



Report of the Hawaii Archipelago FEP Advisory Panel Meeting

Thursday, February 15, 2018

Council Office, Honolulu, Hawaii and by Teleconference

1. Welcome and Introductions

Gary Beals, Hawaii Advisory Panel (AP) Chair, welcomed the participants and provided an introduction. In attendance was Gil Kualii, Basil Oshiro, Matt Yamamoto, Shyla Moon, McGrew Rice, Clay Tam, and Geoff Walker. Absent: Nathan Abe, Kelvin Char, Ed Ebisui III, Lyn McNutt, Layne Nakagawa, Brealand Tam.

Also in attendance was Council Staff (Joshua DeMello and Asuka Ishizaki).

2. Report on Past Council Action Items

Council Staff provided an update on recommendations made by the Hawaii AP at its last meeting in September 2017 and also a status of those recommendations.

AP members noted the importance of using the word depleted rather than overfishing because it takes into account everything happening to a fish stock not just fishing. They continued to stand by their previous recommendation to use this term instead of overfishing. There was also some discussion on the Bottomfish Restricted Fishing Areas (BRFAs) and members noted that research was being done that is helping the new stock assessment.

3. Council Issues

A. Action Items

i. Precious Corals Essential Fish Habitat Refinement Options

Council staff noted that Council was not going to take this up until October but noted the history of Essential Fish Habitat (EFH) reviews and process for changing or refining the EFH in the Council's Fishery Ecosystem Plan (FEP).

ii. Options for an Aquaculture Management Program

Council staff noted that the draft Programmatic Environmental Impact Statement (PEIS) has not yet been completed and therefore no new information is available for the AP to review at this meeting. He noted that the AP made a previous recommendation on this issue and the AP could choose to support its previous recommendation or review the options again and make a different recommendation.

The AP chose to support its existing recommendation on aquaculture and reserved the right to review the draft PEIS and make any necessary changes to the recommendation at a future meeting prior to the Council taking final action.

iii. Hawaii Longline Shallow-set Fishery Sea Turtle Interaction Options

Council staff presented on the swordfish fishery issues and noted that the AP discussed whether or not to remove the hardcaps on the turtle interactions in a previous meeting. She noted that the hardcaps were put in place, along with gear restrictions, in order to open the fishery after prior legal issues shut it down. The hardcap is a number for how many leatherback and loggerhead turtles can be interacted with and, if it is reached, the fishery would be closed for the

calendar year. She said that the fishery is stable with 100% observer coverage since 2004 so we have good data on the interactions. She noted that last October the AP and the Council discussed this issue with the AP recommending removal of the hardcap and the Council looking at having other tools in place if the numbers increase. But the issue became more complex at the end of last year with a court ruling and fishery dynamics that necessitated another look at this issue.

At the end of December, the 9th Circuit Court of appeals came out with a decision on the Biological Opinion (BiOp) that was done on the fishery. A BiOp is done for compliance with the Endangered Species Act (ESA) and analyzes impacts on ESA listed species, and produces a number of how many sea turtles the fishery is authorized to interact with. This Incidental Take Statement is tied to how many can be interacted with before the Council's hardcap kicks in. She noted that the last BiOp was done in 2012, and there were environmental groups that sued NMFS saying that the BiOp was wrong, resulting in the recent legal battle that has so far culminated in the 9th Circuit Court ruling that NMFS didn't explain how much the fishery is going to impact the population and didn't do a good job explaining it. The ruling basically kicks back part of the BiOp to NMFS to re-do.

Another issue that popped up is that since the beginning of the fishing season, the fishery started catching a lot of loggerheads that we haven't seen since the fishery reopened. She said that the interactions with loggerheads have started to increase and even though it is known that certain oceanographic conditions can lead to higher interactions, it wasn't anticipated. In looking at the Council's action on hardcaps from this perspective, there aren't too many tools to monitor the interactions if the hardcaps are taken away. The result of all of this is the Council will be looking at creating a management framework with a suite of tools, including hard caps, which will manage the fishery interactions

She said that at this next meeting, the Council will be presented with this new approach within the context of what has been happening over the last few years. The management framework is a tiered system with options for hardcaps which include splitting it between fishing years, real-time spatial management measures (called hotspot management) where you set up a system to manage the limit, but also manage hotspots and move off of those areas on a real-time basis, and increased fleet communication. Council staff is going to provide the Council with this approach to get their blessing and staff will develop the details and come back to the AP and Council for action in future meetings.

The AP discussed the research on loggerhead and leatherback turtles done in the Pacific to learn more about their status. They also discussed the reasons for hotspots and the reasons for interactions. They inquired about the Council's action on reducing the shallow-set fishery observer coverage. Staff noted that there hasn't been a lot of movement on that recommendation and with the current situation it may be hard to push for lower coverage at this point. She noted that the coverage isn't regulatory and at the discretion of NMFS and the recommendation was for NMFS to look at the potential for reducing the coverage. The AP said that they would like to see the population numbers and interactions as they felt that an increasing population would lead to an increasing interaction rate.

After the discussion, the AP supported the process for developing the framework measures and noted that it would be hard to stick to their previous no hardcap recommendation given the current situation.

B. Other Items

Council staff provided an update on some of the other items that the Council was set to discuss at its 172nd Meeting in March 2018.

The AP provided some concerns about non-fishing impacts to fish stocks and the military activities being exempted. They also expressed the desire to participate in the ecosystem-based fishery management as the Council continues moving along that path. They said that it is important to ground-truth indicators with fishermen to see if it is indicative of reality.

4. Hawaii FEP Community Activities

Council staff reported that a *puwala* (conference) was held in November to assist with the continued development of the Aha Moku system in Hawaii. He also noted its participation in the state of Hawaii's 30 x 30 working group initiative, which aims to have 30% of Hawaii's nearshore waters effectively managed by 2030. The group has worked for the past year to identify the available research (surveys, dives, monitoring sites) and develop indicators of nearshore marine ecosystem health. The Council continues to participate in these discussions and reports will be provided to the AP as the initiative progresses.

The AP asked if other issues such as overdevelopment or increasing population and ocean use was being looked at in the working group. Council staff noted that those types of issues were considered in the process and will be accounted for in the final assessment. The AP was concerned that the working group members want to close off areas and not effectively manage the area. Council staff agreed that there were some members with that mindset but it was agreed upon that effectively managed doesn't mean close the area. Some AP members felt that the whole exercise is focused on closing areas and that the working group is ignoring the fact that no two places are the same. They said that the conditions of each area are unique so the habitat and fish would not be the same in all areas. They said that what is needed of this group is accountability because what happens if these areas are closed or resources are taken away from other areas that need it. There was little faith in the State being able to fund or manage the resources effectively.

5. Hawaii FEP AP Issues

A. Report of the Subpanels

i. Island Fisheries Subpanel

There was no report for this subpanel.

ii. Pelagic Fisheries Subpanel

The Pelagic Subpanel reported on the continued need for an increase in the yellowfin tuna minimum size limit. The members said that there is more interest now from the commercial fishermen and noted that there was no movement on it. They also said that any regulation needs to consider the kūpuna that cannot afford the larger sizes. When fish is \$8-10 a pound it is hard for old folks to eat fish regularly. Members said that the current three pound limit is too small and that a 10-15 pound limit may be too big so somewhere in the middle, at five to eight pounds is a good size for a commercial limit. Home consumption may be another concern and gear restrictions (such as eliminating the one-hundred hook damashi) or bag limits (so too many small fish aren't taken) may help as well.

The AP agreed and supported a recommendation to encourage the Council to push the State to change its minimum size for yellowfin tuna.

iii. Ecosystems and Habitat Subpanel

There was no report for this subpanel.

iv. Indigenous Fishing Rights Subpanel

The Indigenous Fishing Rights Subpanel reported that Maui is the only place with size and bag restrictions that differ from the rest of the state. The subpanel was concerned that the enforcement officers were not honoring article 12 section 7 (1-1.7-1 to protect subsistence fishermen) of the constitution that affirms indigenous fishing rights. They reported that the whole thing is very contentious and officers ask if they can get more clarification on the indigenous rights but no one wants to commit in writing on what it means for the officers. From what they understand the best they could come up with is that the people had to prove their genealogical connection to the area and they have a permit to fish in closed areas. Some members noted that DOCARE has options to prove that you meet the criteria to exercise the indigenous fishing rights and it's not a blanket right for everyone to go and take. Subpanel members agreed to work together to find out what the DOCARE policy is and how the indigenous folks can be exempt from the rules.

B. Other Issues

There were no other issues.

6. Public Comment

There was no public comment.

7. Discussion and Recommendations

The Hawaii AP made the following recommendations to the Council:

Regarding Aquaculture, the Hawaii AP:

1. Supports its previous recommendation on aquaculture.

Regarding Sea Turtle Interaction Options, the Hawaii AP:

2. Supports the idea of suite of measures for sea turtles as presented by Council staff.

Regarding Hawaii Fishery Issues, the Hawaii AP:

3. Recommends the Council continue to encourage the state of Hawaii to change the Yellowfin Tuna minimum sizes to a more appropriate size/weight.

8. Other Business

There was no other business.