent flow of management from three miles to the extent of the monument boundary and within three miles would require all parties to be onboard. The intent is to have a single consensus management structure for both of the areas within one monument.

## **D. Enforcement**

### **1. US Coast Guard**

Deisher highlighted the significant USCG activities since the last Council meeting. From June 11 to Oct. 2, 2014, the Coast Guard had two major cutters in the region. The *RUSH* completed two domestic boardings of the US distant water tuna fleet with no violations observed. Three domestic boardings were conducted on the American Samoa-based longline fleet, noting one potential non-US master violation. The *RUSH* also completed 13 international boardings under the WCPFC and bilateral agreements with Tuvalu and Nauru. There was one shark fin and observer logbook discrepancy observed on the Nauru boarding.

The *WAESCHE* patrolled the MHI to French Polynesia for 20 days and completed one domestic boarding on the Honolulu-based longline fleet, noting a potential non-US master violation and failure to provide a boarding ladder to the boarding team. It also completed 18 international boardings under WCPFC. One vessel was found with no flag state license, improper markings and incorrect turtle mitigation devices. Bilateral boardings were also completed under Kiribati and Cook Islands. Under Kiribati, there was an improper logbook with no positions recorded. In the Cook Islands, the boarding team identified improper gear markings.

One US Navy asset was used with the USCG boarding team. Two boardings were conducted in the Republic of Marshall Islands EEZ with no violations detected. Several USCG aircraft flights were conducted of the EEZ around the Hawaiian Islands; two patrols in the NWHI; and one patrol of American Samoa, Jarvis and Kingman, Palmyra Atoll and Howland, Baker Island EEZs. One patrol was conducted around Wake Island and Johnston Atoll, with no foreign fishing vessel detection incursions detected.

## Discussion

Pangelinan asked how often the USCG patrols the northernmost part of the Marianas.

Tschirgi said once or twice a year with the patrol boat or one of the buoy tenders and about once a quarter there will be an aircraft or surface asset.

Gourley asked if the USCG receives extra funding to perform duties in the monuments, such as the Marianas Trench MNM

Deisher said no additional funding is specifically designated for patrolling monuments.

Gourley asked if there is the capability of monitoring via satellite.

Deisher said the USCG works with other agencies to utilize equipment to monitor the areas and satellite technology is available.

Pangelinan requested an increase in patrols in the Mariana archipelago, especially the monument areas, noting there are no assets able to travel the distance locally. If there are violations occurring, it would be by foreign vessels.

Sword asked if the USCG has plans to increase enforcement in the monument north of American Samoa due to the recent expansion of monument boundaries.

Deisher said living marine resource (LMR) patrol hours did not increase. The USCG will continue to monitor the monuments as in the past. If there is an asset in the area it will go through the area and look. There has been no increase in funding or asset hours to monitor the monuments.

Ebisui said one issue the Council raised with respect to the expansion of the PRIMNM was that by taking US fishermen out of the EEZ around those areas it will serve to encourage foreign fishing in the US EEZ with no added enforcement. The Council is concerned about preserving the integrity of the US EEZ not only in the monuments but around the territories as well.

Duenas asked if the USCG has considered the use of drones for enforcement efforts.

Deisher said no, but other agencies are looking into the use of drones.

## 2. NOAA Office of Law Enforcement

Bill Pickering, special agent in charge, Office of Law Enforcement (OLE), reported that during the period since the last Council meeting there were 44 incidents in the Pacific Islands Division, 15 related to protected resources and 29 to fishery management.

A resolution was finally reached in regards to the individual who was involved with taking coral and endangered species of clams out of the Republic of Marshall Island waters while working for DOD and transporting them to Hawai'i. The individual received a two-year probation and \$10,000 fine. The case involved many other enforcement agencies as well as the Navy. The DOD is in the process of revamping an advisory paper put out to all contractors and military people who work in that region in regards to what may be removed from the waters and transported to the United States.

Pickering also highlighted the case involving a purse-seine vessel setting on whales and an accusation of interference of an observer from Palau. Unfortunately, the observer passed away from an illness shortly after being interviewed by OLE. There were many side issues that got resolved between the OLE, FFA and fellow Pacific Islanders.

Pickering warned NMFS employees that an individual is contacting employees in an attempt to solicit personal information, such as bank account numbers. He said the person is misrepresenting him/herself and NMFS does not conduct such telephone contact.

Chuck Radderman, OLE agent in the Marianas, conducted outreach on bottomfish in Saipan via boardings and talking to commercial bottomfish fishermen. There is more work to be done in regards to bottomfish permits and record keeping.

A second fishery and protected species patrol run to Kaua'i using personnel from the Hawai'i Division of Conservation and Resource Enforcement (DOCARE) and USCG was conducted on OLE's safe boat.

In partnership with the Council and PFISC, Terry Boone and his staff have been working diligently to switch the vessel monitoring system (VMS) to electronic reporting on the entire fleet so as to get catch reports in real-time to PIFSC and OLE. OLE's information technology (IT) manager also traveled to the WCPFC where he successfully assisted the Commission with its software issues and detection systems in regards to VMS.

### Discussion

Duenas asked if there were any plans to hire an additional agent for the Marianas.

Pickering said interviews are completed and the selection process for putting an additional uniformed individual has closed. Training will be conducted for another six months before arrival in Guam.

Sword asked about the primary differences between the OLE and WCPFC VMS.

Pickering said the WCPFC makes foreign vessels visible to the US VMS in the zone from 200 nm to 300 nm. Once the vessel transits the 200 nm, the vessel is visible while in the US EEZ, which results in being able to tell 99 percent of the time whether the vessel is fishing or transiting. It is difficult to determine whether purse seiners are transiting while dropping fish aggregation devices (FADs) at the same time. In the past it was sometimes necessary to inspect the vessel's documentation to verify illegal fishing.

Pangelinan thanked Pickering for OLE's partnership and assistance in the Territories and Commonwealth. He looked forward to the acquisition of another boat that is able to patrol the northern islands and monument waters and hoped USCG patrols would increase.

Pickering encouraged Pangelinan to continue to submit the request, especially around the new Joint Enforcement Agreement contract time, for the type of assets needed.

Gourley said the bottomfish logbook program is a difficult issue in CNMI. He noted his appreciation for the way OLE was handling the program. He suggested more outreach to the fishermen would be helpful. In his work in the Biosampling Program he found that many fishermen do not know the species, so their data should be looked at carefully. For example, there is no distinction between onaga or ehu. There are multiple problems with possible flaky data and ignorance of the importance for collecting the data and of the logbook program.

Pickering said the issues regarding the data entered into the logbook falls more into Tosatto's shop. With the hiring of the second enforcement agent, they will be able to tag team more and be able to get to CNMI more often. A training day is planned for the upcoming year on regulations and laws. He agreed there is a need for OLE to make more effort and spend more time in the Mariana archipelago.

Sword said captains in American Samoa have been reporting that, while fishing in the past month, whales will appear and shortly thereafter foreign-flagged purse-seine vessels appear and set on the whales. He asked if reports from the US fleet captains, such as videotapes or interviews, have been submitted to OLE.

Pickering said he has never seen any videotape but has heard similar stories from the US purse-seine captains while attending international meetings. Violations have been made when substantiated, and OLE has made them known to the flag state. He said he would like to go to the WCPFC or FFA Headquarters and go through other nations' observer reports and do the same thing to them that is done to the US fleet, but he is not allowed. It is his impression that the WCPFC is moving in that direction at a very slow pace.

### **3. NOAA Office of General Counsel, Enforcement Section**

Duane Smith, NOAA enforcement attorney, reported there are three cases pending review, seven newly charged cases within the last couple of weeks and seven cases in active litigation. Three of the cases will be tried in December in San Diego. Two are cases awaiting administrative law judge (ALJ) decisions, and a handful of cases were appealed to District Court. ALJ decisions and settlement information are also available on the website.

## Discussion

Simonds asked how the MMPA violations assessments are developed.

Smith said the assessments are based on NOAA's penalty policy. The base penalty for marine mammal violations is \$5,000. Based on the facts of the case, the penalty policy sets the amount. If there were an economic benefit, that amount would be added up until the statutory maximum is reached, which is \$11,000 for the MMPA civil penalty. In this particular case, the base penalty for a FAD set is approximately \$80,000, which the economic benefit is then added.

### **E. Public Comment**

No public comment was offered.

Pangelinan said he was surprised to hear there are only two USCG enforcement patrols annually and asked why the buoy tender is not also used to increase patrols in the Marianas.

Deisher said buoy tenders are used for law enforcement missions but have a set number of hours that they are allowed to operate. Their primary mission is tending buoys, and any law enforcement is in addition to the base mission of attending buoys. The *SEQUOIA* has been used in law enforcement in the Marianas when the hours are available.

Pangelinan asked if there was an hourly cost schedule.

Deisher said all USCG cutters have a set number of patrol days underway. A published rate guide is available online. Buoy tenders are older vessels and require a lot of maintenance.

Pangelinan asked if the USCG could provide the number of set hours its cutters and buoy tenders perform law enforcement missions in the Marianas for use in the calculation of enforcement hours conducted annually.

Deisher said she will speak to the USCG schedulers and get back to him with the information.

### **F. Council Discussion and Action**

*Regarding enforcement, the Council recommended that the Obama Administration, which has shown interest in the region in regards to President Obama's Ocean Legacy, enhance enforcement of the US EEZ in the Western Pacific Region to detect and deter illegal foreign fishing by increasing availability of patrol assets to the USCG District 14 and to direct other federal departments and agencies to provide additional monitoring and surveillance tools to support this important mission.*

Moved by Rice; seconded by Sword.  
Motion passed.

Rice suggested wording such as, the Obama Administration should release additional funding.

Council staff member Eric Kingma said the issue of increasing availability gets at the topic of funding and prioritizing assets may be more doable than increased funds.

Ebisui agreed and favored allowing staff more latitude in drafting the letter as appropriate.

Cyr presented the NMFS Fisheries organizational structure, which included the regulatory, science and operational programs. OST's responsibilities are maintaining and improving quality and credibility of the agency science with a strong science quality assurance program, including science program review. The office is the principal interface between fisheries science and other parts of NOAA and works with National Science Foundation, USFWS, Environmental Protection Agency (EPA) and other international organizations, as well as spending time on Capitol Hill educating the members on the responsibilities of fishery science. OST also oversees science and research for NMFS. There are 100 employees, consisting of fisheries biologists, oceanographers, economists, social scientists and IT specialists. The Fisheries Statistics Division coordinates the National Fisheries Information Network (FIN), the Marine Recreational Information Program (MRIP) and publishes the National Fisheries of the US Annual Statistical Yearbook of Fisheries Information. The Assessment and Monitoring Division coordinates the regional at-sea resource surveys and the national stock assessments and has the contract for the Center for Independent Experts (CIE), which reviews many of the assessments, models and data in the regions. It also runs the National Fisheries Observer Program and the National Cooperative Research Program out of Headquarters. The Economics and Social Analysis Division provides information for National Standard (NS) 8 determinations for benefit/cost analyses and policy decisions to support management that maintains sustainable fishing communities, as well as sustainable fisheries. The Science Information Division designs and develops specific applications for providing science information and specialized databases and conducts information analysis and dissemination, as well as scientific publications. The Marine Ecosystems Division consists of a number of programs in support of climate and fisheries research around the country. It develops and coordinates science programs to enable integration of ecosystem information into living marine resource management. The Kona IEA project is an example. The OST annual budget is approximately \$85 million, of which \$45 million goes to the Fisheries Science Centers, academics and partners. There are 14 separate Requests for Proposal programs and cooperative research opportunities that provide opportunities in various programmatic areas of approximately \$15 million annually. OST has a significant role in terms of funding national fisheries science. Cyr said he would be present for the entire Council meeting and looked forward to learning more about the issues in the Western Pacific Region.

### Discussion

Gourley invited Cyr to travel to the Territories or Commonwealth as the Western Pacific Region incorporates a lot of different cultures and fisheries in the islands.

Cyr replied he is looking for an opportunity to do so.

Pangelinan offered to have a letter of invitation crafted to justify his travel.



Cyr noted his thanks.

## **7. Program Planning and Research**

### **A. Specifying Annual Catch Limits for the American Samoa, Guam, CNMI Bottomfish (Action Item)**

Council staff Marlowe Sabater presented options to re-specify ACLs for the bottomfish complex in American Samoa, Guam and CNMI. Kobe plots of the 2012 stock assessment show the stocks are healthy and the fishery is sustainable. The Territory bottomfish is currently not overfished nor experiencing overfishing. The 2013 landings were well below the established ACLs. American Samoa harvested 5,355 pounds of its 101,000 pound ACL, which equals 5.3 percent. Guam caught 31,026 pounds of its 66,800 pound ACL, or 46.4 percent. CNMI landed 18,045 pounds of its 228,000 pound ACL, or 7.9 percent. Given that there is no new stock assessment and no significant change in the fishery, the P\* analysis is still current. American Samoa is currently at a P\* of 39 percent, Guam at a P\* of 40 percent and CNMI at a P\* of 39 percent. Sabater presented two options to the Council for specifying the ACLs for Territory bottomfish:

- Option 1) Maintain status quo and roll over the existing ACL set at ACL equal to the acceptable biological catch (ABC). Option 1 will maintain the ACL at the current level of P\*. Since the catches in the two consecutive years were below the ACL levels, the actual risk of overfishing are below the projected risks based on the 2012 assessment. This provides no additional analysis since the 2012 assessment is still considered the best scientific information available. The low catches in recent years also provide additional weight to this option. In addition, the low catches relative to the ACL provide significant buffer for the ACLs not to be reached given the under-developed state of the fishery. This continues to justify setting the management uncertainty at zero at the current time. The accountability measure would remain an overage adjustment since in-season monitoring is not possible at this time.
- Option 2) Specify a different ACL. Option 2 would require additional analysis, particularly in the P\*. There were no observable changes in the fishery and no new science to warrant changing the P\* level.

### **B. Report on Center for Independent Experts Review of Biomass-Augmented Catch Maximum-Sustainable-Yield Model**

Sabater presented the highlights of the CIE Review of the Biomass Augmented Catch (BAC)–Maximum Sustainable Yield (MSY). The review was held from June 30 to July 3, 2014, in Honolulu. The independent review focused on the model concept, assumptions, reliability of MSY estimate and utility for setting management reference points. The reviewers were Dr. Malcolm Haddon, Commonwealth Scientific and Industrial Research Organisation, Australia; Dr. Cynthia Jones, Old Dominion University, USA; and Dr. Robin Cook, University of Strathclyde, Scotland. Jarad Makaiau of PIRO, Council SSC member Pierre Kleiber and Sabater presented to the expert reviewers.

The comments varied. One expert favored the model; one was unfavorable; and the third was undecided. There was consensus that the BAC-MSY model was a definite improvement. Limitation of the original Catch-MSY model was noted as not useful for situations where catch is small relative to biomass, such as the Western Pacific Region reef fishery. All agreed that Kleiber's work enhanced the documentation on how the model worked and behaved, but more documentation is needed in order to properly assess the model.

The Council was asked to evaluate CIE comments and to determine if there is a need to adjust the P\* and ACL based on the uncertainties outlined by the review.

The session reviewed the r-code and Haddon conducted simulations. They recommended technical improvements to the model and were unsure if the distribution of MSY is a true likelihood from a Bayesian posterior distribution and needed to be explored further. They were also puzzled with the revision algorithm, had concerns on the use of the biomass and recommended a one-to-one ratio. They agreed it was an improvement over the Catch-MSY and 75<sup>th</sup> percentile. One recommendation was to use alternative models as a backup, further improve the BAC-MSY model with formal statistical grounding, test the model using real and simulated data to demonstrate how it behaves and conduct a sensitivity analysis and management strategy evaluation. The Council is currently developing a contract to improve the BAC-MSY model and address the recommendations of the CIE review.

At the 159th meeting the Council recommended P\* levels based on the P\* analysis ranging from 30 to 40 percent taking into consideration scientific uncertainties. The Council set the ACLs 5 percent lower than the ABCs, resulting in P\* levels from 25 to 35 percent. Given the CIE review comments, was the initial specification of the ACL sufficient to account for the scientific and management uncertainties in the model used to generate the reference points and catch limits?

**C. Reconsideration of Annual Catch Limits and Accountability Measures for Coral Reef Fish, Crustaceans and Main Hawaiian Islands Non-Deep Seven Bottomfish (Action Item)**

Sabater noted that after the CIE review there was a need to revisit the ACLs for coral reef fish, crustaceans such as the spiny lobster and the MHI non-Deep Seven bottomfish, which were the species complexes the model used in determining the ACL. After a brief background of the process of setting the ACLs 5 percent lower than the ABCs recommended by the SSC based on the Social, Economic, Ecological and Management uncertainty (SEEM) analysis, the questions arose, did the initial specification adequately capture the scientific uncertainties and is there any need to make any adjustments on the P\* and the ABCs and ACLs based on the review.

Key points noted for the Council to consider included no uncertainties were quantified when the 75<sup>th</sup> percentile was used, the preliminary P\* values ranged from 30 to 40 percent, changes will be negligible in the current form of the P\* dimensions and not all results generated an ABC higher than the initial specification. The Council is currently in the process of executing a project to address the CIE technical comments.

The Council also specified the accountability measures for coral reef, crustacean, precious corals and the Hawai'i non-Deep Seven bottomfish fisheries at the 159th Council meeting. The accountability measure decided upon is, if the average of the three-year catch exceeds the ACL but not the ABC, no overage adjustment is needed; but, if the three-year average of recent catch exceeds the ACL and ABC, the ACL will be reduced by the amount of the overage.

PIRO informed the Council that the trigger point for accountability measures will always be the ACLs. PIRO recommended the Council address the issue with the focus on the ACL as the trigger point for accountability measures that would include, if the three-year average catch exceeds the ACL, an overage adjustment is made reducing the ACL in the next year by an overage adjustment equal to the overage.

At its 117<sup>th</sup> meeting, the SSC reiterated its previous recommendation on the P\* levels and ABCs. A technical correction was made on the ABC for rabbitfish in American Samoa. The ACL was set at the 35 percent risk of overfishing, from 191 to 200 pounds and from 19,500 pounds to 18,800 pounds in Guam.

The CIE review of the model only affects the scientific uncertainty; the results of the SEEM analysis still apply.

#### **D. Regional Electronic Technological Implementation Plan**

Melanie Brown, PIRO SFD, presented the NMFS Regional Electronic Technologies Implementation Plan. In May 2013, NMFS issued Policy Directive 30-133 that requires NMFS regions, in consultation with the Regional Fishery Management Councils, to develop Regional Electronic Technology Implementation Plans by the end of 2014 to identify and consider, as appropriate, fishery-independent data collection programs that utilize electronic technologies for each federal fishery. Electronic technology ranges from electronic reporting via web-based reporting or e-logbooks to electronic monitoring through VMS, video cameras and winch monitors. The Council's pilot e-logbooks project with VMS was a nice cooperative effort with OLE, PIFSC and the Observer Program and is on the forefront of electronic reporting and monitoring.

The Policy Directive 30-133 requires a) Regional Plans that are most relevant to the fisheries and circumstances specific to the regions, and b) Consultation with Fisheries Science Centers, Fishery Management Councils, states, Interstate Fisheries Commissions, industry and other stakeholders. The Regional Plan asks each Region to provide good background information on data and current capabilities for electronic monitoring and electronic reporting. It also requires a List of Fisheries that could be considered for electronic monitoring and reporting, as well as future directions and priorities for implementing it. An estimate on the costs or funding needed for implementation and timeline are also required.

A plan submitted in late September is being reviewed by the Electronic Technology Working Group, which is comprised of members from all of the regions across the nation. They are sharing experiences and plans for how to use electronic technology for managing fisheries.

Other regions reviewed the plan and provided comments in October. The Draft Regional Implementation Plan is expected to be completed by the end of December.

### Discussion

Rice asked how video cameras would be used on longline and purse-seine vessels.

Brown said most of the efforts are currently concentrated on e-logbook reporting. If there is interest in using video cameras, that could be explored. Certain situations are needed to warrant using video cameras, and it is not evident that those kinds of fisheries exist in the Western Pacific Region.

Kingma said the Council conducted a pilot project of electronic and video monitoring in the Hawai'i longline fishery in 2009 with camera systems on two shallow-set and one deep-set longline vessels, along with human observers. It was an observer system using video cameras where the hard drives are analyzed on land. It proved to be effective with regard to observing catch coming over the rail and the effort and number of hooks, but there were issues associated with misidentification of bycatch. It did show promise, and the technology has improved since that time so it may be time for reconsideration. Australia is leading the way, going to full implementation this year in their longline fishery. He noted the need for the Territories and States to move to electronic reporting in support of Council and federal fisheries coordinated management.

Brown agreed it would be a good idea to take a careful look at that aspect.

Pangelinan said, when implementing the policy, consideration needs to be taken for the fact that there are mostly small vessels in CNMI.

Brown agreed that the size of vessel is important to consider with respect to type of platform that can be used for electronic technology. The capabilities of people and language issues all need to be considered.

Ebisui thanked Brown for acknowledging the Council's pioneer role in electronic technology, which began 23 years ago.

### **E. Western Pacific Stock Assessment Review Process and Policy**

Sabater presented on the revision of the WPSAR process and policy. The recent issue faced in the MHI bottomfish ACL specification is an indirect result of failing to follow the WPSAR process. Council staff has come up with a formal policy that will have approval by PIRO, PIFSC and the Council. The basic stock assessment review process stated that any science and model development or any kind of assessment would have to undergo peer review before it goes to the SSC and Council for management use. The WPSAR is based on a three-tier approach and is a combined CIE and WPSAR panel process. The WPSAR process has the Council, PIRO and PIFSC share fiscal and logistical responsibilities to create and foster the process. The Council will sponsor the process because it is Federal Advisory Committee Act exempted. There will be a three-year planning horizon, which was established by the WPSAR Steering Committee.

The process involves the panel reviewing two assessments per review and improvements to stock assessment methods explored during alternate years. The reviews are open to the public. The schedule for the WPSAR process includes the Steering Committee determining whether to conduct a CIE or WPSAR panel review to be released in October or November of the year; consultation held with an ad hoc fishermen panel; WPSAR panel review conducted in November or December; issuance of the report in January; revision of the assessment by the report authors and final version of the assessment submitted in February; presentation to the SSC and Council at their March meetings; and management decision using the new assessment at the June Council meeting.

The Council responsibilities include providing members and coordinator to the WPSAR Steering Committee and working together to develop Terms of Reference (TOR). The Council will prepare all meeting notices and distribute all pertinent documents, summaries and minutes. It will also coordinate meetings and workshops and other pertinent events and publish and maintain file copies of reports.

PIFSC's responsibility includes providing a member to the Steering Committee, as well as a coordinator to assist the Council coordinator and assist in developing TORs. The coordinators also will identify and select other panel members following agreed criteria for qualifications to conduct stock assessments in full accordance with estimated TOR.

The SSC's responsibility consists of assigning one of its members to chair each WPSAR panel, as well as provide one or two members to the panel. The WPSAR panel chair presents the Panel Report at the SSC and Council meetings and would review the stock assessments, Panel Report and Panel proceedings. The SSC's review constitutes the final independent check of stock assessments and acceptance and satisfies the independence requirement.

PIRO is responsible to provide a member to the WPSAR Steering Committee.

## Discussion

Tosatto noted the need for the improvement in the WPSAR process. The proposed changes need to be reviewed to ensure everything is appropriately aligned with the statute. He looked forward to working through the process.

Pangelinan asked about the need for this process and what gap it would solve.

Sabater said the process provides guidance in terms of how new scientific information will be handled and in making determinations as to whether to use or not use it for management purposes. It also ensures that the Council complies with NS 2, to use the best scientific information available. It outlines a process that all parties agree to follow every time new information comes in that can be useful and has potential impact on management or the fishery.

Tosatto said it provides guidance, gives transparency to the constituents, provides information on how the data would be used and assists in arriving at a planned and logical outcome with a formalized process.

## **F. Regional, National and International Outreach and Education**

Council staff member Sylvia Spalding reported on ongoing activities regarding regional, national and international outreach and education.

On July 10, 2014, the Council at its office hosted the Hawai`i node of the International Pacific Marine Educators Network 2014 conference. The Hawai`i node participated virtually via the web in the full conference, which was held in Japan. The two themes of the conference related to disasters and fisheries. Iwate is the scene of the recent devastating tsunami. The conferees visited the fish auction and other places with a focus on the food culture of Japan. The chair of the conference is from Tokyo University of Marine Science and Technology. Live presentations were given from the Council office, and live presentations were seen at the office from Japan. Attendees from both locations were able to ask question and answer questions. Council member Goto co-presented with Spalding about Japan's influence on the Hawai`i fishery. Three other presentations were given by participants in the Hawai`i node.

Council staff escorted the winners of the Council's high school photo-essay contests on Climate Change and Traditional Places and the American Samoa Community College's Samoan Studies Institute students who conducted research for the Council on Pacific Island stories and proverbs on climate to exhibit at the Living Earth Festival at the National Museum of the American Indian in Washington, DC, on July 18 to 20, 2014. The students also exhibited and performed cultural ceremonies at the First Stewards Symposium, United Indigenous Voices Address Sustainability: Climate Change and Traditional Places, held July 21 to 23, in Washington, DC. The Council was the lead for the Pacific Islands group that attended, which included Council members Poumele and Duenas as well as all of the Coastal Zone Management members from the Territories and Hawai`i, among others.

The Council continues to chair the Traditional Knowledge Committee of the National Marine Educators Association, which oversees a scholarship for a traditional knowledge expert to attend the Association's annual conference. This year the scholarship winner was Ui and Keeaumoku Kapu from Aha Moku O Maui, who presented at the conference.

A lot of the Council's energy has been directed to work on the President's Proclamation to extend the PRIMNM boundaries. Videos were distributed that were well received and helped to get the message out about the Council's management of the area. The Council was invited to the White House to meet with the Counselor to the President, John Podesta, as well as CEQ and other high-level administrative personnel. The Council developed a briefing document for the meeting, *An Ocean Legacy: the US Pacific Island Way*, which suggests that the legacy should be sustainable fisheries and not more marine protected areas (MPAs). The Council has answered many queries and conducted many interviews, appeared in more than a dozen television shows and three dozen different news publications on the PRIMNM expansion.

Outreach materials were provided for a sustainable seafood event held at Cabrillo Aquarium in Los Angeles, which was attended by 600 people. Recipe cards and fact sheets about bigeye and marlin were distributed as well as an updated fact sheet on pelagic fisheries.

Council staff has distributed press releases on the Education Memorandum of Understanding (MOU) that was signed by all parties and on the Disproportionate Burden Workshop, which was held at the Council office. The Council has also released a sixth edition of the Council process booklet and distributed a Fall 2014 issue of its *Pacific Islands Fishery News*.

## **G. Advisory Group Reports and Recommendations**

### **1. Fishery Data Collection and Research Committee**

Sabater reported that the FDCRC met recently to provide an update on the data collection projects in the Territories, review the strategic plan changes, endorse and sign the Strategic Plan, revisit data-sharing agreements and plan for the next steps. Recommendations from the FDCRC included the following:

*Regarding data sharing, the FDCRC recommended the Council request copies of the Data Sharing Agreements and work with the FDCRC members in potential revision of the Data Sharing Agreements to share non-confidential data among its members. Further, the FDCRC requested the Council to request PIFSC work with the FDCRC members in developing new sharing agreements for the non-confidential information.*

*Regarding the next step to the Strategic Plan, the FDCRC requested the Council to coordinate and monitor the proposal submissions to Fisheries Information System (FIS)/FIN, Cooperative Research and Saltonstall-Kennedy Program.*

### **2. Marine Planning and Climate Change Committee**

Spalding presented an update on the Marine Planning and Climate Change Committee (MPCCC) activities since the last Council meeting. In 2013, the Council took action regarding marine planning and climate change at its 157th meeting, which resulted in nearly two dozen recommendations. At the Committee's meeting on Sept. 15, 2014, the Committee reviewed its draft statement of organization practices and procedures. The Committee also reviewed, provided some recommended revisions, categorized and prioritized the Council's actions on climate change as a first step toward developing an implementation plan for them. The Committee also began to developing a Marine Planning and Climate Change Policy to be used by the Council and its staff to develop and amend the Council's Fishery Ecosystem Plans (FEPs), programs and other activities. Nov. 12 to 13, 2014, was proposed for a face-to-face meeting. The Council was asked to adopt the Committee's revisions and prioritization of the Council's prior actions.

## Discussion

Pangelinan asked to have the BECQ as well as the CNMI DFW on Priority 4.

### **3. Education Steering Committee**

Spalding reported that the MOU developed by the Council's Education Committee has been signed by all parties, including the Council, six higher education institutions, the management agencies of the Territories and three federal agencies. On Oct. 13, 2014, the

Education Steering Committee met to discuss next steps forward with the scholarship program, internships and education resources. It is hoped that implementation of the MOU can begin with the first cohort of scholarship recipients attending the 2015-2016 academic year.

The recommendations of the Education Steering Committee are as follows: a) The scholarship program be known as the US Pacific Territories Capacity-Building Scholarship; b) The Selection Committee be comprised of five members, to include three local members, including the involvement of the sponsoring agency and two members of the Education Committee; c) The cohort for 2015 includes at least one student, each, either undergraduate or graduate, from the three Territories if a suitable candidate can be found in each of the Territories; d) The internship requirements include one rotation at an agency in the Territory and one rotation with an agency, education institution in Hawai'i. It was noted that the graduate student at HIMB would be fully committed and would not be able to take on an internship; e) The scholarship recipient be required to work for a minimum of two years, one year each of the scholarship with a local agency in the Territory upon graduation or face a penalty; f) Additional funding for the program should be sought and an endowment should be considered; g) The scholarship program be promoted as soon as possible given the federal funding schedule, as well as the need for students to apply for school by December or January; and h) There be contingency funding for another semester should a student require it.

## **H. Social Science Reports**

Council staff member Chris Hawkins said the Council will host the first coordination and training workshop for the Social Scientists in Regional Fisheries Management (SSRFM) in December at the Council office. SSRFM originally formed as the Council/NMFS Social Science Policy Group in 2012 at a time when policy-based social science was increasing with the hiring of social scientists by several councils and two NMFS Regional Offices. The group holds quarterly webinars and conference calls to discuss various aspects of federal fisheries policy and social science, such as NEPA, fishing communities, allocation and NS 8. The workshop will serve to increase collaborative learning among policy-oriented social scientists regarding issues important and relevant to the work of the Councils, glean new tools from each other, compare issues and approaches and discuss next steps to address concerns and issues in fisheries social science work at the Fisheries Council. All eight Regional Fishery Management Councils, the Massachusetts Institute of Technology, a private consultant, PIFSC and the Northeast Fisheries Science Center are participating. The executive directors of the Councils requested a final report be posted at [fisherycouncils.org](http://fisherycouncils.org). Hawkins provided agenda topics for the three-day meeting.

Hawkins presented an update on the status of the Council's human communities' research priorities. MSA requires Regional Fishery Management Councils to develop multi-year research priorities and transmit them to the Secretary of Commerce and Regional Fisheries Science Center directors. The Council recently updated its five-year research priorities and officially transmitted them on July 11, 2014. Research themes included stocks, ecosystems, protected species and human communities. Hawkins reported on the most important priorities, including an annotated bibliography of available data in the region-wide holdings of fisheries social and economic data; a contact database of Hawai'i noncommercial fishermen for information dissemination and knowledge, attitudes and perception-gathering; and a pilot project to create an integrated socio-biophysical characterization of a fishery. The second most important priorities



included theory-based approach to categorizing noncommercial fishermen in the US Pacific Islands; updated characterizations of all Council-managed pelagic fisheries, including charter fisheries; human dimensions monitoring program for Council-managed fisheries; understanding of ESA and MMPA-associated socioeconomic impacts; understanding the modern sustenance, subsistence and cultural importance of fish to each island area, including fish flow; Territorial fisheries staff survey; investigation of cultural-based fisheries conflict in Guam; characterization of small vessel pelagic troll and handline fisheries in all four island areas, including Cross Seamount, the weather buoys and personal FAD fisheries; and assessment of fishermen perceptions of Regional MPA decision-making.

## Discussion

Simonds said, at one of the first Council meetings, a Council member from Guam stressed the importance of the socio-cultural and economic aspects of managing fisheries and the need for satellite offices in all of the island areas. After 38 years it is finally happening.

Rice said Kona fishermen are interested in getting involved and knowing what is going on.

### **I. Scientific and Statistical Committee Recommendations**

Daxboeck presented the SSC recommendations as follows:

*Regarding specifying ABCs for American Samoa, Guam and CNMI bottomfish fisheries, the SSC recommended Option 1, maintain the existing P\* level and set the ABCs for the bottomfish fishery in American Samoa, Guam and CNMI at 101,00 pounds, 66,800 pounds and 228,000 pounds, respectively, for Fishing Year 2015.*

*Regarding the report on the CIE review of the biomass-augmented model, based on the reviewers' comment, the SSC recommended that future assessments be conducted in the following manner: a) If there is a biomass estimate, the BAC-MSY model will be used; b) If reliable biomass estimates are not available, the original Catch-MSY model estimate will be used; and c) If available information is only catch time series, revert back to the 75<sup>th</sup> percentile of the long-term catch series.*

*Regarding reconsideration of ACLs and accountability measures for coral reef fish, crustacean and MHI non-Deep Seven bottomfish, the SSC recommended maintaining the previous P\* level and ABCs for the coral reef fish, crustacean and MHI non-Deep Seven bottomfish with a minor technical correction in the Siganidae in American Samoa and Guam. For this complex, this would maintain the P\* level at 40 percent but change the ABC from 191 pounds to 200 pounds for American Samoa and from 19,500 pounds to 18,800 pounds for Guam.*

*Regarding the MPCCC, the SSC recommended that it include a member that is an ecosystem modeler.*

**J. Public Hearing**

No public comment was offered.

**K. Council Discussion and Action**

*Regarding the ACLs, the Council recommended maintaining the existing probability of overfishing level and set the ACL for the bottomfish fishery in American Samoa, Guam and CNMI at 101,000 pounds at P\* equals 41 percent, 66,800 pounds at P\* equals to 40 percent and 228,000 pounds at P\* equals to 39 percent, respectively, for Fishing Year 2015. Should the ACL be exceeded the ACL will be reduced by the amount of overage in 2016 as an accountability measure in the absence of near real-time monitoring.*

*Moved by Rice; seconded by Sword.*

*Motion passed.*

*Regarding ACLs, the Council recommended maintaining the P\* level as reduced by 5 percent from the ABC and ACLs for the coral reef ecosystem, crustacean and MHI non-Deep Seven bottomfish as recommended at its 159th meeting. However, the Council recommended a minor technical correction in the Siganidae family (rabbitfish) ACL in American Samoa and Guam. This would change the ACL from 163 pounds to 200 pounds for American Samoa and from 19,200 pounds 18,600 pounds for Guam. Should the ACLs for the coral reef, crustacean and MHI bottomfish be exceeded based on the recent three-year average, the ACL will be reduced by the overage in the succeeding fishing year as the accountability measure in near real-time reporting monitoring.*

*Moved by Rice and seconded by Sword.*

*Motion passed.*

*Regarding data collection improvements, the Council requested that PIFSC and PIRO provide copies of the data-sharing agreements among agencies party to the FDCRC and further requested PIFSC to work with the FDCRC members to revise existing agreements or to formulate new sharing agreements to enable faster dissemination and easier accessibility of non-confidential data.*

*Regarding data collection improvements, the Council directed staff to coordinate and monitor proposals responding to the Request for Proposals under the NMFS FIS/FIN Program, Cooperative Research Program and the Saltonstall-Kennedy Grant.*

*Moved by Rice; seconded by Sword.*

*Motion passed.*

*Regarding the WPSAR review, the Council directed staff to work with PIFSC and PIRO staff and finalize the WPSAR policy document and convene the meeting of the WPSAR Steering Committee to endorse the policy and to plan the assessment schedule for the upcoming stock assessments.*

Moved by Rice; seconded by Sword.  
Motion passed.

Leialoha asked for clarification as to whether the WPSAR process is currently effective or it is just beginning the process.

Sabater said the WPSAR process was established in 2008, although implementation of the process has not been consistent. This policy would revise and formalize that review process requiring the Western Pacific Region to follow the process whenever any new scientific information becomes available prior to its use for management.

Leialoha asked how this review process would affect the bottomfish fishery in Hawai`i.

Tosatto said this action would affect the 2015 MHI bottomfish ACL and will result in a process to be used consistently to avoid the problems that currently exist due to the inconsistent use of the WPSAR process.

*Regarding the Regional Electronic Technologies Plan, the Council directed staff to work with PIRO and PIFSC on the development of the plan and to ensure that fisheries data collection involving electronic technologies by the local jurisdictions of American Samoa, CNMI, Guam and Hawai`i are incorporated into the plan.*

Moved by Rice; seconded by Sword.  
Motion passed.

*Regarding the education initiative, the Council endorsed the Education Steering Committee's recommendations and directed the committee and staff to use them as a basis for developing the scholarship and internship programs for solicitation of cohorts for the 2015 academic year.*

Moved by Rice; seconded by Sword.  
Motion passed.

*Regarding the MPCCC, the Council endorsed the Committee's revisions and prioritization and directed staff to work with the MPCCC to develop an implementation plan for these actions, as well as to draft or comment on a Draft Marine Planning and Climate Change Policy to be used by the Council to create and/or amend its FEPs and programs.*

Moved by Rice; seconded by Sword.  
Motion passed.

Turcan asked for clarification as to the action taken in regard to the term "assessment schedule."

Sabater clarified that he wanted to bring to the Council's attention that the assessment schedule refers to the assessment as well as the review.

## **8. American Samoa Archipelago**

### **A. Motu Lipoti**

Sword reported the latest sports-fishing activities in American Samoa. The sports fishermen have been approached by the Sanctuary folks to establish a fishing tournament in an effort to educate people regarding fishing rule and regulations around sanctuaries. He noted there is still no bottomfish fishing allowed around Aunu`u Island while the sanctuary ads state fishing is allowed. Most of the bottomfish fishing activity in American Samoa is by subsistence fishermen. The international tournament is scheduled for May and has been very successful. There is at least one FAD out of the three FADs on the south shore online. Masi and yellowfin catch has been good.

Ochavillo reported on the activities conducted by the DMWR since the last Council meeting. MPA Program staff conducted the usual community site visits, presented socioeconomic baseline data, discussed local issues and recognized the best MPAs. Staff conducted 157 runs in the shore-based creel survey of the subsistence fishery, with 39 participation counts and 13 interviews. Blue-banded surgeonfish - 1,143 pounds; white-spotted surgeonfish - 603 pounds; triggerfish - 519 pounds; rudderfish - 339 pounds; parrotfish - 260 pounds; and grouper - 176 pounds. In the commercial boat-based surveys, 200-plus interviews were conducted with landings of 10,000 pounds from spearfishing, alia longline and alia bottomfish fishing. The trolling fishery landed 8,000 pounds.

The Key Reef Species Project conducted coral reef status monitoring and collected otoliths and gonads for life history data. Work is ongoing with an Australian lab on population genetics for three fish species in American Samoa.

The Sports Fish Creel Survey conducted 12 interviews in the last quarter. Mahimahi, yellowfin and wahoo are the top landed species. Ochavillo noted that a FAD was lost due to fishermen cutting the rope. Community education and outreach is needed to emphasize the importance of FADs. The Secretariat of the Pacific Community (SPC) provided technical assistance deploying two near shore, two deep-water and one subsurface FADs.

DMWR provided technical assistance to the Leone Wetland Restoration Grant from USFWS and is revising the American Samoa State Wildlife Action Plan, which will be the basis for funding in the future for projects that are not covered by the current grant, such as project to address the crown of thorns (COT) outbreak now being experienced in American Samoa. COT is currently a serious problem in north Tutuila. Ox bile is being injected into the COT, which is a technology adapted from Australia.

Scientific exchange and staff development activities included staff attendance at the NOAA Climate Change Workshop in Hawai`i last July; presentations given at the Hawai`i Conservation Conference; staff attendance at the NOAA Climate Change Workshops in Fiji and Apia; coral identification training in September; Ochavillo attendance at the West Coast Fisheries Forum; and staff presentation of a paper at the National Marine Conference in Scotland in August.

The Coral Rehabilitation Program is working with the Department of Public Works conducting coral and seagrass relocation in mitigation of seawalls being built in several locations. Part of the Leone Wetlands Restoration Grant project involves developing a coral ocean nursery, which potentially can reseed damaged coral reefs.

Enforcement is conducting store and roadside inspection, land and sea patrols, MPA monitoring and monitoring of commercial and recreational fishing fleets. Staff is also in place at the airport to check coolers that enter and leave Pago.

Educational and outreach activities included holding an environmental camp for kids, “Hooked on Fishing, Not on Drugs” and activities during National Fishing and Boating Week.

## **B. Fono Report**

Sword noted the solidarity demonstrated between the Council and the American Samoa government in the opposition of the PRIMNM expansion, especially to the area north of American Samoa. He appreciated the Council outreach in spreading the word on the economic and fisheries impact of the expansion. All of the chiefs voted unanimously to approve the Senate concurrent resolution to President Obama asking him to reconsider the proposed expansion. The topic of fisheries has become prominent in the Fono in the last five years due to the Council and the fisheries groups in American Samoa.

## **C. Enforcement Issues**

Ochavillo reported on enforcement issues in the Motu Lipoti section of the agenda.

## **D. Community Activities and Issues**

Nate Ilaoa, American Samoa island coordinator, updated the Council on the activities and issues for American Samoa since the last Council meeting. In September, the Council partnered with the local Department of Commerce (DOC) to sponsor the annual Coast Week Celebration, which included a seafood festival held at Utulei Beach Park and fresh seafood cooking contest, traditional long canoes and swimming lessons for children. There was a good community turnout.

An MRIP contractor, who was hired in August, is conducting scoping with local fishermen of pulse fisheries, such as atule, lo, palai`a, nefu and palagi. The contractor will also support creel collection, develop an incentive program to promote sharing of catch data and help in the planning of two fishermen forums.

A Territorial Science Initiative (TSI) contractor, hired in July, will conduct training of local fish vendors on the commercial receipt book process, develop incentive program and outreach advertisements, assist in the fishermen forum planning and support the creel survey efforts.

There was substantial community opposition locally to PRIMNM expansion. In addition to the concurrent resolution mentioned by Sword, the American Samoa Governor wrote a letter to President Obama, and numerous individual comments were submitted from the community.

The Large Vessel Prohibited Area boundary from 50 nm to 25 and 12 nm around Swains has also been a major topic of discussion since the last Council meeting. There is still a split in opinion locally about the proposed reduction.

## **1. Fisheries Development Update**

Ueta Faasili updated the Council on the fisheries development projects and activities carried out in American Samoa, which included the renovation of Fagatogo Fish Market, development of multi-platform fishing vessel for American Samoa, a fishermen's lending scheme and a fishermen training program.

The previous complications at the Fagatogo Fish Market have been resolved and the project re-established in April. Two contractors will carry out the work, the 2E Corporation and the Kooline American Samoa. 2E Corporation is responsible for general construction of the market and its internal restructure. Kooline American Samoa is responsible for refrigeration work, adjustment of the fish market's cooling system and splitting and adjustment of the existing walk-in freezer into a cooler and blast freezer. Progress pictures illustrated the work area, drainage system completed, improved hygienic conditions, an ice maker, the blast freezer and cooler, which will be completed by mid-November.

The purpose of the development of the multi-platform fishing vessel is to increase fish catches through enhancement of fishing skills, introduction of new fishing methods and training and includes a lending program for fishermen. It was reported on in detail in previous Council meetings and is one of the three most important projects required for development of small-scale fisheries in American Samoa. The comprehensive report is completed and is being reviewed by the American Samoa government.

The fishermen's lending scheme is to help fishermen purchase fishing gear and outboard engines and, more importantly, to meet the cost of the new fishing boat that is being developed for American Samoa. Meetings have been held with DOC and the Development Bank of American Samoa to discuss how a lending scheme may best be established. The existing loan program for economic development that is administered jointly by DOC and the Development Bank will be used in part. The DOC would make an application to increase the ceiling of fish loan funds from \$100,000 to \$200,000 to meet most of the fishing vessel needs. The Office of Attorney General is finalizing the insurance requirements before approving funding. A few points of information are needed before the report can be finalized on this project.

The purpose of the fishermen's training program is to provide opportunities for fishermen to increase their fish catches, enhance fishing gears and be introduced to new fishing methods. It also provides an opportunity for fishermen to practice using simple business management tools so they are able to monitor, control and operate profitable small-scale fisheries successfully and have the main prerequisites to qualify under the fishermen's lending scheme. Upon completion of the training, each participant will receive a Certificate of Completion, which will serve as qualification for the fishermen's lending scheme. Target participants for the training program include local fishermen, particularly those operating at the small-scale or artisanal level. The training is more relevant to fishermen who are acquiring new fishing boats through the assistance of the fishermen's lending scheme. There will be two components of training, theory and

practical, covering subjects such as fishing gear construction, practical fishing, boat construction attachment, budgeting, basic record keeping, determining expenses and loss and profit, among others.

The three projects are interconnected and must be implemented at the same time because failure of one will constitute failure of the others.

### Discussion

Simonds thanked Faasili for his many years of service to the Council and his assistance in establishing local fishery development projects in American Samoa.

Sword agreed with Simonds remarks and thanked Faasili for work well done.

Ochavillo said DMWR and the American Samoa government are actively implementing a program for the alia fishermen that subsidizes fuel and provides training on boat and engine repair and safety equipment with the objective of encouraging alia fishing in the Territory. DMWR is also working with NOAA SFD in organizing the Disaster Relief Fund. American Samoa recently received \$1 million for damage caused by the 2009 tsunami and is finalizing documents needed to fund a ramp, dock maintenance in Pago, building infrastructure for fishermen boat and engine repair, and training.

Poumele said the American Samoa government is supplying additional funds to support fisheries development in American Samoa thanks to all of the ongoing Council projects. She predicted implementation of the projects will soon be put into action.

Tosatto agreed with Simonds' comment regarding establishing local fishery development programs in each of the jurisdictions, which has led to meaningful work. He suggested the local agencies make efforts to understand how to best utilize the Saltonstall-Kennedy Program and Disaster Relief grant funds.

### **E. American Samoa National Marine Sanctuary**

Sword reiterated that the Sanctuary is working to hold a recreational fishing tournament in American Samoa and getting the Pago Game Fish Association members involved in the planning in the hopes of educating the community on the rules and regulations pertaining to the sanctuaries.

### **F. Rose Atoll Marine National Monument**

Beth Flint said USFWS is in the process of hiring a person to replace Superintendent Frank Pendleton. Two expeditions are planned to Rose Atoll National Wildlife Refuge in the near future to conduct turtle tagging work and to replace the canceled trip for the Google Street View and Sea View project at Rose Atoll.

## **G. Education and Outreach Initiatives**

Ilaoa said 17 local high school students completed the three-week Fisheries and Marine Resource Management High School Summer Course. A local marine scientist taught the class with assistance from local partners, agencies and federal agencies. Students learned how to fish with a rod and reel, kili (cast net) and spear. They learned how to use a canoe, were certified for cardiopulmonary resuscitation by the local American Heart Association representative and took a swimming course with the American Samoa Swimming Association lead instructor. Field trip opportunities and guest speaking arrangements were provided by the National Weather Service, PIRO, DMWR, Department of Public Safety's Marine Patrol, the Pago Alia Association, the Community College Land Grant Program, Sea Grant Program, the National Marine Sanctuary and local chef Chuck Nelson.

The Council is partnering with the local DOC to publish the 2015 lunar calendar. The plan is for a flip calendar and a large poster desk-top calendar. The calendars will feature the winning art submissions from American Samoa's local kindergarten through 12th grade students.

### Discussion

Simonds said the children should learn how to fill out a catch report in the high school summer course, which also should be included in all of the classes held in the jurisdictions.

Tosatto said to be sure safety is included, as well as the data collection, in the classes.

Ochavillo said DMWR's subsidy program requires fishermen to submit their data, which in turn the Department subsidizes their fuel.

Simonds asked if the same format for collecting is currently used in the database.

Ochavillo replied in the affirmative, the same data forms are used in the creel surveys.

Simonds noted that the Sanctuary Program review is due to take place in 2015. She understood that recreational and subsistence is allowed except for around Aunu'u.

Sword replied bottomfish fishing is not allowed around Aunu'u. Recreational fishing is allowed around Aunu'u, but permission must be obtained from the Village Council. This is the only village that has this is required.

Simonds said that she understood permission must come from the Sanctuary Office.

Sword replied in the negative, that permission must be from someone on Aunu'u.

Simonds said the Council wants to be on the External Review Team when the program begins, as there was a research plan included in the final rule that has not yet been established. She asked if the exercise class is continuing in Pago held by the Sanctuary Office.

Sword replied in the affirmative, the class runs from 3:30 to 4:30.



Tosatto said part of its task under the Proclamation was including Rose Atoll as part of the now Sanctuary of American Samoa and the CCP Planning Process have been completed. The Council has completed the Fishery Management Plan amendment. Three pieces control activities in and around Rose Atoll, the CCP, NMFS and the Sanctuary Plan. NMFS is looking to see whether anything is still to be completed under the purview of the Proclamation, which is the guide used to prevent harm to Monument resources as DOI works to replace the superintendent in American Samoa. If any gaps are found a gap plan, or umbrella plan, will be developed to pull all three pieces together to fill the gaps to form a total package. He predicted that around the new year when the new superintendent is onboard there will be a meeting to develop the plan.

Simonds asked about the meeting held to review the plan around the new year.

Tosatto said, after the Intergovernmental Committee (which is NMFS, USFWS and the American Samoa government) meets to identify the gaps and how to address them, there would be a public vetting of the process before the plan is finalized.

Simonds said the Council can meet and assist the Territory.

Sword said February, when the plan is to come to American Samoa, would be a nice time to look at the issues.

#### **H. Scientific and Statistical Committee**

Daxboeck had no SSC recommendations regarding American Samoa.

#### **I. Public Comment**

No public comment was offered.

#### **J. Council Discussion and Action**

*Regarding the National Marine Sanctuary of American Samoa, the Council directed **staff to work with the American Samoa Government in the review of the Sanctuaries management and socioeconomic plans.***

Moved by Sword; seconded by Rice.

Motion carried.

*Regarding the Pacific Marine National Monuments, the Council directed **staff to assist the Territories in the development and review of the Monument Management Plans.***

Moved by Sword; seconded by Rice.

Motion carried.

## 9. Hawai`i Archipelago

### A. Moku Pepa

Goto reported fishing has been consistent, market conditions have turned favorable and the fishery is landing higher quality fish with a lower average size. It has been a struggle for the vessels dealing with the market, but everyone is hopeful for a strong end of the year.

Ebisui said yellowfin is no longer biting on the north side of the island and fishermen were ready for the bottomfish fishery to open on Sept. 1. Recent catches of `opakapaka have been exceptional in terms of quantity and size, reminiscent of catches in the early 1980s.

Rice reported good fishing in Kona with the return of nehu for the first time in a decade. Big marlin followed the nehu, and it has been one of the better years for `ahi. Buoys were replaced with no structure, so fishermen use them for checking the currents because there are no fish on the buoys. Recently he was at the fish farm when a pod of FKW traveled through the area. He said Kona fishermen asked him to ask the Council for assistance opening the communication lines with the State regarding needs of fishermen on the West side of the Big Island. Rice has had no response from Kim Holland regarding information on the deployment of FADs. Fishermen also noted agreement on the need to raise the size limit on yellowfin.

Leialoha said the Hilo side of the Big Island held numerous discussions regarding recommendations in case access to one of the most-used boat launching ramps is lost due to the pending lava flow at Poihiki. One recommendation related to temporary access roads.

### Discussion

Simonds asked about the buoy being placed without structure. Was it because of lack of funding?

Rice said he heard the reason was due to the risk of turtle entanglement and laziness.

Kingma said it also has to do with permitting and consultation with NMFS on streamers.

Simonds said the Council should look into the issue and research the alternative of deploying a Council buoy in the spot.

Rice agreed with Simonds, adding that Kingma is already working on a permit to put structure under the buoy and conduct an experiment with and without structure.

Miyasaka said that Holland reported to him that the structure, or streamers, on the FADs were studied and the result was that streamers did not add much to the attraction of fish to the FAD, but caused a higher failure rate because of the increased drag.

Rice said the fish farm has the same buoy with a cylinder holding fish for over a year and the buoy is still intact. He said the State towed the TT buoy at 8 knots when deploying, which he assumed would cause a lot of wear and tear. He said funding from the Sports Fishing Fund is to enhance fishing for fishermen so why not do it the correct way.

## **B. Legislative Report**

Miyasaka reported the major item from the legislature was the temporary funding for the Fisheries Enforcement Unit on Maui that was created specifically for enforcing fishery regulations on the north side of Maui. That effort was privately funded and was very successful. The legislature provided funding to expand the enforcement for one year. More information will be provided at the next Council meeting as to progress of the project.

He updated the Council on measures to be put forth to the Board of Land and Natural Resources at its upcoming meeting, such as the final approval of the controversial aquarium rules for O`ahu. The opposition was primarily that the rules did not go far enough. That aspect will be addressed in the future reviews of the regulation. Final approval of the Ha`ena Subsistence Fishing Area on Kaua`i will also be addressed.

## **C. Enforcement Report**

Miyasaka reported enforcement activities in the Legislation portion of the agenda.

## **D. Main Hawai`ian Islands Bottomfish**

### **1. Pacific Islands Fisheries Science Center's Response to the Scientific and Statistical's Comments on Main Hawaiian Islands Deep-Seven Bottomfish Stock Assessment**

Annie Yau, PIFSC stock assessment scientist, presented the PIFSC responses to the SSC comments on the Draft 2014 MHI bottomfish stock assessment. In addition to the responses, PIFSC further indicated that the draft assessment is scheduled to undergo a CIE review at the end of the year. Being a Tier 2 type assessment per the WPSAR process, the assessment should undergo a WPSAR and not a CIE Review, which excludes the SSC from the process. The PIFSC's response to comments were reviewed and discussed by a SSC sub-working group at the September SSC meeting. Yau summarized the comments and questions, which were technical in nature and focused primarily on the catch per unit effort (CPUE) standardization. Future improvements for the stock assessment were discussed.

### Discussion

Leialoha asked when a report would be available to the Council in regard to how the improvements are intended to be implemented.

Yau clarified that the ideas for improvement from PIFSC, fishermen and SSC members will likely be implemented incrementally in future assessments.

### **2. Report on SSC Subgroup Regarding 2014 Main Hawai`ian Island Deep Seven Stock Assessment**

Daxboeck noted the SSC subgroup was formed specifically to address the CPUE standardization, which was an addition to the 2011 stock assessment model used to set the Council's original ABCs. Kleiber chaired the meeting. The stock assessment will undergo a CIE

review in December under the Council's WPSAR process. The SSC will hopefully have more input into suggestions by which the CIE can look at the contents and the way the model was run. The SSC reserves the right to continue discussing ways in which the stock assessment overall should be or could be looked at. With respect to the CPUE standardization, the SSC was satisfied that Kleiber and Yau gave satisfactory explanations on how the standardizations were conducted. The SSC had issues with the technological efficiency, which was not fully captured with the CPUE standardization, and the failure to incorporate the Bottomfish Restricted Fishing Areas (BRFA) biomass into the stock assessment. It was unfortunate that the bottomfish community was not involved in some of the discussions. Steps will be taken to include fishermen in the process in future efforts.

### **3. Reconsideration of Main Hawaiian Islands Deep 7 Annual Catch Limit Specification (Action Item)**

Sabater presented the reconsideration efforts that staff has undertaken regarding the ACLs for the MHI Deep Seven bottomfish due to a request from PIRO to revisit the ACLs and as a result of the SSC's subgroup meeting regarding the addition of the CPUE standardization in the 2014 MHI Deep Seven stock assessment. At the June 2014 SSC meeting PIFSC presented an updated stock assessment that included the addition of the CPUE standardization, which resulted in a significant drop in the stochastic projection table. At that meeting the SSC chose the 2011 MHI Deep Seven bottomfish stock assessment as the best scientific information available and rolled over the ABC of 346,000 pounds to Fishing Year 2014-2015 in an effort to provide more time for the SSC subgroup to analyze the CPUE standardization and assessment results, as well as to finalize the independent review of the assessment scheduled for December 2014. The Council specified the ACL at 346,000 pounds at the June Council meeting to give time to finalize the independent review and an in-season adjustment planned based on the results of the review.

PIRO sought advice from PIFSC regarding the best scientific information available. PIFSC's responded that the 2014 draft assessment was considered superior to the 2011 stock assessment. Thereafter, PIRO asked the Council to consider options for ACLs using the 2014 draft assessment due to NEPA's requirement to consider all information that is available, which presented a different dimension of management uncertainty and resulted in a risk of no ACLs set prior to the start of the fishing season.

Moving forward, Council staff analyzed the current situation and presented the following alternatives for consideration:

- Alternative 1) No action. No ABC or ACL will be specified and is not compliant with the MSA NS 1 or 2, NEPA or the Council's FEP.
- Alternative 2) An ACL of 346,000 pounds (the preliminary preferred alternative), which corresponds to a 41 percent risk of overfishing based on the 2011 stock assessment, considered the best available science according to the SSC; or a 55 percent risk of overfishing based on the 2014 draft stock assessment and is noncompliant with NS 1 and 2, NEPA and the Council's FEP. From the SSC's perspective, it is compliant with the use of the 2011 assessment.

- Alternative 3) An ACL of 319,000 pounds, which corresponds to a 35 percent risk of overfishing based on the 2011 stock assessment, or a 51 percent risk of overfishing based on the 2015 draft stock assessment and it is compliant with the MSRA. It is not compliant with NS 1 and 2, NEPA and the Council's FEP.
- Alternative 4) An ACL of 308,000 pounds, which corresponds to a 32 percent risk of overfishing under the 2011 stock assessment, and a 49 percent risk of overfishing under the 2014 draft assessment and would be in compliance with all of the statutes, but differing opinions as to use of the best scientific information.
- Alternative 5) An ACL of 277,000 pounds, which corresponds to a 25 percent risk of overfishing with the 2011 stock assessment and a 43 percent risk of overfishing with the 2014 draft stock assessment.
- Alternative 6) An ACL of 265,000 pounds, which corresponds to a 22 percent risk of overfishing with the 2011 stock assessment and a 41 percent risk of overfishing with the 2014 draft stock assessment.

After reviewing a table illustrating the various impacts from the different alternatives, such as projected revenue, potential closure days, individual revenue and accountability measures in the event the ACL is exceeded, the Council was asked to consider the following points: a) Setting the ACL equal to the ABC at 346,000 pounds, Secretarial Action may still be in play; b) The preliminary preferred alternative is to set the ACL at 346,000 pounds; and c) The Council has the flexibility in choosing what P\* and percent of risk of overfishing to apply to the fishery relative to both assessments.

### Discussion

Rice asked if NMFS would disapprove the 2014 ACL if the risk of overfishing remained at 55 percent.

Tosatto said the communication sent to the Council chair stated that the 2014 stock assessment is superior and needs to be considered in this management decision. The Council needs to provide an ACL based on the best available science. A 55 percent risk of overfishing based on the 2014 stock assessment would not be consistent with the NSs.

Ebisui asked about ways to move forward.

Tosatto said, in relation to Alternative 4, if the SSC wants to rely on the 2011 stock assessment the Council could make an assessment that a 32 percent chance of overfishing is appropriate and select Alternative 4. Alternative 4 or anything below a 49 percent risk of overfishing would be acceptable. It is expected the stock assessment will be favorably reviewed and supported at the upcoming CIE review. There will be an opportunity before the end of the season to make an adjustment either way.

Ebisui said PIFSC's carefully worded letter uses the word "superior." NS 2 talks about best available. He does not equate superior and best available as being the same.

Tosatto did not agree that superior and best available are equal. The Secretary and a delegated decision-maker decide on the “best available science.” That decision has been made.

Ebisui said that the quandary for Council members is in the application of NS 2. It is disconcerting that PIRO’s letter does not follow the identical language of NS 2. There is a reason why superior was used rather than best available. The Council members are faced with choosing between a 2011 stock assessment that has been peer reviewed versus a draft 2014 stock assessment that has not been peer reviewed. PIFSC saying the un-reviewed 2014 draft is superior provides no guidance. He asked whether there was any precedent in the country for a determination that an un-reviewed draft stock assessment is the best available science when compared to a reviewed stock assessment.

Tucher noted that there is a fair amount of case law on NS 2 that addresses the use of the word “superior” in defining the best available science. One of the overriding principles in NS 2 is that an Agency decision that fails to rely on or adequately account for superior information is subject to being overturned as arbitrary and capricious. An agency cannot ignore or fail to account for superior information that is presented to it when it makes a management decision. Best available science is the conclusion that attaches to the information, but the quality of information is what controls. When PIFSC uses the word superior, it is addressing the quality of the information. The 2011 stock assessment is the older assessment. When NMFS makes a decision based on the entire record it must account for new information that raises reasonable questions about the reliability of the 2011 stock assessment. When its own Science Center says that it is superior, that is going to be very persuasively considered in the Agency’s final decision. Tucher agreed with Tosatto’s comments on Alternative 4 and the advice offered to the Council in terms of adjusting the risk of overfishing on the 2011 stock assessment if relying on that stock assessment. It would ensure that the NMFS review, under either stock assessment, was made on what was chosen. He emphasized that there is scientific uncertainty that is raised by the two stock assessments before the Council and reducing the risk of overfishing under the older stock assessment could be a valid decision.

Miyasaka asked Daxboeck to provide further information on SSC discussion regarding the ramifications of Alternative 4.

Daxboeck said the SSC still has certain questions, not necessarily only with the CPUE, but with the way that the CPUE standardization was conducted. The SSC asked to look at a sensitivity analysis with the new N in the model. The 2014 analysis reported that Deep Seven exceeded the current ACL 10 times in the last 55 years but not since 1996. According to Figure 6 in the new 2014 draft assessment, it would appear that the biomass has been trending upward for the last two decades. According to the same figure in the draft assessment, the fishery has never been overfished nor has it been in an overfished condition since records have been kept. On Table 14 in the draft assessment, the probability of being overfished in 2016 is 41 percent at an ACL of 324,000 pounds. In the event that at the end of the 2014 and 2015 Fishing Year it’s shown that overfishing had occurred, then NS 1 is available as an accountability measure. The SSC recognizes the improvements and the additional data, but, due to no independent review having been conducted, it selected 346,000 pounds as an ABC.

Rice said it would be difficult to choose Alternative 4 knowing the biomass in the BRFAs is not incorporated in the assessments.

Miyasaka asked about the risk of triggering Secretarial action if the preferred alternative is not selected.

Tosatto said he would take the Council's recommendation and decide whether it is approvable. The biomass is an estimate. Biomass as an MSY is a relevant reference point. The fishery is not in a healthy green zone, and it is important that an ACL is not set that moves in the wrong direction. The determination of which stock assessment is best is a relevant determinative of biomass at MSY ratios. Average catch is more meaningful when compared to its long-term average. NMFS is looking to optimize the fishery, with a goal of taking every fish up to the appropriately set ACL to have the most productive fishery.

Ebisui said he views the stock assessments as a snapshot. The MHI Deep Seven bottomfish fishery since 1949 has recorded landings in the three, four, five hundred thousand pound range up to the recent past, but the most current un-reviewed stock assessment is saying to reduce landings, which is a huge disconnect between the stock assessment and what fishermen are experiencing on the water.

Daxboeck said, even if the stock assessment is a snapshot, the new stock assessment shows that the biomass has increased slowly over a certain recent period of time and the harvest ratio has been lower than the harvest ratio at MSY. The probability of overfishing has also declined during the same period. Yet, the 2015 projection of ABC to stay under a 50 percent risk of overfishing calls for a reduction of 80,000 pounds, which is why the SSC reviewed only the CPUE standardization of the draft 2014 stock assessment and raised the question as to the BRFA effect in terms of the biomass reserves. A 1992 NMFS Technical Memo on work conducted in 1992 by Kobayashi was cited on the significant effect of setting aside 20 to 30 percent of habitat that has never been included in any of the stock assessments. It was also reported that, when there is a reserve of unfished habitat that is equivalent to the habitat that is being fished, it has significant effect on the reserve biomass that should be put back into a stock assessment. The SSC still has severe reservations about the superiority of the 2014 draft stock assessment leading to best available science.

Ebisui said in 1996 the State BRFA system set aside some of the better bottomfish grounds. In 2006, there were 128,000 square nm of grounds closed and half of the Hawai'i bottomfish fishery was put out of business in the NWHI, which is beyond 30 percent of fishing grounds closed to fishing.

Daxboeck said the BRFAs potentially include very good bottomfish habitat, which has never been added into any of the stock assessments and needs to be addressed.

#### **4. State of Hawai'i Bottomfish Restricted Fishing Area Management Plan**

Miyasaka reported that the DLNR chair made decisions earlier in 2014 about changes to be implemented in the current State management of the MHI bottomfish fishery. The major component of the change is half of the BRFAs will be reopened and half will remain closed. The

full details of the plan are to be discussed with the public during state-wide public meetings latter in 2014. The Council, fishermen and NMFS Human Dimensions staff has been invited to meet to plan a strategy forward and possibly even participate in the discussions to be held throughout the state.

### Discussion

Simonds asked if any of the BRFAs to open are located in federal waters.

Miyasaka said some straddle state and federal waters. BRFAs located on the bank areas are to remain closed.

Simonds asked if there is any idea what catches might be in the BRFAs that will be opened, and, if so, PIFSC could add that information to its stock assessment model of the fishery.

Miyasaka said part of the plan includes effort to monitor some of the effects of the transition with methods such as bottom cameras. He welcomed additional research in the areas as the State is interested in the data.

Simonds said the Council is interested in learning about the BRFA biomass.

Miyasaka said there is bottom-camera data from a study conducted partly for use in management decisions that has not been formally released to the public. There are plans at some point to provide the information to the public.

Simonds asked whether that information was used in the 2014 draft stock assessment.

Yau said the information was not included in the model.

Rice asked if there would be an effect on the ACL when the BRFAs open in January.

Simonds said that was her point about the information that the State has not released.

Ebisui said, since the BRFAs are some of the better bottomfish habitat, it most likely would have a big effect on the model results.

### **5. Regulatory Changes Establishing a Market Delay for the Sale and Removal of Noncommercial Bag Limits for Main Hawaiian Islands Bottomfish (Action Item)**

Council staff member Mark Mitsuyasu presented information on the Council's efforts to change the noncommercial bag blimits and establish a market delay for the sale of bottomfish once the fishery is closed. Currently, the federal regulations stipulate that vessels targeting and landing Deep Seven bottomfish from federal waters in the MHI must obtain a federal permit and report their catch on a per-trip basis. In addition, noncommercial fishermen are limited to a total of five Deep Seven bottomfish per person per day, in any combination, that they are able to retain on a given trip. This provision was included in the initial regulatory package implemented in 2007 as a preventative measure to limit noncommercial Deep Seven landings while the



commercial sector quota was being implemented and refined. Given that the fishery monitoring and management transition to an ACL-based fishery is fully implemented, the Council proposes changes to the bag limit. Options include Alternative 1a) No action, keep the bag limit at five of any Deep Seven species, per person, per trip or day; Alternative 1b) Increase the bag limit to match the State of Hawai'i proposed bag limit of 10 of any Deep Seven species, per person, per trip or day; and Alternative 1c) Remove the bag limit.

The second element of the action is to consider establishing a market grace period or delay for the sale of Deep Seven bottomfish after the fishery has been closed. During the first few years of the quota-based management regime, the fishery hit its quota that triggered the state and federal agencies to close the fishery for part of the year. As the MHI bottomfish fishery has transitioned to being primarily a single-day fishery, fishermen would fish up until the end of the closure date and then deliver their product to the market or auction. The regulations prohibit the possession of Deep Seven bottomfish caught from the MHI creating a problem for restaurants, markets and seafood processors who purchase Deep Seven species after the fishery has been closed. In response, some markets have rejected purchasing Deep Seven bottomfish caught and delivered to market up to one week prior to the closure. To address this issue, options presented for establishing market delays for the sale of Deep Seven bottomfish of three days and five days after the closure of the fishery included the following: Alternative 2a) No action. With no grace period problems will continue with fish markets randomly accepting bottomfish prior to the closure to avoid being in violation of the processing prohibition once the fishery is closed. Alternative 2b) Provide a market grace limit of three days. Three days is the lower limit of how long bottomfish can be held fresh by a fish market and provides the fishermen the ability to fish right up to the closure of the fishery. Alternative 2c) Provide a market grace limit of five days. Five days allows for fish markets and sellers more flexibility in buying and selling Deep Seven bottomfish.

Mitsuyasu emphasized the need to have regulations consistent with the State of Hawai'i moving forward.

### Discussion

Rice noted a concern that the State may be double-counting fish in regard to the commercial marine license (CML) reporting.

Miyasaka said the State requires that commercial fishermen report everything they catch regardless if it is sold or eaten. The catch information is treated differently.

Tosatto asked, in the event the federal government implemented a market delay, would the state would have to implement a market delay as well.

Mitsuyasu replied in the affirmative. The State currently has plans to include market delay in the state-wide public meetings planned for later in the year regarding the BRFA's.

## **E. Community Projects, Activities and Issues**

### **1. Report on Puwalu**

Council staff member Charles Ka`ai`ai reported on the Aha Moku O Maui Puwalu, Lawelawe Hana Ke Aha Moku, held Sept. 12 and 13, 2014, at the Westin Maui Resort and Spa. The puwalu adopted three resolutions, and island communities renewed commitments to work on identifying their priorities and to develop a budget for activities to move the Aha Moku system forward.

### **2. Council Marine Science Summer Class**

Mitsuyasu reported the Council's summer high school class ran over five weeks. A video produced by the students was played. The students spoke individually on camera stating what they learned from the course and their appreciation for the opportunity to participate.

### **3. Education and Outreach Report**

Spalding reported on the Hawai`i education and outreach activities that have taken place since June. The Council staffed informational booths at several community events, including the Hawai`i Conservation Conference in July, the Hawai`i Science Teachers Association conference and the Hawai`i Fish and Seafood Festival in September and the Marine Educators Night at the Waikiki Aquarium in October.

The Council's latest informational spot on *Let's Go Fishing* is on stock assessments, and the latest spot on *Hawai`i Goes Fishing* is on scuba spearfishing. Advisory Panel members participated in the creation of the television spots. Spalding played the Council's informational spots, as well as a portion of the video from the last Fishers Forum. Shorter versions will be presented in outreach efforts to fishing communities. The Council also currently co-sponsors Mike Buck's *Go Fish* radio show on KHNR AM 690. Completed episodes included a two-part series about who the Council is and what the Council does, the proposed PRIMNM expansion, opportunities for public participation in fishery management, stock assessments, recreational fishing and compliance in the international arena. The show airs every Saturday and is featured on the web. Various Council staff members appear on the show weekly. The Council has had monthly articles in *Hawai`i Fishing News*. They recently focused on the PRIMNM expansion.

*`Ahi: The Yellowfin Tuna*, a short documentary on the importance of yellowfin to Hawai`i fishermen and consumers, recent research and current management aired at the recent Fishers Forum, which had good attendance. The documentary provides fishermen and the public with background on `ahi as consideration is being given to increasing the minimum commercial size from its current 3 pounds. It will also be shown at community events and used in public service announcements.

Other Hawai`i education and outreach projects included creation and distribution of flyers and posters to all of the Hawai`i dive and fishing clubs, community events and direct mailings. Interviews on radio talk shows with the KSSK Perry and Price Show, the KPRP talk show and *Go Fish* with Mike Buck and the morning KGMB Sunrise Today television show. The

Council has ads in *Hawai'i Skin Diver*, Hanapa`a, KSSK radio, KGMB television and *Hawai'i Fishing News*.

The Council's community-based monitoring and education projects on Kaua'i will end December 2014 with a workbook for the community's use. A fishpond and electronic logbook and website project with ALU LIKE, Inc., will also conclude December of 2014. Work has begun on the 2015 lunar calendars. The Council has been invited to participate in the Pearl City High School Career Day.

**F. Hawai'i Islands Humpback Whale National Marine Sanctuary**

No report was provided to the Council.

**G. Scientific and Statistical Committee Recommendations**

Daxboeck presented the SSC recommendations as follows:

*Regarding the SSC subcommittee report and SSC comments on the draft 2014 MHI Deep Seven stock assessment, the SSC supported the recommendations of the SSC subcommittee. PIFSC should give high priority to incorporating additional types of data in the Deep Seven MHI stock assessment and should continue to explore ways that the species complex could be divided into smaller groupings or individual species for future stock assessments.*

*Regarding the SSC subcommittee report and SSC comments on the draft 2014 MHI Deep Seven stock assessment, the SSC recommended that members of the public, particularly the fishing community, be consulted and provide comment prior to the independent review.*

*Regarding the SSC subcommittee report and SSC comments on the draft 2014 MHI Deep Seven stock assessment, the SSC further reiterated its recommendation that changes in technological efficiency and potential bottomfish biomass in the BRFA's be considered in future stock assessments.*

**H. Public Comment**

Ed Watamura, Advisory Panel chair and recreational fisherman, spoke in support of the Council adopting the SSC recommendation for ACL of 346,000 pounds for the upcoming fishing year, as the 2014 draft stock assessment has not yet been reviewed and there was no input considered from the bottomfish fishermen. The assumptions used in the model do not jibe with the bottomfish fishery participants' experience. Fishermen are faced with many deterrents, such as the unavailability of prime fishing grounds due to the State's BRFA's, wind and weather fluctuations, fluctuations in current, bait preference variability, fishing depth variability, shark depredation, porpoise depredation and even loss of gear to snakefish, which makes the fishery one that is self-managed or managed by nature. He said he is beginning to feel that his time is not worth sacrificing and in good conscience cannot continue as a Council participant if the ACL is reduced from the 2014 level.

Ebisui asked Watamura to comment on his recent experiences while fishing for bottomfish.

Watamura said being a bottomfish fisherman takes a lot of skill and is very challenging. The most recent trip was an all-night trip, during which he lost gear to snakefish. He searched for fish until the sun rose and was unsuccessful.

Roy Morioka, a MHI Deep Seven bottomfish fisherman, said the ACL specification is a travesty, perversion and mockery of the MSA and Council process. The only loser is the bottomfish fishermen. The agencies failed to include any fishermen in the SSC discussion regarding the standardized CPUE used in the 2014 draft stock assessment and failed to follow an agreed-upon and published protocol for a WPSAR, which was established to improve the quality and reliability of stock assessments for fishery resources in the Pacific Islands Region. Fishermen continue to be marginalized. There has been failure to follow the NS 2 guidelines. The biomass that exists in the State of Hawai`i BRFA has not been included in any stock assessment. There are questions as to how time spent fishing is reported and how fishing skill, characteristics and technological changes over time have been incorporated in the assessments if at all. The impact of the unknown CPUE of the noncommercial MHI Deep Seven bottomfish fishermen has been ignored by fishery managers. He stressed the loss of income and future economic opportunity tied to this decision. He noted his extreme disappointment when the Council failed to hold informational meetings with the MHI bottomfish fishermen focusing on this critically important issue. He asked the Council members to suffer along with the fishermen since they failed to follow the assurances, published practices, MSA standards and Congressional directives by reducing their salaries by the same amount of income that will be lost by the 2015 ACL. Any loss of ABC below the 2014 level is unconscionable and disenfranchises the MHI bottomfish fishing community. He said the process and outcome of the ACL specification would determine his Council support going forward.

Ebisui thanked Morioka on behalf of the Council for his years of passion, contribution and sacrifices.

Layne Nakagawa, full-time bottomfish fisherman from Maui, said he produces approximately 22,000 pounds of bottomfish annually. He is very unhappy and frustrated with how the management bodies are deciding the fate of his livelihood. The bottomfish fishery is the smallest yet most highly regulated with the least amount of scientific data driving the management to make correct and fair decisions. The fishery is mismanaged. He told the Council to not use the CPUE standardization in the stock assessment as it only shows the lack of data and knowledge there is for the bottomfish fishery. He agreed that fishing reports are not reported in a consistent way by different fishermen and more outreach is needed to educate the public on how to fill out the catch report. He stressed the BRFA's need to be opened up as they are affecting the fishery in more negative than positive ways. He also suggested the use of the *SETTE* for biomass estimates and stock status research. He said to stop making irrational decisions and stressed not to use the CPUE standardization in the stock assessment.

Ebisui asked Nakagawa how his catches are now as compared to in the past.

Nakagawa said his catches are average, but in the last two to three months the catches have been substantially larger and more consistent.

Ed Ebisui III, a commercial bottomfish fisherman, said Hawai`i bottomfish fisherman make great sacrifices and effort to attend Council meetings to give testimony. He asked the Council members to have the courtesy to pay attention. He thanked Yau for her hard work, but he said he sees major flaws in the numbers she presented. They do not coincide with what fishermen are experiencing in their day-to-day job on the water. He compared it to a weather forecaster forecasting the weather without taking the time to look outside. He noted that recently he saw a huge mass of `opakapaka, but, when the fish decided to bite, it only lasted for one hour. The fishery cannot be overfished as it is a hook-and-line fishery, not a net fishery. He asked the Council members and scientists to take the fishermen seriously and fix the stock assessment model before the fishery is ruined for the upcoming fishing year. He said he does not believe the best scientific data has been used in determining the ACL options. He wished he had a big enough boat to take everyone out fishing to show them what really is going on.

Ron Tam, a retired bottomfish fisherman, asked the Council to adopt the SSC recommendation regarding the ACL for Fishing Year 2015 as the CPUE standardization factor was and remains controversial. The Deep Seven fishermen were assured that fishermen would be involved in the review, but that did not occur. The CPUE standardization factor has not been peer reviewed. The CPUE standardization factor results in a potential reduction of the catch limit by over 80,000 pounds, almost a 25 percent reduction. He asked how logical is it to accept and allow the introduction of one new factor into a model that could result in a 25 percent change in the model outcome. The model ignores the impact of the State of Hawai`i BRFA's, as well as the biomass that exists in the Kaho`olawe area. He asked the Council to recognize that the CPUE standardization factor and the inclusion of the BRFA impact deserves further review. He said 346,000 pounds is based on the current best available science.

## **I. Council Discussion and Action**

*Regarding the SSC subcommittee review of the 2014 draft MHI Deep Seven bottomfish stock assessment, the Council supported the recommendation of the SSC and SSC subcommittee that PIFSC should give high priority to incorporate additional types of data, like size data, in the stock assessment. In addition, PIFSC should continue to explore ways to further divide the species complex into smaller groupings or individual species for future stock assessments. The Council also recommended that members of the public, particularly fishing community, be consulted and provide comments prior to the independent review of the draft assessment. Finally, the Council supports the SSC's recommendation reiterating that changes in the technological efficiency and the potential bottomfish biomass in BRFA's be considered in future stock assessments.*

*Moved by Rice; seconded by Sword.*  
*Motion passed.*

Daxboeck suggested changing the wording to read, the subcommittee review of the CPUE standardization used in the draft bottomfish assessment for clarification.

Miyasaka asked for clarification as to whom the public would provide comments.

Simonds said that is related to the fishermen being consulted when PIFSC conducts stock assessments, the comments would be addressed to NMFS.

*Regarding changing the daily noncommercial bag limit for Deep Seven species, the Council deferred taking final action on this measure to ensure consistency with state law as the State Division of Aquatic Resources (DAR) will be conducting public scoping meetings on changing the state regulations of its noncommercial bottomfish bag limits. The Council directed staff to work with DAR to participate in the planned public meeting to ensure coordination and consistency between proposed state and federal measure on this issue.*

*Moved by Rice; seconded by Sword.*

*Motion passed.*

*Regarding creating an MHI bottomfish market delay to allow the sale of Deep Seven bottomfish after the closure of the fishery, the Council supported the alternative to establish a five-day market delay for the sale of Deep Seven bottomfish and directed staff to explore options to implement the action in coordination with the State of Hawai`i as part of the accountability measures if the fishery closes due to the reaching of the ACL, and, in addition, request DAR to include the market delay issue in planned public meetings to ensure consistency between state and federal measures.*

*Moved by Rice; seconded by Sword.*

*Motion passed.*

Miyasaka noted this recommendation addresses him to take an action.

Goto asked for clarification as to whether the five-day window is to complete commercial sale of catch to that point.

Mitsuyasu said the idea is to be able to clear the sale of the bottomfish that were caught prior to the closure and to allow the markets to be able to sell the fish, as well as to ensure that state and federal provisions are consistent.

*Regarding the 2014 to 2015 MHI Deep Seven bottomfish specification, the Council endorsed the SSC's P\* recommendation at 41 percent probability of overfishing and set the ABC at 346,000 pounds based on the 2011 stock assessment. The Council agreed with the SSC that the 2011 assessment is the best available science from which to base this recommendation. In addition, the Council reiterated its recognition that the fishery is not overfished nor is it experiencing overfishing. The MHI bottomfish biomass continues to be trending upward based on the 2011 stock assessment and the 2014 draft assessment.*

**Given the stable biomass, the SSC's concern regarding the significant drop in catch target by 80,000 pounds should be addressed and clarified to the SSC's satisfaction.**

**The SSC continued to have concern regarding the 2014 assessment, including a) The use of natural mortality and calculation of the minimum stock size threshold, which is inconsistent with the production model used to determine BMSY; b) Assumption that the ACLs have been maximized each year, when it is known that over the past three years the ACLs have fallen short by 221,636 pounds; and c) The assessment does not address the effects of the BRFA.**

**The 2014 draft assessment has not undergone WPSAR. The Council heard, understood, and endorsed the community's continued assertion that the fisher CPUE does not necessarily track fish abundance in this particular fishery. The release of the 2014 draft MHI Deep Seven bottomfish assessment created a situation resulting in a greater scientific uncertainty conflicting with the 2011 assessment. The sources of uncertainties are as follows:**

- **The difference in how the CPUE standardization was handled between the 2011 and the 2014 assessment.**
- **The conservative life history information of opakapaka was used as a proxy for the stock complex.**
- **Incorporation of fishing skill using CML as a proxy resulted in a significant drop in the catch projection with just a minor drop in H to HMSY ratio.**
- **Breaking the CPUE time series between 1993 and 1994 is critical, not only because it resulted in a significant drop in the catch projection, but it comes at a tail end period of a high ocean productivity as described by the fishermen in the late 1980s, making a false impression that the abundance, since the CPUE is declining during that period, had declined; shifting the break, disregarding the CML justification, in the CPUE time series may result in a different outcome.**

**The Council set the ACL equal to ABC as recommended at its 160th meeting at 346,000 pounds. In-season monitoring of the fishery will continue and projections will be made to determine the closure date as part of the accountability measure. In addition, upon final tally of catch, should the 2014 to 2015 catch exceed the ACL a reduction by the amount of overage will be applied to the following fishing year.**

*Moved by Rice; seconded by Sword.*

*Motion passed, with abstention by Tosatto.*

Leialoha asked Sabater to explain how the Council defined the fishery is not overfished or experiencing overfishing.

Sabater said, based on the status as described in the 2014 and 2011 assessments, the Kobe plot places the fishery in the lower-right quadrant where the state of the stock is not overfished and is not undergoing overfishing.

Tosatto said he would abstain from voting as he is involved in the final decision-making.

*Regarding the independent review of the 2014 MHI Deep Seven bottomfish stock assessment, the Council requested NMFS PIFSC and PIRO to coordinate with Council staff in planning for the independent review of the draft 2014MHI stock assessment and further recommends that the review be a Tier 2 review rather than a CIE review following the agreed-upon WPSAR process.*

*Moved by Rice; seconded by Sword.*

*Motion passed.*

*Further, the Council deemed that regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the MSA. In doing so, the Council directed Council staff to work with NMFS to complete regulatory language to implement the Council's final action unless otherwise explicitly directed by the Council. The Council authorizes the executive director and the chair to review the draft regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The executive director and chair are authorized to withhold submission of the Council action and/or proposed regulation and take the action back to the Council if in their determination the proposed regulations are not consistent with the Council action.*

*Moved by Rice; seconded by Sword.*

*Motion passed.*

Tucher explained the deeming language used on regulatory actions is the Council's mechanism for authorizing the executive director and chair to review regulations prior to transmitting them for action to NMFS without the regulations needing to be reviewed and approved by the Council as a body.

Ebisui said the Nominating Committee, consisting of all of the vice chairs, will meet to determine nominations for the election of officers. Goto would act in his place as chair of the meeting.

## **10. Protected Species**

### **A. Report on Hawai'i Deepset Longline Biological Opinion**

Dawn Golden, from PIRO Protected Resources Division, updated the Council on the Hawai'i deep-set biological opinion, which was recently completed, and the MMPA permit.

NMFS initiated a Section 7 consultation on June 15, 2013, which was triggered by the listing of the MHI FKW population under ESA, an observed interaction with a sperm whale that had not been previously considered in past biological opinions and the fact that the 2005 Incidental Take Statement (ITS) for leatherbacks was exceeded. The proposed action analyzed the continued operation of the deep-set fishery under the Pacific Pelagic FEP with annual effort anticipated at approximately 1,305 trips, 18,592 sets and over 46 million hooks. PIFSC provided a statistical analysis of past fishing effort from 2004 to 2012. It was anticipated that annual observed interactions would equal two humpback whales, three sperm whales, three loggerhead



turtles, 33 olive ridley, 24 leatherbacks, three green sea turtles and a small number of insular FKW due to the proration between insular and pelagic FKW populations. The Indo-West Pacific scalloped hammerhead shark was also listed under the ESA with an annual estimated take of one.

The anticipated interactions were based on models developed by PIFSC based on hooks and sets. Based on the level of anticipated interactions the proposed action will not jeopardize any of the eight species considered in the biological opinion and ITS included at the following levels over a three-year period: Humpback whale, six interactions, with three mortalities; Sperm whale, nine interactions, six mortalities; MHI Insular FKW DPS, one interaction, .074 mortalities; North Pacific loggerhead, nine interactions, nine mortalities; Leatherback, 72 interactions, 27 mortalities; Olive ridley, 99 interactions, 96 mortalities; Green, nine interactions, nine mortalities; and Indo-West Pacific scalloped hammerhead, six interactions, three mortalities. The ITS has been authorized by NMFS for a three-year period

A marine mammal ITS under ESA, a permit and NID must be issued under the MMPA, Section 101 (a) (5) (e). A notice and request for comments was published on June 12, 2014, and several comment letters were received and have been addressed. The final rule was issued on Oct. 16, which covered the take for the sperm, humpback and FKW whales.

### Discussion

Goto asked for clarification as to whether stock boundaries on the windward sides of the island were taken into consideration.

Golden replied in the affirmative, noting existing telemetry data shows that the FKWs may not travel as far as the boundaries in the overlap area depicted for pelagic and insular stocks. The boundaries have been discussed and may change based on the telemetry data. Because the numbers have not been defined, those decisions have not been finalized.

Rice asked if the Cascadia data has been released.

Golden said she did not have any information on that subject.

Tosatto replied in the negative.

Rice asked for comment by PIFSC on the data from Cascadia used in the assessments.

Seki agreed with Tosatto.

### **B. Draft 2014 Marine Mammal Stock Assessment Report**

Council staff member Asuka Ishizaki presented information on the Draft Marine Mammal Stock Assessment Report (SAR) 2014, which has not been published. PIFSC was asked to give a presentation but was not able to report at this time due to the delay in publication. Based on information presented at the Pacific Scientific Review Group meeting in April 2014, no major changes to the SAR are anticipated for stocks that may impact the Council's managed fisheries.

## **C. Updates on Endangered Species Act and Marine Mammal Protection Act Actions**

### **1. Final Determination to List Corals under the Endangered Species Act**

Lance Smith, from PIRO Protected Resources Division, reported that on Aug. 27, 2014, NMFS announced the final decision to list 20 species of corals as threatened under ESA, published on Sept. 10, 2014, and became effective Oct. 10, 2014. Of the 20 species, 15 are Indo-Pacific species, of which NMFS indicated seven occur in American Samoa, four in Guam and two in CNMI. None of the species will be listed as endangered and none are known to occur in Hawai'i. For the newly listed species, take prohibitions will not apply at this time, although NMFS may consider later whether take is prohibited. NMFS may also consider critical habitat and is soliciting information until Nov. 10, 2014, on features and areas that may support designations of critical habitat.

Next steps include a) No prohibitions relating to individual conduct, except for those related to the previously-listed elkhorn and staghorn corals in the Caribbean; b) Consultation with federal agencies on actions that they execute, fund or authorize that may affect listed corals; c) May identify specific regulations for the conservation of threatened species under a 4(d) Rule; d) Continue working with communities to help understand how the Agency's decision may or may not affect them; ESA tools available are flexible so that they can be used in a manner that will allow activity to move forward in a way that does not jeopardize listed coral; e) Continue working with partners on mitigation measures and recovery strategies for the newly listed corals, building from approaches that have shown success elsewhere; f) No ESA Section 10 research and enhancement permits are required because all of the species are listed as threatened; g) Critical habitat may be designated if determinable and prudent; h) Recovery plans may be developed to identify the criteria that must be met so that the species no longer needs ESA protection.

Smith noted some potential implications of the coral listings on fishery consultations. The Action Agency, which is SFD, evaluates FEP fisheries for potential effects on ESA-listed corals and identifies those fisheries that may affect listed corals. SFD consults with the Protected Resources Division to determine the level of effect and consults on those FEPs with fisheries that may affect listed corals. The two levels of consultation are formal or informal.

### Discussion

Gourley asked for clarification as to the 4(d) Rule process, as to timeline, etc.

Smith said the 4(d) Rule is used to determine whether take of threatened species should be prohibited for certain activities. When a species is listed as threatened the prohibitions against incidental or direct take do not take effect. There are no prohibited activities currently under the federal ESA for these newly listed species. The next step for the agency is to determine in a 4(d) Rule whether activities that result in a take should be prohibited, and, if so, how. NMFS intends to go forward with a 4(d) Rule. Not doing a 4(d) Rule is an option, but that would have to benefit the conservation of the species. An Advanced Notice of Proposed Rule-making will likely be issued in the near future.

Gourley asked about the agency's plans to designate critical habitat for the listed corals.

Smith said critical habitat is not required and only applies within US waters. Economic and national security impacts must also be considered. There is no decision as to whether critical habitat will be designated.

Gourley asked if American Samoa and the Marianas would be invited to participate in the process of designating critical habitat or the 4(d) Rule determination.

Smith replied in the affirmative, noting information was requested from the public, which includes everybody.

Gourley said the invitation referred to taking part in the formation of the proposed rule.

Smith said any information is welcome that would help in making the determination of whether the habitat within US waters is essential for the conservation of the species or not. Everyone is included in the solicitation for the 4(d) Rule and critical habitat.

Gourley asked if the listed threatened corals will affect the publication of the ACLs.

Smith said there may not be any effect if the listed corals are not affected by the fisheries. SFD would make the determination as to whether the corals are affected by the fisheries and is currently trying to consult with the Council and others who might be able to help make such a determination.

Gourley asked if the project at the CNMI Puerto Rico Dump needs to re-initiate consultation due to the corals that exist in the area.

Smith said it would be up to the Army Corps of Engineers to decide whether there is a need to re-initiate consultation based on new information of the corals being listed as threatened under the ESA.

## **2. Final Determination to List Scalloped Hammerhead Shark under the Endangered Species Act**

Pat Opay, from PIRO Protected Resources Division, updated the Council on various ESA and MMPA actions that are relevant to the Western Pacific Region fisheries and fishing communities. The scalloped hammerhead shark a final rule was published on July 3, 2014. Four scalloped hammerhead shark DPS are listed under the ESA. The Indo-West Pacific DPS and the Central and Southwest Atlantic DPS are threatened, and the Eastern Pacific DPS and the Eastern Atlantic DPS are endangered. Critical habitat will be considered for the Central and Southwest Atlantic, Indo-West Pacific and Eastern Pacific DPS in a separate rule-making. Listing of the Central Pacific DPS is not warranted.

### **3. Ninety-Day Finding on a Petition to List Seven Species of Pomacentrid Reef Fish under the ESA**

Regarding the reef fish petition, NMFS announced a 90-day finding on Sept. 3, 2014, that the petition provided substantial information indicating the petitioned action may be warranted for one species, the orange clownfish. NMFS found substantial information was not provided for the other six Indo-Pacific species. The finding, therefore, initiates a Status Review for the orange clownfish and solicits information on all aspects of its behavior, biology, threats and demographics. Comment period to solicit information for the Status Review is open through Nov. 3, 2014. The next step is to produce a 12-month finding for the orange clownfish, which is currently underway.

### **4. Green Turtle Status Review**

The Green Turtle Status Review has been completed and work is currently ongoing on the 12-month finding, which is expected soon.

### **5. North Pacific Humpback Whale Status Review**

Two separate petitions have been submitted for the delisting of humpback whales. A 90-day finding was published in August 2013. The next step is a 12-month finding, which is in progress.

### **6. Update on the False Killer Whale Take Reduction Plan Implementation**

The FKW Take Reduction Plan is being implemented. The final rule was published in 2012. Regulations went into effect in 2012 and 2013 related to gear. In 2013, the Southern Exclusion Zone (SEZ) trigger was not met and there was no closure. There was one serious injury on Jan. 29, 2013, which triggered a team teleconference. In 2014 to date, the trigger has not been met and there has been no closure. There has been one serious injury in February 2014, which also triggered a team teleconference, which was held in April. Since the last Council and SSC meeting, a FKW was observed in the deep-set longline fishery with an injury determination of “cannot be determined,” which was not counted toward the SEZ trigger.

Regarding the Take Reduction Plan, there are two working groups, a Non-longline Fisheries Group and a Handling and Release Guidelines Group. There is ongoing monitoring of the effectiveness of the plan. An in-person meeting will likely be held in the spring of 2015.

### **7. Other Relevant Actions**

Work is ongoing with the Hawai`i monk seal critical habitat status final rule. The Humphead Wrasse Status Review resulted in a 12-month finding on Sept. 26, 2014, that found listing was not warranted. The Loggerhead Critical Habitat final rule was published in July 2014. There is no critical habitat being designated in the Pacific Islands Region, but critical habitat was designated in the Atlantic.

## 8. Proposed 2015 List of Fisheries

The Proposed 2015 List of Fisheries (LOF) was published in August 2014, and work is ongoing on the final rule. The proposed changes in the LOF regarding the Pacific Islands fisheries were developed in coordination with SFD and the State of Hawai`i. The public comment period has closed. The final rule publication is expected in November. The proposed changes include a) Hawai`i aquarium collecting fishery categorized as a Category III; b) Removal of the Hawai`i lobster tangle net and Hawai`i charter vessels; c) Name changes for seven other fisheries, mainly for consistency issues with the state definitions of fishing methods; d) Splitting the Hawai`i trolling rod and reel in two Category III fisheries; e) Removal of the Hawai`i monk seal from the list of species injured or killed in Hawai`i bottomfish handline and Hawai`i lobster trap fisheries; f) Addition of the Central North Pacific Humpback Whale to list of species injured or killed in Hawai`i crab trap fishery; and g) Updates to the number of participants in many or most of the fisheries.

### Discussion

Rice asked how NMFS determines from which stock a FKW is taken.

Young said, if there is no information that can be directly linked to a particular stock such as photo-ID or genetic sample, a prorating method is used and is split amongst the likely stocks based on various factors, taking care to use the best information available.

Simonds asked when a determination is expected on the green turtle status review.

Opay replied that the completion of the green turtle status review is very close.

Simonds noted that, concerning the release of FKW data from Cascadia, it is difficult to accept that decisions and determinations are being made when NMFS only had part of the information. One problem is that in earlier contracts that NMFS had there was no obligation to release the data to NMFS. Simonds wanted to know how that issue can be fixed.

Ebisui asked what a blackfish is.

Opay said it is an unidentified toothed marine mammal.

Tosatto said the term is used to categorize an interaction with or sighting of a marine mammal and is used commonly to mean pilot whale, FKW or other small toothed marine mammal in relation to the FKW Take Reduction Plan.

Ebisui, Duenas and Rice noted that, when a FKW pod is in the area, fishermen move to another spot.

Simonds said the fishermen should be taking FKW pictures for PIFSC.

### **D. Scientific and Statistical Committee Recommendations**

Daxboeck presented the SSC recommendations as follows:

*Regarding the report on the Hawai`i deep-set longline biological opinion, the SSC requested that NMFS provide an update at the 118th SSC on the effectiveness of the management measures implemented under the FKW Take Reduction Plan, including the use of weak circle hooks.*

**E. Public Comment**

No public comment was offered.

**F. Council Discussion and Action**

*Regarding the ESA listing of corals, the Council requested **NMFS to consult and work closely with the Council and the governments of American Samoa, Guam and CNMI in developing take prohibition regulations as necessary given existing local protections for corals and, if such regulations are deemed necessary, to consider possible exemptions for activity, such as cultural and traditional activities, harbor development and fisheries that are otherwise authorized by NMFS.***

*Moved by Rice; seconded by Sword.*

*Motion passed.*

*Regarding the ESA listing of corals, the Council directed **staff to send a letter to NMFS in response to the critical habitat information solicitation. The Council believes that the critical habitat will not provide any additional conservation benefit to the listed coral species in the Western Pacific Region given that a) Governments of American Samoa, Guam and CNMI have adequate local protections for corals in place; b) Critical habitat will not aid in curtailing the threats posed by climate change impacts; and c) List of coral species occurring in American Samoa, Guam and CNMI are at the outer fringes of their geographic distributions, while critical habitat can only be designated in US waters.***

*Moved by Rice; seconded by Sword.*

*Motion passed, with one abstention by Tosatto.*

Tosatto said he would abstain from voting on the recommendation.

Leialoha asked about the statement that Territorial waters are not considered US waters with respect to critical habitat.

Ishizaki said critical habitat can only be designated in US land or waters.

Tosatto said the difference is foreign waters. Waters of the State of Hawai`i and Territories are US waters. Critical habitat can only be designated in US waters.

*Regarding the ESA listing of corals, the Council requested **NMFS PIRO to work closely with the Council in initiating Section 7 consultation as appropriate for fisheries managed under the American Samoa and Mariana Archipelago FEPs to ensure the best available scientific and commercial information are considered. The Council further***

**requested PIRO to ensure the timely completion of the Section 7 consultations given the ACLs specification deadline.**

*Moved by Rice; seconded by Sword.*

*Motion passed.*

**Regarding the FKW Take Reduction Plan, the Council requested NMFS to provide an update at the 118<sup>th</sup> SSC meeting and the 162<sup>nd</sup> Council meeting on the effectiveness of management measures implemented under the FKW Take Reduction Plan, including the use of weak circle hooks.**

*Moved by Rice; seconded by Sword.*

*Motion passed.*

Tosatto noted that NMFS will do its best.

**Regarding the FKW data availability, the Council reiterated the request to NMFS to make available the data used to determine stock status of FKWs to allow the SSC to evaluate the degree to which the Hawai'i-based longline fishery impacts this population.**

*Moved by Rice; seconded by Sword.*

*Motion passed.*

## **11. Public Comment on Non-Agenda Items**

No public comment was offered.

## **12. Mariana Archipelago**

### **A. Guam**

#### **1. Isla Informe**

Taitague reported activities that have taken place on Guam since the June Council meeting. The Guam DOA Division of Aquatic and Wildlife Resources (DAWR) conducted 16 creel surveys, noting the top five species landed in the shore-based data collection efforts, and 31 boat-based creel surveys, with the most common method of fishing as hook and line. During aerial surveys, there were no sightings of protected species.

The DOA Boat Access Program continues to support recreational boaters and fishers and transient boaters. The project was conducted in cooperation with the Department of Parks and Recreation, the Merizo Mayor's Office and the Port Authority of Guam. The Agat Marina, Hagatna Boat Basin Marina, Inarajan and Merizo Boat Ramp, and the Guam Harbor of Refuge conducted maintenance, repairs and construction improvements. There is a proposal for a boat ramp at Pago Bay, which is part of the Guam MCP. This ramp would provide the only access located in the central part of the island.

The DOA FAD Program has five FADs currently offline and is working on deployment plans. It continues to conduct inspection and maintenance of the fishing platforms, two in Ylig and one in Togcha.

## **2. Legislative Report**

Bill 401-32, an act to amend Chapter V of Public Law 32-181 relative to the protection of Guam's natural resources, provided funding for three additional conservation recruits to DOA Enforcement Division.

Representative Bordallo introduced a bill to strengthen an enforcement mechanism to stop illegal, unreported and unregulated fishing to amend the Tuna Convention Act of 1950 to implement the Antigua Convention and for other purposes.

Special permits continue to be issued for the official take of atulai, bigeye scad, i'e, juvenile jacks, and ti'ao, juvenile goatfish, in the Piti Bomb Holes and Achang Marine Flat Marine Preserve where special terms and conditions must apply.

A public hearing for the indigenous rules and regulations in accordance with Public Law 29-127 was held on Sept. 16, 2014, at the Guam Legislature. DOA has been working to develop the indigenous regulations and currently is compiling testimony and comments received. Upon completion, it will undergo a legal and administrative review by the Guam Attorney General and Governor's Office.

During an oversight hearing regarding the Merizo Community-Based Management Plan, discussion of an alternative to the indigenous rules and regulations was raised. The Mayor of Merizo requested creation of a Steering Committee so the plan could be resurrected. A meeting is scheduled to take place on Nov. 20 in the Governor's Conference Office. Progress will be reported at the next Council meeting.

## **3. Enforcement Issues**

Twelve illegal fishing arrests have been made since June, five of which were for fishing within an MPA. Some incident reports included destruction of seabed grass, turtle poaching and taking of starfish. During a recent storm, a baleen whale washed ashore. The bones were taken to UOG for research.

## **4. Community Activities and Issues**

DOA hosted a Kid's Fishing Derby in August with 67 participants catching 147 fish. It was a successful education and outreach activity for the children to learn the importance of the tradition of fishing on Guam. Calendars and posters were distributed, and outreach efforts continued regarding the Piti Pride Tepungan Wide campaign.

Rice asked if the FADs were deployed with structure underneath the FAD.

Carl Dela Cruz, Guam island coordinator, replied in the negative.



Duenas highlighted some of the topics discussed at the Oct. 16 Guam Advisory Panel meeting. Members were curious why so many NOAA research cruises were happening during 2014. The Indigenous Fishing Rights hearing was held in September. Members noted that the discussions regarding the banning of certain gear, such as scuba and use of motorized vehicles within the reef margin, did not seem appropriate. Another issue dealt with the impacts of Federated States of Micronesia citizens taking Guam's resources, such as overharvesting of sea cucumber within the reef. Advisory Panel members thought data needs to be collected on the amount that is being taken out.

The Guam Marianas International Fishing Derby was held in August with more than 80 vessels participating. It was a great year for marlin. The annual Fishermen Festival was cancelled due to storms. Fishing was slow during the summer months. The manahak run has begun. Duenas said he was hopeful that fishing would be good until the end of the year.

Dela Cruz reported the Hagatna Fishing Platform was recently approved by the Army Corps of Engineers and the ground breaking will be held in the near future.

Duenas updated information regarding the Manahak Rabbitfish Restocking Project. A raceway was arranged at the Fadian hatchery for grow-out of juvenile rabbitfish. The tanks were prepped; arrangements were made for transportation; and local fishermen successfully captured the young fish and transferred them to the holding tanks at the Fadian hatchery. The project is ongoing. A tag and release will be conducted in the future.

Dela Cruz reported the Merizo Management Plan obtained recognition and was featured on the Bureau of Statistics and Planning newsletter. A Peskadot Committee was formed by the community of Merizo. The next step for the management plan in Merizo is to form a Steering Committee, as reported on earlier in the agenda.

MRIP Phase II is part of the TSI. The project is documenting seasonal fish runs and conducting creel surveys for the DOA to evaluate common and rare fishing methods. The TSI has secured a receipt book reporting process for 10 fish markets on Guam. The Mariana Seafood Market project is being finalized. The Council will be working with the Guam Fishermen's Cooperative Association to deploy community FADs approximately 15 nm offshore.

Duenas added there are plans for deployment of a FAD in December. Permits, location for deployment and a barge have been secured. It will be deployed out of the Hagatna Boat Basin. The project has incorporated the help of the DOA kids in refurbishing the boat to be a deployment barge and working on the trailer.

Dela Cruz reported that the Council has requested staff to examine the issue of competition for fishery resources between established residents on Guam and newcomers. Hawkins will provide an update on the Micronesian Fishing Project later in the agenda.

## **B. Marianas Trench Marine National Monument Islands, Volcanic and Trench Units**

Flint reported that USFWS and NOAA Fisheries have been working on the Management Plan for the monument.

## Discussion

Gourley asked about the management plan being connected to return of the submerged lands to their rightful owner.

Tosatto said he did not recall saying the words “rightful owners,” but the President’s Executive Order that transferred submerged lands within 3 miles to the CNMI had two withholdings. One, it was subject to the development of a Cooperative Management Agreement between the Government of CNMI and the federal government involving those submerged lands that are part of the Islands Unit of the monument. The Agreement would be developed to allow the transfer to reflect there is one monument with two jurisdictions reflected in the monument management planning process. The draft management plan would be released when the transfer is close to being finalized and would contain the framework of that concept of the Territory of CNMI is the jurisdictional holder of water from 0 to 3 mile from shore of the Islands Unit of the monument and the federal government is the jurisdictional holder of the remaining waters. The Advisory Committee is working well together and making progress. Ultimately, the government of CNMI will be a management official of 0 to 3 miles of submerged lands.

Gourley asked if the subsequent conveyance would be unencumbered or linked to the management plan.

Tosatto said the US Government holds the land. In the establishment of the monument, the Department of the Interior (DOI) was placed as the management lead. The conveyance will have a clause and will be executed in said manner consistent with the monument. He said the core management philosophy in the Proclamation almost parallels the existing CNMI constitutional arrangement for the three islands, which essentially have prohibitions that are stronger than the Proclamation.

Gourley noted disappointment that the President and USFWS thought it was necessary to withhold the land in abeyance until an agreement was reached. He was concerned about how the agreement would evolve.

### **C. Commonwealth of the Northern Mariana Islands.**

#### **1. Arongol Falu**

Pangelinan reported on activities that have taken place in CNMI since the June. The DFW Fisheries Management Section Programs include fisheries research, FADs, boating access, aquatic education, fisheries’ data collection, MPAs, marine enforcement and public outreach. The programs are funded by a combination of local and federal funding. Partners include USFWS, NOAA OLE, NOAA PIFSC, NOAA National Ocean Service and the Council.

In August there was a report of a die-off of hiyok, the blue-lined surgeonfish, in Tinian. Subsequent to that, there were similar reports in Tinian and Saipan. Dr. Thierry Work from the US Geological Survey National Wildlife Health Center provided assistance and collected specimens. The latest analysis results were the fish died from an unknown natural marine toxin. Work is ongoing to specify the toxin. It was determined that the fish are safe to eat, as the toxin was contained in the fishes’ intestines, but the recommendation is to eat other species of fish.

The draft regulations for mandatory reporting of commercial fish were completed and sent to the Council for review and recommendations. CNMI is conducting a legal review before publication. Public outreach is planned to be conducted in the future. The regulation will require commercial fish vendors and harvesters to report catch information.

In September, a vessel grounded due to storm conditions in the waters off Saipan. After three days the USCG recommended the ship to move the ship into safer waters, which was accomplished. Damage assessment is ongoing.

DFW has launched a new website at CNMI-DFW.com.

## **2. Legislative Report**

DLNR supported leasing submerged lands to the Fiesta Resort and Spa to showcase the spotted stingray and nurse shark in a cage. The project has been passed by the House of Representatives and must pass through the Senate and gain approval from the Governor.

The submerged lands bill is now in the Senate for their disposition.

## **3. Enforcement Issues**

Pangelinan noted his appreciation for the continued support provided by NOAA OLE.

DFW conservation officers responded to the reports of the die-off of the hiyok, conducted 279 hours of vessel patrol and 486 hours of personnel hours. Inspections were conducted at nine fish markets and five fishing vessels. One turtle carapace was recovered, and officers also responded to reports of a dead green sea turtle floating near Banzai Cliff.

Community outreach included MPA presentations given on Saipan, Tinian and Rota and participation in radio programs regarding fisheries enforcement, fishing tournaments and the high school summer course.

## **4. Community Activities and Education**

The 30th Annual Saipan International Fishing Derby was held in July. Radio Fish talk is broadcast weekly, and the summer high school course had more than 15 students and addressed more than 15 topics. The Department also regularly reached out to high school students and participated in an annual symposium.

Pangelinan added the Marianas Trench Marine Advisory Committee has not yet identified funding for the Monument Center and is currently in the preliminary phase of public scoping on Saipan, Tinian and Rota. The next step is to develop a time frame for steps such as engineering, funding, location, etc. The DLNR secretary and the BECQ administrator were designated by the governor to negotiate with DOI and DOC on the release of the submerged lands. There are more provisions to be determined before agreement is reached.

Gourley said the PIFSC Biosampling Program in Saipan started collecting data in January 2011 and to date has measured 144,500 reef fish and surveyed over 2,000 spear catches,

comprising a commercial market composition of 160 different species of fish. He hoped to reach 200,000 fish by February 2015.

**D. Scientific and Statistical Committee Recommendations**

Daxboeck had no SSC recommendations to report in regards to the Mariana archipelago.

**E. Council Discussion and Action**

*Regarding the EEZ around Guam, the Council directed staff to write to the State Department requesting a description of the process that modified the southernmost boundary of the US EEZ around Guam.*

Moved by Duenas; seconded by Sword.

Motion passed.

Tosatto asked for clarification as to what is being asked of the State Department.

Simonds said the Council members would like understand how the situation evolved.

Tosatto said he was not informed on the topic. If the intent of the recommendation is to draft a letter to the State Department, he could get up to speed while the letter is being drafted.

*Regarding the Marianas Trench MNM, the Council requested the Marianas Trench Monument Advisory Committee provide the Council with an update on the timeline and approach for the construction of the Marianas Trench MNM Visitor's Center. In addition, the Council requested to be included as a member on the Marianas Trench Marine Advisory Committee.*

Moved by Duenas; seconded by Sword.

Motion passed.

*Regarding Guam MPAs, the Council requested the Guam DAWR provide reports on the status of marine resources in the Guam Marine Preserves.*

Moved by Duenas; seconded by Sword.

Motion passed.

**13. Pelagic and International Fisheries**

**A. Fishery Ecosystem Plan Amendment for Regional Fishery Management Organization Measures**

**1. Development of a Framework Process to Implement Regional Fishery Management Organization Conservation and Management Measures under the Pacific Pelagic Fishery Ecosystem Plan**

Council staff member Paul Dalzell presented information regarding draft domestic regulations for the Council to consider prohibiting retention of WCNP striped marlin when the

Hawai`i longline fishery reaches 95 percent of the US limit. A 2012 stock assessment resulted in an overfished evaluation of WCNP striped marlin using data up to 2011. In December 2013 NMFS informed the Council of the overfishing determination for the stock. In May 2014 NMFS published the WCNP striped marlin overfishing determination. Information presented regarding catch from 2006 to 2010 by country illustrated that the US is responsible for approximately 14 percent of the catch and Japan 66 percent, with the balance caught by Taiwan and Korea.

In 2010 the WCPFC issued CMM 2010-01, stating that total catch of North Pacific striped marlin will be subject to a phased reduction such that by Jan. 1, 2013, the catch is 80 percent of the levels caught in 2000 to 2003.

Approximately 93 percent of striped marlin is landed by longline fisheries, with 38 percent non-longline striped marlin caught annually by the charter vessel fleet. About 75 percent of the longline-caught striped marlin catch is from the Western and Central Pacific Ocean (WCPO). US historical longline catches in the North WCPO have ranged between 200 mt to 700 mt. Under CMM 2010-01 applied to the 2003 period, it would equate to a catch limit of 457 mt, which 95 percent equals 434 mt. At the 160th Council meeting, action was taken to prohibit retention when the Hawai`i longline fishery reaches 95 percent of the US limit.

Dalzell presented background information related to the Hawai`i historical catch, longline catch relative to the accountability measure and discard and disposition of striped marlin. Striped marlin is a seasonal fish for both the longline fishery and troll fishery, with the peak of catch in late spring, early summer.

Options presented for Council consideration regarding establishing a framework for domestic measures included the following:

- No Action, do not establish a framework to implement Regional Fishery Management Organization (RFMO) measures.
- Establish a framework within the Pacific Pelagic FEP to specify catch or effort limits provided by RFMOs and applicable to US pelagic fisheries in the Western Pacific Region, which is the preliminarily preferred alternative. This option would allow Council to implement domestic measures stemming from RFMOs under the MSA. However, this option may take time to implement and management needs may change in the interim.

Options presented for Council consideration for a WCNP striped marlin catch limit included the following:

- No Action, no specification of ACLs for striped marlin in Hawai`i's pelagic fisheries.
- Specification of an ACL for striped marlin catch limit of 457 mt for Hawai`i's pelagic fisheries, which is the preliminarily preferred alternative. This option would be consistent with WCPFC CMM 2010-01. This option may limit volume of fresh striped marlin landed in Hawai`i, regardless of demand. There may be substitution for other pelagic fish, including imports, and may also increase bycatch.

Options presented for Council consideration for a WCNP striped marlin accountability measure included the following:

- No Action. Do not establish accountability measure.
- Prohibit all striped marlin retention when limit is reached.
- Prohibit retention in Hawai`i longline fishery when 95 percent of catch limit, 434 mt, is reached by longline fishery, which is the preliminarily preferred alternative. This option would be consistent with WCPFC CMM 2010-01. The Hawai`i longline fishery is intensively monitored. The measure would not impact the troll and charter fishery. This option could be perceived as inequitable by the longline fishery and may limit volume of fresh striped marlin landed in Hawai`i, regardless of demand. There also may be substitution by other pelagic fish, including imports, and may increase bycatch.

Council was asked to deliberate on the following actions:

- Whether or not to amend the Pacific Pelagic FEP to include a framework for domestically implementing two RFMO CMMs.
- Whether or not to specify an annual striped marlin catch limit of 457 mt for Hawai`i's pelagic fisheries.
- Whether or not to prohibit retention in Hawai`i longline fishery when 95 percent of the annual catch limit of 434 mt is reached by the longline fishery.

### Discussion

Goto said it is encouraging to see that the Hawai`i-based longline fishery had never historically hit the proposed limit on striped marlin but it is disconcerting what could happen if it did. It is such a small niche that it is unfortunate to consider discards at all when it comes to the North Pacific striped marlin.

Dalzell cautioned that in the recent past the limit was not hit but 10 to 20 years ago it was possible to have hit the limit. This stock has been quite severely depleted so the chances of hitting the limit are relatively small. In the stock assessment the authors talk about a constant catch strategy of fishing about 3,600 mt per year should improve recruitment between 50 and 120 percent by 2017. The WCPO has been catching 2,500 mt to 3,600 mt per year. If there is a recovery, then it is possible the limit would be reached and the closure would go into effect.

Goto said, if in the 2015 calendar year there were a massive stock recovery and this were reflected in the longline catch, the fishery would still be held under the accountability measure.

Dalzell agreed. The amendment and regulations would have to be in place, but that is something that would be taken up by the Scientific Committee and WCPFC, as the measure may need to be modified.

Rice asked if there were more longline boats when the limits were reached years ago.

Dalzell replied in the negative, the number of longline vessels 10 or 15 years ago was from 120 to 125 vessels.

Rice asked if Japan is putting a measure through the WCPFC, as they catch two-thirds of the reported landings.

Dalzell said he did not know what domestic measures Japan will be offering with respect to striped marlin. He noted that the Japanese longline fleet has been shrinking.

## **B. Bigeye Stock Status**

Kingma reviewed the bigeye stock status and provided background information as it relates to bigeye and the WCPFC and IATTC. Bigeye tuna is a Pacific-wide stock and requires international management. Bigeye is managed and assessed separately in the WCPO and Eastern Pacific Ocean (EPO) by the WCPFC and the IATTC, respectively. Stock assessments were conducted in 2014 for bigeye in both Convention areas. According to the stock status determination reference points established under the Pelagic FEP, the most recent stock assessment indicate that bigeye overfishing is occurring in the WCPO but the stock is not overfished in the WCPO or EPO.

The WCPFC and IATTC manage bigeye through separate management measures, with varying degrees of success. WCPFC CMM 2013-01 contains provisions applicable to purse-seine and longline fisheries, specifically a seasonal FAD closure and FAD set limits for purse-seine and flag-based longline bigeye catch limits. The bigeye catch limits applicable to the Hawai'i longline fishery and to the US Territories are established under WCPFC CMM 2013-01.

Bigeye tuna tagged in the equatorial region are caught in the area tagged, which indicates not much movement out of the equatorial zone. It is believed the bigeye caught by the Hawai'i longline fishery is representative of higher latitude bigeye stocks. The connectivity between the areas is not well known.

The WCPFC and IATTC share overlapping areas of jurisdiction. The WCPO is the world's largest tuna fishery and represents 80 percent of the tuna catches in the Pacific with the remaining 20 percent of the catches from the EPO. It is primarily driven by the purse-seine fishery targeting skipjack and yellowfin, albacore and bigeye. Bigeye represents a small fraction of the total tuna catches in the WCPO and EPO.

The most controversial elements to the measure are applicable to bigeye relating to purse seine, longline and other fisheries with exemptions for almost every country. US Territories are categorized in the Commission as Small Island Developing States (SIDS), with commensurate rights to develop fisheries and to limit the conservation burden on the territories and is also managed through CMM 2013-01. Measures for 2015 and 2017 are all contingent upon disproportionate conservation burden, meaning SIDS are unwilling to accept any additional FAD measures for purse-seine fisheries that are fishing in their waters unless the conservation burden is addressed or eliminated. Many measures that apply to purse seine are contingent on addressing the disproportionate burden issue.

Longline catches of bigeye have been reduced by 40 percent from 2001 to 2004 levels. There has been substantial reductions in longline catch limits over the years and continue to 2017 under CMM 2013-01. A new provision applicable to longline fisheries within the management measure is that, if catches are exceeded by countries, the overage is supposed to be deducted to the following year's quota, which is the first time there has been any level of potential sanctions within a Commission CMM. No longline catch limits are applied to the SIDS or Territories.

The WCPFC11 is scheduled to take place December 2014. There have been calls for additional bigeye reductions of 36 percent to fishing mortality from 2008 to 2011 levels. The list of issues includes disproportionate burden, overcapacity issues and ineffective purse-seine FAD measures. Suggested Council recommendations include considering bigeye stock status, recent purse-seine and longline catches, international and domestic measure recommendations, ways to make the seasonal purse-seine FAD closure more effective, revenue to Pacific Islands Countries with fishing effort and fish supply, purse-seine bigeye limits, electronic reporting, FAD removal during FAD closure, spatial management for purse seine and longline, and territory catch and allocation limits for 2015. Council staff will present the results of the WCPFC11 meeting at the Council's March meeting.

### Discussion

Goto said the scope of international fishery management is extremely complex and the WCPFC process is very tedious and moves at its own pace.

Simonds agreed. Participants have to learn fast. The US won't have a fishery if it continues to operate at the annual Commission meeting the way it has in the past. Several times the US Delegation should have stood its ground so there would not be a consensus on certain measures. There is concern things will follow the same route at the next meeting because other countries with exemptions continue to have the same bigeye quota they had before, but the US does not have exemptions and quotas do not remain at the same level. The US is the only country monitoring the quota and implementing domestic regulations. Yet, the US does not say anything and then takes a reduction. This year is a crucial meeting and US fisheries cannot afford to take another longline reduction. The US needs to find its friends and consider sanctions provided for in the MSA. The US Delegation should draft a proposal that says the purse-seine vessels need to have a bigeye quota. The US needs to make a strong stand.

### **C. Hawai'i Yellowfin and Bigeye Commercial Minimum Size Limit (Action Item)**

Dalzell presented options for changes to the commercial minimum size of `ahi (yellowfin and bigeye tuna) caught in federal waters around Hawai'i. The current commercial minimum size for is 3 pounds, a very small size compared to the life history of both species. Some islands, such as Maui, have many roadside fish vendors selling small `ahi to low-income families. Some supermarkets on the Big Island sell 3- to 10-pound `ahi. Fish brokers such as Suisan are not currently accepting fish less than 20 pounds. Small `ahi may be substituted for aku that was once landed by the aku fleet. Whole small `ahi, including bones, may be entirely consumed. The change in minimum size may not be popular among low-income families.



Dalzell presented information on yellowfin and bigeye life history and growth schedule. The species grow rapidly. One of the aspects of the rapid growth rate is the natural mortality rate is lowest at just after one year old. After this, the natural mortality rate begins to increase. The current 3-pound limit for `ahi means fish less than one year old of both species are being caught and sold. For yellowfin, scientific evidence from tagging and otolith microchemistry indicate that from 80 to 90 percent of the yellowfin that stem from spawning in waters around Hawai`i stay in Hawai`i waters. Research shows that natural mortality rates of Hawai`i yellowfin drop to their lowest levels at fairly small sizes. Many will survive and grow after this age. If yellowfin are not harvested at very small sizes, these fish will not be lost to natural mortality or migration. Yellowfin that reach two years old quickly grow to reproductive size and contribute to local spawning and stocks. While bigeye live longer and grow more slowly to their maximum size, they have a similar biology to yellowfin when small and experience their lowest natural mortality rates at between 10 and 20 pounds.

Options to consider presented to the Council include the following:

- Option A: No Action, maintain current minimum size. There would be no additional regulatory burden and a continued supply of small, cheap ahi for low-income families. Fish are caught before they have chance to mature and spawn.
- Option B: Establish a new 10-pound minimum size for yellowfin and bigeye from federal waters. This would allow more fish to mature and spawn and improve recruitment to ahi population. There would be an increased administrative burden. Fish less than 10 pounds comprise 23 percent of all troll and handline-caught yellowfin and 8 percent of bigeye. There would be significant impacts to fishermen and consumers.
- Option C: Establish a 20-pound minimum size for yellowfin and bigeye from federal waters. This would allow greater proportion of fish to reach maturity and improve recruitment to ahi population. There would be an increased administrative burden. Fish less than 20 pounds comprise 32 percent of all troll and handline-caught yellowfin and 52 percent of bigeye. There would be significant impacts to fishermen and consumers.

Action items presented for Council deliberation were as follows: 1) Should commercial minimum size of `ahi from federal waters be increased? 2) What should the new minimum size be, 10 pounds, 20 pounds or something else? It was noted that, if federal minimum size is changed, Council action will need to be complemented by regulatory change to State of Hawai`i `ahi commercial minimum size.

### Discussion

Rice said the fishermen on the Big Island have discussed minimum size of 10 pounds as acceptable. Experienced fishermen will be able to determine the weight. The disadvantage of a length measurement is that more fish will be released, placing more stress on the fish.

Miyasaka said it would have to be a collaborative effort so fishermen don't have to deal with two different size limits.

Ebisui asked if the State has a preference on whether or not to change the commercial minimum size.

Miyasaka said the State would prefer to increase the size. There seems to be quite a bit of support to change it. Natural mortality peaks at about 10 pounds, which will be one option presented.

Deisher said the USCG would not be able to enforce a weight limit at sea because there is no ability to calibrate scales but it would be enforceable pier-side.

Rice asked if the State would inform the Council after public outreach is completed about the State's plans.

Miyasaka said the idea would be for the Council and State to work collaboratively. It would be a simple thing to change the 10 pounds to a size restriction, which would equate to about a 24-inch fish and would be easier to measure.

Goto asked about the economic impact to the various sectors of the fishery.

Rice said he did not think many people are selling fish less than 10 pounds and the Big Island broker houses do not accept that size of fish. Fish of that size are sold on the side of the road, which is illegal.

Duenas noted the enforceability issue and the difficulty of determining the weight of a fish. He suggested using number of small fish as a trigger for enforcement.

Simonds said the 3-pound limit has never been an enforceable federal or State management measure.

Miyasaka disagreed, noting that enforcement of the 3-pound size limit does occur in the market and on the roadside.

#### **D. American Samoa Albacore Catch Limit in the Exclusive Economic Zone (Action Item)**

Kingma presented statistics on the performance and economic viability of the American Samoa longline fishery that the Council requested from PIFSC. Graphs and figures were shown that compared effort in terms vessel participation between the first and second quarter of 2013 and the second quarter of 2014. In the first quarter of 2014, there were 16 vessels operating, which is a small drop in number of vessels participating in the fishery compared to 2013. With respect to the CPUE of all species, 2013 to 2014 show similar patterns, although lower than average and much lower than the historical maximum. The most important species is albacore, the main catch of the longline fishery. Albacore is at reduced levels of CPUE from 2013 in both quarters. There has been a drop-off from the historical maximum of 36 albacore per thousand hooks to 11 albacore per thousand hooks in 2014. Total CPUE is similar to last year, but with a 27 percent lower value than the long-term historical average. The albacore CPUE is lower than 2013, but with a 45 percent lower value than the average.

In 2001, the annual revenue of the vessel was about \$650,000, with returns on that vessel at about \$170,000. In 2009, profit was reduced to about \$6,000 per vessel. The revenue on a per set basis has been going down since 2006. In 2013 the fishery was losing money on a per set basis, and 2014 may be worse than 2013. The fishery is at a crossroads between profits and losses. Last year was the worst year in the history of the fishery in relation to lower catch rates, higher fuel prices and lower fish prices. The main factor is catch rates. If a vessel cannot load up to its optimal level, even with a lower fuel price and fairly stable fish prices, the fishery will not be economically viable.

The American Samoa longline fishery is dependent on South Pacific albacore. South Pacific albacore is found in the WCPO and the EPO with approximately 85 percent of catches occur in the WCPO. South Pacific albacore is caught with longline. Prior to 2001, the South Pacific fishery was operating at fairly stable levels of around 40,000 mt of catch. After 2002, conventional mono-hull longliners entered the fishery fishing in the EEZs and the high seas with an increasing catch trend. There was an increase of 25 percent over the period between 2000 and 2008, principally from a ramp-up of Chinese longline fishing effort. Record regional catch was in 2010 of over 88,000 mt. The catch in 2013 was 81,000 mt.

The American Samoa highest catches occurred in 2002 with a peak catch of 6,000 mt. In 2013, catch was 2,000 mt. The American Samoa longline fishery fishes principally within the US EEZ around American Samoa, with a small amount of high seas effort. Neighboring countries have increased their access agreement value costs making it difficult for US longliners to get permits. The area with no effort is the Large Vessel Prohibited Area, which is off limits to longline vessels larger than 50 feet.

With respect to international management, the WCPFC agreed to a measure in 2005, replaced by a similar measure in 2010, stating that countries should not increase the number of fishing vessels actively fishing for South Pacific albacore in the Convention Area, which has not been effective. The Te Vaka Moana Group, a Polynesian subgroup of the FFA, has been raising the alarm with their domestic longline fisheries, which are in a similar condition as the American Samoa longline fishery. Vessels tied up in 2013. They are proposing to change the management regime to collectively work together to establish EEZ-based limits with the Proposed Tokelau Arrangement and flag-based high seas catch limits working through the Commission, as well as working through the Commission a total catch limit of South Pacific albacore. There is a need for coordinated and effective international management, and to meet this objective the high levels of cooperation among Pacific Island Countries and distant water fishing nations are required.

The purpose of the Council's action is to consider EEZ-based catch limits of albacore that are consistent with the regional approach being proposed. New information regarding catch estimates that have occurred out of the American Samoa EEZ was received by PIFSC recently, as well as data on catch estimates provided by the SPC. The changes in catch limits were minor but different in terms of catch estimates for the EEZ.

China is catching most of the stock in the region. Currently, China is catching 24,000 mt of albacore, whereas in 2005 they were catching only 4,000 mt. Chinese vessels are highly

subsidized across the board for their costs in construction of vessels, crew, access agreements and operating costs and for transporting fish back to China.

The proposed Tokelau Arrangement text was finalized internally. It will next move to the formal FFA Committee and then to the countries for signature. As part of the agreement, full participation is open to FFA countries and territories within the region have the opportunity to become Associate Participants.

The objective is to promote optimal utilization and conservation and management for the following: a) Maximizing economic returns, employment generation and export earnings from sustainable harvesting of resources; b) Supporting the development of domestic and locally based fishing industries; c) Securing an equitable share of fishing opportunities and equitable participation in fisheries for the resources for Participants; d) Increasing control of the fishery for Participants; e) Enhancing data collection and monitoring of the fishery; and f) Promoting effective and efficient administration, management and compliance and encouraging collaboration between Participants.

Management of the stock would be considered at an annual meeting. They would consider regulation of catch and/or effort harvest strategies, catch allocation and cooperative measures on a sub-regional level.

To be an Associate Participant to this arrangement they are requesting that at a minimum EEZ-based albacore limits be established.

Kingma presented the following options:

- Option 1) No action. Do not establish any limit. It would not require any in-season management for monitoring this limit. The con is it would not support regional coordination with FFA countries with the long-term objective of producing catches associated with Maximum Economic Yield.
- Option 2) Establish an annual longline catch limit of 5,418mt of albacore for the EEZ around American Samoa. It would support this regional coordination with this long-term objective of producing maximum economic yield. The cons would include an administrative burden and in-season monitoring of the catch. The less catches are reduced across the entire range of the stock, the less effect to the stock status. The poor economic conditions experienced by the American Samoa longline fleet would not necessarily be solved by putting in this limit. To be effective in addressing the stock status issue, WCPFC would need to adopt commensurate high seas limits and total catches.
- Option 3) Establish an annual longline catch limit of 2,628 mt of albacore for the EEZ around American Samoa. It would support regional coordination with FFA countries with the long-term objectives of producing catches associated with maximum economic yield. The cons are same as Option 2, except there is a much greater potential for reaching the limit.

The Council was asked to consider taking initial action to establish an albacore EEZ limit for American Samoa and consider recommending that the US support a more comprehensive South Pacific albacore measure at WCPFC11.

### Discussion

Rice asked about the risk of the fishery being closed.

Kingma said, if catch increased from the last five-year average, that would be a possibility given the current level of active vessels.

Rice asked whether such an event would cause any change in the FFA agreement.

Kingma replied in the negative. There is no agreement at this time. This is the initial look at taking a sub-regional approach. The ability for the Council, NMFS and American Samoa to work together on the EEZ-based limit is independent but consistent with what the FFA is doing. The efforts are moving towards the direction of working together to ensure that catches are at levels associated with being much more economically viable and to limit access agreements sold to foreign fishing vessels.

Tosatto agreed with participating in the regional thinking. The Territories and American Samoa, as a Participating Territory in the WCPFC Convention, get a seat at the table.

Simonds said every arrangement is different. She did not favor the five-year average arrangement since how other countries report data is common knowledge. The US always does the right thing in regards to reporting and is always penalized. She agreed to regional cooperation but did not agree to take a reduction from the highest level of catch.

Sword noted that in 2002 the fishery was at its peak in American Samoa and it has substantially reduced in the last five years. He agreed with Simonds' comment on the importance of the timing. Two canneries are ready to come onboard, so it does not make any sense to reduce limits now.

Kingma agreed. However, he said, considering the issue, there are opportunities for cooperative measures. It makes sense to ensure that there is some buffer for an increase in the existing level of catch and for potential of sharing in some kind of multi-national arrangement.

Simonds said, if the Council wants to limit the catch, it should not go any lower than the highest recorded catch.

Kingma said this is initial action for the Council. The item will come before the Council again for final action. The numbers are subject to change, but he did not expect substantial deviations.

### **E. Disproportionate Burden Workshop**

Dalzell presented an overview of the Disproportionate Burden Workshop that was held in September at the Council office. Disproportionate burden is a concept first deliberated on in the

UN Convention of the Law of the Sea in 1982. It was again part of the UN Fish Stocks Agreement in 1995 and the Honolulu Convention in 2000, which implemented the WCPFC Convention guiding text. It is the idea that, in setting fishing regulations, countries that are developing economies or intermediate economies may have to absorb a greater proportion of the burden of implementing management measures than those countries with industrial or developed economies. Disproportionate burden became explicit in Cairns at WCPFC10 through CMM 2013-06; all CMMs must consider the disproportionate burden to SIDS of any measure.

The workshop had three basic objectives: 1) Define what disproportionate actually means. 2) Develop a method to measure disproportionate burden on an individual state or group of states. 3) Develop a mechanism whereby state or group of states can be compensated for disproportionate burden.

In addition to CMM 2013-06, the Japanese successfully inserted language in the 2013 Commission meeting report that said disproportionate burden could be assessed for any community but is mainly concerned with SIDS, such as Kiribati, Tuvalu and the Cook Islands.

Dalzell provided a brief review of participants attending the workshop and agenda and the outputs and actions, including an executive summary report and a more complete report with presentation summaries and participant bios. The PAC of the WCPFC has considered the executive summary. Adoption of the executive summary by the US Delegation and circulation to WCPFC member countries ahead of the WCPFC Chairs Workshop on Disproportionate Burden has taken place.

Paul Callaghan, Council SSC member, said disproportionate burden has been around since the Law of the Sea Treaty. Although it appears in many international documents, it has never been defined. Objectives of the workshop were to arrive at a definition for disproportionate burden and determine methods as to how to measure disproportionate burden considerations and compensation alternatives, which was accomplished. The definition of a proportionate burden exists when the costs incurred by an individual country are exactly its fair share of the total costs. A disproportionate burden exists when the costs incurred by an individual country are greater than its fair share of the total costs. The crux of the issue is what is a fair percentage share and how is it determined.

Callaghan described four economic principles to determine a fair share. The Commission has a mandate by international law and by treaty to avoid or compensate for disproportionate burden, but three factors have to be in existence before there is a requirement for the Commission to compensate: 1) A disproportionate burden must exist, i.e., the country's costs have to be greater than its fair share. 2) The Commission would set some standard for how much disproportionate burden is worth considering. 3) In order to be compensated for disproportionate burden a country has to be a SIDS, according to the official United Nations list of SIDS.

The workshop discussed many other issues, such as determining a baseline. A baseline specifies cost and benefit levels that would exist without a management measure. The values of costs and benefits and harm and wealth change over time thus requiring annual updates and/or consideration of net present value. Costs and benefits and harm and waste are measured as expected future estimates and, as such, are subject to variation and uncertainty and are best

measured through the use of a bio-economic model, which does not exist yet. WCPFC science providers have made effort on such a model.

Callaghan noted that the best solution in many peoples' minds is to avoid disproportionate burden in the first place when designing the management measure, which involves subjective judgment as to fairness. It requires consensus and compromise that may cause inefficiencies, higher costs and lower revenue to all. Another possibility is offsetting for disproportionate burden once it occurs. Pass the best possible management measure and then pay the countries that are disproportionately burdened in cash or some kind of regulatory exemption. This requires precise, costly modeling and analysis. It would involve administrative, information and transaction costs and may distort incentives in ways that distract from conservation goals. Economists generally would prefer transferrable rights credit systems, or quotas, that allow market forces to allocate and compensate for disproportionate burden.

The workshop gave the following advice to the WCPFC regarding how to proceed:  
a) Define and assess the disproportionate burden. b) Assign responsibility for demonstrating disproportionate burden. c) Provide evidentiary standards. d) Offer dispute settlement. e) Get independent experts and peer review. f) Use best available science. g) Involve transparency and stakeholder engagement.

Callaghan noted that the results of the workshop will feed into the WCPFC meeting in Samoa, which will have a one-day workshop on disproportionate burden.

## **F. International Fisheries**

### **1. Western and Central Pacific Fisheries Commission Science Committee**

Keith Bigelow, from NOAA PIFSC, presented an overview of the 10th meeting of the WCPFC Science Committee, which was held in August in Majuro. The US Delegation included five participants from NOAA and two from industry. The topic of interest to the Council is a review of the fisheries in the WCPO and the status skipjack, yellowfin and bigeye tuna stocks in the WCPO, as well as limit and target reference points.

Within the Science Committee, there were four major themes: data and statistics, stock assessment, management issues and ecosystems and bycatch mitigation.

The total catch was 2.6 million mt in 2013, second highest on record, down slightly from 2012. Purse-seine fishery caught a record 1.9 million mt, or 72 percent of the total catch. The longline fisheries caught 230,000 mt, or 9 percent of the total catch. The pole-and-line fishery caught 220,000 mt, lowest decline since the 1960 and other fisheries, such as the Philippines and Indonesia caught about 10 percent of the catch.

By species, the purse-seine fishery catch of skipjack equaled about 1.8 million mt, which is the highest on record. Catch of yellowfin declined 21 percent to 500,000 mt. Bigeye catch equaled 158,000 mt, relatively stable through the last couple of years. Catch of albacore from the North and South Pacific stocks totaled about 143,000 mt, the second highest on record. The purse seine fishery in 2013 had 297 active vessels, up from 205. The purse seine fishery had a

record skipjack catch in 2013, 350,000 metric tons of yellowfin, and a record 82,000 tons of bigeye. The ex-vessel value of the purse-seine fishery has decreased by \$88 million to \$3.94 billion due to lower skipjack prices at canneries. The trajectory through time of catch of unassociated sets, sets on free-swimming schools, equaled 68 percent of the effort and 53 percent of the catch. Drifting FAD sets have ballooned since 1995 and currently is 23 percent of the effort and 36 percent of the catch.

The longline fishery in 2013 caught 65,000 mt of yellowfin and bigeye, the lowest amount since the 1990s. Albacore catch was over 100,000 mt, second highest on record. The ex-vessel value of the longline fishery has decreased by \$592 million, or 32 percent, from 2012 to \$1.25 billion, due to lower prices of bigeye.

WCPFC has conducted 14 different species stock assessments. In 2012, the Science Committee conducted a peer review of the bigeye stock assessment that resulted in 24 assessment recommendations. The SPC addressed 20 of the recommendations. The peer review also had 13 recommendations for the assessment platform MULTIFAN-CL. Six recommendations were implemented, such as spatial structure changed to nine regions for bigeye and yellowfin and five for skipjack. Other improvements included incorporating catch from the Japan coastal longline fishery and Vietnam, improving the longline and purse-seine size data sampled in American Samoa, and longline and purse-seine CPUE data. For skipjack, the yield estimates were similar to 2011 assessment, but the rapid increase in fishing mortality observed in the final years of the 2011 assessment has continued. Kobe plot illustrated that the exploitation is increasing. The MSY and stock status reference points for yellowfin were similar to the 2011 assessment. Fishing mortality is slightly lower, but depletion levels are slightly increased. Overfishing of bigeye is occurring. The stock is currently overfished with regard to the adopted WCPFC reference points. MSY has increased because of the additional catches and improvements to the assessment. The stock has continued to decline since 2010, and both fishing mortality and depletion reference points suggest a poorer stock status.

Some of the recommendations from Science Committee for WCPFC11 are as follows:

- The spawning biomass of skipjack tuna is now around the mid-point of the range of candidate Target Reference Points of 40, 50 and 60 percent of unfished spawning stock biomass that WCPFC10 has asked that Science Committee to consider for skipjack. The Science Committee recommends WCPFC take action to avoid further increases in fishing mortality and keep the skipjack stock around the current levels, with tighter purse-seine control rules and advocates for the adoption of Target Reference Points and harvest control rules.
- The catch of yellowfin tuna should not be increased from 2012 levels that exceed MSY and measures should be implemented to maintain current spawning biomass levels until the Commission can agree on an appropriate Target Reference Points.
- Fishing mortality on bigeye tuna should be reduced. A 36 percent reduction in fishing mortality from the average levels of 2008 to 2011 would be expected to return the fishing mortality rate to FMSY. This reduction of at least 36 percent should also allow the stock to rebuild above the Limit Reference Point over a period of time. This recommended



level of reduction of fishing mortality could also be stated as a minimum 33 percent reduction from the 2004 level of fishing mortality or a minimum 26 percent reduction from the average of the 2001 to 2004 level of fishing mortality.

- With regard to Projections for Management Operations Workshop 3 and WCPFC11, the Commission should consider the results of updated projections at WCPFC11, including evaluation of the potential impacts of CMM 2013-01, to determine whether the CMM will achieve its objectives, including impacts of the skipjack fishery on bigeye and yellowfin tuna.

The SC proposed budget for 2015 is US\$1.5 million. The proposed 2015 assessments are Pacific-wide bigeye tuna in collaboration with the IATTC and the South Pacific albacore.

## **2. Western and Central Pacific Fisheries Commission's Northern Committee**

Tosatto presented the results of the Northern Committee meeting held in Fukuoka, Japan. The committee focused on northern stocks of the Pacific bluefin, North Pacific albacore, North Pacific blue shark and North Pacific swordfish. No action was taken on North Pacific swordfish, as the stock is in a good condition. The North Pacific albacore stock is also in good condition. The Northern Committee has been working to develop a management framework for the stock that would set reference points and put a harvest control rule in place. It is hoped that this works its way through other stocks in the Commission using the results of the Management Objectives Workshop. The measure affects the US troll fisheries off the West Coast.

The Pacific bluefin stock is overfished, with overfishing occurring in Japan and the Sea of Japan and off the West coast of Central and North America by Mexico and United States. The IATTC will be dealing with the Pacific bluefin stock in the December meeting. The Northern Committee began work on a rebuilding plan and set an interim rebuilding target based on the recent historic average level of catches. The goal is to build to a level of at least 20 percent of the unfished biomass. Action was taken to limit fishing to 50 percent of the baseline level of the 2000 to 2002 catch levels. The IATTC is also working on reductions that are sufficient to reduce fishing mortality and allow rebuilding to occur. The Northern will continue to address rebuilding of Pacific bluefin in 2015 to establish a higher reference point and continue these measures until the higher reference point is reached.

Tosatto said the Council has only a limited amount of impact on the northern stocks. Northern Committee recommendations are only recommendations until adopted by the Commission.

## **3. Western and Central Pacific Fisheries Commission's Technical and Compliance Committee**

Kingma presented the report from the Tenth Regular Session of the Technical and Compliance Committee (TCC) of the WCPFC held in September in Pohnpei, Federated States of Micronesia. The major issues of the meeting included Compliance Monitoring Review, Port State Measures, of which a CMM will likely be adopted in the near future requiring a level of

inspections for foreign vessels landing in, principally, American Samoa and Guam. Another issue was a Catch Documentation Scheme, which was the topic of a working group regarding traceability-type issues that the Commission is considering. The TCC formed an Electronic Monitoring and Reporting Working Group to develop standards to be adopted by the Commission in December.

The Compliance Monitoring Review took up the bulk of the meeting. It was a lengthy process and was not open to the public, which may be a point of controversy going forward within the Commission. The review is based on member-submitted information with required reports to be provided to the Commission on an annual basis. The Secretariat is also reviewing information for compliance with CMMs, such as purse-seine FAD closure violations. It is still unclear whether members have implemented their obligations under domestic law and are enforcing their obligations with on-the-water enforcement, dockside, etc. If noncompliance is identified, no mechanism exists to provide a country with lower quotas, fine them or place sanctions. Major compliance issues included the FAD closure, longline five percent observer coverage, what constitutes the requirement, especially in the Asian DWFNs, and the non-provision of operational data. The Commission has to adopt the Compliance Monitoring Review at the WCPFC11.

The issue surrounding the non-provision of operational data is that the Asian distant water fishing nations are not submitting high seas operational level data and are taking advantage of a provision that allows aggregate data to be submitted if providing operational data is unauthorized under domestic law. The resulting data gaps affect compliance monitoring, stock assessments, catch reporting and identifying target shifts, assessing management effectiveness, catch attribution and disproportionate burden issues.

Kingma pointed out that there were no overages reported of longline bigeye quotas. There are provisions that require capacity limits in CMM 2013-01, but no transfer mechanisms.

Noncompliance continues to be a major issue in the Commission. The US is still the only nation that demonstrates domestic information and high levels of enforcement. There are no mechanisms to respond to noncompliance, which needs to be addressed as soon as possible.

#### **4. US Permanent Advisory Committee**

Goto reported that the PAC met in October in Waikiki. All US Commissioners were in attendance. Simonds began and ended the meeting stating the importance of the US Delegation taking a stance against accepting any more cuts to the US quota within the Commission. Some of the topics of discussion included spatial management and disproportionate burden.

##### **G. Expansion of the Pacific Remote Island Areas Marine National Monument (Action Item)**

Dalzell presented information on the expansion of the PRIMNM, which encompasses Wake, Johnston, Howland and Baker, Palmyra, Kingman Reef and Jarvis. The monument was established in 2009 by President Bush. President Obama expanded the boundaries from 50 nm out to 200 nm for Wake, Johnston and Jarvis and instituted a complete closure of commercial fishing within the US EEZs around these islands. He left the original 50-nm monument

boundaries in place at Howland, Baker, Palmyra and Kingman Reef. The original PRIMNM area was 65,600 square nm, or 4 percent of the US EEZ in the Western Pacific Region. The new PRIMNM area is about 373,926 square nm, or 65 percent of the EEZ around the PRIAs and 22 percent of the US EEZ in the Western Pacific Region. Total monument area in the Western Pacific Region equals over half a million square nm, or 30 percent of the Western Pacific Region.

Dalzell presented the options for Council consideration:

- Option 1) No action. The Council would not recommend amending the Pelagic and PRIAs FEP through the MSA process.
- Option 2) The Council would recommend regulatory amendments to the PRIAs and Pelagic FEPs to expand the PRIMNM to the outer boundary of the EEZ around Jarvis, Johnson and Wake Islands. Through the extension of the boundaries, the regulations that currently apply within the PRIMNM would be extended to apply within the new boundaries of Jarvis, Johnston and Wake Island areas of the PRIMNM. Commercial fishing would be prohibited within the extended boundaries of PRIMNM with Jarvis, Johnson and Wake Islands, whereas noncommercial fishing would be allowed.

## **H. Scientific and Statistical Committee Recommendations**

Daxboeck reported the SSC recommendations as follows:

*Regarding FEP amendment for RFMO measures, the SSC supported the development of a framework within the Pelagic FEP to allow the implementation of RFMO CMMs.*

*Regarding the draft proposed regulations to address overfishing and overfished status of WCPO North Pacific striped marlin, the SSC recommended Alternative 3, which would establish an overall WCPO striped marlin limit of 457 mt. As an accountability measure, Alternative 3 would also establish a limit of 434 mt of striped marlin applicable to the Hawai`i longline fishery, which represents 95 percent of the 457 mt limit, and if the 434 mt limit is reached, the Hawai`i longline fishery would not be allowed to retain striped marlin. Alternative 3 would not establish striped marlin restrictions on other Hawai`i fisheries, which account for less than 5 percent of the total commercial striped marlin catch.*

*Regarding bigeye stock status, the SSC recommended that the bigeye assessment regions be realigned to better reflect the biology of bigeye and its spatial distribution of the fisheries and the tag recaptures. In particular, tag recaptures around Hawai`i could be used to distinguish a sub-region encompassing the extent of the Hawai`i longline fishery. The SSC further recommended participation of SSC members at future pre-assessment workshops. The SSC is concerned about the growing divergence of reference point choices made within the Commissions and recommended that efforts be made to harmonize assessment approaches between IATTC and WCPFC. The SSC noted that for any reference points identified, it would be desirable to calculate sub-region specific values that would better support spatial management.*

*Regarding Hawai`i yellowfin and bigeye commercial minimum size limit, the SSC recommended, to obtain more information on this issue, further research on harvest rates, utilization and socioeconomic issues related to the catch and market flow of the very small tuna in Hawai`i. These studies should a) Include the examination of long-term trends in yellowfin and bigeye CPUE by size class for the coastal troll and handline gear; b) Investigate and estimate the landings and economic value of small tuna, bigeye and yellowfin tuna in poorly documented fisheries and markets; c) Determine the contribution of `ahi (yellowfin and bigeye tuna) to commercial landings at the small-class sizes, those that are under the 3-pound limit for commercial, the 3- to 10-pound limit and the 10- to 15-pound limit, etc., and present the data as length frequency distribution by fishery; d) Examine social, cultural and economic impacts of increasing the commercial size limit on yellowfin and bigeye tuna; and e) Conduct the yield per recruit analysis of yellowfin and bigeye tuna harvested by Hawai`i-based fisheries. Given the current state of information, it is undetermined that increasing the current minimum size limit would have a positive effect on the Hawai`i yellowfin and bigeye stocks. The majority of the SSC members recommended no change in the current minimum size until further information is obtained.*

*Regarding the Disproportionate Burden Workshop, the SSC commended the organizers of the workshop and recommended that the workshop report be forwarded to the WCPFC for consideration.*

*Regarding quarterly reports of the American Samoa and Hawai`i longline fisheries, the SSC reiterated its desire to receive the regular quarterly reports on the American Samoa and Hawai`i longline fisheries from NMFS PIFSC. These are flagship fisheries, and the SSC should continue to monitor trends in these fisheries.*

Goto asked why no quarterly report was given from PIFSC.

Simonds said confidentiality issues are being worked out.

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

Goto said the Standing Committee met recently and discussed all of the topics regarding pelagic and international fisheries. The committee voted to defer to the full Council.

#### **J. Public Hearing**

No public comment offered.

#### **K. Council Discussion and Action**

*Regarding RFMO measures applicable to fisheries managed under the Pelagic FEP, the Council recommended to amend the Pelagic FEP to establish a framework to implement RFMO CMMs applicable to pelagic fisheries of the Western Pacific Region.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding WCNP striped marlin domestic regulations, the Council recommended the specification of annual WCNP striped marlin catch limit of 457mt applicable to US fisheries. As an accountability measure, the Council recommended the specification of an annual limit of 434 mt of striped marlin applicable to the Hawai`i longline fishery, which is 95 percent of the 457-mt limit. If the 434-mt limit is reached, the longline fishery would not be allowed to retain striped marlin, whereas other fisheries would not be restricted.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Further, the Council deemed that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the MSA. In doing so, the Council directed Council staff to work with NMFS to complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, the Council authorizes the executive director and the chair to review the draft regulations to verify that they are consistent with the Council action before submitting them along with determination to the Secretary on behalf of the Council. The executive director and chair are authorized to withhold submission of the Council action and/or proposed regulation and to take the action back to the Council if in their determination the proposed regulations are not consistent with the Council action.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding international measures for WCNP striped marlin, the Council reiterated its previous recommendation made at its 157th meeting that NMFS develop management measures that will end overfishing and lead to stock recovery, such as fishing at a constant catch of 3,600 mtas noted in the 2012 stock assessment, and further advocated for measures that establish limits of no more than 500 mt for any members, cooperating non-members and participating territories (CCMs) with a history of catching less than 500 mt of striped marlin.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding future bigeye stock assessments, the Council recommended that the bigeye assessment regions be realigned to reflect the biology of bigeye and the spatial distribution of the fisheries and tag recaptures. In particular, tag recaptures around Hawai`i could be used to distinguish a sub-region encompassing the extent of the Hawai`i longline fishery. The Council directed staff to ensure that SSC members participate at future pre-assessment workshops.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding Limit Reference Points, the Council is concerned about the growing divergence of reference point choices and recommends that efforts be made to harmonize assessment approaches between IATTC and WCPFC. Further, the Council notes that for any reference points identified it would be desirable to calculate sub-region specific values that would support spatial management.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding bigeye management by the WCPFC, the Council:*

***Recommended that the US not agree to any further cuts to the US longline bigeye catch limit as the longline fishery as a whole have been reduced substantially since 2008, whereas purse-seine bigeye catches steadily increased.***

***Recommended that the US develop proposals to amend CMM 2013-01 to make measures applicable to purse-seine vessels more effective in reducing juvenile catches, such as full purse-seine closure periods and purse-seine bigeye catch limits or purse-seine FAD set limits commensurate to 2010 levels.***

***Directed staff to convene an international workshop on a longline vessel day scheme in collaboration with FFA, SPC, Parties to the Nauru Agreement and IATTC.***

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding American Samoa, CNMI and Guam longline bigeye limits and allocation limits pursuant to Amendment 7, the Council directed **staff to develop an appropriate analysis for the specification of 2015 Territory longline bigeye limits, including catch and allocation limits.***

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding the Council's Disproportionate Burden Workshop, the Council recommended **that the workshop report be forwarded to WCPFC for consideration.***

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding bigeye research, the Council directed **staff to continue to work with NMFS, SPC, IATTC and Hawai'i fishermen to conduct research on the connectivity of bigeye caught by Hawai'i fisheries to help determine the relationship of high latitude stocks to the wider Pacific bigeye population.***

*Moved by Goto; seconded by Sword.*

*Motion passed.*

*Regarding South Pacific albacore, the Council recommended a) an initial action to establish an albacore longline catch limit for the EEZ around American Samoa at 5,418 mt and directs staff to prepare appropriate analyses for the Council to take final action; and b) that the US support a more effective and comprehensive CMM for South Pacific albacore at the 11th regular session of the WCPFC.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

Boggs clarified it as approximately 5,418 mt.

Tosatto stated that a definite number is needed.

Ebisui accepted Boggs comment as a clarification.

*Regarding the minimum size for `ahi in Hawai`i, the Council recommended that further research be conducted on `ahi harvest rates, utilization and socioeconomic issues related to catch and market for very small tuna in Hawai`i. These studies should a) Examine long-term trends in yellowfin and bigeye CPUE by size class for coastal troll and handline gear; b) Investigate and estimate the landings of economic value of small yellowfin and bigeye tuna in poorly-documented fisheries and markets; c) Determine the contribution of yellowfin and bigeye tuna to commercial landings at small classes, i.e., less than 3 pounds, 3 to less than 10 pounds, 10 to less than 15 pounds, etc., and present data as length frequency distribution by the fishery; d) Examine social and cultural and economic impacts of increasing the commercial size limit on the yellowfin and bigeye tuna; and e) Conduct a yield per recruit analysis of yellowfin and bigeye tuna harvested by Hawai`i-based fisheries.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

Goto asked clarification as to whether he would be participating in the study.

Dalzell replied that whoever conducts the study will consult with him.

*Regarding President Obama's expansion of the PRIMNM, the Council recommended a regulatory amendment to expand the pre-MNM boundaries to 200 nm for Jarvis Island and Wake and Johnston Atolls. Through the extension of the boundaries of the pre-MNM and Jarvis Island and Wake and Johnston Atolls the regulations that currently apply within the pre-MNM would be extended to apply within the new boundaries. In this action, commercial fishing would be prohibited within the extended boundaries of the pre-MNM; noncommercial will be allowed within the extended boundaries.*

*Moved by Goto; seconded by Sword.*

*Motion passed.*

**Further, the Council deemed that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the MSA. In doing so, the Council directed Council staff to work with NMFS to complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, the Council authorizes the executive director and the chair to review the draft regulations to verify that they are consistent with the Council action before submitting them along with determination to the Secretary on behalf of the Council. The executive director and chair are authorized to withhold submission of the Council action and/or proposed regulation and to take the action back to the Council if in their determination the proposed regulations are not consistent with the Council action.**

Moved by Goto; seconded by Sword.

Motion passed.

**Regarding quarterly longline reports, the Council endorsed the SSC's reiteration to receive the regular quarter reports on American Samoa and Hawai'i longline fisheries from NMFS PIFSC. These are flagship fisheries and the Council and SSC should continue to monitor trends in these fisheries.**

Moved by Goto; seconded by Sword.

Motion passed.

## **14. Administrative Matters**

### **A. Administrative Reports**

Simonds reported there have been no staff changes since the 160th Council meeting held in June 2014. Candidates are being interviewed for the IT position. The annual audit was initiated in May 2014 but has not issued a final report yet.

The Council received a new Freedom of Information Act (FOIA) request from Environment Hawai'i for records and information related to expenses having to do with the President's Legacy. A prior FOIA continues to go through the process related to any e-mail communication from Council staff and advisors regarding a subcommittee meeting of the SSC and copies of an audio recording and records pertaining to review of a previous FOIA.

Staff has participated in several meetings and the Operational Guidelines Workshop. The Operational Guidelines document will be available in 2015.

### **B. Financial Reports**

Simonds reported on the Council 2014 finances with funds to be moved over to 2015. A no-cost extension has been requested for projects not yet complete. All of the Councils are meeting with NMFS to discuss budgets and programs.

The report on Coral Reef 2012 and 2013 is moving along. All of the grants end in 2014, and extensions have been requested, where appropriate. Sustainable Fisheries Fund II, which is



the cooperative agreement that was extended until 2015, still has outstanding projects. Sustainable Fisheries Fund IV is the last of the funds from the fines and penalties.

A change is requested for approval by the Council to add a budget item to take care of personnel fringe benefits and administration amounting to 10 percent of the entire budget.

The Bigeye Tuna Fund ends April 30. Workshops will be held in the first three months of 2015 before the deadline of the cooperative agreement.

### **C. Council Member and Staff Ethics Training**

Tucher presented the Rules of Conduct and Activities for Members of Regional Fishery Management Councils. Topics covered included lobbying, political campaign issues, financial disclosure and rules of conduct. He directed the Council to refer to OMB Circular A122, Cost Principles for Non-Profit Organizations, the Ethic Regulations in 50 CFR 600 Series and Criminal Statutes 18 USC 200 Series, 203 to 208, which are also applicable to the performance of Council member duties.

### **D. Council Family Changes**

#### **1. Advisory Panel Appointments**

Council staff member Joshua DeMello reported that the Council family changes were to add a member to the MPCCC and Advisory Panel appointments. The Advisory Panel term ends December 31, 2014. The new term begins January 2015 to 2018. A list of Advisory Panel members was provided.

#### **2. Marine Planning and Climate Change Committee**

Spalding reported on the MPCCC Statement of Organization, Practices and Procedures, which sets the responsibilities and the makeup of the committee. Climate change includes El Nino Oscillations and ocean acidification for the purpose of the committee. Spalding noted the SSC recommendation to add an ecosystem modeler to the committee.

### **E. Meetings and Workshops**

Ebisui directed Council members to the schedule of meetings.

Mitsuyasu pointed out the Council meeting will be held in Hawai`i March and in American Samoa in June.

### **F. Workshop on Operational Guidelines Workshop**

Mitsuyasu reported on the Council Operational Guidelines Workshop held in August and facilitated by the Fisheries Leadership and Sustainability Forum. The intended outcome was to bring something to the Council Coordination Committee (CCC) meeting in February. Kim Gordon, from the Fisheries Leadership and Sustainability Forum, facilitated the workshop in Seattle and presented background information and a brief overview. The idea for the workshop

emerged from the CCC Operational Guidelines Working Group. There were about 35 participants.

The workshop objectives included a) Identify common practices and process challenges among NMFS and the councils; b) Identify best practices used to address challenges; c) Identify important flexibilities in the process; d) Highlight opportunities to improve the process, including transparency; and e) Identify important considerations for the development of the operational guidelines.

The agenda focused on sharing processes and experiences, sharing best practices, identifying opportunities for improvement and providing input and guidance on revision to the operational guidelines. The bulk of the workshop was structured around two main sessions, one to look at the internal Council process and the other to look at the working relationship between the councils and the agency. In looking at internal Council operations, the group talked about challenges, innovative solutions and new opportunities related to stakeholder and public engagement, the use of advisory bodies and committees, processes that are in place to support councils, and the development of analytical and decision documents. The second breakout group focused on the interaction between councils, the agency and the General Counsel and looked at the roles, interactions and collaborations, timelines from the identification of an issue, identification of an issue to Council action and then from Council action to agency implementation, as well as mechanisms for coordinating between the Council and agency. The group also discussed integrated analysis and the types of analytical and decision documents that support Council decision-making. Following discussions, a number of commonalities and differences were identified, as well as best practices and opportunities. The group decided that the term “best practices” wasn’t appropriate and, instead, landed on the term “really good idea,” and this provided to be a really useful concept.

The last day of the workshop the group really honed in on operational guidelines and brainstormed some considerations for the content and the structure of the revised operational guidelines. Questions not answered by the end of the meeting included a) What the operational guidelines should look like and what sort of form they should take; b) Where to maintain flexibility and where to establish consistency; and c) How the original operating agreements can be leveraged in the operational guidelines. One of the take-away points from the workshop was to maintain regional flexibility because not all of the councils operate the same way. There are some commonalities; however, in terms of processes and a relationship between the councils and NMFS, it is different in each of the different areas.

**G. Report on the Magnuson-Stevens Fishery Conservation and Management Act Reauthorization**

No report was presented.

**H. Other Business**

No report was presented.

## **I. Standing Committee Recommendations**

No recommendations were offered.

## **J. Public Comment**

No public comment was offered.

## **K. Council Discussion and Action**

*Regarding the US Coral Reef Task Force, the Council endorsed the request to include a Council representative on the US Coral Reef Task Force as a voting member and that the representative should be allowed to participate on the All Islands Committee. In addition, the Council will bring this issue to the CCC meeting for consideration at its February 2015 meeting.*

*Moved by Gourley; seconded by Sword.*

*Motion passed.*

*Regarding administrative matters, the Council endorsed the MPCCC Standard Operation Policy and Procedures as drafted and supported the appointment of Sandra Lutu from the American Samoa Coastal Management Program to this committee.*

*Moved by Gourley; seconded by Goto.*

*Motion passed.*

*Regarding administrative matters, the Council endorsed a modification to the Sustainable Fisheries Fund IV budget to include an administrative line item.*

*Moved by Gourley; seconded by Goto.*

*Motion passed.*

*Regarding Council family changes, the Council appointed the following people to the Advisory Panel for the 2015 to 2018 term:*

- **American Samoa:** *Island Fisheries:* Lafoga Alovao, Romero Veavea, Nathan Sagapolutele. *Pelagic Fisheries:* Craig Double, Christinna Sanchez, Michael Crook. *Ecosystems and Habitat:* Ray Tulafono, Mac Aveina, Stephen Haleck. *Indigenous Fishing Rights:* Krista Corry, Brian Thompson, Isaiah Hunkin. *Alternates:* Fa`asala Augafa, Nonu Tuisamoa.
- **Hawai`i:** *Island Fisheries:* Layne Nakagawa (Maui), Nathan Abe (Hawai`i), Edwin Watamura (O`ahu). *Pelagic Fisheries:* Gary Beals (Hawai`i), Sean Asuncion (Maui), Roy Sokolowski (O`ahu). *Ecosystems and Habitat:* Brealand Tam (O`ahu), Steven Yamasaki (Maui), Lyn McNutt (Kaua`i). *Indigenous Fishing Rights:* Tathan Marks (Hawai`i), Basil Oshiro (Maui), Clay Tam (O`ahu). *Alternates:* James Kuwada (Hawai`i), Geoff Walker (Hawai`i).

- **Mariana Guam:** *Island Fisheries:* Ken Borja, Manuel P. Duenas II, Stephen Meno. *Pelagic Fisheries:* James Borja, Alan Ainbinder, Matthew Orot. *Ecosystems and Habitat:* Cliff Kyota, Jason Miller, Felix Reyes. *Indigenous Fishing Rights:* Ray Flores, Peter Perez, Jesse Rosario. *Alternates:* Judith Guthertz , Dale Alvarez, Roberto Cabreza, William Bradford.
- **Mariana CNMI:** *Island Fisheries:* Frank Aldan, Manny Ramon, Richard Farrell (Tinian). *Pelagic Fisheries:* Pedro Itibus, Richard Seman, Juan Diego Tenorio. *Ecosystems and Habitat:* Floyd Masga, Joaquin Villagomez, Ray Tebuteb. *Indigenous Fishing Rights:* Lawrence Concepcion, Raymond Dela Cruz, Jr. (Tinian), Perry Mesngon (Rota). *Alternates:* Lino Tenorio, Michael Fleming, Juan Diego Blanco, Cecilio Raiukiulipiy.

Moved by Gourley; seconded by Goto.

Motion passed.

## 15. Election of Officers

The Nomination Committee proposed Ebisui as Council chair; Rice to replace Ebisui as vice chair for Hawai`i; and Sword, Duenas and Gourley retained as the vice chairs for American Samoa, Guam and CNMI, respectively. No nominations were offered from the floor. Ebisui asked for any objections to the slate of officers presented by Goto. The officers were approved by consensus.

## 16. Other Business

No other business. Council meeting adjourned.

## LIST OF ACRONYMS

ABC	acceptable biological catch
ACAP	Agreement of Conservation of Albatross and Petrels
ACL	annual catch limit
ALJ	administrative law judge
BAC	Biomass Augmented Catch
BECQ	Bureau of Environmental and Coastal Quality (CNMI)
BRFA	Bottomfish Restricted Fishing Areas
CCC	Council Coordination Committee
CCMs	members, cooperating non-members and participating territories (WCPFC)
CCP	Comprehensive Conservation Plan
CEQ	Council on Environmental Quality
CIE	Center for Independent Experts
CML	commercial marine license
CMM	Conservation and Management Measure (WCPFC)
COT	crown of thorns
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	Department of Land and Natural Resource (Hawai`i)
DLNR	Department of Lands and Natural Resources (CNMI)
DMWR	Department of Marine and Wildlife Resources (American Samoa)
DOA	Department of Agriculture (Guam)
DOCARE	Division of Conservation and Resource Enforcement (Hawai`i)
DOC	Department of Commerce
DOD	Department of Defense
DOI	Department of the Interior
DPS	distinct population segment
EEZ	exclusive economic zone
EFH	essential fish habitat
ENSO	El Nino Southern Oscillation
EPA	Environmental Protection Agency
EPO	Eastern Pacific Ocean
ESA	Endangered Species Act
FAD	fish aggregation device
FDCRC	Fishery Data Collection and Research Committee
FEP	Fishery Ecosystem Plan
FFA	Forum Fisheries Agency
FIN	Fisheries Information Network
FIS	Fisheries Information System (FIS)
FKW	false killer whale
FOIA	Freedom of Information Act
GC	General Counsel (NOAA)

HARP	high-frequency acoustic recording package
HIHWNMS	Hawaiian Islands Humpback Whale National Marine Sanctuary
IATTC	Inter-American Tropical Tuna Commission
IEA	Integrated Ecosystem Assessment
IT	information technology
ITS	Incidental Take Statement
LMR	living marine resource
LOF	List of Fisheries
MARAMP	Mariana Archipelago Reef Assessment and Monitoring Program
MCP	Marine Conservation Plan
MHI	main Hawaiian Islands
MMPA	Marine Mammal Protection Act
MNM	Marine National Monument
MOU	Memorandum of Understanding
MPA	marine protected area
MRIP	Marine Recreational Information Program
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSY	maximum sustainable yield
mt	metric ton
NEPA	National Environmental Policy Act
NID	negligible impact determination
nm	nautical mile
NMFS	National Marine Fisheries Service
NS	National Standard
NWHI	Northwestern Hawaiian Islands
OLE	Office of Law Enforcement
OST	Office of Science and Technology
PAC	Permanent Advisory Committee
PIFSC	Pacific Islands Fisheries Science Center
PIRO	Pacific Islands Regional Office
PRIAs	Pacific Remote Island Areas
PRIMNM	Pacific Remote Islands Marine National Monument
RFMO	Regional Fishery Management Organization
SAR	Stock Assessment Report
SEEM	Social, Economic, Ecological, and Management uncertainty
SEZ	Southern Exclusion Zone
SFD	Sustainable Fisheries Division
SIDS	Small Island Developing States
SPC	Secretariat of the Pacific Community
SSC	Scientific and Statistical Committee
SSRFM	Social Scientists in Regional Fisheries Management
TCC	Technical and Compliance Committee (WCPFC)
TOR	Terms of Reference
TSI	Territorial Science Initiative
UOG	University of Guam
USCG	US Coast Guard

USFWS	US Fish and Wildlife Service
VMS	vessel monitoring system
WCNP	Western Central North Pacific
WCPFC	Western and Central Pacific Fisheries Commission
WCPO	Western and Central Pacific Ocean
WPSAR	Western Pacific Stock Assessment Review