



## **FINAL REPORT of the Hawaii Archipelago FEP Advisory Panel Meeting**

Thursday, May 24, 2018

Council Office, Honolulu, Hawaii and by Teleconference

### **1. Welcome and Introductions**

Gary Beals, Hawaii Advisory Panel (AP) Chair opened the meeting. AP Members in attendance included: Nathan Abe, Matt Yamamoto, Basil Oshiro, Geoff Walker, Shyla Moon, Eddie Ebisui, and Overall AP Vice Chair McGrew Rice. Gil Kualii was excused.

Council staff in attendance included Joshua DeMello, Asuka Ishizaki, and Marlowe Sabater.

There were also members from the public in attendance: Jessie Faige (from Senator Karl Rhoads office) and Jhana Young (Conservation International).

### **2. Report on Previous Advisory Panel Recommendations**

Council staff provided an update on recommendations made by the Hawaii AP at its last meeting in February 2018. The update also included the status of those recommendations.

AP members continued to be concern about the yellowfin tuna minimum size and no movement on a potential increase. They noted that there continues to be backdoor sales of small and undersized fish. One member noted that enforcement would be easier if the regulations targeted gear restrictions rather than size. Another member said any gear restrictions need to recognize that the gear could be used for other fisheries (e.g. using *damashi* for opelu during the day in Kona) and the enforcement wouldn't be able to determine if it's used for yellowfin or not. They agreed that there is still a need for new rules.

### **3. Council Issues**

#### **A. Action Items**

##### **i. Main Hawaiian Islands Bottomfish Annual Catch Limits**

Council staff presented on the bottomfish Annual Catch Limit (ACL) specification for the 2018-21 seasons. He provided a background on the benchmark stock assessment conducted by NMFS Pacific Islands Fisheries Science Center (PIFSC), noting that it went through the Western Pacific Stock Assessment Review (WPSAR) in March. Staff also convened the working groups for P\* (risk of overfishing) and SEEM (Social Economic Ecological and Management) to quantify the uncertainty in science and management in the stock assessment and fishery. He said that both working groups recommended a reduction from the 50% risk of overfishing and the result would be a reduction to a 40% risk of overfishing which corresponds with a value of 492,000 lbs. He noted that the past average catch for the fishery is 274,000 lbs so that is a lot higher than what has been recently caught (on average). Council staff presented the alternatives that the Council will review at its next meeting:

<u>Alternatives</u>	<u>Description</u>	<u>Notes/Comments</u>
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<b>Alternative 1</b>	No Action	<i>Not in compliance with National Standard 1 and the FEP</i>
<b>Alternative 2</b>	Status Quo: Use the current ACL of 306,000 lbs from the last stock assessment*  *corresponds with a 19% risk of overfishing in the new benchmark assessment	<i>Not in compliance with National Standard 2 because it ignores the best scientific information available and not in compliance with FEP</i>
<b>Alternative 3</b>	Set the ACL at a 40% risk of overfishing; This corresponds with 492,000 lbs.	<i>Compliant with NS1, NS2, FEP</i>
<b>Alternative 4</b>	Set the ACL at 30% risk of overfishing; This corresponds with 420,000 lbs.	<i>This provides an additional 10% buffer; Compliant with NS1, NS2, FEP</i>
<b>Alternative 5</b>	Set the ACL at 20% risk of overfishing; This corresponds with 336,000 lbs.	<i>This provides an additional buffer of 20%; Compliant with NS1, NS2, FEP</i>

He added that the Accountability Measures for all alternatives would remain the same where the fishery is monitored at a trip level and would close if the ACL is projected to be reached.

AP members recognized the additional work put into improving the stock assessment and appreciated both the fishermen and scientists that worked collaboratively in this endeavor. Council staff noted that the collaboration resulted in a more optimistic assessment and potentially higher ACLs.

The AP was still concerned about the Bottomfish Restricted Fishing Areas (BRFAs) and the effects of the BRFAs not included in the stock assessment. They continued to urge for the opening of the BRFAs and were willing to take a lower ACL if the BRFAs were opened. They also agreed to talk to other bottomfish fishermen to explain the alternatives for them to provide input as well.

*The Hawaii AP agreed that Alternative 3 is the best alternative because it provides the best ACL for the fishery. However, they were willing to negotiate the ACL down in exchange for the opening of the BRFAs.*

**ii. Options for an Aquaculture Management Program**

Council staff presented on the options for developing an offshore aquaculture management program in the Western Pacific. He explained the program components and the differences between the different alternatives. He also noted the AP had made a recommendation in the past and was more restrictive than the Council’s currently preliminarily preferred alternative.

AP members asked if there were any significant changes since the last time they were presented with the alternatives. Council staff said no, but the Draft Programmatic Environmental Impact

Statement was not complete yet and there may be changes in that document that the Council may take into account.

*The AP agreed that they should stick to their most recent recommendation for aquaculture management which includes the selection of alternatives as follows:*

<b>Aquaculture Program Component</b>	<b>Preferred Alternative</b>
Permitting	Alternative 3
Applications	Alternative 3
Permit Duration	Alternative 3
Allowable Systems	Alternative 2
Siting	Alternative 3
Allowable Species	Alternative 2
Record Keeping	Alternative 3
Framework Procedures	Alternative 2
Program Capacity	Alternative 3

*Further, the AP requested that they be provided the opportunity to review the alternatives at a future meeting should the DPEIS alternatives be changed.*

### **iii. Framework for Managing Sea Turtle Interactions in the Hawaii Shallow-set Longline Fishery**

Council staff presented a background on the sea turtle interactions with the shallow-set longline fishery, going over the current litigation and results. She noted that the fishery has closed for the year due to the fishery reaching its hard cap turtle limit for loggerhead turtles. She said that due to a court ruling that was being reviewed prior to the closure, the fishery will have to operate under a rolled-back hard cap turtle limit of 17 rather than 34 loggerhead turtles. NMFS is also working on a new Biological Opinion and Section 7 consultation so that the limit can be revised to the appropriate limit. With this new BiOp, there would be need for additional rulemaking which will happen at a later date.

Council staff also noted that the Council has been working with the industry and fishery participants to look at best practices and how to adopt those concepts into the fishery. A workshop was held to allow participants to come together to start sharing information so that they can agree to avoid interactions. She also provided the alternatives for a management framework to manage the sea turtle interactions going forward and noted the Council will take final action on this in June. These alternatives include:

<b><u>Alternative</u></b>	<b><u>Description</u></b>	<b><u>Notes/Comments</u></b>
<b>Alternative 1</b>	No Action	<i>The fleet would operate under the existing hard cap limit only.</i>
<b>Alternative 2</b>	Fleet side turtle hard cap limit would remain + an individual vessel limit would be instituted	<i>If a vessel hit a pre-determined number of interactions, they would be prohibited from fishing for the rest of the season.</i>

<b>Alternative 3</b>	Fleet side turtle hard cap limit would remain + an individual trip limit would be instituted	<i>If a vessel hit a pre-determined number of interactions on a trip, they would be prohibited from fishing for the rest of that trip and would have to return to port. The vessel would be able to continue fishing during that season, just not on that trip</i>
<b>Alternative 4</b>	Fleet side turtle hard cap limit would remain + a closure would be instituted when the fishery reaches a certain percentage of the limit	<i>The current hard cap limit would be distributed amongst two “sub-seasons” and once that limit was reached, the fishery would close until the second sub-season started with the remainder of the hard cap limit.</i>

Council staff noted that the rationale for the additional limitations on the fleet were included as a way to incentivize participants to support building an information sharing program and to avoid interactions with sea turtles as there would be a consequence for individuals. She also noted that Alternative 3 was provided by the industry.

The AP asked about participation in the fishery. Council staff noted that this past season included 12 vessels but typical years would include up to 20 vessels. She said that the lower number is due to the closure and those vessels that switch over from deep-set tuna longlines avoiding the changeover because of the high interaction rates and potential for a fishery closure.

The AP noted that the increase in interactions could be a result of an increase in the turtle population. Council staff noted that the fishery will usually interact with juvenile turtles and there have been reports that there was increased recruitment in the last 10 years so what the fleet is interacting with could be a result of that recruitment. However, she said that there isn't a direct linkage because we don't know how many turtles are out there and she noted that the increase could also be due to weather concentrating turtles in a particular area.

The AP was concerned that the alternatives only penalize the fishery and that shortened seasons aren't good. Council staff said there may be underlying reasons for the interactions that are not the fault of the fishery and the Council has supported research on these things like nesting beaches in the past. She said that these ideas of trip and vessel limits are being entertained because there is a concentration of interactions in just a few trips and these small number of trips contribute to the majority of the actions that can be avoided. She also said that this is an outlier year and these types of interactions haven't been seen since 2004. The alternatives will mainly help to control the effort during these types of years when concentrated interactions are high.

The AP wanted to know what the industry thought about the alternatives. Council staff noted that the trip limit alternative is the option they provided and what would work to penalize individuals so they are supportive of the option. The AP agreed that they preferred trip over vessel limits. Council staff said that Alternative 4 was discussed early on and is appealing to the industry because it meets up with the demand for swordfish and both alternatives could be entertained by the Council, but the question is are both needed or does one work better than the other.

The AP members said that the vessel limit levels the playing field and is fairer for those that want to participate and don't switch over early in the season. The AP members said the best option would be to get the fishermen together to workshop ideas and find out what they think and agree to voluntary compliance. *AP liked the vessel limit; but would like to get the opinion of the industry and would be willing to support what the industry preferred.*

#### **iv. Ecosystem Component Species Classification**

Council staff presented on the proposed action on designating part of the current management unit species into an Ecosystem Component (EC) classification. He noted that this is allowed under National Standard 1 guidelines to allow for those species that are not in the fishery and don't require conservation and management measures. He said that the potential EC species would not be removed from the FEP and would continue to be monitored through the annual reports. He also said that the regulations on those species would stay in place and rather the only things that those species wouldn't need are ACLs, Essential Fish Habitat, and Biological Reference Points.

The AP discussed the options and noted that they previously recommended designating Ecosystem Component species. *The AP agreed that you shouldn't have to look at every single species and endorsed their previous recommendation.*

#### **v. Evaluation of 2017 Catch to the 2017 ACLs**

Council staff reported that in 2017, none of the Annual Catch Limits were exceeded. He noted that the ACLs will change as the Ecosystem Component designation is put in place.

### **B. Other Items**

#### **i. Draft 2017 Annual SAFE Reports**

Council staff provided a brief overview of the 2017 Annual Stock Assessment and Fishery Evaluation (SAFE) Report noting that the number of trips, catch, licenses, etc. are almost all below the short-term (10-year) and long-term (20-year) averages.

One AP member noted that one reason for a less than average year could be due to the construction industry starting up again. He noted that when construction jobs are down, many go fishing to supplement their income. He said that where you used to see crowds around the inshore tuna schools, you now see many less boats directly related to the increase in construction jobs. *The AP wanted to have a better look at the annual reports and agreed to provide any comments to the AP Chair to present to the Council on their behalf.*

## **ii. Comments on List of Gears by Fisheries**

Council staff reviewed the request for comments on the Federal list of fisheries. He noted that the list includes all gears that are deployed in the fishery. He reviewed the preliminary comments from AP members submitted by email, noting that the list of fisheries is missing coral reef fisheries and aquaculture.

The AP discussed the purpose of the list and whether some gears should be removed. One gear, bandit gear, was explained to be individual hydraulic reels with individual lines that are used by the albacore tuna fishery. An AP member noted that the albacore fishery is no longer operating due to the loss of the tuna cannery and asked if the gear still needs to be on the list? Similarly, the issue of trawl gear was raised as the Council prohibited trawling in the 1980s and the listing of “powerhead” under spearfishing when the powerheads are used for protection in spearfishing and not necessarily as gear. Council staff said he was unsure and would include it in the comment letter regardless.

*The AP agreed to provide comments to Council staff by June 8.*

## **iii. Council Research Priorities**

Council staff noted that the Council reviews its research priorities for its five-year MSA research priorities and cooperative research priorities annually. This serves as a way to prioritize what research is being done in the region’s fisheries. He solicited any new research priorities from the AP.

Some AP members were concerned about private Fish Aggregation Devices (FADs) noting an increase in the (sometimes) illegal placement of the FADs around the islands. Their concerns were that the increase in FADs may be contributing to the lack of yellowfin coming closer to shore with the FADs acting as a barrier. They wanted to see research done to see if this phenomena is real.

Another AP member was concerned about military activities in the ocean around the islands and its impacts on fishes. She asked if the research could include a priority to determine impacts from those military activities.

Other AP members noted that the AP previously discussed the potential for providing appropriate closed seasons for Kona Crab as there continues to be berried females upon the opening of the fishery in September. They suggested this be looked at through the cooperative research priorities. They also noted that it doesn’t make sense to continue the no-take of females if the large males are not around to reproduce with those females and that research could be conducted on that as well.

*The AP agreed to provide the staff with priorities on private FADs, military activities, and Kona Crab.*

#### **4. Hawaii FEP AP Issues**

##### *Island Fisheries*

AP members noted that there were still concerns about the BRFA's and continued to support urging the State of Hawaii to open the BRFA's to fishing for bottomfish, particularly in light of the new benchmark stock assessment.

##### *Pelagic Fisheries*

The AP members had concerns about private FADs and said that the current State of Hawaii FADs are useless. Their concerns centered around the previously discussed issue of private FADs potentially changing the behavior of yellowfin and keeping them from coming in closer to the islands. One member noted that some of the deeper private FADs are unproductive so they aren't putting effort into deeper FADs. He did note those that were closer to shore and right on the line may have an effect.

##### *Ecosystems and Habitat*

AP members noted that there are concerns about military activities and its effect on fish behavior and movement. Discussion centered around bottomfish not being in areas that were previously fished because of military activities in the same area.

Council staff noted that the non-commercial license feasibility study is working on an outreach plan for having public scoping on the options and research developed. He agreed to provide information to the AP when the scoping sessions are scheduled.

##### *Indigenous Rights*

Some AP members had concerns with Aha Moku and the lack of action on their islands. They would like to be provided an update on what is going on and who those members are at future meetings.

Council staff added that the State of Hawaii Board of Land and Natural Resources approved the rules package for the Community Based Subsistence Fishing Area in Mo'omomi to go out for public hearings. He said that the package is sitting on the Governor's desk for approval prior to the meetings being scheduled and said he would pass along the information on the meetings when they become available.

#### **5. Public Comment**

There were no public comments.

#### **6. Discussion and Recommendations**

The Hawaii Advisory Panel made the following recommendations:

##### ***Regarding MHI Deep 7 Bottomfish ACLs:***

- The Hawaii AP is willing to accept a lower ACL (Alternative 4) In exchange for the State of Hawaii opening the Bottomfish Restricted Fishing Areas (BRFA's). Should the State not be willing to do this, the AP recommends the Council choose Alternative 3 and set the ACL for the fishery at 40% risk of overfishing that would result in an ACL of 492,000 lbs.

**Regarding Offshore Aquaculture:**

- The Hawaii AP recommended the Council select the following alternatives for managing aquaculture in the Western Pacific region:

<b>Aquaculture Program Component</b>	<b>Preferred Alternative</b>
Permitting	Alternative 3
Applications	Alternative 3
Permit Duration	Alternative 3
Allowable Systems	Alternative 2
Siting	Alternative 3
Allowable Species	Alternative 2
Record Keeping	Alternative 3
Framework Procedures	Alternative 2
Program Capacity	Alternative 3

Further, the Hawaii AP requested that they be provided the opportunity to review the alternatives at a future meeting should the DPEIS alternatives be changed.

**Regarding Sea Turtle Interactions in the Hawaii Shallow-set Swordfish Fishery:**

- The Hawaii AP recommended the Council select Alternative 2, the fleet-wide hard caps plus a vessel limit. Further, the AP is agreeable to supporting the alternative that the industry supports as well.

**Regarding Ecosystem Component Designation:**

- The Hawaii AP endorsed its previous recommendation and recommends the Council designate Ecosystem Components for the Hawaii fisheries for those species not in need of federal conservation and management.

**Regarding Research Priorities:**

- The Hawaii AP suggested looking at adding the effects of private FADs, military activities, and Kona Crab spawning periods to the appropriate research priorities.

**7. Other Business**

Council staff noted the schedule for the Scientific and Statistical Committee meeting and next Council Meeting to be held in Maui in June. He also noted the Fishers Forum being held to recognize the bottomfish fishery in Maui as well. Council staff also said that the next AP member solicitation will be available in June.