



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

**MINUTES OF THE  
176<sup>th</sup> MEETING OF THE  
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**March 19-21, 2019  
Laniakea YWCA, Fuller Hall  
1040 Richards Street  
Honolulu, HI 96813**

Approved by Council:

A handwritten signature in black ink, appearing to read "Taotasi Soliai".

Taotasi Archie Soliai, Chair

Western Pacific Regional Fishery Management Council

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## **I. Welcome and Introductions**

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

- Taotasi Archie Soliai, chair (American Samoa)
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Michael Duenas, vice chair (Guam)
- Dean Sensui, vice chair (Hawai‘i)
- Christinna Lutu-Sanchez (American Samoa)
- Ryan Okano, Hawai‘i Department of Land and Natural Resources (Hawai‘i DLNR) (designee for Suzanne Case)
- Michael Goto (Hawai‘i)
- Augustin Kaipat, CNMI Department of Lands and Natural Resources (CNMI DLNR) (designee for Raymond Roberto)
- Chelsa Muna-Brecht, Guam Department of Agriculture (DOAg)
- Ed Watamura (Hawai‘i)
- McGrew Rice (Hawai‘i)
- Henry Sesepasara, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Mike Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)
- Lt. Cmdr. Adam Disque, US Coast Guard (USCG) (designee for Rear Adm. Kevin Lunday, commander for USCG District 14)
- Brian Peck, US Fish and Wildlife Service (USFWS)

Also in attendance were Council Executive Director Kitty Simonds, NOAA Office of General Counsel Kristen Johns, and Scientific and Statistical Committee (SSC) chair James Lynch. Council member Michael Brakke, US Department of State, was absent.

Soliai opened the 176<sup>th</sup> meeting of the Council and welcomed Council members and the public. Following self-introductions by Council members and staff, Lunday was introduced and spoke on the responsibility of the USCG relative to fisheries and their management. The number one priority for the USCG is safety, followed closely by protecting the US economic exclusive zone (EEZ) from illegal fishing and ensuring proper management of domestic fisheries through laws and regulations. Lunday also mentioned the increase of fast-response cutters being stationed in the Hawaiian Islands.

Sesepasara requested for a USCG cutter to be based in American Samoa.



Lunday said he instructed the USCG staff to explore the capabilities of the new cutter to service the jurisdiction.

Lutu-Sanchez thanked Lunday and the USCG for supporting the American Samoa longline fleet, especially for offering classes to help prepare fishermen for future hurricanes and other natural disasters.

## **II. Approval of the 176<sup>th</sup> Agenda**

Soliai asked for a motion to approve the 176<sup>th</sup> meeting agenda.

Moved by Duenas; seconded by Sensui.

Motion passed.

## **III. Approval of the 174<sup>th</sup> and 175<sup>th</sup> Meeting Minutes**

Soliai asked for a motion to approve the 175<sup>th</sup> meeting minutes.

Moved by Duenas; seconded by Sensui.

Motion passed.

Approval of the 174<sup>th</sup> meeting minutes was deferred later in the agenda. At a later point in the agenda, Soliai asked for a motion to approve the 174<sup>th</sup> Council Meeting Minutes.

Moved by Gourley; seconded by Duenas.

Motion passed.

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

Simonds provided the Executive Director's report, focusing on how regional fisheries are threatened with an impending lawsuit and risk of injunction due to PIRO's failure to complete necessary consultations by NMFS. Simonds described the closure of the Hawai'i shallow-set longline fishery in 2018 as part of a court settlement in the lawsuit by Turtle Island Restoration Network and the Center for Biological Diversity against NMFS, under which the number of allowable interactions the fishery could have with loggerhead sea turtles was reduced from 34 to 17. The court also specified that the number could not increase without a new Biological Opinion (BiOp). However, NMFS has failed to meet its deadline for completing the BiOp, and the Council again would not be able to act on its management framework for sea turtle interactions at this meeting. Simonds reported that PIRO expects to deliver the draft BiOp on March 25, so the Council is scheduling a meeting on April 4, 2019, to accommodate the delay.

Simonds also reported on the Southern Exclusion Zone (SEZ) closure that resulted in the Hawai'i deep-set longline fishery having access to less than 18 percent of the US EEZ around Hawai'i due to false killer whale interactions. NMFS currently considers the impact of a serious injury to a false killer whale to be equivalent to the impact of a dead false killer whale even though the animals are released alive. The SSC requested that the Council request that NMFS develop alternative serious injury criteria for false killer whales that are probability-based rather than the current approach. Simonds also reported that the SEZ will not automatically reopen next

year. NMFS must determine that certain criteria can be met. A key piece of information impacting the reopening of the SEZ is the false killer whale abundance estimate, which is not yet available 15 months after the EEZ-wide survey was completed in 2017.

Simonds urged the Council members to keep in mind the dire state of the region's fisheries during the week's discussions and deliberations. The fisheries are on the brink of disaster because of years of inadequate progress and lack of oversight by PIRO. She concluded that the Council needs to help change the way the government agencies do business in the region and persuade them to respond more urgently to their and our mandates.

Tosatto said that the Pacific Islands Fisheries Science Center (PIFSC) and PIRO staffs work diligently to protect the region's protected species and manage the fisheries in partnership with the Council. Tosatto asked Simonds to stop before any damage is done to that partnership.

Simonds said she was not describing PIRO and PIFSC staff members, who have tried their best to do their job, but rather leadership.

## **V. Agency Reports**

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

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

Tosatto provided the NMFS PIRO report describing actions taken and progress made on the project since the last Council meeting last October. He especially noted that the Observer Program Managers of the Regional Office retired and that there has been an organizational change to place the PIRO Observer Program within the Sustainable Fisheries Division (SFD). Doing so will allow integration of the collection, transmission, and management and use of Observer Program data, with the hope of moving to electronic reporting from the observers.

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

Michael Seki, PIFSC director, provided the PIFSC report, which covered research ship time and planned cruises, recent protected species efforts, publications authored by PIFSC personnel and other notable activities not provided in the written report. The 35-day government shutdown that occurred from December 2018 through January 2019 negatively impacted PIFSC's ability to meet some crucial deadlines, including the territory bottomfish assessment. The NOAA vessel *Hiiialakai* will likely not be available for use for all of Fiscal Year 2019, and the vessel *Oscar Elton Sette* also had delays coming out of winter repair. PIFSC will accommodate as much of its work as possible on one ship, which unfortunately means delaying the scheduled trip to American Samoa. Seki mentioned the retirees and departures from PIFSC, including Jerry Wetherall, Darryl Tagami, Bruce Munday and Annie Yau. Lastly, Seki mentioned the Western Pacific Insular Fisheries Monitoring Workshop, a large effort on how NMFS and the Council will move forward with monitoring and reporting on the fisheries resource harvest throughout the region, and briefly described annual sea turtle research in the Northwestern Hawaiian Islands (NWHI) and recently completed coral reef bleaching surveys.

Gourley asked who to contact for questionable data found on the PIFSC data portal.

Seki said new programmers have made great headway in streamlining how the data are accessed. Stefanie Dukes, PIFSC staff, would be the individual to reach out to if there were issues discovered in the data.

Gourley noted his concern with data being put out for the general public assuming that it is correct. An example is a recent paper using biosampling data from Saipan in which the data were pulled from a NOAA report that represented consolidate data from multiple islands.

Seki said PIFSC often wants to make data available. Once the data is released, the interpretation is out of PIFSC's hands. This is the fear and the challenge of making data public.

Gourley asked about the report on the status of the CNMI coral reef, which has some inaccurate conclusions with regards to the local fisheries. The report was meant for managers and decision makers who would be using this information to make regulations and policies based on seemingly biased information.

Seki suggested sending him the report, and he will investigate who was involved.

Rice said that he enjoyed the report by Emily Rollins in 2011 and thinks that it is time for another survey to determine if more money is being made by fishermen recently.

Watamura asked about future commitments regarding the Modern Fish Act passed last December and what PIFSC's role might be in fulfilling the requirements of this act.

Seki said that PIFSC has not determined the road what the Modern Fish Act may entail on its science. He expects to meet with PIRO to figure out the best interpretation of what needs to be delivered prior to forming any plan.

Sesepasara asked who would be involved in the Western Pacific Insular Monitoring Workshop.

Seki said the heads of the territory management agency would be critical because decisions and commitments will have to be made.

Emily Rollins, PIFSC staff, added that both leadership and the technical staff will be involved. They hope to make important decisions at the workshop and want to ensure all appropriate decision-makers are present.

Sesepasara asked about the dates for the Western Pacific Insular Monitoring Workshop.

Rollins said the workshop will be held the week of July 22, 2019.

Muna-Brecht asked about the scope of the Western Pacific Insular Monitoring Workshop.

Seki said the scope is the territory data collection, including the bio-sampling program. The hope is to invest resources efficiently so as to get the best data streams possible. In doing so,

the workshop participants will go region by region and present what is currently being collected, the current data and the pros and cons (both on the data side as well as the bio-sampling side and eventually move to a discussion on the surveys, the agency's needs and the data collection plan.

**a) Status of Council Research Priority for the FY 2020 Annual Guidance Memo**

No report was provided on the PIFSC Annual Guidance Memo (AGM).

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

Johns provided the report for the NOAA Office of General Counsel, Pacific Islands Section. The first update was the litigation of the Territory of American Samoa versus NMFS challenging the 2016 rule that provided an exemption to eligible longline vessels in American Samoa from the Large Vessel Prohibited Area (LVPA). In March 2017, a Federal District Court vacated the rule. NMFS appealed that decision in the Ninth Circuit Court of Appeals. NMFS filed its opening brief on Feb. 21, 2019, and American Samoa will file a response due April 24, 2019. The second update regarded the Notice of Intent to Sue (NOI) that NMFS received on Feb. 7, 2019, from the Conservation Council for Hawaii and Mike Nakachi. The NOI alleges that major fisheries in the Western Pacific Region interact with the oceanic whitetip shark, which was listed under the Endangered Species Act (ESA) as threatened in January 2018, and that NMFS has failed to complete consultation under ESA Section 7 such that it failed to ensure that the continued operation of the fisheries does not jeopardize oceanic whitetip sharks.

Lutu-Sanchez asked if NMFS has prepared a response to the NOI and what the process is once an NOI is filed.

Tosatto said that he was not able to speak about NMFS' response to the NOI because the NOI initiated a legal process. NOIs happen throughout the agencies all the time. Sometimes the person who filed the NOI will actually sue at which time the process would enter a different phase. NMFS' response would depend on the allegations in the lawsuit. He said that the fishery continues to operate while NMFS continues to prepare the Biological Evaluation (BE) to reinstate the consultation on the American Samoa longline fishery.

Soliai asked for clarification on whether NMFS is waiting until the suit happens in order to provide a response.

Johns said that there is no formal response required by the agency at this time. If a suit is filed in District Court, then NMFS will have to file and answer and the normal litigation process will begin.

Soliai said that such a suit could be disastrous for certain Western Pacific fisheries. He asked if it would be correct to say that, if the plaintiffs file a suit and ask for an injunction, that the fisheries could be closed until the issue is resolved.

Johns said that the plaintiffs could seek to fully or partially enjoin the fisheries or they could also seek attorney's fees or litigation costs.

Sensui asked if NMFS would consider the oceanic whitetip shark consultations a priority over other consultations such as for loggerhead turtles given the lack of an existing BiOp due to the new listing.

Tosatto said not necessarily.

Simonds reported that the Hawai‘i shallow-set longline fishery had been closed as of 9:40 a.m. that morning (due to reaching the loggerhead turtle hard cap).

Gourley asked if NMFS has sufficient staff to take on four consultations at the same time as the sea turtle issue.

Tosatto said that the re-initiation of consultations is proceeding in the best possible way. He said that no one person can take a look at four different things at the same time and that many different staff members in different NMFS offices are involved. The consultations have to be carefully timed, which is one of the reasons they take time.

### **C. US State Department**

Eric Kingma, Council staff, presented the US State Department’s report on behalf of Brakke. Brakke recently attended the Pacific Communities (SPC) Heads of Fishery meeting in Noumea, New Caledonia, on March 11-13, 2019. No US Territory representative was in attendance. NOAA or Council staff as well as US Territory representatives should consider participating in the future, as many issues of mutual interest to the Pacific Islands Countries and US Territories are discussed at the SPC Heads of Fishery meeting. Kingma suggested that US Territory representatives contact Brakke if they are interested in attending future meetings.

Kingma reported on the ongoing negotiations of the Intergovernmental Conference on an International Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ). The second session will convene in New York from March 25, 2019, to April 5, 2019. The State Department convened a public meeting and teleconference with interested stakeholders on the issue on March 12, 2019. Kingma said he will provide a presentation to the Council regarding BBNJ during the pelagic section of the Council meeting agenda.

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

Peck provided the USFWS report. He reported on recent staff changes at USFWS. Jarod Underwood will report as the Papahānaumokuākea Marine National Monument superintendent on April 28, 2019. There is still no permanent main USFWS supervisor in the Honolulu office for the Refuge and Monuments. John Kasbohm is currently acting in the position. Tammy Summers, currently with the Department of Defense in the Marianas Naval Facilities, will be the new Superintendent for the Marianas Trench Marine National Monument and the Guam Refuge. Summers has worked with Protected Species Divisions of NOAA, many other universities and agencies across the Pacific, and is learning the Chamorro language.

Peck also presented on 10 new murals on the concrete wall along the Main Coast Road at the fuel tank farm entitled “World of the Sea.” The murals were done by local American Samoa artists and funded by the tank farm, Petroleum Coalition.

Gourley asked how the management plan was coming along for the Marianas Trench Monument. He believed there are two plans coming together for the monuments, one for NOAA and one for USFWS.

Tosatto said that there is one jointly developed management plan between NOAA and USFWS for the Marianas Trench Monument. One jointly-developed Environmental Assessment in support of that management plan is under review since the transfer of the submerged lands by the Department of the Interior and Department of Commerce. The agencies have been working through the Regulatory Framework that would be implemented once finalized. Predominant authority for the Monument actions would be in Interior’s realm. The Council will receive the draft management plan followed by the draft environmental assessment, the final management plan, and then the final environmental assessment with a record of decision.

Gourley asked since this reassessment has been going on for a relatively long time if everyone must wait until a decision is made before disseminating the plan.

Tosatto said not necessarily. Although the political determination is yet unknown, the Interior Department has sent its report up since the review was done, and some of that was seen. The plan will be released after NOAA and USFWS finalizes, it but it is unclear as to when that will be.

## **E. Enforcement**

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

Disque provided the USCG report. The USCG has been busy growing recently. Two major cutters have been patrolling the District 14 region for the first time since 2015. The first of the deployments was the brand new USCG *Cutter Munro*, one of the new national security cutters, to the Solomon Islands and Guadalcanal. The vessel is named after Signalman 1st Class Douglas Munro, who is the US Coast Guard’s only Medal of Honor winner for his actions evacuating marines out of Guadalcanal. Munro also traveled to Fiji and was able to commemorate the signing of the USCG 11th Bilateral Shiprider Agreement with Fiji. USCG *Cutter Mellon*, one of the older legacy 378-foot cutters on her way home to Alameda, Calif., visited Fiji and conducted the first bilateral shiprider operation with Fiji. Additionally, the USCG will host a symposium in April 2019 for all 26 fisheries enforcement officers from the Pacific Island countries. The goal is to help them understand how the USCG operates and increase interoperability as the USCG conducts operations with partner nations in Oceania.

Disque reported on the thriving Oceania Maritime Security Initiative, which is the USCG agreement with the Department of Defense that allows USCG officers to board Navy ships while transiting the region. The USCG will be conducting a patrol called an Initial Test and Evaluation of that platform for the Oceania Maritime Security Initiative. *Oliver Berry* and *Joseph Gersack*, the two newest fast response cutters, have been extending the USCG’s capacity to get

offshore to provide enforcement boarding and search and rescue capacity throughout the main Hawaiian Islands (MHI). The William Hart will join them in the summer of 2019. Three more are scheduled to be starting in Guam in 2020. There is a planning committee to get these fast response cutters rotating in and out of American Samoa in the next fiscal year. Kimble, the 418-foot national security USCG cutter, will be commissioned in the summer of 2019. The USCG is also looking forward to the arrival of USCG Cutter Midget in the same class of ships.

Disque said that this is his last report and attendance of a Council meeting. He expressed the gratitude of the USCG for maintaining the good relationship with the Council.

Muna-Brecht asked about the USCG role in providing assistance with the DOAg's Conservation Officers in managing their Marine Preserve Area under the Joint Enforcement Agreement (JEA).

Disque said he was not aware of any official interaction, but he would look into it with his contacts in Guam. The USCG always looks to partner with any like-minded agency that wants to protect resources or coincides with anything else in its mission.

Tosatto said that the JEA is with NOAA Office of Law Enforcement (OLE), and Martina Sagapolu can follow up during her upcoming presentation.

Duenas asked whether any fines or penalties were associated with the accidental crashing of a cruise ship into a fuel pier at Apra Harbor and who would receive that money.

Disque said that the USCG will be primarily interested in any pollution response and an investigation into what may have caused that collision from a prevention safety standpoint. He was not familiar with the case. It would be different if it was a US vessel versus a foreign vessel.

Simonds thanked Disque for his efforts in helping transport the Council members and staff to Guam from Saipan after Super Typhoon Yutu.

Disque said that recovery and response to any such incident is somewhat chaotic. While it took a while to figure everything out, the USCG was happy to help the Council get to Guam safely.

Gourley also thanked Disque for his efforts in helping transport the Council members and staff to Guam from Saipan after Super Typhoon Yutu. He said he saw Disque several times in the subsequent days organizing recovery efforts.

Disque said he was happy to help. The USCG's incident response is something that this district is very familiar with.

Wamura also thanked Disque for his efficient efforts, calling the USCG's handling of the situation inspirational.

Soliai thanked Disque for his efforts in supporting the Council and the USCG outreach that he initiated to the foreign fleets originally requested by American Samoa. He had spoken to

Lunday earlier about encouraging the continuation of the outreach efforts. Soliai wished Disque well in his future endeavors.

Simonds asked for a description of Operation Deep Seven.

Disque said that one of the local enforcement efforts of the Humpback Whale National Marine Sanctuary over the last 10 years is called Kohala Guardian. This year the whales have been doing very well, so consideration is being given to splitting enforcement effort to start looking at another pulse operation, the Hawai'i bottomfish fishery. The program is in its infancy this year especially with the government shutdown in January 2019, but ideally it will grow into a robust program just as Kohala Guardian has.

Sensui thanked Disque for helping the Council members and staff get from Saipan to Guam in the midst of recovery efforts. He asked if the USCG considered the use of remote aircraft to allow for more consistent monitoring of NWHI areas since the EEZ in the Western Pacific Region is large.

Disque said that, no, the USCG is still not officially using drones in operations. It is still in the research and development phase of implementing something like that. Every year, however, the Research and Development Branch of the USCG comes out to discuss ways to improve remote monitoring of the large EEZ.

Disque said he will be moving to Portsmouth, Va., as executive director on the USCG *Cutter Forward*.

## **2. NOAA Office of Law Enforcement**

Sagapolu, deputy special agent in charge of the Pacific Islands Division of the NOAA OLE, provided the NOAA OLE report. The OLE has opened 334 incidents relating to different types of activities covering the Pacific Islands in neighboring field offices from October 2018 to February 2019, many of which were associated with protected species. They opened 231 protected resources incidents, 94 relating to fisheries management, and nine for sanctuaries. Some of the investigations were described in greater detail, including a fraudulent logbook scheme, a violation submitted as a federal Lacy violation case involving marine mammal parts such as walrus tusks, and a purse-seine vessel making sets on live whales. Many are unhappy with how long these types of investigations can take. For example, the purse-seine violation happened in 2016. OLE Pacific Islands Division is committed to trying to expedite these investigations, but they are typically longer because OLE does not have control over these cases in terms of the data submitted to the Pacific Islands Forum Fisheries Agency (FFA). In response, OLE will be sending additional personnel throughout the year down to Honiara to review catch effort logs.

Sagapolu said that OLE has been busy this humpback whale season with protected species detail starting in January 2019 through April 2019. There have been 231 incidents associated with protected resources, including patrol efforts, outreach efforts and initial investigations. During the government shutdown right at the start of whale season, only 10 personnel covered the Pacific Islands Division. Officers from the field offices in American



Samoa and Guam were detailed to Honolulu to help provide coverage during this time. Another case related to two summary settlements issued to Hawaii tour vessels relating to OLE spinner dolphin operations on the west side of the islands and has also spread to the Big Island and Kaua'i. This sort of case is priority for OLE because it is addressing behavior of commercial assets that are placing paying customers in Hawai'i and deterring the actions of the animals.

Sagapolu provided information on the outreach efforts conducted by OLE and its JEA partners. OLE has made several visits to O'ahu, Kaua'i and Moloka'i to do outreach and address how to approach marine protected species. OLE also participated in community events such as the Makua Beach West Side Cleanup Festival, which took place on the west side of O'ahu where they collected more than 14,000 pounds of debris. Lastly, she described two events around the MHI and CNMI related to foreign fishing activity. The cases are ongoing, so no more information could be provided.

Rice asked if people are allowed to swim with spinner dolphins.

Sagapolu said that "leap frogging" is not allowed, and it is being enforced. OLE is looking at cases where a tour operator chases dolphins in the direction where the customer are or the operators drop their customers where the dolphins are coming and causing the animal to turn or alter their behavior.

Rice said he sees boats in the schools all of the time. He asked if the regulation was being enforced.

Sagapolu said it is being enforced by 14 individuals, but partnerships through the JEA and with DOCARE increase their enforcement capacity. A hotline is also available for people to call in to report.

Tosatto said that NMFS issued proposed regulations involving the harassment of spinner dolphins, but the rule was never finalized. Dolphin SMART is a program that includes boat operators who voluntarily follow a set of procedures that allows them to act better among these animals.

Sensui asked what is allowed around spinner dolphins.

Duane Smith, NOAA Office of General Counsel Enforcement Section (OGCE), said that the Marine Mammal Protection Act (MMPA) includes harassment, intentional and negligent operation of a vessel or any other negligent act that results in the disturbance of the animal. The harassment has two categories: any act to pursue, torment or annoy with the potential to injure, or any act to pursue, torment and annoy with the intent to disturb. Smith also described the pending proposed regulations that would make it illegal to swim with Hawai'i spinner dolphins by creating a 50-yard approach rule. Since this is not the current law, OLE enforces the MMPA as it stands and looks for either acts of pursuit, torment or annoyance that have the potential to disturb the animals or the potential to injure the animals, or they are looking for the negligent or intentional operation of a vessel or any other negligent or intentional act that actually results in the disturbance of the animals. These actions are a more complicated legal standard than a 50-yard approach rule.

Sensui asked about current regulations regarding small drones for whale watching.

Smith said approach rules for humpback whales make it illegal to come within 100 yards or to cause any object to come within 100 yards, which includes someone causing a drone to come within 100 yards of the animal. For other marine mammals, drones would be under the normal legal standard of the MMPA.

Watamura asked about the law on fishing around dolphin pods.

Smith said that it would be the same thing as for humpback whales. The standard in place makes it illegal to take this marine mammal under the MMPA. In his five years at his office and his five years previously at the Southeast Regional Office, Smith has never seen a case where fishing was the cause of disturbance. He has, however, seen an issue where people are intentionally feeding marine mammals and has prosecuted cases where fishermen have done that because feeding is defined as take.

Soliai asked what the fine is for coming within 100 yards of a humpback whale.

Smith said the penalties are on the OLE Summary Settlement Schedules and also on the Penalty Policy. He thought it is \$750 for an approach within 100 yards of humpback whales.

Tosatto said that impacts means different things to a lawyer and a fisheries manager. There are impacts of fisheries operating in and around marine mammals. In Hawai'i, the reason NMFS proposed the clarification of the rules was to move beyond the harassment provisions to a more place-based and approach-based, as it is documented that the rest time for Hawai'i spinner dolphins during the day is being interrupted by some of these operations.

Gourley asked if the vessel in the CNMI was a foreign vessel and for specifics such as the location and the number of fishers on board.

Sagapolu said it was a foreign vessel operating in US EEZ around Hawai'i and CNMI. He was not able to provide details until the investigation is completed and submitted to General Counsel for review and disposition.

Lutu-Sanchez asked whether the violations documented by the *Mellon* and *Sequoia* while patrolling the high seas included common violations and whether any US vessels were boarded and had violations on the high seas or if it is all foreign vessels.

Disque said that primarily all are foreign-flagged. If it is a foreign-flagged vessel on the high seas, the USCG submits a report to the flag state and the Western and Central Pacific Fisheries Commission (WCPFC). It is up to the flag state to hold the fishing vessel accountable. With shiprider boardings, it is the coastal state's responsibility; the USCG assists in providing evidence and any documentation possible to assist the coastal state with its maritime governance.

Lutu-Sanchez asked if there were common types of violations.

Disque said no. They are all fisheries violations, for example, not having the proper gear, such as for turtle extractions, and logbook violations. The *Sequoia* has been travelling west and

finding more significant logbook violations; the cutter will continue to be sent out that way until the violation rate starts to go down.

Lutu-Sanchez asked if the USCG reports the violation to the flag state.

Disque said yes, the flag state gets the case. For serious violations, the flag state is required to report back to the WCPFC on what actions it took.

Soliai asked if the Council would know if they were subject to any penalties.

Disque said only if they tell the Council, as there is no requirement for them to say what the penalties were except under cases with significant violations. In the past, there have been reports of fines and licenses suspended. In one case, the vessel was immediately recalled to the flag state.

Muna-Brecht asked what support is available for the conservation officers through the JEA with NOAA.

Sagapolu said that, under the JEA, a four-week intensive boat school training course is provided. At the end of the course, an in-classroom training session covers the different federal regulations that the Joint Enforcement Officers will be enforce. People in CNMI have asked for some class time on case report writing, how to prepare a case report and submit it to General Counsel and addressing the different types of areas for which they need help. They typically invite USFWS and USCG. OLE also provides on-the-job training. For example, OLE has participated in two search warrants involving the illegal take of sea turtles. They also perform joint boardings at sea and joint patrols.

Muna-Brecht asked if it is possible for enforcement vessels to have their own docking area. Currently in Guam, law enforcement ships have slips in the public-use sports fishing marina.

Sagapolu said, several years ago, the JEA requested funding to build a docking area. She also acknowledged that at the last Council meeting, locals complained that the patrol vessels were taking up too much space in a particular area. These were not their vessels, as they only have small patrol boats. OLE is able to fund tools and equipment that support the JEA.

Muna-Brecht asked about personnel funding.

Sagapolu said that she knows that the Guam DOAg is struggling because there are so few officers with some getting ready to retire. Some deputized officers already sworn in are being asked to participate in the program. OLE is working with Lt. Mark on this request.

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

Smith provided the report for the NOAA OGCE. A handful of cases are under investigation, eight are being prosecuted and three have been settled since the last Council meeting. Smith noted the difference between making mistakes in self-reporting fishery data and

blatantly falsifying logbooks. He urged all with contacts in the fishing industry to stress the importance of accurate self-reporting.

The OGCE continues to see violations where people have failed to renew their permit and continue to fish, which are preventable violations through outreach. He also reported on a couple of closed area violation cases, which are a result the vessels having the closed area inputted into their chart plotters but over time a point on the chart being deleted. He also reported on violations with some troll vessels coming from the Pacific Coast and fishing in the WCPFC area but not being aware of the rules for the region.

Smith said that this will likely be his last Council meeting as he plans on transitioning back to the Southeast Region. He thanked the Council and expressed gratitude for its collegiality and support.

John Han, OGCE section chief, presented his perspectives surrounding enforcement in the Western Pacific Region and nationwide. Han is currently stationed in Washington, DC. He covered three topics: the role of OGCE nationally and Han's role; what Han has seen nationally and how the Pacific fits in; and the recipe for making successful collaborations in this region.

Han explained that investigators investigate the crime and attorneys prosecute them, with the OLE, USCG and their JEA partners being the investigators and the Enforcement Section prosecutors being the attorneys. Han oversees the latter. The prosecutors decide what charges to charge, whether the evidence meets the requirements of those charges, how much of a penalty to assess, whether there should be a settlement, and whether there are extenuating circumstances to decline a case. Before 2011 each region operated almost independently of each other with little collaboration with other regions or with the centralized decision-maker in terms of enforcement, determined its own penalty schedule, determined what to charge and how to charge. In 2011, an Inspector General reviewed the Enforcement Program and made several recommendations, including centralizing decision-making, which became Washington, DC. Now, each region reports to Washington, DC, and Headquarters ensures consistency so that everyone across the country is treated fairly, consistently and transparently. There are times, however, when something happens that is unique to the Pacific and not applicable to fishermen in other regions.

Nationally, about 100 cases per year are charged. In the Western Pacific Region, purse-seine violations are the most common. Considering the dollar amount of the penalties, the Western Pacific likely leads the pack because of the nature of the purse-seine fishery. Enforcement is not just about penalties; it is more about compliance assistance. In an ideal world, the enforcement division would put themselves out of jobs.

Han said the recipe for success for having a sustainable enforcement process in the Western Pacific begins with civility and professionalism. A contentious environment between industry and government regulators is unproductive. He asked the Council to keep this in mind as it goes through this process.

Simonds said, because the Council is working on regulations for the industry, it works directly with the industry. She noted that the 50-mile closure around the NWHI in 1991 was originally 20 and 25 miles, but the 50-mile measure was brought to the Council by the fishermen

who were interacting with the monk seals. She also mentioned that the Council developed the vessel monitoring system (VMS) for Western Pacific fisheries in the late-1980s and early 1990s.

Han said rules and enforcement go hand-in-hand. Many people will follow the rules, but there will be those who break them due to negligence, recklessness or intentionality. This is where there must be some degree of penalties or some degree of deterrence.

Simonds asked what position Han held prior to becoming the OGCE section chief.

Han said he was a criminal prosecutor in Washington, DC, for nearly 15 years working on cases involving gangs, organized crime, drugs and National Security. He does not have a background in marine or fisheries science.

Watamura asked Han about his experience surrounding contentious issues between federal and state managers leading to the failure to collaborate on certain solutions.

Han referenced the red snapper disputes in the Southeast and Gulf of Mexico regions especially regarding the three-mile EEZ area under state control, which some states asked to extend to nine miles. He suggested looking there to see what problems occurred and the ways they saw themselves through them.

Sesepasara asked about the criteria that are taken into consideration for assessing the penalties of illegal fishing.

Han said that their website lists the criteria in the Penalty Policy. The policy rates each offense passed on the severity of the offense and the level of intentionality to give a starting range on penalty fines, which can be refined based on an individual's history of offenses or mitigation efforts. He emphasized that assessment by NOAA is a recommendation of what the penalty should be. The due process for disagreements is through neutral Administrative Law Judges and subsequent appeals to the NOAA Administrator.

Muna-Brecht asked about the protocol in situations in which the local District Attorney may be relatively lenient for a fishing violation and if NOAA General Counsel would step in and judge that case.

Smith said that state and federal bodies typically have concurrent jurisdiction. One of the first things done in the enforcement process is to consult and see who should be on the case. Cases could be prosecuted both locally and federally in certain situations. Both the state and federal governments can try an individual for the same offense as a matter of law. As a matter of practical policy, it is rare for the federal government to prosecute if someone has already been prosecuted locally.

#### **F. Public Comment**

There was no public comment.

## **G. Council Discussion and Action**

There was no further Council discussion or action on agenda items.

## **VI. Hawai'i Archipelago & PRIA**

### **A. Moku Pepa**

Rice reported the community's concern about the State of Hawai'i harbors. The raising of fees by the State is contentious because the harbors are not being maintained as they should. He read a comment from a fisherman on a public meeting held regarding the fees and noted that the fisherman objects to raising fees without getting something for the increase. Security, electrical sources and pump-out stations are lacking, and harbors have rampant vandalism and drug dealing. The fishing community does not oppose a rate increase if the facilities are upgraded and the issues are addressed. Rice provided a history of upgrades that fishermen made themselves and the lengthy process they went through to improve what they have themselves.

Rice also reported on fish aggregation devices (FADs). The FADs need to have structures under them to be productive. With two FADs missing in Kona, Rice suggested that when they are replaced by the State that they include structure under them as a pilot design to see if they work better than those that are currently deployed that have no structure. Barges and fish pens off of Keauhou are very productive because of the below-water structure available to aggregate fish. Rice also said that he asked the State of Hawai'i to provide a report on what the Sport Fish Restoration Fund money provided to the State was being used for.

Sensui reported on aquaculture in Hawai'i, noting reports from the news indicate that aquaculture was having a hard time. Others in the industry who historically participated are looking to restart in the future. The Hawai'i DLNR and Division of Aquatic Resources (DAR) are supportive of aquaculture, but problems occur when other agencies, such as a Transportation and Health, are involved in the process. The Hawai'i Aquaculture Development Program used to help interested parties navigate through the process, but it has not been active in recent years.

Sensui also reported on a project to enlist chefs to find ways of making invasive fish desirable to the general market. The project by Conservation International aims to develop recipes and other promotions to create demand that would reduce the number of invasive fish.

Goto provided a recap on the end of 2018 and the beginning of 2019 in the Hawai'i longline fishery. The fishery was able to finish on a strong note in 2018 thanks to the American Samoa and CNMI governments, who entered into allocation arrangements with the Hawaii Longline Association. The closure of the SEZ prevented the fishery from finishing even better at the end of the year, as it is a popular area during that time of the year with bigeye tuna migrating closer to the islands.

Goto reported that the shallow-set fishery, which reopened on Jan. 1, 2019, saw the first landings in the beginning of February. He said it is unfortunate that the fishery closed in mid-March when it typically runs through May and June. Some owners just sent out vessels this week so they did not get a chance to set gear before the closure. It is an economic burden on the

fishery. Vessels will have to convert back to deep-set gear in order to continue fishing. The market and the fishermen both lose in time and product. He said these situations are preventable.

Goto reported that the net effects of the amendment to the Billfish Conservation Act was that Hawai'i lost the high end of the market, as the high-end billfish were sent to the US mainland. Since the sale of Hawai'i billfish to the mainland is now prohibited, the Hawai'i market has to absorb that volume at a lower cost. He said it would be great to have the Council or NMFS mitigate the many negative detriments to the longline fisheries and determine the effects from events like closures and legislation.

Rice said that when the Billfish Conservation Act was created, it was a one-size-fits-all approach and did not consider the repercussions for Hawai'i. In Kona, fishermen release about 80 percent of their fish but do sell a fair amount, as part of the sale goes to providing a bonus to the deckhands. The problem now is, because fish dealers cannot export to the mainland, they are unwilling to buy a lot of marlin from fishermen. He also noted that one of his customers owns restaurants in South Carolina that featured marlin dishes, and his business was also affected because he cannot purchase marlin anymore. He said it is sad that the Hawai'i Congressional representatives in Washington, DC, did not support the fishermen and businesses on this issue.

Sensui asked Goto if he had noticed any loss in terms of the salability or price of marlin.

Goto said he could not speculate on that directly but noted that the loss is related to the vendors who used to buy the highest-end product to send to the East Coast markets such as Boston and South Carolina. Those options are no longer accessible. He said it is difficult to pinpoint whether the salability changed because the local market absorbed the product.

Simonds said, when this was happening, she polled the other Councils' executive directors about marlin in their markets. In Alaska, they used marlin for sashimi.

Rice said the Four Seasons Hualalai serves marlin and smoked marlin, so it is a high-end product.

Gourley said the billfish prohibition is just the start as another Congressional bill would require fishermen to throw away sharks. Gourley said he did not know if it is indicative of a movement but people in Washington, DC, need to be educated so fishermen are given a break and all parts of a fish can be utilized.

Goto said that the longline fleet is not actively releasing billfish as the fishermen believe the product has value, but they are no longer getting optimal value for the product due to the restrictions.

Simonds said the SSC and the Advisory Panel (AP) also had these discussions. The staff will be talking to PIFSC about drafting an economic report on the fishery to document the impacts.

Watamura reported on a recent loss of a fisherman at sea. Matt Moribe, president of the Keehi Boat Club and a participant of the bottomfish research program run by Pacific Islands Fisheries Group, fell off his boat and was lost at sea while leadering in a fish. The small-boat community has been traumatized and is working to improve safety to ensure this incident does not occur again.

Watamura also reported on the Bottomfish Restricted Fishing Areas (BRFA), noting that opening the BRFAs could provide more safety for fishermen, as fishing closer would make it easier to return to the harbor and to be found by other ocean users. He said safety is being compromised by infrastructure problems, such as with the Hawaii Kai boat ramp that was unusable due to the collapsed center platform. Fishermen are working with the Division of Boating and Ocean Recreation (DOBOR), which has said that they do not have the funding to fix the ramp. He noted that a need for better coordination and a protocol for boaters to assist the US Coast Guard in search and rescue. The development of a protocol with the proper search patterns and what to do when there is a “man overboard” and which equipment fishermen should have on board would be helpful for safety purposes.

Watamura then reported on education and outreach efforts by fishermen, noting they are still pushing to get fishery education into the classrooms to start teaching children about fisheries. A fishing app developed by Jim Hori will go live in the beginning of May to assist in this effort. The app provides lots of possibilities for education, outreach, data collection and safety at sea.

Rice said that his boat ramp was also broken and not only fishermen use it, but also recreational boaters and commercial tour operators. It took the State of Hawai‘i more than two years to get it fixed. He said the State is surrounded by ocean, with the harbors being the hub of the activities, but the representatives do not appreciate the service the harbor provides for the tourist industry and all citizens. In other places around the world, entire communities are built and sustained around boat harbors. The State of Hawai‘i needs to look at these examples and see how they are maintained and utilized to provide for the citizens.

Disque said that, in the case of the missing fisherman, it is rarely just one thing and usually a combination of factors that results in something of this magnitude. The USCG was actively searching with aircraft and surface craft and was quickly on-scene with those assets, including a cutter. In response to the comments about coordination of the search, he said that the USCG has a fairly good methodology to conduct these searches. Admittedly it is very difficult to coordinate search efforts to all the good Samaritans that might come out, but they are added to the USCG efforts. He said it is hard to provide a search pattern because they are fairly complex and it takes many years of training to learn how to do it. He offered to show the efforts that they put in relative to this type of case to Watamura and anyone else interested. He added that the Coast Guard Auxiliary hosts safety classes and is always at the Council’s Fishers Forum to provide information about those classes.

Sensui said, regarding boater safety, the aircraft owners and pilot association had the Pinch Hitter program where the spouse of a pilot would be trained to fly and land an airplane should something happen to the pilot. Something like that might be considered for fishing, to



train spouses to operate the vessel in the case of an emergency. He also noted that he wears a personal flotation device with a personal locator beacon every time he goes out. This allows the USCG to know where he is right away should he go overboard. While this incident was a tragedy, it pains him to think that something like that could have been prevented.

Disque said the personal locator beacons save lives. It is important to register the beacon properly and make sure that registration is up to date in order to save valuable time for the USCG. The initial action is to start calling the registered numbers to find out if the person is actually underway, where s/he is and so on, to avoid false alarms.

Okano provided the State of Hawai‘i report and responded to Rice’s comment about Sport Fish Restoration Funding. He said that 15 percent goes to DOBOR, though he did not know how the funds are spent. The remaining funds go to DAR, which uses the funding for surveys on the reef and within estuaries. The State also uses the funds for its FAD and artificial reef programs and to upgrade a database to make it more accessible and useable within DAR and DLNR. He said the Sport Fish Restoration funding assists in aquatic education efforts, the Hawaii Marine Recreational Fishing Survey (HMRFS), life history work and freshwater fishery work on Kaua‘i and Lake Wilson.

Okano also reported on leadership changes within the DLNR noting that on Jan. 28, 2019, Kaleo Manuel became the deputy for the Commission on Water Resource Management and Brian Neilson became the DAR administrator on March 19, 2019.

Okano reported that HMRFS intercepted 1,119 anglers and completed surveys for both shoreline and boat-based fishermen on Kaua‘i, O‘ahu, Maui, Moloka‘i and Hawai‘i islands. A Marine Recreational Information Program (MRIP) workshop was rescheduled to May due to the government shutdown. The workshop will cover survey design changes as well as a transition plan which will tailor the surveys to what is applicable to fisheries in Hawaii.

Okano noted that after implementing the Dealer Weekly Report requirement in July 2018, nearly 50 of the 250 primary dealers opted to not participate. The 50 dealers, who bought fish ex-vessel, straight from the fishermen, said they are not going to report and will buy their fish directly from wholesalers. The State will enforce this reporting requirement using the civil resources violation system when the online dealer report system is implemented in July 2019.

Okano reported on a lot of lost FADs, one every month lost from September through November, four in December and five in January. There are plans to replace these FADs, but the procurement process is slowing down the deployment.

A report has been completed on a mid-depth survey of West Hawai‘i coral reefs that has been ongoing since 2003. This report shows an increase in the abundance of the fish in Fish Replenishment Areas as well as open areas. Herbivorous fish constitutes 50 percent of the fish biomass. While abundance increased, the biomass did not increase or change. The shallow-water resource fish survey started in 2008 found that the biomass of herbivorous fish has decreased by almost 50 percent, mostly driven by a decrease in biomass of surgeonfish, which decreased by 69

percent. The *pakuikui* (Achilles tang) decreased by 90 percent. However, parrotfish increased significantly.

Okano reported that reef markers were installed in Kane‘ohe Bay to show boaters where the reefs are. They are designed with a PVC top and stainless steel in the reef. To date, 62 markers have been placed on 32 patch reefs.

Okano also reported on the deep-seven bottomfish fishery, noting that the 2018-2019 fishing season has an annual catch limit (ACL) of 492,000 pounds. As of February 2019, a total of 255 licensed fishers made 1,189 trips and caught almost 118,000 pounds.

Rice asked about the 15 percent of Sport Fish Restoration funding that DOBOR receives. He said that 5 percent should be used for infrastructure and asked if that falls under DLNR and if that is how the funds are used.

Okano said that should be the intent, but he would need to speak with the Ed Underwood, DOBOR administrator.

Rice said the Council has invited him to its meetings multiple times but he has not attended.

Okano agreed to talk to the DLNR chair about having him attend the next Council meeting.

Sensui asked about the study of the Fish Replenishment Areas and how it showed that there was no difference between the closed and open areas in regards to productivity and what conclusions are being drawn from the study.

Okano said the study is relevant to the aquarium fishery. The assumption is the breeders are not being taken inside the Fish Replenishment Areas, so the younger fish are able to go further out, which accounts for the overall increase. It is a form of spillover, but this is primarily for the management of yellow tang that does not travel far.

Sensui said, when the FADs were first implemented, streamers and other structure used to be off the anchor lines.

Okano said this was one of the first issues brought to his attention when he came to the Council and he did some research about structure under FADs. The reason given to him about the lack of structures under the FADs is that there is no scientific evidence that it brings in more fish. A secondary reason is structures will decrease the lifespan of the FADs, causing them to break away sooner. However, he is still looking to see if in the future some adjustments can be made and to consider the suggestion to conduct an experiment in Kona with and without structure.

Muna-Brecht noted that Guam is having similar questions with its marine preserves and asked how the increase is being measured.

Okano said in-water surveys have been conducted four times a year since 2003, with a total of 90 surveys completed. The coastline is divided into segments, and surveys were conducted in both open areas and Fish Replenishment Areas. A comparison of the number of fish they count across surveys is used to estimate abundance.

Muna-Brecht also asked about FADS, noting that her recent conversations with Guam fishermen about FADs and FAD designs have resulted in similar procurement and deployment issues. She said getting approval for changing the design can be difficult because of the federal funding and asked if DAR is in the same situation.

Okano said he did not know if the situation in Hawai‘i is similar, but he would try to find out more information and report back at a future meeting.

## **B. Legislative Report**

Okano provided a report on legislative activities in the state regarding fishery issues. Twenty-three bills related to fishing were introduced in the legislature in 2019. As of the Thursday before the 176th Council meeting, three bills were still alive, one on prohibiting the take of sharks and rays with both Senate and House versions making the crossover, and a bill on prohibiting the use of lay nets for fishing except under a permit obtained from the DLNR.

## **C. Enforcement Issues**

Okano reported that Jason Redulla was appointed to chief of the Division of Conservation and Resource Enforcement (DOCARE). He also reported that the first class from the DOCARE Academy recently graduated, noting that the academy was started because of a lack of good recruits. In his interactions with the new officers, DAR was able to provide assistance on fish identification and other training. He also noted that, in working with DOCARE officers, he discovered that they spend a lot of their time addressing homeless problems in the community rather than resource enforcement because they are also allocated to State parks. He said this is unfortunate that these resources are being taken away from fisheries management.

## **D. Bottomfish Restricted Fishing Areas Removal Report**

Okano reported on the action taken by the Board of Land and Natural Resources in January. The proposed action was to request the opening of BRFAs C, F, J and L and to delegate to the chairperson the authority to implement the decision. Factors that were considered included input from fishermen, including from public meetings in 2014 as well as an online opinion poll sent to fishermen in October 2018 and recommendations from the Council. Equality at the County level, habitat value, fishery catch, enforceability and safety was also considered. DAR is working to revise its reporting grids to capture catch from the BRFAs that have been opened.

Watamura read a letter from the Council to Suzanne Case at DLNR regarding the Board of Land and Natural Resources decision on BRFAs. The letter congratulated the Board on its decision to open four BRFAs but noted the Council was extremely disappointed that some of the BRFAs remain closed. The Council understood that the option to open all the BRFAs could not

be considered by the board but asked for action to be taken to remove the remaining BRFA's as the Board, at its January meeting, appeared to lack a clear understanding of the fishery's health, management and economic importance. A request was made to invite the Council and NMFS to present to the Board at its earliest opportunity available and to include NMFS and Council staff in the efforts to change the reporting system as it will affect the federal noncommercial bottomfish reporting system as well. The letter also recommended the Council's bottomfish working group continue to assist the State on any management changes to this fishery as a coordinated federal and State approach is required in this fishery. Watamura thanked Simonds for the letter and expressed his appreciation for the Council's efforts to re-open the BRFA's.

#### **E. Main Hawaiian Islands Kona Crab Benchmark Stock Assessment Western Pacific Stock Assessment Review Report**

Marlowe Sabater, Council staff, presented the highlights and findings of the Western Pacific Stock Assessment Review (WPSAR) of the Kona crab benchmark stock assessment conducted in September 2018. The review panel included two reviewers contracted through the Center for Independent Experts (CIE) and chaired by a member of the Council's SSC. The WPSAR generated three individual panel reviewer reports and one consensus report, and staff reported the decisions according to the WPSAR terms of reference.

Sabater noted that the WPSAR panel deemed this benchmark assessment to be an improvement to the last assessment in 2015, which had been used to specify the ACL for 2017. The panel advised on small changes in the model configuration, which were discussed during the review. The WPSAR noted that changes in the regulation pertaining to size-limit, male-only and directed fishing have marked changes in the effort dynamics for the Kona crab fishery. The WPSAR also noted that the fishery dependent catch per unit effort (CPUE) data are not informative about population size or productivity and that the population scale is only informed by the scale of the catch. WPSAR noted that independent measures of trap catchability through short-term intensive field experiments would improve scaling information for this assessment. Sabater noted that the WPSAR panel overall felt that this assessment is a significant improvement compared to the previous assessment that was used for management, and the SSC had significant discussion on the merits of the assessment.

Sesepasara noted the significant decrease in catch and asked if the factors involved in the decrease were known.

Sabater said that, over the years, several regulations were put in place including a minimum size, a prohibition on catching Kona crabs while fishing with other gear and a ban on the take of female crabs. Reports of the fishery that were reviewed by WPSAR showed an almost 80 percent discard rate in the fishery because of regulations alone, concluding that regulatory discards contributed to the sharp decline in the fishery. The assessment showed that the stock is healthy and that the any issues are not related to the resource but rather overregulation.

## **F. Benchmark Stock Assessment for the Main Hawaiian Islands Kona Crab with Catch Projections for 2020-2024**

Felipe Carvalho, PIFSC, summarized the Kona crab stock assessment developed by PIFSC, providing information on the biology and fishery of the Kona crab in Hawai‘i and key information about the 2018 stock assessment. The 2018 benchmark assessment improved the filtering of data records by redefining fishing effort as a single reported fishing day and exploring fisher effects (individual fisher effects and cumulative fishing experience) in CPUE standardization. Additionally, the 2018 assessment addressed previously unaccounted for uncertainty, including unreported catch, incidental mortality of female crab catch following the prohibition of female crab harvest in 2006, and a Bayesian prior on the initial ratio of biomass to carrying capacity. The assessment used a Bayesian state-space surplus production model in a new user-friendly framework, Just Another Bayesian Biomass Assessment (JABBA). The model fit standardized CPUE data in a generalized Pella-Tomlinson surplus production model.

Carvalho said the results from this assessment concluded that in 2016, the Hawai‘i Kona crab fishery was not overfished (defined as  $B/B_{MSY} < 0.7$ ) with a 1.7 percent probability of the status being overfished in 2016. In 2016, the stock was not experiencing overfishing (defined as  $H/H_{MSY} > 1$ ), with 0.0 percent probability of overfishing occurring. In fact, the stock was never overfished historically, and overfishing in the fishery occurred in only two years in the early 1970s. Projections for 2020-2026 quantified overfishing risks for various catch levels and concluded that a 50 percent risk of overfishing in 2026 corresponds to an annual reported catch of 33,989 pounds.

## **G. Hawai‘i Charter Fishery Cost Earning Survey (2012) Report**

Emily Rollins of the Joint Institute for Atmospheric and Marine Research (JIMAR) presented a study on the economic contributions from the Hawai‘i charter fishing industry. The goal was to understand how the charter fishing industry contributes to the economy to determine how regulatory changes or disasters might affect the broader economy. According to the study, in 2016, charter fishing vessels took 8,000 trips and landed just over 400,000 pounds of fish, the majority of which included blue marlin, yellowfin tuna and mahimahi. The economic contributions are made up of direct effects, which include sales, income and employment; indirect effects, which include inter-industry interactions; and induced effects, which is household spending. The input-output software IMPLAN was used to model the economic contributions by county and the state overall. Results show that the charter fishing industry supports 861 jobs statewide with more than \$20 million in labor income and close to \$50 million in economic output, or gross sales. Hawai‘i County had the largest economic contribution with nearly 400 jobs supported, more than \$7 million in labor income and more than \$17 million in economic output. Maui was second largest in terms economic contributions, or in terms of gross output, followed by O‘ahu and Kaua‘i. The main industries supported by charter fishing are fuel, ship building and repair, and owner-occupied dwellings, wholesale trade and real estate. The charter fishing industry also supported 69 jobs and more than \$14 million in economic output on the US mainland.

Rice said he was part of a survey in 2012 and noted that the economic contribution may be even more now. He requested a follow-up survey to see how it has changed since then.

Sensui said this study highlights the economic contributions, which emphasizes the need to improve infrastructure around the harbors because they play an important role in the State's economy.

Rice agreed and added that it provides fishermen with ammunition when going to the State to request better facilities.

## **H. Registry Permit License Study Group Meeting Reports**

Aarin Gross, Conservation International Hawaii Program, provided a report on the Registry Permit License (RPL) Study Group meetings conducted in late 2018 as well as a background on the study group and its report. The study group has been working for three years to understand whether a noncommercial marine fishing registry, permit or license system might be legally and financially feasible in Hawai'i. The recent Study Group meetings were a result of a request by DAR to provide outreach on the group's findings with stakeholders statewide. The initial outreach effort was launched in the summer of 2018, and then redesigned after getting feedback from the fishing community, with the assistance of facilitation consultants. The redesigned outreach approach utilized an information exchange that aimed to share information in multiple ways, provide attendees with a safe, neutral space to share information, and provide a way to collect input directly from them.

Gross provided information on the format of these meetings, which included a gallery of posters, an interactive question and answer booth, and input stations. Eight information exchanges on six islands were held between Nov. 20 and Dec. 13, 2018. An online option was also available until Dec. 25. At the end of the information exchange series, the study group produced a report detailing where they went, what they shared and what they heard. This Community Input Report was sent on Jan. 11, 2019, to attendees who provided e-mail addresses, distributed through the study group members' networks, posted on Conservation International's website and submitted to DAR for consideration. In the report, each of the eight information exchange events was discussed in detail, including context, unique challenges and the feedback received. The report also provided input collected directly from the attendees.

Rice asked if the study group reached a conclusion.

Gross said that the study group decided over the course of the entire project that the value of the group was its neutrality. Each individual member had clear opinions about the information reviewed and the way to go about moving forward on this issue.

Watamura asked if she knew what would happen in the future.

Gross said that the outreach effort was originally made at a request from DA, which had intentions to introduce a bill this legislative session. During the course of this outreach, DAR decided to hold off on introducing something until it read what was collected.

Rice said that Hawai‘i is the only state that does not require licenses for charter patrons. A noncommercial license could provide additional contributions to the charter fishing industry’s impact on the economy and potentially provide funding to fix the harbors.

Sensui said the study group’s intent was to get as much outreach as possible, but the meetings were held at the University of Hawai‘i and other non-traditional places. He commented that part of the problem with getting people to the information exchanges was the time frame. They were held during a weekday at 5 p.m. at venues that were far away from some of the larger fishing communities and required fishermen to pay for parking.

Gross said the study group the outreach was designed to make it clear that it was not a government effort, which is hard to do and get people to show up. Part of trying to distinguish this effort from government efforts was to use venues that are not traditionally used for government meetings, which limited them to private venues and other places that had different limitations. She said it was a balance of trying to get as many people in the room and avoid holding an event where people were prepared to show up with testimony, which quickly raises the temperature in the room.

Sensui said there are other places that are non-governmental that could be used and asked who is going to use this information in the end.

Gross said that the study group learned that there is value in making information about this issue easily accessible. If this issue is to be solved successfully, it has to be led by fishers.

Okano thanked the study group for its work.

Simonds echoed his sentiments and provided a history of the Council’s attempts to get fishermen together to agree on reporting their catch that dates back to the 1980s.

## **I. Education and Outreach Initiatives**

Sylvia Spalding, Council staff, provided a report on the Council’s education and outreach efforts since the last Council meeting in October. The Council’s lunar calendars were distributed. The Hawai‘i calendar included a companion DVD, which narrated the stories in the calendar. The YWCA, the Council’s partner on this year’s calendar, hosted a launch of the calendar and DVD. Each month in the calendar has a story about Hina, the Hawaiian moon goddess, and a Hawaiian value that is associated with it. The DVDs and calendars are being distributed to all women in prison in Hawai‘i at the state and federal level and Hawai‘i women prisoners in the mainland and at correctional facilities and halfway houses. The YWCA will continue the education effort by converting the calendar into a booklet to teach women to be confident and return to their traditional values.

Spalding also reported on the Fishermen Code of Conduct, which continues to be of interest to the community. Mike Buck has used it in an article in *Hawaii Boats and Yachts* magazine. The Waimanalo Limu Hui asked if the Council could make signs of the code to be posted in the area where it conducts its lessons. The Council provided the Hui with two signs as

well as copies of the Code of Conduct postcards and posters. The signs are also at boat harbors throughout the state as well as lifeguard stations.

Spalding noted that the Council continues to co-sponsor the *Go Fish! With Mike Buck* radio program. Recent topics have included the Modern Fish Act, fishing apps, the Council's newsletter and the Council's meetings and Fishers Forum.

Spalding also reported that the Council has been asked to talk to graduate classes at the University of Hawai'i Hawaiian Studies Department; been asked to provide materials to the Hawai'i Department of Education for its annual workshop for about 100 Hawaiian Studies teachers; been asked to help with three upcoming conferences: Ocean Observation 2019 to be held Sept. 16-20 in Honolulu; the 2020 International Pacific Marine Educator's Network Conference in Honolulu; and the 2020 National Marine Education Association Conference in Honolulu. The Council has been asked to be a part of the strategic planning for the National Marine Educators Association, which is a payoff of the efforts that the Council started around 2006 to have traditional ecological knowledge incorporated as part of marine education nationwide.

## **J. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

The Hawai'i AP had no recommendations regarding Hawaii Archipelago fisheries.

### **2. Scientific and Statistical Committee**

Lynch presented the SSC recommendations regarding Hawai'i Archipelago fisheries.

*Regarding the MHI Kona Crab Benchmark Stock Assessment*, the SSC recommended that PIFSC explore other models to account for sex-specific dynamics rather than the sex-aggregated production model in the next benchmark assessment. Further, the SSC recommended that this benchmark assessment of the MHI Kona crab be accepted as best scientific information available (BSIA) and be used for management purposes. The SSC also recommended that the Council direct staff to convene a working group to conduct the P\* and SEEM analyses to support the acceptable biological catch (ABC) and ACL specifications, respectively.

*Regarding Kona crab regulations and management*, the SSC recommended that female crab discards be recorded on fishermen trip reports to provide a more comprehensive record of commercial catch. The SSC also recommended that the sex ratio of Kona crabs on Penguin Bank be studied to evaluate the potential effects on the stock from sex-selective fishing. Further, the SSC again strongly recommended that alternative management options for Kona crab, including the extension of the closed season, changes in mesh size and retention of females be evaluated to stimulate fisher participation in this healthy fishery.

Sensui asked for clarification on the recommendation regarding changes to the mesh size.



Sabater said the fishing community was interested in exploring adjusting the catchability by changing the mesh size of the loop net.

**K. Public Comment**

There was no public comment.

**L. Council Discussion and Action**

*Regarding the Kona crab fishery, the Council endorsed the SSC's findings that the 2019 Stock Assessment for the Main Hawaiian Islands Kona crab to be the BSIA for the purposes of setting harvest level reference points and determining stock status.*

*Moved by Duenas; seconded by Goto.*

*Motion passed.*

*Regarding the Kona crab fishery, the Council recommended NMFS PIFSC explore the use of other models that would account for sex-specific dynamics rather than the sex-aggregated production model in the next benchmark assessment.*

*Moved by Watamura; seconded by Goto.*

*Motion passed.*

*Regarding the Kona crab fishery, the Council directed staff to convene a working group to conduct the P\* and SEEM analyses to support the ABC and ACL specifications, respectively.*

*Moved by Watamura; seconded by Goto.*

*Motion passed.*

*Regarding the Kona crab fishery, the Council requested the State of Hawai'i DAR record female crab and minimum size discards separately on the fishermen trip reports to provide a more comprehensive record of commercial catch. However, this would no longer be required if the no-take of female statute is removed. Further, the Council requested that DAR, a) pursue actions for the removal of the no-take of female statute; b) revise the regulations pertaining to Kona crabs to extend or shift the closed season to ensure that berried females are protected; and c) explore options for changing the mesh size of the Kona crab nets.*

Okano reported that he inquired within DAR about getting data on female crabs that are released. There is a field for reporting this information, but there is no verification. When fishermen sell their catch, DAR can verify it with the dealer reports, but it cannot verify self-reporting of discarded crabs. Okano said he will abstain from the vote due to the motion being a request to his division.

Sensui asked would there still be a need to get data on crabs that are sent back because they are less than minimum size if the requirement for release of females were removed.

Sabater said that currently there is no way to separate out the two types of discards. If the female discard provision is removed, discards would only be of crabs less than the minimum size.

Sesepasara asked if there were data on survival rates of discards.

Sabater said research conducted at the Waikiki Aquarium resulted in a 90 percent survival rate. A previous Australian study found that crabs did not survive with a loss of limb, presuming that the crabs bled to death. However, the recent study showed that even with the loss of a limb, the crab survives. Some photo evidence shows that the limbs grow back. In addition, a drop study where a camera followed crabs that were released showed that no predation occurs while the crabs are returning in the water column. Future research is in the works to determine how fast the crabs bury themselves once they hit the sand bottom.

Moved by Watamura; seconded by Goto  
Motion passed, with Okano abstaining.

*Regarding the Kona crab fishery, the Council **directed staff to work with Poseidon Fisheries Research in expanding its Saltonstall-Kennedy (SK) funded project to include the estimation of sex-ratio in Penguin Bank to evaluate the potential effects on the stock from sex-selective fishing.***

Simonds added that this SK project was the only project that was funded for the Western Pacific Region. This year the NMFS decided to just fund one project in each region, and this Kona crab project was funded for \$96,000.

Tosatto advised the Council that, in working with this group, it will be following its project plan, which can be changed only so far to make sure that it stays true to the SK award. He noted that the Council should be careful as it goes forward with this recommendation.

Sabater said the project is doing mark recapture studies and the recommendation would be to add Penguin Bank as a site.

Moved by Duenas; seconded by Goto.  
Motion passed.

*Regarding the Charter Fishery Cost Earning Survey, the Council **encouraged PIFSC to maintain a regular schedule of the economic evaluations and monitoring of the fisheries in the Pacific Islands.***

Moved by Rice; seconded by Watamura.  
Motion passed.

## **VII. Protected Species**

### **A. Discussion Paper on Seabird Bycatch Mitigation Measures**

Asuka Ishizaki, Council staff, presented a discussion paper entitled “Evaluation of the Potential Removal of Blue-Dyed Bait from the Pelagic Fishery Ecosystem Plan and Other Considerations for Improving Seabird Bycatch Mitigation Measures in the Hawai‘i Longline Fishery.” The paper was prepared in response to a Council directive from the 174th meeting in October 2018 following a report of outcomes of the Workshop to Review Seabird Bycatch Mitigation Measures for the Hawai‘i Pelagic Longline Fisheries convened by the Council in September 2018. The Council at its 174th meeting made several recommendations regarding enhancing outreach and providing support for research and development of alternative mitigation measures. The Council additionally directed staff to evaluate whether blue-dyed bait could be removed in advance while work is ongoing on outreach and development of alternative measures.

Ishizaki presented the history of blue-dyed bait implementation in the Hawai‘i longline fishery, research on the effectiveness of the measure and a review of available information evaluating whether removal of blue-dyed bait without additional replacement measures may be feasible without compromising effectiveness of the overall seabird measures. The existing suite of seabird measures in the Hawai‘i longline fishery was implemented starting in 2001 with the last amendment implemented in 2006. The Council originally recommended in 1999 implementing seabird measures by requiring that vessels use two or more mitigation measures out of a list to allow flexibility for fishermen and to gather operational data on the most effective gear combinations. The actual measures implemented were based on Reasonable and Prudent Measures (RPMs) in the 2000 USFWS BiOp on short-tailed albatross, which required that all Hawai‘i longline vessels use thawed blue-dyed bait. The Council’s regulatory amendment in 2006 added the side-setting option.

Ishizaki presented two considerations for removing blue-dyed bait without alternative measures. First, Hawai‘i longline fishery seabird measures would remain consistent with WCPFC and Inter-American-Tropical-Tuna-Commission (IATTC) measures if blue-dyed bait is removed without replacement measures. However, available information suggests that removal of blue-dyed bait from the Hawai‘i longline fishery’s seabird mitigation measures may result in a further increase in albatross interactions. Work on additional measures is therefore required prior to consideration of removal of blue-dyed bait.

Ishizaki presented strategies for improving mitigation measure effectiveness for the Hawai‘i longline fishery, including 1) addressing captain effects through strategic outreach (including consideration of a “report card” tool to provide information on bycatch performance and facilitate targeted outreach to assist captains with higher interactions to identify appropriate methods for reducing interactions); 2) identify tori line designs suitable for the Hawai‘i longline fishery; 3) encourage additional trials for making minor modifications to existing required measures to enhance effectiveness such as branchline weighting configurations; and 4) progress international bycatch assessment for North Pacific albatross species and assess the relative risk of the Hawai‘i longline fishery to albatross populations.

Rice asked what longline fishermen think is the best mitigation measure, in terms of what they do not mind using.

Ishizaki said that it depends on the captains and their vessel configuration. Some captains prefer side-setting, whereas others do not. Many captains do not favor blue-dyed bait, but a small number of them do not mind using them. Others who have started using tori lines voluntarily would prefer to use it without blue-dyed bait. Having the ability to choose from several options and switch methods if needed would help the fishermen.

Rice said that testing new measures would be difficult if the shallow-set fishery is closed.

Watamura asked about the water cannon as an alternative measure.

Ishizaki said the water cannon was considered in the workshop but was considered a low priority. It sprays water at the birds to keep them away from the vessel but requires additional water hoses and structure that take up room on the vessel and would require maintenance.

Tosatto reminded the Council that the objective of these measures is to meet the National Standard for reducing bycatch and also an international obligation. Given that blue-dyed bait is a RPM from the USFWS BiOp, the Council recommendation on modifying seabird mitigation measures would have to go through a new ESA consultation with USFWS.

Okano asked how far the report card concept has been developed, such as whether additional issues would be addressed or vessels would be scored on a curve.

Ishizaki said that those are items that still need to be considered. The report card could be as simple as providing the seabird interaction number for that vessel for the past year compared to the average of all other vessels. Data confidentiality would have to be considered. The purpose would be to provide individual feedback, as the only information available to them now is the fleet-wide numbers. There have been discussions about incentivizing good performance.

Okano asked if other species such as turtles and false killer whales could be included.

Ishizaki said, at this time, the report card concept is discussed only in the context of seabirds. However, a similar idea was discussed in the context of loggerhead turtle interactions in the shallow-set fishery last year, with the idea of the industry taking on the issue as a way to stay under the hard cap, similar to examples from Alaska and West Coast fisheries where industry-level private agreements create the structure.

Lutu-Sanchez asked if any captains, especially those who have been in the fishery for many years, have been identified with higher or lower interactions and whether there has been discussion with them on what they are doing that causes higher or lower interactions.

Ishizaki said that the exploration of captain effects came from industry members asking at the Council's first workshop in 2017 as to whether higher interactions were attributed to newer captains who were not as aware of past seabird issues. However, the analysis did not show a strong experience effect, meaning that it was not only the new captains that were experiencing

higher interactions. There is a need to better understand what is driving some captains to have higher interactions, which is in part why the strategic outreach approach is being considered. That would allow those discussions about potential causes to occur, as it is possible that the cause is due to minor details that do not appear in data. For example, a vessel may be meeting regulatory requirements for side setting, but if the side setting is occurring at the minimum distance from stern and bait is being thrown toward the stern, that would reduce the effectiveness of the measure.

Lutu-Sanchez asked what the feedback is from the industry on the ability to choose options from Column A and B as in the WCPFC measure, compared to the existing Hawai'i longline fishery requirements.

Ishizaki said the workshop had some discussion on the structuring of the requirements, but that is something that the Council can consider going forward. If the Council is interested in moving toward a menu type approach, coordination with USFWS would be necessary given the history of seabird measures in the Hawai'i longline fishery. The WCPFC and IATTC measures do not distinguish between deep-set and shallow-set vessels, but these two sectors operate very differently, and some seabird measures are more suitable for one or the other of the sectors. Seabird interactions are relatively easier to mitigate as the interactions occur at the vessel; making the measures simple so that they become a routine part of the vessel operation would improve their effectiveness. The measures also have to be easy to deploy and safe for the crew.

Watamura said that it would be difficult to take away one of the existing measures when interactions are increasing, and asked for Ishizaki's opinion on the matter.

Ishizaki said that given the evidence and the increase in interactions, taking the blue-dyed bait away now without additional measures would be poor timing.

Simonds said that the point is to try the tori lines to see if they work the same or better than blue-dyed bait. The Council should also be working on reducing regulations, as the Administration has asked the Councils to do so. It has been years since changes were made to the seabird regulations; it is a good time now to consider changes given the uptick. She also said that the other important aspect is to do a workshop to evaluate bycatch in the international fleets.

Sesepasara asked if there are any confidential data involved with the report card concept.

Ishizaki said that confidentiality would have to be maintained. The report card would be tailored to individual captains or owners, so that the only individual data they would see are theirs and all others would be summarized.

Lutu-Sanchez said that it would be useful for individual captains to see what is happening compared to the rest of the fleet. Captains do not want to see increase in interactions. Each captain has his/her own habits and operational practices, so having options would be beneficial.

Sensui asked if the interaction numbers presented for the Hawai'i longline fishery include strikes.

Ishizaki said that the numbers are based on observed interactions in terms of hookings or entanglements and do not include strikes.

Sensui said that he suspect birds can see blue-dyed bait in the water given their sharp vision, even though the intent was that the blue-dye creates a camouflage effect.

Ishizaki said that it would be logical that seabirds can see contrast in blue color if they are feeding on the open ocean looking for food on the blue water. Studies from Australia and New Zealand show seabirds initially have little interest in the blue-dyed bait but by the end of the field trials they are striking at the bait, suggesting that they are seeing the blue-dyed bait.

Muna-Brecht asked if any studies have been done on the impact of blue dye and the biology of birds, considering that the dye is not a naturally occurring substance.

Ishizaki said that the dye is food coloring and she was not familiar with any studies of that nature.

Sensui asked what is required to change a vessel configuration from stern-set to side-set.

Ishizaki said that the main change is where the line shooter is mounted. When the side-setting measure was being considered, there was financial assistance provided in the order of a few thousand dollars per vessel to cover the one-time cost of converting to side-setting.

## **B. Status of the False Killer Whale Take Reduction Team Recommendations**

Kevin Brindock, PIRO, provided an update on the status of the False Killer Whale Take Reduction Team (FKWTRT) recommendations. He began with an overview of the Take Reduction Plan's goals and measures, including requirements on hook and branchline specifications and the SEZ closure. The SEZ was closed in Feb. 22, 2019, after two mortalities and serious injuries of false killer whales were confirmed inside the EEZ. In 2018, false killer whale interactions observed in the Hawai'i deep-set longline fishery totaled 13, four of which occurred inside the EEZ and triggered the SEZ closure in July. Additional details since the Take Reduction Plan implementation in 2013 show that approximately 70 percent of false killer whale interactions result in either mortality or serious injury.

Pursuant to the Take Reduction Plan regulations, the SEZ does not automatically reopen after the end of the calendar year when the SEZ closure is triggered for two consecutive years. There are four reopening criteria specified in the regulations. Of these, the fourth criterion specifies that the SEZ may reopen if the average level of mortality and serious injury within the remaining open areas of the EEZ around Hawai'i for up to the five most recent years is below the Hawai'i pelagic stock's potential biological removal (PBR) level.

FKWTRT is currently considering recommendations to amend the Take Reduction Plan, the process of which began at the in-person meeting held in April 2018. Measures currently under consideration include changes to hook and branchline specifications, modifications to the SEZ closure, crew training, electronic monitoring and move-on guidelines.

Goto said that he is not on the FKWTRT but is affected by the Take Reduction Plan. He asked if there was an estimated time frame for reopening the SEZ.

Brindock said that the regulations state that the closure will last at least for the remainder of the calendar year and that the reopening timing would depend on whether reopening criterion one or four could be applied. Criterion one provides for reopening upon consideration of recommendations from the FKWTRT as well as relevant information. Evaluation of the fourth criterion would require consideration of data from the full calendar year in which the SEZ trigger was met.

Goto asked if the updated information on the most recent five-year mortality and serious injury determinations are available.

Brindock said they would not be available until after the end of the calendar year when the recent five-year mortality and serious injury levels can be estimated with this year's data.

Tosatto said that while not definitive, only criterion one could reopen the fishery on Jan. 1, 2020, based on a consensus recommendation from the FKWTRT. Criteria two and three would not reopen the fishery until at least two years following the closure. Under criterion four, the math needed to determine whether reopening is warranted cannot start until after Dec. 31, 2019, so reopening timing would be some period of time into 2020 or as quickly as NMFS could do the math in 2020.

Brindock said that, regarding the first criterion, the FKWTRT is currently working on recommendations to amend the plan. The recommendations for the SEZ closure can be independent or concurrent with the other recommendations.

Lutu-Sanchez asked what percentage of the fishing areas is closed to the deep-set fishery due to the SEZ and if the reduction was about 20 percent of the EEZ.

Brindock said he does not have the exact number and pointed to the map showing SEZ and monument closure areas. The changes in the monument boundaries affected some of the open fishing areas. The area to the north and east of the MHI remain open to deep-set fishing.

Goto said the SEZ, the longline closure around MHI and NWHI, and the expanded Papahānaumokuākea Monument area combined is about 83 percent of the EEZ around Hawai'i, which leaves 17 percent open.

Watamura asked what is considered serious injury and who makes that determination.

Brindock said a serious injury is an injury that is more likely than not to result in mortality. The NMFS Policy Directive and Instruction outlines the process for making injury determinations. When PIFSC makes an injury determination, that information is reviewed by PIRO and the Pacific Scientific Review Group. The injury determination follows the criteria developed from expert workshops held over a decade ago.

Watamura said it is his understanding that a hook embedded in the mouth, regardless of the length of trailing gear, is considered a serious injury. He asked if that was correct.

Brindock said that a lip hooking has a different criterion, but, aside from that, it is correct.

Watamura said shorter trailing gear should make a difference on the serious injury determination. He said he understood the anatomy of false killer whales is such that trailing gear could wrap around internally and become a fatal injury. However, if the trailing gear was short enough, such injuries could be prevented.

Brindock said that based on the current criteria, a hook in the mouth with the exception of lip hookings would result in a serious injury determination given the best available science used at the time of developing the criteria.

Watamura asked if any changes to the determination may be expected.

Brindock said that NMFS is conducting a review of the injury determination guidelines.

Rice asked if NMFS is considering new information to inform the serious injury criteria.

Brindock said that part of the process is a review of all relevant information and any new publications or studies since the current criteria were developed.

Rice said there was a dead false killer whale that had six hooks in the stomach, but the hooks were not the cause of death. He said that information should be taken into consideration.

Brindock said that type of information would be included in the review.

Sensui asked what type of modification to the SEZ was under consideration.

Brindock said that the FKWTRT's draft recommendation included a conditional removal of the SEZ if gear and other aspects of the plan modifications were adopted.

Sensui asked how the SEZ area was determined given that interactions also occur outside of the SEZ boundary.

Brindock said that the SEZ was identified based on higher levels of interactions expected in the area at the time. Since the plan implementation, about 30 percent of the interactions inside the EEZ have occurred within the SEZ boundaries.

Goto asked Brindock to confirm that the most recent Stock Assessment Report shows that the mortality and serious injury level is below the PBR.

Brindock said yes, but that does not incorporate interactions that occurred in 2018 or later.

Tosatto said that the goal of the FKWTRT is to drive the mortality and serious injury level to zero.



Rice provided a statement regarding the false killer whale serious injury and SEZ issues later in the agenda. He said that based on his experience of being on the water more than most people, the existing serious injury determination does not reflect reality. Marlins are typically released with the hook and trailing gear. He catches three to six marlins annually that are in good shape with trailing gear from previous captures. False killer whales are much larger and smarter than marlin. Based on his experience, the existing serious injury criteria are hurting the fishermen when the animals are likely surviving. He said the serious injury issue needs to be changed to reflect reality. On the issue of SEZ closure, Rice said that opening the fishery on Jan. 1, 2020, should be paramount rather than waiting for six months after the start of the year for a report that calculates whether mortality and serious injury is below PBR. Information available now show that mortality and serious injury will be well below PBR. The timing of the reopening affects fishermen's lives because they are currently only able to fish in 17 percent of the EEZ. He said Council members in their role as managers are bound by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) but are not able to do their job correctly because necessary reports are not available. If NMFS needs more help, it should contract more people to complete reports in a timely fashion so that fishermen can fish and managers can manage according to MSA.

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

Brindock provided updates on ESA and MMPA Actions.

NMFS on Sept. 20, 2018, published a positive 90-day finding in response to a petition to list cauliflower coral under the ESA. The petition also included a request to identify the Hawai'i portion of the range as a "significant portion of the range" for the species. NMFS must first find that the species is neither threatened nor endangered throughout its entire range before conducting an analysis of a significant portion of the range. NMFS is currently conducting a status review for this purpose.

NMFS is conducting a global status review of leatherback turtles to determine if any of the subpopulations constitute a distinct population segment (DPS) and whether they should be listed as threatened or endangered under the ESA. The status review is in progress and expected later in 2019.

The status review of giant clams in response to a listing petition is currently in review. Critical habitat for three listed DPSs of humpback whales that occur in US waters is under consideration, and a proposed rule is expected later in 2019.

The recovery plan for the insular false killer whale is expected to undergo peer review in the next couple of months. The plan will undergo public comment following peer review. NMFS is also in the early stages of developing recovery plans for the three DPSs of humpback whales.

NMFS will be convening a Recovery Planning Workshop for oceanic whitetip sharks on April 23-24, 2018. Input from the workshop will be used to develop recovery objectives, criteria and recovery actions. Recovery plan development is in early stages for the scalloped

hammerhead shark DPSs. The draft recovery plan and draft five-year review for loggerhead turtles is planned for release in 2019.

NMFS also published the proposed 2019 List of Fisheries in October 2018, which included updates to the number of participants in the fisheries and changes to the species that interact with the fisheries.

Gourley asked how listing of giant clams may affect aquaculture for the species.

Brindock said, if listed, the species would be subject to ESA regulations and other requirements of the ESA such as Section 7 consultations, but the status review has not been concluded to determine whether listing is warranted.

Gourley said he has experience with giant clams. They breed quickly. He said it seems to be an odd animal to list under the ESA when there are aquaculture farms in the Pacific raising them. He hoped NMFS would do the right thing.

Tosatto said that aquaculture of ESA listed species could be possible. It would require a permit and clearance under the ESA for recovery actions. Some food fish are listed under the ESA, some of which are harvested, so it would likely be determined on a case-by-case basis.

Gourley asked if critical habitat for humpback whales is being considered for the Marianas.

Brindock clarified that critical habitat for three humpback whale DPSs, including the Western North Pacific DPS that does occur in the Marianas, is under consideration, but that he was not suggesting that critical habitat is being considered in the Marianas.

Gourley said that humpback whale calving in the Marianas raises a red flag and that critical habitat would be under serious consideration for the Marianas.

Brindock said data is limited for humpback whales in the Marianas and for the DPS.

Sensui said cauliflower coral is apparently one of the most common corals anywhere.

Brindock said that the information regarding distribution and abundance will be considered in the ongoing comprehensive review.

#### **D. Advisory Group Report and Recommendations**

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

There were no AP recommendations regarding protected species.

##### **2. Scientific and Statistical Committee**

Lynch presented the SSC report and recommendations. The SSC had extensive discussion regarding MMPA, SEZ and PBR calculations and had fundamental concerns about

how the program is being implemented scientifically. The SSC also questioned the value of the SEZ based on the available data. The SSC believed that the way PBR is being calculated does not reflect the best available scientific information regarding the actual impacts on the take on the population and that a comprehensive population viability analysis (PVA) provides a more appropriate approach. The SSC also discussed the application of NMFS' Serious Injury Determination criteria and raised concerns regarding the assignment of 100 percent mortality estimate to interactions that result in serious injury determinations. Information presented at the SSC indicated that the mortality and serious injury estimates could be reduced by half by changing the assumptions regarding the probability of mortality resulting from serious injuries. These assumptions have a significant impact on the fishery. Lynch presented the following SSC recommendations:

*Regarding the status of False Killer Whale Take Reduction Team recommendations*, the SSC recommended that NMFS implement effective captain and crew training to reduce the risk of false killer whale mortality or serious injury from gear interactions in the Hawai'i longline fishery while also promoting crew safety.

*Regarding false killer whales*, the SSC recommended that the Council request NMFS to develop approaches for incorporating comprehensive PVA to supplement the use of PBR and to reduce uncertainty in PBR estimates under its policy guidelines for preparing MMPA Stock Assessment Reports. The SSC further recommended that the Council request from NMFS data sufficient for the SSC to develop the PVA in parallel to the NMFS process.

*Regarding false killer whales*, the SSC recommended that the Council request NMFS to consider developing probability-based serious injury determination criteria for false killer whales.

Sensui said the MMPA says that the Commerce Secretary should provide assistance to regional fishery management councils. He asked Lynch if NMFS is assisting the Council and SSC.

Lynch said the MMPA, as he understands it, requires the Secretary to provide assistance to the councils to implement the act and deferred to NMFS on the question.

Tosatto said that he was not sure to which section of the MMPA Sensui was referring, but it likely does not stand alone or in superiority over other mandates within the act. He said he supports many of the academic ventures and views of the SSC. He said the MMPA has limitations and he has been supporting NMFS' exploration of a variety of MMPA issues. However, NMFS is bounded by the provisions of the MMPA, particularly pertaining to how PBR should be calculated. Regarding the provision of the MMPA pertaining to the Secretary providing assistance to the councils, Tosatto said he has to support the FKWTRT and its goals equal to his ability to provide assistance to the Council. The type of assistance he could provide to the Council would be gear studies to address depredation.

Sensui clarified for the record that he was referring to MMPA Section 118(i), which directs the Secretary of Commerce to provide assistance to regional fishery management councils in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

Lynch also reported on the SSC discussions related to seabird mitigation measures and presented the following recommendation:

*Regarding seabird mitigation measures*, the SSC recommended that Council evaluate within the next year whether blue-dyed bait has a negative impact on target species catch rates. Impacts on catchability may result in increased effort to compensate for the loss in target catch, which in turn could increase seabird interactions across the fleet.

**E. Public Comment**

There was no public comment.

**F. Council Discussion and Action**

*Regarding seabird bycatch mitigation measures*, the Council **endorsed the strategies for identifying alternative mitigation measures and improving seabird measure effectiveness for the Hawai‘i longline fishery as outlined in the discussion paper, including addressing captain effects through strategic outreach, identifying tori line designs suitable for the Hawai‘i fishery, encouraging trials for making minor modifications to existing required measures and progressing international bycatch assessments for North Pacific albatross species. The Council further directed staff to work with industry, NMFS, Pelagic Plan Team and other expertise as appropriate to identify draft minimum standards for tori lines, taking into consideration existing standards established for other fisheries, designs currently used voluntarily by Hawai‘i longline vessel operators, and diversity of vessel size and configuration in the Hawai‘i longline fishery.**

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding Seabird Bycatch Mitigation Measures*, the Council **requested NMFS to facilitate coordination with USFWS regarding any potential issues or concerns in the process of identifying and testing alternative mitigation measures.**

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding seabird bycatch mitigation measures*, the Council **recommended NMFS to prioritize conducting international bycatch assessment for North Pacific albatross species to improve impacts assessment of relative risk of the Hawai‘i longline fishery compared to other fisheries operating in the region.**

Tosatto said he did not have a problem with the recommendation but he did not know what it means because NMFS does not conduct bycatch assessments of albatross species and there is no international body that has that responsibility. He said he will look into it and respond.

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding seabird bycatch mitigation measures, the Council requested NMFS to evaluate whether blue-dyed bait has a negative impact on target species catch rates. Impacts on catchability may result in increased effort to compensate for the loss in target catch, which in turn could increase seabird interactions across the fleet.*

Tosatto said it would help him to consider what the Council is looking to get out of the recommendation, and said that he does not understand the intent of the second half of the recommendation.

Lynch said that the concern of the SSC is that if the blue-dyed bait is impacting target catch rate, it could have indirect effects resulting in greater impacts.

Tosatto said he still does not understand.

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding false killer whales, the Council directed staff to send a letter to NMFS in response to the SEZ temporary rule requesting that NMFS:*

- a. Establish a protocol for evaluating the five-year average estimated level of false killer whale mortality and serious injury for the 2015-2019 period at the close of the 2019 calendar year to allow reopening of the SEZ on Jan. 1, 2020, if the evaluation based on the protocol determines that the mortality and serious injury level inside the EEZ remain below PBR; and**
- b. Consider the reopening criteria based on the BSIA at the close of 2019 and to expedite the review of available information and reopening criteria.**

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding false killer whales, the Council recommended that NMFS work with Council staff to develop and implement effective captain and crew training program to reduce the risk of false killer whale mortality or serious injury from gear interactions while also promoting crew safety in the Hawai'i longline fishery.*

(This recommendation was originally worded as “the Council recommends that NMFS implement effective captain and crew training...”)

Tosatto said that the Council’s Fishery Ecosystem Plan (FEP) currently requires training only for owners and captains.

Soliai asked if the recommendation needs to be revised.

Ishizaki said the recommendation stems from the SSC discussion and focused on the lack of crew training.

Tosatto said that the Council has considered it appropriate to require the captains and owners get trained and NMFS implements it by regulations. The government process, by fiduciary responsibility of taxpayer dollars, is for PIRO to provide training to the ones who are required to have it. To do training in excess of the requirement begins to touch the edges of his fiduciary responsibility for taxpayer dollars. He said he cannot waste them on crew training if the Council has not required crews to be trained. If the council thinks crew training is appropriate, the Council should take action to require crew training. That is a serious undertaking and commitment for funds. He thought in this case there is probably some way to accomplish the intent of this recommendation through outreach, but he would not be able to take on obligations without formal Council action to have a requirement.

Lynch said given the MMPA requirement for NMFS to provide assistance to the Council, the recommendation could be reworded to request that NMFS work with Council staff to develop and implement an effective captain and crew training program.

Lutu-Sanchez said it is best to encourage crew training. Logistically crew training can be difficult especially given crew turnover. The American Samoa longline fishery encourages crew members to attend the training because they are the ones on the deck.

Goto said an added difficulty is the language barrier with the crew, which has been the experience with the crew handbooks developed by the industry.

Simonds said she understood the language barrier issue, as it has always been an issue. Last year at the Council meeting there was discussion about NMFS working with crew and captain about electronic reporting, and the Council at the time suggested the need for translations. She said that it is important for crew to have some kind of training, however it is done.

Goto and Rice agreed to the amended language.

Sensui asked if this would apply strictly to the Hawai'i longline fishery or whether it would cover American Samoa.

Ishizaki said this is in the context of false killer whales, which is a Hawai'i longline fishery issue.

*Moved by Goto; seconded by Rice.*

*Motion passed.*

*Regarding false killer whales, the Council **requested NMFS to develop approaches for incorporating comprehensive PVA to supplement the use of PBR and to reduce uncertainty in PBR estimates under its policy guidelines for preparing MMPA Stock Assessment Reports. The Council further requested that NMFS provide data on the pelagic stock of false killer whales sufficient for the SSC to develop a PVA in parallel to the NMFS process.***

Tosatto said he would vote no for a couple of reasons, including that alternatives to PBR are not allowable under the MMPA. A request for NMFS to consider the development of an alternative approach had come from the Council in the past, and there are aspects of the MMPA that NMFS is reviewing. He said the recommendation crosses the line of what he should be spending NMFS resources on (i.e., developing alternatives to established statutory requirements), so NMFS is unlikely to meet this request and therefore he would vote no. He said he would be open to the provision of data, as that would help reveal if there is a viable way forward.

Lynch said that the SSC recognizes that NMFS is bound by regulation, including those for PBR. The SSC's intent was to develop alternative analyses that could inform consideration of the issue but not to replace PBR because SSC recognizes that would not be possible.

Watamura said that the recommendation is clear on the intent.

*Moved by Goto; seconded by Rice.  
Motion passed with Tosatto opposing.*

*Regarding false killer whales, the Council **requested NMFS to consider developing probability-based serious injury determination criteria for false killer whales.***

Tosatto said he would support this recommendation as he thinks NMFS should be considering how to operate within the guidelines of the MMPA and broaden its view, including taking a serious look at the Serious Injury Determination Criteria. This is the time to do that, and the recommendation would help him leverage the regional interest in this for a national question.

Rice said that a large false killer whale with trailing gear is not going to have a large impact on the animal. He has seen animals with worse injuries that live long and prosperous lives. The current determination of a hook and line being considered a take needs to be reconsidered.

Watamura said he strongly supports this recommendation and reiterated his earlier comment that it goes against logic that a hook in a mouth means it would be a fatal injury. He said he can see how some length of line could possibly cause problems. However, if the line could be shortened, that should change the determination.

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

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

There were no public comments.

## **IX. Program Planning and Research**

### **A. Legislative Report**

Gourley provided the legislative report. He emphasized the Subcommittee on Water, Oceans and Wildlife of the House Natural Resources Committee, chaired by Jarad Huffman of

California, and discussed two pieces of fisheries-relevant legislation. Kilili Sablan of CNMI reintroduced HR 737 to prohibit the sale of shark fins and other purposes. The bill has 163 co-sponsors, including representatives from Hawai‘i, Guam and American Samoa. Gourley said the bill would prohibit fishermen from selling usable portions of a legally-caught fish because sharks can be legally landed in the Marianas. An additional legislation introduced by Ted Lieu of California in HR 614 would prohibit the sale of any shark fin product.

Sensui said, if a resource can be harvested without harming it, that should be key.

Soliai asked for details on the status of the shark legislation.

Gourley said HR 737 has been introduced and will likely be called for a vote in the next month or two.

Simonds said the efforts on the shark legislation are misguided similar to the Billfish Conservation Act. It is not a “technical amendment” when it involves the prohibition of sustainable fish.

Watamura said the intent of the legislation seems questionable. The intent is that fins are not removed from living sharks, which is not common practice in the Western Pacific Region.

Simonds said current laws effectively prevent shark finning by prohibiting the finning at sea and requiring whole sharks be landed. The legislation at hand does not address shark finning for this reason.

Sensui said prohibiting the sale of any part of a shark is ridiculous considering that Hawai‘i has sharks landed at the auction and certain sharks are targeted as prime game fish.

Gourley asked if the auction would have to dispose of the fins if sharks are landed in Hawai‘i.

Goto said that the federal law requires sharks to be landed whole, but State law dictates possession of fins to be illegal. The auction currently removes and discards the fins when the shark is weighed. Some value is lost in product or gross weight of the shark. Mako shark is the most commonly retained shark in Hawai‘i and holds a large value in the local fisheries.

Simonds suggested that the Council write to the Secretary of Commerce and get support from the Administration as it did for the Billfish Act.

Sesepasara asked if the legislation addressed the cultural use of the sharks.

Sensui noted that shark skins are sometime used for drum heads.

Simonds said that the cultural use issue could be included in the letter.

## **B. Report on Saltonstall-Kennedy Grant Review**



Cliff Cosgrove, NMFS, gave an overview and update on the SK Grant Review process. The SK program distributes roughly \$10 million across 40 grant awards focusing on sustainable fisheries, protected resources, habitat conservation, science and technology, agriculture, enforcement and international affairs to address the needs of fishing communities. In 2018, there was \$513 million collected from tariffs on fish imports to the United States, and 30 percent of that went to NOAA for projects. The SK Program runs both a competitive grant program and a national program, the latter of which is used to address needs that were not adequately addressed during the grant competition. Sixty percent of the funds are required to be handed out via competitive grants. NOAA typically obligates closer to 90 percent. Priorities are set on an annual basis by NMFS.

Cosgrove described the application process from pre-proposal through the selection of recipients for the grant award. In 2019, the SK competition focused on the demand side of the fishery supply chain, which deals with the selling, eating and other usage of fish. A contracting firm independently reviewed the program in mid-2017. They found that the program spends too much time on project selection such that dissemination of the results is not prioritized. The question then became what results dissemination would look like if there was more time to do so. To answer these questions, the contracting firms are conducting feedback sessions, which coincide with the Council meetings in all eight regions. A session was scheduled to be held in Honolulu at NOAA Training Room at Pier 38 on March 20, 2019.

Lutu-Sanchez asked for examples of the National Program to address areas that were not addressed in the competitive grants that Cosgrove had mentioned in his presentation.

Cosgrove said that most of the money is distributed through the competitive process, but some small amount of money is given to certain programs or projects to address needs.

Lutu-Sanchez asked for the proportion of SK grants that have been awarded to the Western Pacific Region relative to the other regions.

Cosgrove said that he does not know the percentage. Some people have said that the Pacific region cannot compete with some of the large regions that submit many more proposals. However, Cosgrove found that proposals from the Pacific Island region have a funding rate of greater than 50 percent of submitted proposals and that the “win rate” for the Pacific Islands region is greater than any other region in the country. The quality of the proposals received is good, but it becomes a numbers game where it is also about the total number of proposal received.

Simonds said that the Council is displeased that the total amount that the Pacific Islands region received this year was reduced relative to previous years. She asked about the Operations, Research and Facilities Account (ORF) and if the \$482,000 that was issued to the South Atlantic Council for expanding stock assessments came from the discretionary fund.

Cosgrove said he did not know off hand, but thought that at least some of the funds came from ORF.

Simonds said that the Pacific Islands region is the largest in terms of discrepancy between fishery values and funding received. The Council has talked to Headquarters about further funding for the Pelagic Program.

Cosgrove said that the SK program has no control over what ORF allocates, as this amount is established by Congress.

Simonds said the funding increased from \$10 million in the 1980s to \$513 million presently.

Cosgrove said, if the program worked like it was designed, he would not have a job because the idea is to lower domestic reliance on fishery imports by funding money back through the community to come up with new ideas to develop fisheries.

Simonds agreed that the original intent was to help in fisheries development and management, but funds have since gone to government employees. The Council has raised issue with SK funding going to former Trust Territories, which receive a large amount of funding from the US government as well as foreign governments. She said the SK project should place lower priority in funding projects for the former Trust Territories.

Cosgrove said that NMFS is bound by the Compact States Agreements for granting. Regarding the ORF transfer, Cosgrove mentioned processes to prevent the administrative use of the funds.

Lutu-Sanchez asked about the first priority that Cosgrove listed in his presentation.

Cosgrove said it is “promotion, development, and marketing,” but there are sub-factors considered under this priority. The idea was to prioritize marketing projects designed to develop new fisheries for underutilized species or something similar as opposed to more research-oriented projects.

Lutu-Sanchez asked how effective the grants are in improving fisheries and decreasing the overall seafood deficit.

Cosgrove said that this is the focus of the internal review results pertaining to dissemination of results. There is no way to quantify what the results of funded project have been. Individual benefits from a project can be easily observed, but there is no way to determine if the projects collectively have made significant impacts over a time period in a region.

Lutu-Sanchez asked if remote communities are at a disadvantage when it comes to competing for grants. The applications she had been a part of in the past showed her the difficulties in competing against university-based grants. Much of the award money goes towards their research as opposed to the fishing community. She asked what the SK program is doing to address these problems surrounding remote communities.

Cosgrove said they are aware of such discrepancies. The presentation given and the feedback meeting later that day are part of efforts to address the issue. Scott Bloom, PIRO, holds

grant writing workshops and webinars related to these kinds of proposals to spread awareness of the program with mixed success. The program has recently changed some of the review criteria to focus specifically on the priorities being addressed for SK. Priorities were added to encourage more proposals, as SK did not want to dissuade proposal submissions if certain priorities or criteria were not explicitly met. The program is also going to improve its outreach, as the National Program does not often visit some communities in a couple regions.

Sesepasara asked about funds that used be earmarked for the Pacific Islands. He believed that competing for projects within the Pacific Islands is more appropriate than trying to compete with larger entities on the mainland.

Cosgrove said that part of the process is having the proposals reviewed by subject matter. The review panels are comprised of 17 individuals from the fishing industry, with at least three individuals from each region.

Simonds said the Council has advocated for the regionalization of these types of programs and several years ago suggested that the funding be allocated proportionally, with larger Councils getting larger shares. She said the program is doing well in getting to that phase, but the Council would like to see separate regional programs.

Cosgrove said some regions are more in favor of the national program, whereas others are more interested in regionalization. The national program allows a lot of the administrative matters to be run through Headquarters.

## **C. SSC Working Group Reports**

### **1. Blue Ocean Marine Protected Area Subgroup Report**

Mark Fitchett, Council staff, presented the report from the SSC's blue ocean marine protected area (MPA) subgroup. The working group was led by Ray Hilborn, SSC member, in response to spatial management issues related to closures associated with fisheries management. The working group convened after a brief presentation by Hilborn on the theoretical impacts of MPAs in open waters. Empirical evidence showed there is no clear argument that open ocean MPAs have any discernible conservation benefit, likely due to the fact that effort is dispersed rather than eliminated when an area is closed. The working group was also provided with an overview of BBNJ which may have imminent proposed high seas closures. The working group explored objectives pertaining to pelagic fisheries including increasing target pelagic fish abundance, especially bigeye tuna in Hawai'i and albacore tuna in American Samoa. The working group also discussed how to measure the effectiveness of new or established spatial closures. It determined that historically performance metrics were not identified prior to the establishment of MPAs or other spatial closures. The working group ultimately preferred bottom-up approaches, especially industry-led initiatives such as gear restrictions.

Wamura said that he attended Hilborn's presentation at the SSC meeting because he is concerned about the opening of the BRFA's. He was encouraged by Hilborn's results, which reinforced why all of the BRFA's should be opened.

Gourley asked if there is a purpose behind creating the blue water MPAs and if there is some sort of reasoning associated with fisheries management or biodiversity conservation.

Fitchett said the formation of blue water MPAs is not necessarily prioritizing fisheries management, and crew safety and costs are often disregarded throughout these decisions.

Lynch said that Hilborn has published extensively on this topic. His presentation suggested that people wrongly assume MPAs are akin to terrestrial parks that will achieve similar value. The SSC, therefore, focused on the purpose behind these areas and the science supporting them.

Sensui asked if there is any justification for the Papahānaumokuākea Monument expansion.

Lynch said that the SSC had not taken that specific issue up for discussion, but SSC members are skeptical of the effectiveness of these types of MPAs in general due to the lack of supportive science. Development of spatial closures must also allow for fishery management within them. Benefits of these types of closures seemed to be mostly apparent within the area, but it is unlikely that they show promise with respect to general fisheries management.

## **2. Modern Fish Act Subgroup Report**

Lynch provided an overview of the Modern Fish Act subgroup of the SSC. The Modern Fish Act was passed in December 2018 and requires the Secretary of Commerce to work with the SSCs, fishery management councils and others to develop a report that helps facilitate greater incorporation of data in stock assessments for better fishery management decisions. The working group realized that this Council actively works to obtain all available data before making decisions through the MSA process. The working group noted the amount of work that goes into analyses such as WPSAR and believed that all of the processes currently in place for the Council satisfy the goals of the Modern Fish Act. While there may be some areas for improvement with respect to obtaining additional data from the public, the Council has not intentionally excluded data for an analysis. The working group also emphasized making sure that outward-facing websites and other outward-facing information asks the public for data regularly and that the folks are reminded of the Council's interest in obtaining their data.

Watamura commented on the large gap in gathering non-commercial fishery data in Hawai'i. He said his understanding of the Modern Fish Act was also the usage of new technology. Technologies such as fishing applications should be a focus going forward. Watamura said he previously attended a Recreational Data Summit and felt that the Western Pacific Region was far behind other regions in collecting these sorts of data streams.

### **D. Magnuson-Stevens Reauthorization Act Five-Year Research Priority 2020-2024**

Sabater presented on the five-year research priorities, which are required under the Magnuson-Stevens Reauthorization Act (MSRA) to be developed and updated in conjunction with the SSC. Sabater provided an overview of the 2020-2024 research priorities, which were

developed around the management needs identified in the Council's Five-Year Program Plan. The research priorities were developed in collaboration with PIFSC, and efforts had been made to enhance the monitoring and tracking of the research priorities. Several small working groups were held with PIFSC staff and program leads to develop research priorities for the next multiyear period and were followed by a workshop. In an attempt to improve the tracking and monitoring of research priorities, subsets of these research priorities would be identified as priorities for PIFSC's Annual Guidance Memo (AGM) process. Once in the AGM, PIFSC can consider the priorities and incorporate them into its annual budget request to be implemented the following year. Sabater said the PIFSC director will provide a report updating the status of these priorities at subsequent SSC and Council meetings.

Sabater reported on the annual process of the AGM, starting with the AP reviewing past priorities in April, followed by the SSC's review. The SSC in October will identify specific research needs to be transmitted to PIFSC. In the first quarter of the following year, the priorities would be incorporated into the PIFSC's draft AGM and the Council will be provided with an opportunity to comment on the draft. Implementation begins in October of the following year, and PIFSC would deliver a report once complete. The process will concurrently restart in April for the next year's AGM. Staff noted that this year, 13 of the 19 priorities are high priorities for PIFSC and are in line with their Science Plan, while only four are considered low priority. For the 176th meeting, the Council was tasked with endorsing the research priorities for transmission to the Secretary of Commerce and PIFSC.

#### **E. NOAA Climate Science Workshop and Regional Action Plan Reports**

Phoebe Woodworth-Jefcoats, PIFSC, was not present to deliver the NOAA Climate Science Workshop and Regional Action Plan reports. Sabater presented the reports on her behalf. The Council was involved in the NOAA Second Annual Collaborative Science Workshop from Sept. 4 to 6, 2018. The workshop goal was to identify priorities to advance regional climate science. While the first year was mostly focused on information-gathering, the second year was focused on identifying priorities. The next three years will be focused on evaluating progress. The workshop utilized a "speed-dating" format in which managers and scientists rotated to discuss different climate-associated topics. The top priority identified was about understanding the future shift in species distribution underpinned with a robust baseline.

The NOAA Regional Action Plan identifies many different activities, who is involved, who is going to do it, and the types of actions required for the different objectives. In 2018, several environmental variables were included in the North Pacific swordfish stock assessment to inform recruitment, and biological sampling was continued.

Thomas Remington, Council staff, reviewed how the Council's Five-Year Program Plan aligns with the climate-associated research priorities from the workshop and the Regional Action Plan. The Council's Five-Year Program Plan includes four of the four priorities identified in the Second Annual Collaborative Climate Science Workshop report. The Council's Five-Year Program Plan included 15 of the 18 objectives identified in NOAA Regional Action Plan. The three objectives that were not included in the Council's program plan were actions that are not under the Council's purview.

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

Spalding presented on recent Council efforts toward outreach and education on the regional, national and international levels since the last Council meeting. Two quarterly newsletters were published. Staff assisted with the book entitled *Tradition-Based Natural Resource Management* by Ed Glazier published Palgrave McMillian, which looks at the Aha Moku natural resource management. The Council has been instrumental in the Puwalu, a series of conferences that led to the State recognizing this traditional system. The lunar calendar for Hawai‘i 2019 was released. Council staff also wrote several articles for *Hawaii Fishing News* on a monthly basis and for *Lawaia* magazine on a quarterly basis. The Council held its Fishers Forum the night before this presentation, and there was a lot of outreach associated with publicizing the event. Spalding also reported on media requests and social media presence in recent months. The Council also provided information to educators, students, the general public and the government by request. Several large posters were produced for the Fishers Forum.

Spalding reported on the scholarship program developed through a Memorandum of Understanding (MOU). Four students have graduated and are working in CNMI Division of Fish and Wildlife and in the American Samoa DMWR and the National Parks Services. Another five students are completing their degrees at University of Hawai‘i at Hilo, Hawai‘i Pacific University and University of Guam, and three students will begin the program in the fall of 2019. The MOU had a five-year term, after which the MOU is to be reviewed and either re-issued or amended. Spalding provided proposed changes to the Council based on review by the AP and the Council’s Education Committee, including changing the title to “U.S. Pacific Islands Fisheries Education and Employment Capacity Building MOU” and revising the aspirations to add vocational and kindergarten through 12th grade fishery-related education opportunities and community outreach efforts in Hawai‘i, American Samoa, Guam and the CNMI.

Sesepasara asked about developing a curriculum at the undergraduate level.

Spalding said that the Council has directed staff to get fisheries in the K through 12 levels, whether in curriculum or lesson plans. The issue at the tertiary level is typically the lack of dedicated faculty to teach the curriculum, rather than a problem of not having a curriculum.

Sesepasara said that he supports technical training because the fishermen around the archipelago do not have access to this kind of technical assistance.

Lutu-Sanchez asked, with respect the changes being made to the scholarships, whether private sector partners such as the cannery in American Samoa were considered. She said it would be useful for students to see a wide range of avenues where their degrees could be utilized.

Sensui asked if the Honolulu Community College was involved in the vocational training since they have a Marine Education Training Program.

Spalding replied no. She said that the MOU focused on the Territories initially. The inclusion of the Honolulu Community College could be a consideration for the MOU revision.

Watamura asked for clarification on whether the focus was on the Territories and not in Hawai‘i.

Spalding said that the original MOU was strictly for the Territories because the need was not as great in Hawai‘i. However, it has now been broadened by including the University of Hawai‘i at Manoa’s Department of Education as a signatory and trying to include Hawai‘i DLNR.

Watamura said including the Hawai‘i Department of Education is important for including fishery education into the school curriculum.

Simonds said that there is a limited amount of funds for the scholarship program. If it is being expanded, that means more money has to be added. The Territories are the places that really need the help.

Okano agreed that there is greater need in the Territories, but added that there is still great need for natural resource students in Hawai‘i.

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

### **1. Advisory Panel**

The AP had no recommendations pertaining to the Program Planning agenda items.

### **2. Scientific and Statistical Committee**

Lynch presented the SSC report and recommendations pertaining to program planning agenda items.

*Regarding the Blue Ocean MPA Subgroup report*, the SSC recommended that the Council endorse the following recommendations for effective spatial management:

- 1) Prior to developing spatial management areas, objectives and performance metrics must be explicitly specified to evaluate the effectiveness of spatial management. Performance metrics must concurrently address conservation objectives (e.g., increase in abundance or decrease in bycatch), economic objectives (e.g., net economic benefit, price per pound, quality of product), social objectives (e.g., crew safety, equitable access, food security, cultural value, transfer of local/cultural knowledge).
- 2) Monitoring of performance metrics is needed with regularity to gauge efficacy of existing closures and suitability for future spatial fishing closures or modifying existing closures. Monitoring needs to account for changes in performance metrics before and after management action, such as counterfactual analyses.
- 3) Modifying fishing gear or methods is likely to be more effective to minimize protected species bycatch rather than permanent closed areas.
- 4) Maintain flexibility in regulations so that industry can find voluntary means to reduce bycatch interactions and have input in the development of mitigation measures.

- 5) Research should evaluate whether existing closures meet stated objectives and performance metrics.
- 6) Prior to implementing any closure or other spatial management action of any kind, compliance monitoring and enforcement should be planned and tenable.

*Regarding the Modern Fish Act Subgroup report*, the SSC recommended that the Council direct staff, in collaboration with the SSC Chair Jim Lynch, to develop a process paper to be presented to the SSC at its next meeting in June 2019.

Lynch reported that the paper will identify the specific existing methods that are used to incorporate data in any recommendations that the Council would make in terms of public outreach or encouraging additional solicitation of data.

*Regarding the Modern Fish Act Subgroup report*, the SSC endorsed the MSRA Five-Year Research Priorities for transmittal to the Secretary of Commerce and NMFS.

#### **H. Public Comment**

There was no public comment.

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

*Regarding legislation*, the Council **directed staff to draft a letter to the Secretary of Commerce regarding proposed legislation that prohibits the commercial sale of shark parts from legally caught sharks, which appears to conflict with the MSA and existing federal regulations that allow and require the sustainable harvest and landing of whole sharks.**

Okano provided brief testimony originally given by his Department relevant to the Hawai‘i Senate Bill associated with shark finning, recognizing the important part sharks and rays play in maintaining healthy marine ecosystems. Okano indicated that he would vote against this recommendation.

Gourley recommended a rewording to convey that HB 737 is prohibiting the commercial sale of fins on legally caught sharks.

Sensui asked about the Shark Sales Elimination Act from Tom Leiu of California.

Gourley responded that it does not have any co-sponsors yet.

Sensui asked if this recommendation does not address the Shark Sales Elimination Act.

Gourley said it does not, but it might address shark fin sales in both simultaneously.

Sensui clarified that the bill would make it illegal to possess, buy or sell shark parts or anything containing a shark part.

Gourley clarified that the recommendation at hand is dealing specifically with shark fins.



Tosatto noted that he believes the wording of “shark parts” to be adequate since the MSA requires the landing of whole sharks with fins attached. He noted the importance of utilizing a caught fish to its maximum economic value.

Sesepasara asked if the meat of the shark is considered a shark part, and what the sense would be in catching a shark and not being able to use any part of it.

Gourley said the federal law allows the landing of whole sharks, but this legislation would prohibit that. It would potentially prohibit any kind of possession.

Sensui agreed with Gourley’s assessment.

*Moved by Gourley; seconded by Sensui.*

*Motion passed with Okano opposing.*

**Regarding the SK grant program, the Council reiterated its previous recommendation to regionalize the solicitation for the SK grant program to allow more flexibility in the prioritization of the projects and provide better opportunities for community-based projects to receive SK funding. In addition, the Council directed staff to draft a letter to Chris Oliver requesting similar funding to Expand Annual Stock Assessments under the Operations, Research and Facilities Account budget to be allocated for critical priorities pertaining to US Pacific Islands pelagic fisheries research and development.**

*Moved by Duenas; seconded by Lutu-Sanchez.*

*Motion passed.*

**Regarding the SSC Working Group on Developing a Roadmap to Effective Spatial Management, the Council directed staff and the spatial working group (SWG) to develop a white paper describing the following recommendations to be set as guidelines for any existing or proposed spatial management activity:**

- a. Prior to developing spatial management areas, objectives and performance metrics must be explicitly specified to evaluate the effectiveness of spatial management. Performance metrics must concurrently address conservation objectives (e.g., increase in abundance or decrease in bycatch), economic objectives (e.g., net economic benefit, price per pound, quality of product) and social objectives (e.g., crew safety, equitable access, food security, cultural value, transfer of local/cultural knowledge).**
- b. Monitoring of performance metrics is needed with regularity to gauge efficacy of existing closures and suitability for future spatial fishing closures or modifying existing closures. Monitoring needs to account for changes in performance metrics before and after management action, such as counterfactual analyses.**
- c. Modifying fishing gear or methods are likely to be more effective to minimize protected species bycatch rather than permanent closed areas.**

- d. **Maintain flexibility in regulations so that industry can find voluntary means to reduce bycatch interactions and have input in the development of mitigation measures.**
- e. **Research should evaluate whether existing closures meet stated objectives and performance metrics.**
- f. **Prior to implementing any closure or other spatial management action of any kind, compliance monitoring and enforcement should be planned and tenable.**

*Moved by Gourley; seconded by Sensui.*

*Motion passed.*

*Regarding the SSC Work Group on the Modern Fish Act, the Council **directed staff, in collaboration with the SSC Chair Jim Lynch, to develop a white paper that describes the process on how non-governmental sources of data and scientific information are incorporated in the fishery management process and to present the paper at the June 2019 meeting.***

*Moved by Gourley; seconded by Sensui.*

*Motion passed.*

*Regarding the Council's Five-Year Research Priorities, the Council **directed staff to transmit the revised research priorities to the Secretary and PIFSC.***

*Moved by Gourley; seconded by Sensui.*

*Motion passed.*

*Regarding the US Pacific Territories Fishery Capacity Building MOU, the Council **amended the MOU title to US Pacific Islands Fishery Education and Employment Capacity-Building MOU and expanded the purpose to support vocational training opportunities and K-12 fishery-related education and community outreach efforts throughout the US Pacific island region. The Council further supported the changes as presented by staff to revise the goals and amends the list of signatories to include the University of Hawai'i Department of Education Curriculum Studies, Hawai'i Department of Land and Natural Resources, American Samoa Department of Education, Guam Department of Education, Guam Community College and CNMI Public School System.***

Tosatto said that he would be abstaining from the vote on this recommendation because he is an individual signatory on behalf of NMFS and will have his own independent review.

Okano said that he would also be abstaining.

Watamura asked why State of Hawai'i Department of Education is not included in this recommendation.

Spalding said that the University of Hawai‘i Department of Education Curriculum Studies, the University of Hawai‘i Institute of Marine Biology and University of Hawai‘i at Hilo are included in the MOU. The State of Hawai‘i Department of Education has not been included because it may be difficult for it to get approval to sign the agreement.

*Moved by Gourley; seconded by Lutu-Sanchez.  
Motion passed with Tosatto and Okano abstaining.*

## **X. Pelagic and International Fisheries**

### **A. American Samoa Longline Annual Fishery Report**

Keith Bigelow, PIFSC, provided the 2018 annual report for the American Samoa longline fishery. The report covered fishery statistics including participation, effort and catch. Bigelow noted that the reports were preliminary and included data processed through approximately Feb. 15, 2019, as the SSC meeting was before the data freeze date of March 15, 2019. The report included about 70 percent of the American Samoa data and about over 90 percent of the Hawai‘i data.

The American Samoa longline fleet had 13 active vessels in 2018, which is a reduction from 15 in 2017. Two vessels may have been sold. Few vessels operated outside the EEZ, and that number is confidential. The estimated total effort was approximately 97 longline trips in 2018, a reduction compared to 2017, and 1,700 sets in 2018 compared to 2,300 sets in 2017. Effort peaked in 2007 with 17 million hooks and decreased to 4.5 million in 2018.

South Pacific albacore is the target species, and an estimated 60,000 albacore in number were caught by the fleet in 2018. CPUE increased slightly from 13.2 albacore per 1,000 hooks, compared to 11.7 in 2017. As for yellowfin, 2017 was a good year with 25,000 fish caught, compared to lower catches in 2018 of 11,600 yellowfin. As for other species, 2018 was a good year for catch rates of bigeye tuna and blue shark, although sharks are not retained.

Bigelow noted some positives, including fuel prices have been lower than Hawai‘i. Some disadvantages of the American Samoa longline fleet include the small EEZ and the elimination of LVPA exemption due to litigation. The permit structure is also a disadvantage with many permits for American Samoa tied up with Hawai‘i owners.

Lutu-Sanchez asked, in light of the declining albacore catch in the territory, what would act as a trigger for action that would prevent catches from going to zero. Citing mitigation measures discussed in previous sections, Lutu-Sanchez asked what mitigations measures would arise to help the fishery in American Samoa.

Bigelow deferred to the managers but said that 60 percent of the South Pacific albacore catch is taken by China and Chinese Taipei. Through WCPFC, there are established limit reference points. Most recently in December 2018, a target reference point was established, which may curb expansion of the China and Chinese Taipei fleet.

Tosatto added there are provisions that address a commercial fishery failure and a Declaration of a Disaster when funding can be applied to provide assistance. While South Pacific albacore is assessed healthy, it is an international issue. Tosatto addressed the permit structure issue and said the fishery is not failing.

Rice asked if the LVPA is a major source of distress.

Lutu-Sanchez asked Bigelow if catch was higher in other areas.

Bigelow mentioned that his report in 2016 and 2017 reported catch difference inside and outside of LVPA, but does not do so for 2018 as LVPA was closed for most of the year.

Lutu-Sanchez mentioned perceived low fuel prices are not relevant because their prices are more expensive than neighboring islands. She also said the LVPA has an obvious handicap on the fishery's ability to follow the stock and puts the fishery in harm's way further offshore in rougher weather. She said the current season is going to be poor and asked when the recommendation to open the LVPA will come into fruition.

Kingma said the Council took final action in June 2018 to recommend a regulatory amendment to provide exemption to large longline vessels over 50 feet to access the LVPA beyond 12 miles with 2 nautical mile buffers around each of the offshore banks to address some of the concerns raised by the small-boat fishing community. The Council's action included a four-year sunset period. Council sent an informal transmission to PIRO SFD for the regular document review process in August 2018. Council received comments back from SFD a short time after, but full comments by General Counsel were only received two weeks prior to the 176th Council meeting. He anticipated the full package to be transmitted before the June Council meeting, with a 95-day Secretarial review period to follow.

Lutu-Sanchez questioned the reason behind the long wait by SFD and General Counsel and asked if the situation does not qualify as a disaster at this point.

Kingma said that the Council has always held the position it wants to take this action immediately to address the economic conditions facing the fleet and will do its best to transmit that as soon as possible.

Lutu-Sanchez said the fleet is in a decline and the timeliness of action does not take into account what is happening in the EEZ around American Samoa. She reminded the Council of the hardship the fleet is experiencing due to the distance they need to travel to fish.

Sensui asked if the LVPA was the only major issue or hardship.

Lutu-Sanchez mentioned the lack of local government support and the high fuel cost. The fleets are trying to make just a profit to survive. StarKist has offered advances to the fleet to continue operating, and those advances are only covering fuel and bait. The longer distances to travel are consuming all the fuel.

Simonds said the situation is unfortunate. The complicating factor is the ESA consultation for the American Samoa longline fishery has not started. She asked the General Counsel whether the amendment can be approved before the consultation is complete.

Elena Onaga, NOAA Office of General Counsel, said that under the ESA, the federal government cannot take action unless it complies with the law. One of the re-initiation triggers for a BiOp is whether there is a new listing.

Simonds said that Council's staff is working on completing the LVPA document for transmittal.

Soliai asked when the BiOp will be completed.

Tosatto said he cannot give a timeline for completion other than to say that the statutory timeline is 135 days and a potential 45-day extension.

Soliai asked that completion of the BiOp be expedited to help with the struggling fishery.

Rice said that federal regulations are demolishing three of the main fisheries in the region and the Council's hands are tied and unable to do the work under MSA. He warned that the American Samoa fleet could be lost as well as the Hawai'i shallow-set longline fleet. He warned the deep-set fishery could leave and fish elsewhere. Rice lamented Hawai'i will be buying "gassed" tuna from the Marshal Islands as a result.

Tosatto said that he appreciates the severity of the situation in American Samoa, but regulations are in place to address requirements of MSA, ESA and MMPA.

Sensui referred to the NOAA Fisheries Priorities and Annual Guidance for 2019, which identifies supporting reviews of priority Council actions and reducing or eliminating the backlog of existing Council actions as a priority under the first goal. He said that this priority points to the need to complete the American Samoa action urgently so that the fishery is not impacted by unfinished business.

## **B. Hawai'i Longline Annual Fishery Report**

Russell Ito, PIFSC, provided the 2018 annual report for the Hawai'i longline fishery. The report covers fishery statistics including participation, effort and catch. Ninety percent of the data from the previous year's logbooks had been entered. There were 144 vessels that operated in the Hawai'i longline fishery including vessels based in California, with 133 vessels exclusively in the deep-set fishery and 11 vessels that fished both deep-set and shallow-set. Participation of 11 vessels in the shallow-set fishery represents about half compared to the previous year, due to the fishery shut down in the early part of 2018 as a result of sea turtle interactions. The data included 1,500 trips, including 1,490 deep-set trips and about 30 shallow-set trips. Effort for 2018 included 19,200 deep-sets and about 400 shallow-sets. Of the total hook effort of 54 million hooks, 39 million hooks were set on the high seas. Recent spatial distribution looks similar to historical average, although the long-term average shows a little more effort on the peripheries. Eastern Pacific effort was greater than in the Western and Central Pacific compared to 2017.

Bigeye tuna catch was 197,000 fish, while yellowfin was down at 57,000 fish from a record of 81,000 fish in 2017. Overall, yellowfin catch has been increasing while bigeye catch has been steady. Albacore has declined since 2010. The annual average bigeye CPUE decreased by about 10 percent but was higher than 2004 to 2012.

Swordfish catch was down to 12,000 fish in 2018 compared to 20,000 fish in 2017, likely related to the shallow-set closure in 2018. Most catch was in the Eastern Pacific with significant catch near the MHI right before the closure. Typically, the shallow-set fishery starts in the Eastern Pacific, and the fishing effort and catches tend to move toward the Western Pacific as the season progresses. Swordfish CPUE by the shallow-set fishery has been relatively high for the last three years.

Billfish catches show a lot of variability. Shortbill spearfish has declined the last two years. Striped marlin catches have been pretty steady from 2014. Both species had about 14,000 fish last year. Blue marlin has an increase in the catch, up to about 18,000 fish in 2018. Blue marlin has been getting better; striped marlin is around the same; and spearfish is down from its peak in 2016. Other pelagic management unit species catches presented included pomfret, mahimahi, oilfish, moonfish, ono and blue shark.

Ito also presented recent developments, including false killer whale interactions closing the SEZ. He heard that 2018 was a high depredation year, and that has continued into 2019. Prices have been good; sea turtle interactions were a problem; and electronic reporting has made progress.

Goto said 2018 saw a record low in swordfish take in part due to the closure attributed to the litigation and added that 2019 may be a new record low due to the recent closure.

Ito said he thinks 2019 will be another low record for swordfish.

Rice said that the closed SEZ area appeared to have high bigeye tuna catch historically and asked Ito for confirmation.

Ito said the higher catches in the SEZ area typically occur in latter part of the year so the SEZ closure is likely to impact catches later in the calendar year.

Rice said the closure will likely have a negative impact on the fishery.

Lutu-Sanchez asked when a fishery closes, such as with the shallow-set fishery, if jobs for data collectors and those studying the fishery are also eliminated because of the lack of fishing activity.

Ito said those types of jobs are not eliminated. Instead resources are shifted elsewhere when the fishery closes. Ito said fishermen also lose money on gear, bait and supplies. The bait used in the shallow-set fishery is more expensive than those used in the deep-set fishery. He said target species cannot be mixed during a trip, so vessels are required to return to port to reconfigure their gear.

Goto said, when the Western and Central Pacific Ocean (WCOPO) closes, the deep-set fishery also has to return to port. Closures impact the fishing operations for months to come.

Lutu-Sanchez said it is discouraging to see disastrous reports on US fishermen and at the same time see presentations of government budgeting and funding for other things like data collection and research. She acknowledged the importance of data collection and research for management but asked what researchers would study if there are no more fishermen fishing.

Ito said fishing effort will shift to deep-set and add more competition to the fleet. A benefit of the shallow-set fishery is that it disperses the effort amongst the fleet by having two different target species.

Rice expressed his concern that the vessels may give up participating in the shallow-set sector as a result of the closures two years in a row.

### **C. Hawai'i Shallow-Set Longline Fishery**

#### **1. Status of the Hawai'i Shallow-set Longline Endangered Species Act Consultation**

Tosatto reported that NMFS has an agreement with the Hawaii Longline Association to complete the draft BiOp by March 25, 2019, and the full BiOp by April 30, 2019.

#### **2. Managing Loggerhead and Leatherback Sea Turtle Interactions in the Hawai'i-Based Shallow-Set Longline Fishery (Final Action)**

Ishizaki provided a status of the FEP amendment action item on the framework to manage leatherback and loggerhead sea turtles in the Hawai'i shallow-set longline fishery. The shallow-set fishery closed the prior day due to a hard cap on loggerhead interactions based on a litigation settlement the previous year.

The Council at its 173rd meeting in June 2018 recommended amending the Pelagic FEP to establish a management framework for the Hawai'i shallow-set longline fishery that consists of 1) annual limits on the number North Pacific loggerhead and leatherback turtle interactions consistent with the anticipated level of annual interactions that is set forth in the current valid BiOp and 2) individual trip interaction limits for loggerhead and leatherback turtles as a framework. The Council also recommended specifications under the framework as follows: 1) annual limits of 37 North Pacific loggerhead turtles and 21 leatherback turtles; and 2) individual trip limit of five North Pacific loggerhead turtles. The Council did not recommend a leatherback trip limit specification but has the option to recommend a number at a later time if such a need arises.

The Council's recommendation for specifying the loggerhead and leatherback turtle annual limits was based on the anticipated level of interactions analyzed in the BE initiating re-consultation of the Hawai'i shallow-set longline fishery under the ESA Section 7 consultation process. As part of its recommendation, the Council noted that it would review its recommendation if the new BiOp from the ongoing consultation results in a jeopardy decision or

otherwise results in a different incidental take statement for North Pacific loggerheads or leatherbacks. The draft BiOp was expected to be available by October 1, 2018. However, completion of the draft BiOp was delayed.

The Council at its 174th meeting in October 2018 reviewed the Approach to the Assessment for the BiOp and considered the SSC's report regarding the PVA. The Council recommended convening an interim Council meeting, if needed, to review draft BiOp and consider any revisions to its June 2018 recommendations based on the BiOp and stated that it will reconsider a specification of leatherback individual trip limits if necessary.

Following the 174th Council meeting, NMFS reached an agreement with the Hawaii Longline Association, the Applicant to the consultation, on a new timeline of delivering the draft BiOp on Jan. 31, 2019, and the final BiOp on Feb. 28, 2019. Also subsequent to the October Council meeting, the General Counsel advised that the Council could consider additional leatherback measures even prior to the draft BiOp given the long-term decline status of the leatherback turtles.

The Council convened its 175th meeting on Dec. 17, 2018, to consider final action on additional mitigation measures for the Western Pacific leatherback turtles in advance of the draft BiOp completion, with expectation of a draft delivery on Jan. 31, 2019. Upon reviewing available information and considering public comment, the Council deferred action until the draft BiOp and more complete information on the impacts of the fishery on the Western Pacific leatherback turtles are available to fully inform the Council decision. The Council also reiterated its 173rd Council meeting recommendation about NMFS providing funding support for research and minimizing trailing gear.

After the government shutdown, Council staff requested that PIRO deliver the draft BiOp by March 1 in advance of the March SSC and Council meeting. However, NMFS set a new timeline with draft BiOp delivery date of March 25, 2019. The Council will reconvene on April 4, 2019. The Council also plans to convene BiOp Review Advisory Panel on April 2 to review the draft BiOp in advance of the Council meeting. The SSC nominated members for the BiOp Review Advisory Panel.

Rice asked how early the fishery may reopen if the sea turtle hard cap is modified.

Ishizaki said, if no major changes to the Council recommendation are needed as a result of the draft BiOp, the amendment and National Environmental Policy Act (NEPA) documents are mostly written and the reviews of those documents could go relatively quickly. There will be a 95-day post-transmittal period.

Tosatto confirmed Ishizaki's timeline and mentioned making sure the ESA compliance is up to date. He said he did not expect a NEPA delay.

Rice said that fall would be a good time for the fishery to reopen.

Goto said the fleet would be anxious to fish at the later part of the calendar year. The market will take a hit after being closed two years in a row. He said the shallow-set fishery



provides more than half of the swordfish to the United States and the market has been developing for decades. He then read a written letter from Roger Dang, the eldest son of two original Vietnamese-American vessel owners who now own more than 20 vessels, a supply company, a petroleum company and most recently bought Fresh Island Fish.

My name is Roger Dang. I'm writing to you tonight from the Seafood Show in Boston on behalf of the entire community of Hawaii's swordfish fleet and also others in the fishing industry, including fish buyers and wholesalers, fishing gear and bait suppliers and logistics companies to express a how highly untimely and unfortunate this is for all of us. We have all spent the last several months working with some of the largest swordfish buyers in the US to develop a buying and shipping program to support the US/Hawaii swordfish industry. These buyers initially expressed concerns on the reliability and continuity of supply because of the hard cap being reached in 2018. Still, they committed since the start of the 2019 season and just as recently as yesterday agreed to decrease the reliance on foreign imported swordfish and increase their purchases of Hawaii swordfish.

Hawaii fishermen produce a highly-desired swordfish product and we need the proper level of support from the agency. The likely delay of the BiOp was critical for us and we feel the agency has failed us greatly. This has directly caused our mainland US partners to lose confidence in our ability to sustain production, and I fear that they will continue to discount Hawaii as a reliable source of sword going into the future.

Please, your attention to this matter is required and any and all progress is greatly appreciated. Best regards, Roger Dang.”

Goto added that Dang’s voice is the future of the fishery. He said he and Dang are focusing on what the Hawai‘i seafood industry will look like for the next 30 or 40 years, but current issues are making matters difficult for the fishery.

Lutu-Sanchez said that swordfish product would come from somewhere else if Hawai‘i is removed from the supply chain. The issue is similar to American Samoa where albacore will come from somewhere else, with US fisheries being supplanted by Chinese longliners.

Lutu-Sanchez asked Tosatto if he needed more staff to rectify the delays with the BiOp and other actions.

Tosatto said that there is a shortage of staff across the board and a long-term deficit of NMFS consultation capacity nationwide. It has rotated around the country where there are longest backlogs. There are regions that have backlogs on consultations numbering in the hundreds. He said that Congress has not responded positively to consultation resource requests and that the budget is smaller. PIFSC and General Counsel also have limitations with full workloads. He said his staff is prioritizing issues and making competent decisions. The delays are unfortunate and may seem unreasonably long, but they want to do things correctly.

Onaga said that General Counsel turns over most legal review fairly quick and accurately. Losses in court increased scrutiny. Onaga wants all matters to be legally defensible. Attorneys working on issues will stay on those issues for consistency and expertise. She said her team also needs another person.

Sensui asked Sesepasara if the American Samoa governor understood the gravity of the situation, being the plaintiff in the LVPA case.

Sesepasara said that the governor is aware of the situation. The governor had reached out to see what DMWR could do and asked to reach out to the longline association in American Samoa to see what the government could do. Sesepasara said there is a Fisheries Task Force, and the governor signed a letter inviting one of the members of the longline association to be part of the Task Force. That invitation was declined, which was a disappointment to the governor. Sesepasara added the governor wants the two groups to come together to some kind of compromise or an agreement. The Task Force chairman reached out to Lutu-Sanchez and that invitation was also turned down. Sesepasara said he came to the June 2018 Council meeting with the governor's attorney with the intention to present the governor's compromise. However, they were also instructed to not present the governor's recommendation if litigation would continue.

Lutu-Sanchez said that an invitation was extended to the Tautai O Samoa Longline and Fishing Association to be part of the governor's Fisheries Task Force in American Samoa. She personally received an invitation as the president of Tautai O Samoa Longline and Fishing Association to attend the meeting of the Fisheries Task Force, rather than to be part of the Task Force. Lutu-Sanchez asked the Task Force if it was at liberty to discuss anything or make any decisions on behalf of the American Samoa government with regards to the LVPA issue. She said that the longline participants are not party to the litigation, and the LVPA matter is in the hands of the lawyers and thus the Task Force cannot have influence over the issue while it is in litigation. Therefore, her response to the Task Force was that she has no purpose to be part of its discussion because it would not make a difference in the litigation. Lutu-Sanchez said the only parties that can make a difference would be the American Samoa government or the US government. She said the American Samoa government could withdraw in consideration of the fleet's situation, but she cannot make that decision for the government.

Sesepasara said that the governor's Fisheries Task Force advises the governor and does not make decisions.

#### **D. US Participating Territory Longline Bigeye Limits (Final Action)**

Kingma presented on US Participating Territory Longline Bigeye Specifications for 2019 and beyond under the Amendment 7 framework. Since 2014, the Council's status quo recommendation has been 2,000 mt total catch limits and 1,000 mt allocation limits for each US Participating Territory (American Samoa, Guam and CNMI). Under the WCPFC conservation and management measure, the US Territories are not provided longline bigeye limits, whereas the United States is provided a separate longline bigeye limit of 3,554 mt. Since 2011, Hawai'i longline vessels have been accessing quota from the US Participating Territories because the existing US quota levels are not commensurate with the Hawai'i longline fleet capacity or local market demand. In addition to the status quo option, other catch and allocation limits were

presented including a total catch limit of 2,000 mt and allocation limit of 2,000 mt per US Territory.

Kingma presented the historical bigeye catch times series in the WCPO, noting that the earlier part of the catches being dominated by longline. Mixed gears appeared starting in the early 1980s with the advent of the purse-seine fishery in the WCPO. Bigeye catches in the purse-seine fishery started to increase in the mid-1990s when a lot of FAD-associated fishing occurred in that operation. In recent years, the purse-seine fishery has had similar bigeye catch as the longline by weight but more individual juvenile fish. Overall total is recently lowest since 1996, due in large part to WCPFC management measures.

Kingma said that the most recent assessment found that the stock was not overfished and overfishing was not occurring. The next WCPO bigeye stock assessment is scheduled for 2020, and the existing WCPFC conservation and management measure for tropical tuna expires in 2020.

Kingma said much higher quotas are allocated to Japan, followed by Korea, Chinese Taipei, China, Indonesia and then the United States. The United States limit of 3,554 mt is caught entirely by the Hawai'i longline vessels operating out of Hawai'i. Indonesia and Japan have been underutilizing their quotas for a number of years. Indonesia reported a catch of 13 mt in 2017 but was still provided a limit of 5,889 mt. Japan also caught well below its limit. China received a 500-mt transfer from Japan that was endorsed by WCPFC. The United States has been constrained under relatively low limits compared to other countries. In every year since 2009, the Hawai'i longline fishery has been subject to closures in the WCPO for reaching these limits established by the Commission. Other countries that catch less than 2,000 mt can catch up to 2,000 mt, but only a few countries are getting close.

Kingma presented analyses with up to 3,000 mt carried over to the US/Hawai'i fishery per Territory using latest stock assessment metrics. In each of the scenarios, the stock would not exceed overfishing limits or be overfished. The allocations would not impede the fishery or the stock. Status quo of 2,000 mt carried per Territory would not have a negative impact.

Kingma mentioned there is a BiOp being developed for the deep-set fishery. The new BiOp is analyzing higher effort levels in the fishery and effort levels that are likely well beyond the allocation limits and full utilization of 2,000 mt per Territory.

Goto said the allocation is needed in light of the shallow-set closure and also needed for the coming year. He said the deep-set BiOp should be completed in a timely manner.

Tosatto said the CPUE is returning to the long-term average even with entrants from the shallow-set fishery. He added said ESA adds to the timeline in processing any action, pending the Council's final recommendation. He said the status quo options have been analyzed already, which leads to a likely timely completion. He asked Kingma on the status of implementing multi-year specifications.

Kingma said the Council had taken final action on the multi-year specifications in June 2018 and provided the draft to PIRO SFD. The Council expects to transmit that this year so it would be available to the Council to consider multi-year specifications in 2020.

Simonds added that the expectation is to do the multi-year specification for future years rather than for 2019 so as not to complicate the process.

Tosatto said his staff linked limits under the WCPFC and it worked reasonably successfully to implement international obligations, even though there might be a three-year measure in WCPFC. The bigeye limit has been in place for several years, and his staff has been able to convince General Counsel to further implement those, so further analyses is not needed for a multi-year specification. He said the process should be quick and easy if they stay within the existing analysis and remain current in their ESA coverage.

Rice asked if the Option 2 was good enough for Goto to stay operational.

Goto said the fishery will operate as best it can under that specification.

Simonds said an allocation of 3,000 mt should be sufficient even if the fishery picks up.

Sensui asked if the allotment doubled, if the market could absorb that much fish.

Goto said 2015 was an unprecedented year and the market was not ready for it. But by 2016 when the catch rate was still very high, the market adjusted to the supply. With the size and effort of the Hawai'i fleet, the fishery can provide a consistent supply for the demand of Hawai'i-landed seafood.

Sensui said that the amount of imported fish could be supplanted by Hawai'i.

Goto said the confidence in local versus foreign product quality plays a factor, with foreign product having history of mishandling. Local Hawai'i product is held at higher standards. The Hawai'i fishery could be losing to a foreign product, despite better local quality.

Tosatto said there is also an Eastern Pacific IATTC component to catch. That catch limit applies to larger vessels, so smaller vessels can fish East when limits are reached.

Watamura commented on the booming demand for fresh tuna and poke shops nationally. He mentioned a daily demand of 70,000 pounds of fish. He asked Kingma if there were drawbacks to going to maximum allocation.

Kingma said that the Council does not want to delay rule-making given the pending BiOp and prefers not to have a period of a closure between allocations.

Okano asked if the total amount of bigeye available to Hawai'i under Option 2 and 3 would be the same.

Kingma said no. Option 2 would limit the amount of transfers to 1,000 mt per Territory for a total of 3,000 mt allocation. Option 3 would be utilization of 2,000 mt in potential

allocations or roughly 6,000 mt total. Still under those levels, even well beyond potential 9,000 mt of Territory and US allocations, these specifications are still comfortable with respect to the reference points.

Rice commented on the Billfish Conservation Act. He said it was brought in through Congress mainly from the East Coast by representatives from the Atlantic coast where their billfish populations are in a different situation. He said DC and East Coast leaderships have a “one size fits all” outlook on billfish, without considering the dynamics in the Pacific Islands. He said there is a lack of congressional support for the Pacific Island fisheries and the new billfish rule should have been made through MSA and not through Congress. Rice described economic hardship to small boat and charter fleets in the region. In the Hawai‘i the charter fleet, a deckhand gets paid minimum wage but a deckhand could receive additional pay for the marlin they sell.

Goto said the longline fishery may take a larger overall economic hit, and the charter fishery could take a relatively large hit.

Watamura said the economic loss is not just the fresh fish being reduced locally, but all marlin products cannot be sold to the mainland.

Simonds said she has asked PIFSC staff to evaluate the impacts of the Billfish Conservation Act on the local high-end market.

Rice mentioned the largest impact will be the Honolulu market because its price was double that of the Kona charter fleet.

## **E. International Fisheries**

### **1. Inter-American Tropical Tuna Commission**

#### **a) Tuna Growth Workshop**

Fitchett presented on the IATTC workshop to evaluate bigeye and yellowfin tuna ageing methodologies and growth models in the Pacific Ocean, held in La Jolla, Calif., from Jan. 23 to 25, 2019. Growth has been critical in stock assessments, recently with WCPFC fisheries like bigeye tuna and South Pacific albacore. There has been some contention over the methods of aging between the IATTC and WCPFC. Some validation techniques between both areas were explored and discussed at the IATTC Growth Workshop.

The workshop evaluated validation techniques of daily and annual estimates of age for both bigeye and yellowfin tuna. Improved growth modeling, uncertainty and implications of growth models on Eastern Pacific and WCPO bigeye tuna stock assessments were discussed. Discrepancies in ageing techniques and future works by the IATTC and Commonwealth Scientific and Industrial Research Organisation (CSIRO) were also addressed through an emerging research plan. Both parties claim that one is over or under estimating ages at size. The working group convened this workshop to establish guidelines on aging techniques.

An old growth model assumed a higher expected maximum size and a lower expected age at size, which previously rendered a more negative outlook on the bigeye tuna stock. The new growth model leads to an updated reproductive schedule. The old growth model was struck from any stock assessment moving forward. However, some valid arguments emerged among the scientific community, the IATTC and the SPC that the new growth model could be due to a result of selectivity based on where the samples are collected. The SPC noted some spatial variability in growth that it wants to incorporate in future assessments. One goal that the SPC and IATTC stock assessment scientists are coming together on is a Pacific-wide stock assessment that accounts for regional growth differences.

## **b) Tuna Stock Assessment Workshop**

Fitchett presented the outcomes of two IATTC-sponsored workshops. The first workshop to improve the longline indices of abundance of bigeye and yellowfin tunas in the Eastern Pacific Ocean was held Feb. 11-15, 2019, in La Jolla, Calif. The second workshop was to update the IATTC stock assessments. IATTC scientists were still finalizing the report and doing some extra model runs; therefore, a report was not available. Some notable issues were with the CPUE indices and data usage. There is some uncertainty in the recruitment from the prior stock assessment, as well as growth, and stock structure of bigeye tuna. There is a hypothesis that the IATTC should exclude data originating from the northwest corner of its purview, or a “Hawai‘i stock” that is not a part of the eastern Pacific.

There was an update in 2018 that led to a pessimistic outcome of the eastern Pacific bigeye stock, which included some new information. It was recommended that oceanography be more heavily incorporated to explain some of the CPUE changes, as well as movement in and out of the region. Lastly, the assessment will need to reconcile uncertainty in recruitment; a “regime” shift was perhaps noticed in yellowfin and bigeye. The workshop report is expected to be available by May 2019 for the IATTC Science Committee meeting.

Rice asked how satellite tags have been deployed for studying stock structure.

Fitchett said tags were at liberty at least 30 days, with some over a year.

Watamura said he heard discussion of a Hawai‘i stock and asked what scientific advances are underway to confirm this.

Fitchett confirmed that studies using microchemistry in otoliths and stable isotopes suggest that there is likely a unique stock structure for bigeye in the Central Pacific. Tagging has shown little relative mixing outside of this area. He also mentioned Council staff is assisting on a genetic study throughout the Pacific for bigeye and striped marlin.

Tosatto said that spatial stock structure has significant policy and management implications.

## **2. Western and Central Pacific Fisheries Commission 15**

Kingma presented the outcomes of the 15th Regular Session of the WCPFC convened in Honolulu in December 2018. Notable issues addressed at the meeting included at-sea labor standards; harvest strategies; target reference points for South Pacific albacore; mitigation of shark, bird and turtle bycatch; compliance monitoring; redefining FADs employed in purse-seine fisheries; and conservation and management measures for tuna stocks.

The Commission prioritized a rebuilding plan for North Pacific striped marlin, but it is also subject to a new stock assessment that will be developed by the International Scientific Committee for Tuna and Tuna-Like Species in the North Pacific Ocean (ISC). Kingma noted that the SSC considered this issue and also made a recommendation for PIFSC to complete life history work.

Transshipment was addressed, and a small working group convened to begin means to reform and reduce the practice. US longline fisheries do not practice transshipment.

The Commission agreed to interim target reference points for South Pacific albacore over an interim duration of 20 years. They include a spawning biomass that exceeds 56 percent of the spawning biomass in absence of fishing, an increase from most recent spawning biomass estimated to be 52 percent spawning biomass in absence of fishing. An 8-percent increase in CPUE from 2013 levels was also agreed as a target. WCPFC's science providers will investigate ways to achieve these targets and will review the target reference point every three years.

Tosatto said the nominations for the US Permanent Advisory Committee (PAC) of the WCPFC close on March 25, 2019. A conference call will be held early in the summer and an in-person PAC meeting will be held in October 2019, with relevant Councils participating. He reported that the process is underway to nominate Drew Lawler as the WCPFC commissioner for NMFS, Kenny Alameda departed his seat and Stuart Chikami was named an alternate commissioner.

Simonds said Council members have been provided with the Federal Register Notice for the PAC and also the list of those who are currently on the PAC. The Council is waiting for Lutu-Sanchez to be appointed by the White House.

Sesepasara asked if Tosatto had a list of PAC applicants.

Tosatto said no.

### **3. 2018 Workshop on Identifying the Spatial Stock Structure of Tropical Pacific Tuna Stocks**

Fitchett presented on the 2018 Workshop on Identifying the Spatial Stock Structure of Tropical Pacific Tuna Stocks hosted by the SPC in Noumea, New Caledonia, on Oct. 9-12, 2018. The workshop identified genetic techniques to discern spatial distinctions of bigeye, yellowfin, skipjack and albacore tuna. A research work plan emerged from discussions led by scientists throughout the Pacific region. Existing biological and tagging studies on these species were also reviewed.

Stock structure delineations are often defined by biological definitions of stocks, while some are arbitrary and others are based on fishery and political regions. The stock structure workshop aimed to determine biological and spatial groupings to reconcile any non-biological stock structure issues. Tools for this include tagging, molecular and chemical markers by region, and genetics. Genetic techniques have improved rapidly as “next generation” and can determine similarities of animals by region on generational timescales, as opposed to evolutionary time-scales. Tagging and observations of fish movement coupled with genetic studies can determine gene flow (natal homing) versus fish flow (adult movement patterns).

Fitchett said recent studies indicate bigeye tuna likely exhibit a local Central North Pacific Hawai‘i stock or sub-stock. Based on microchemistry studies on otoliths, yellowfin tuna likely have a distinct local Hawai‘i stock. The same study indicates bigeye tuna have similarities between Hawai‘i and the Line Islands, distinctly different from the Marshall Islands and the Solomon Islands. Tagging studies show some degree of regional mixing, with a few “nomadic” fish. Fitchett concluded that research objectives are to discern similarities and differences between the Central, East and West Pacific. A research plan will emerge. In the meantime, bigeye tuna stock assessments use two debatable stock structure assumptions.

Watamura noted there were few tagging observations around the Hawaiian Islands.

Fitchett said there was some Central Pacific tagging in the Line Islands. Recoveries of these tags did not show much movement up north. He agreed there was not much tagging effort.

Watamura wondered where the fish would go if there were effort in the region around Hawai‘i.

Fitchett said some tagging data was not incorporated with the cooperative tagging project between the SPC and IATTC shown in the presentation. However, some fish tagged north of 20°N did move south but did not move much to the east or the west.

#### **4. North Pacific Fisheries Commission**

Gourley presented on the outcomes of the North Pacific Fisheries Commission Scientific Committee meeting. He noted an annual report, some changes in the State Department contacts and meetings of Small Scientific Committees on Bottomfish, Vulnerable Marine Ecosystems and Pacific Saury, as well as the Fourth Scientific Committee meeting. There was a request for proposals for a consultant to help the Commission develop a VMS Enforcement System.

Sabater added some supplemental information. The Scientific Committees on Bottomfish and Vulnerable Marine Ecosystems conducted a workshop in November 2018 in China. The workshop participants included representatives from China, Japan, Russia, Canada and Korea. The workshop goal was to develop a list of data needs for the Commission to document the effort footprint in the Convention area and to determine the reporting requirements for interactions with the vulnerable marine ecosystem. A professor from the University of Florida presented a project that links georeferenced fishing vessel data with underwater cameras systems to produce an effort map overlaid onto a vulnerable marine ecosystem.



## **5. 7<sup>th</sup> Meeting- South Pacific Regional Fishery Management Organization**

Tosatto presented on the 7th meeting of the South Pacific Regional Fisheries Management Organization (SPRFMO), held in The Hague, Netherlands, on Jan. 19-27, 2019. Issues addressed included recommendations from the Science Committee, compliance and SPRFMO conservation management measures. Fisheries include jack mackerel, non-tuna pelagic species off South America, bottomfish and seamount groundfish, vulnerable marine ecosystem and habitat issues in the Australian and New Zealand area, and squids mostly off South America. There are no US fisheries participating. A VMS system is in place, but there are no at-sea boardings. China has been an obstructionist in the Commission. The Cook Islands will begin an exploratory trap fishery for a couple seamount crustacean species and have some seamount fisheries near American Samoa. The United States has a defunct squid fishery, for which there has been some interest recently. The Scientific Committee meeting will be held in Cuba. Vanuatu will host the next annual meeting.

## **6. UN Intergovernmental Conference on Biodiversity beyond National Jurisdiction**

Kingma presented on the BBNJ. The first session of the Conference was convened in September 2018 in Rome. The second session will take place from March 25 to April 5, 2019, in New York. In 2015, the UN General Assembly agreed to develop an international legally binding instrument under the UN Convention on the Law of the Sea. Negotiations are underway to develop a new legally binding convention for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. The new convention has four main themes: 1) marine genetic resources, 2) “area-based management tools” including MPAs, 3) environmental impact assessments, and 4) capacity-building and the transfer of marine technology.

Recommendations, proposals and criteria for selecting MPAs in the open ocean are synonymous with overtures from environmental nongovernmental organizations encouraging utilization of high seas closures through international efforts. Kingma said the theme on transfer and sharing of benefits is a mechanism to garner support of the developing countries in what is likely a developed nation-driven initiative.

Developments in BBNJ may allow nongovernmental organizations an instrument to influence or develop international fisheries policies on the high seas that would otherwise not be tenable under the purview of regional fisheries management organizations (RFMOs). Negotiations on BBNJ have included discussions on how existing legal instruments should not be undermined. However, the legal instrument for which BBNJ is under may supersede RFMO management authority. The US Department of State is leading negotiations at the United Nations on behalf of US interests, including international fisheries. The UN Committee on Fisheries has affirmed that it is the foremost forum for which debate and discussion on proposed actions regarding BBNJ should take place.

Kingma said that the Council may express significant concerns with the development of the convention such that high seas closures could be imposed and override existing tuna RFMO

authority. High seas fishing grounds are incredibly important to the Hawai‘i longline fishery. Any closures to high seas waters adjacent to the US EEZ in combination with existing monument prohibitions and other closures would devastate the Hawai‘i longline fishery. Kingma listed criteria from the President’s Guide that can be used for selecting MPAs.

Goto said that the BBNJ is a looming risk.

Tosatto said that NMFS is not ignoring it and it is not clear if BBNJ is far enough along to undermine RFMOs like the Fish Stocks Agreement.

Kingma said he believed proponents of this Convention are opting for a new global body that has the ability to establish MPAs that would upend tuna RFMO management.

## **F. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

There were no AP recommendations pertaining to pelagic agenda items.

### **2. Scientific and Statistical Committee**

Lynch presented the SSC report and recommendations pertaining to pelagic agenda items

*Regarding the Hawai‘i longline annual fishery report*, the SSC recommended that PIFSC work with California fish dealers and the Southwest Fisheries Science Center to obtain weight information for landed catch.

*Regarding the Hawai‘i shallow-set longline fishery*, the SSC recommended that the following members of the SSC serve on the draft BiOp review group: Jim Lynch, Steve Martell, Shelton Harley, Milani Chaloupka, Justin Hospital, Ray Hilborn and Don Kobayashi.

*Regarding the US Participating Territory longline bigeye specifications*, the SSC found that the methodology used to assess the relative impacts of the specification limits remains appropriate and utilizes a similar approach to the analyses conducted by the SPC to evaluate the effectiveness of the WCPFC tropical tuna measure. Based on the evaluation conducted by Council and PIFSC, the SSC further noted that projected impacts from the options are believed to not lead to bigeye overfishing and are consistent with Commission management objectives.

*Regarding the maturity, age and growth of Central North Pacific striped marlin*, the SSC recommended that PIFSC complete the histological maturity study for North Pacific striped marlin sampled from the Hawai‘i longline fishery and to provide the information to the ISC prior its July 2019 meeting.

## **G. Standing Committee Recommendations**

Goto presented the Pelagic and International Standing Committee report and recommendations.

*Regarding the Hawai‘i shallow-set longline fishery*, the Standing Committee endorsed the SSC recommendation that the following members of the SSC serve on the draft BiOp review group: Lynch, Martell, Harley, Chaloupka, Hospital, Hilborn, and Kobayashi. The Standing Committee further recommended that a Council meeting be convened shortly after receiving the draft BiOp if warranted.

*Regarding false killer whales*, the Standing Committee endorsed the SSC recommendation [under Protected Species agenda item] that the Council request NMFS to develop approaches for incorporating comprehensive PVA to supplement the use of PBR and to reduce uncertainty in PBR estimates under its policy guidelines for preparing MMPA Stock Assessment Reports and further that the Council request from NMFS data sufficient for the SSC to develop the PVA in parallel to the NMFS process.

*Regarding false killer whales*, the Standing Committee endorsed the SSC recommendation [under Protected Species agenda item] that the Council request the request NMFS consider developing probability-based serious injury determination criteria for false killer whales.

*Regarding the US Participating Territory longline bigeye specifications*, the Standing Committee recommended that for 2019 that NMFS specify for each US Participating Territory, a 2,000-mt longline bigeye catch limit and specify that each territory can each allocate up to 1,000-mt of their bigeye catch limit.

*Regarding the BBNJ*, the Standing Committee recommended a letter be sent to the Department of State to convey concerns with the proposed convention text, including a request that high seas fisheries targeting tuna and tuna-like species be exempt from any potential high seas closures established under the new BBNJ convention. The letter should also include recommendations made by the spatial working group and endorsed by the SSC.

## **H. Public Comment**

Goto said that General Counsel advised that the present agenda item be referred to as public comment instead of public hearing.

Lutu-Sanchez, commenting on the LVPA issue, said that Sesepasara and Council members may not be aware of correspondence regarding the Tautai O Longline Association’s participation in the Fisheries Task Force. A letter was to be distributed.

Carlos Sanchez, providing public comment, said that the lack of public comment may be due to boredom or lack of interest. He said Lutu-Sanchez is of high integrity and knows what she is talking about. He accused the American Samoa government of going to “the weakest link” within the fishing community in regards to the Fisheries Task Force.

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

*Regarding the Hawai‘i longline annual fishery report*, the Council **endorsed the SSC recommendation that PIFSC work with California fish dealers and the Southwest**

**Fisheries Science Center to obtain weight information for landed catch by Hawai'i longline limited entry permitted vessels.**

*Moved by Goto; seconded by Rice.*

*Motion passed.*

*Regarding review of the draft BiOp for the Hawai'i shallow-set longline fishery, the Council directed staff to establish a BiOp Review Advisory Panel consisting of the following members: Lynch, Martell, Harley, Chaloupka, Hospital, Hilborn and Kobayashi.*

Tosatto commented on availability of the draft to SSC members and said he will consult with General Counsel on this matter.

Lynch confirmed all members are SSC members.

*Moved by Goto; seconded by Rice.*

*Motion passed.*

*Regarding review of the Draft BiOp for the Hawai'i shallow-set longline fishery, the Council directed staff to provide the draft BiOp to the BiOp Review Advisory Panel and convene the group on April 2, 2019. The BiOp Review Advisory Panel shall focus its review on the effects analysis, conclusions and any Reasonable and Prudent Measures/Alternatives, if applicable, and provide its recommendations to the Council at its meeting scheduled on April 4, 2019.*

*Moved by Goto; seconded by Rice.*

*Motion passed.*

*Regarding the US Participating Territory longline bigeye specifications, the Council recommended for 2019 that NMFS specify for each US Participating Territory (American Samoa, Guam and CNMI), a 2,000-mt longline bigeye catch limit and specify that each Territory can allocate up to 1,000 mt of its bigeye catch limit through specified fishing agreements. The Council further recommended that NMFS implement these specifications by July 1, 2019.*

**The Council directed Council staff to finalize and transmit the specifications for Secretarial review, as appropriate. 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 authorized 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 the chair were authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.**

Sesepasara asked what happens if only one jurisdiction transfers quota or if there is no transfer.

Simonds said that depends on whether the Hawai‘i quota is reached.

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding North Pacific striped marlin, the Council endorsed the SSC recommendation that PIFSC complete an ongoing histological maturity study for striped marlin sampled from the Hawai‘i longline fishery and further that PIFSC should provide the information to the ISC prior its July 2019 meeting, which is when North Pacific striped marlin stock assessment is scheduled to be presented.*

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding the UN Intergovernmental Conference on Biodiversity beyond National Jurisdiction, the Council directed staff to write to the Department of State to convey concerns with the proposed convention text, including a request that high seas fisheries targeting tuna and tuna-like species be exempt from any potential high seas closures established under the new BBNJ Convention. The letter should also include recommendations made by the Spatial Working Group and endorsed by the SSC.*

Gourley asked if any other species should be included in the recommendation, like squid.

Soliai said to leave it as it is.

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding economic impacts from the 2018 amendment to the Billfish Conservation Act, the Council requested NMFS PIFSC Socioeconomics Program to evaluate the economic impacts on US Pacific Island fisheries from the 2018 amendment to the Billfish Conservation Act.*

Goto asked Bigelow who is leading the Socioeconomics Section of PIFSC.

Bigelow noted it was Hospital.

Simonds noted that the Council would be involved.

Bigelow suggested adding the request to the Council’s Omnibus letter to PIFSC.

Moved by Goto; seconded by Rice.

Motion passed.

## **XI. American Samoa Archipelago**

## A. Motu Lipoti

Sesepasara reported on DMWR's outreach efforts to three of the schools in the territory with more school visits planned for April. He spoke about DMWR's data collection efforts with the *alia* fishery and reported that, since the last Council Meeting, there were 143 runs that included 66 weekday collections and 13 weekend and holiday collections. DMWR's Fisheries Division handles all creel survey data collection, commercial fishermen licenses and seafood vendor commercial receipt book collections.

Sesepasara reported that DMWR staff has been working with the Fisheries Officer in Independent Samoa to collect DNA of various bottomfish species. Those samples are being sent to Australia to a genome research facility in Victoria. The Fisheries Division staff and its partners in neighboring Samoa collected 120 samples of *Acanthurus lineatus*, *Myripris berndti* and *Scarus oviceps*. The facility in Australia will analyze their DNA sequences to determine if the species in the two Samoas are the same.

Regarding DMWR's FAD Program, Sesepasara said his staff has worked to replace one of the FADs on Tutuila that was lost during tropical cyclone Gita in February 2018 and is fabricating a new FAD to be deployed soon. He also reported that DMWR has been working with the purse-seine fishing boats to develop a new, biodegradable FAD design. The purse seiners reached out to DMWR to assist them with testing and monitoring the new designs, financing the top portion of the FAD and utilizing DMWR's current FAD locations to test them.

Sesepasara provided data from the last quarter of 2018 for *alia* pelagic catch. He indicated that the data included both *alia* trolling and longline catch, as there is still a single longlining *alia* operating in American Samoa. The lone vessel landed about 2,108 pounds of albacore tuna.

Sesepasara also provided a status update on the repair work that was conducted on the *alia* fishing boats on the islands of Ofu and Olosega in the Manu'a group. Six *alia* were repaired on those islands. Following the repair work, the Fale-Lua-Nu'u Fishermen's Cooperative Association hosted the first Manu'a fishing tournament the week before Christmas in 2018. Sesepasara thanked the Council executive director for assisting with the tournament by providing fuel for the boats. He noted that fuel availability continues to be a major issue for the Manu'a fishermen. He said the tournament was a success. Although a delay with the boat that brought in the fuel for the tournament cut the originally scheduled fishing time from three days to a day and a half, more than 700 pounds of fish was caught. He said the repair work will now be shifted to Ta'u Island. The contractor DMWR hired to fix the *alia* on Ofu and Olosega is already there preparing to conduct those repairs. According to Sesepasara, the Taisamasama Fishermen's Cooperative Association on Ta'u is planning to hold its own fishing tournament when the repairs are completed, and he would request assistance from the Council when that happened.

Sesepasara concluded by reporting on the Malaloa Marina dock extension project. He indicated that Gov. Lolo Moliga is making that project a high priority and that \$1.6 million has been identified for the dock extension's construction. He also noted that he is in the process of negotiating with USFWS to purchase the outer 400-foot edge of the dock. He said that currently

it is designated for recreational boats and transient yachts because it was constructed with USFWS funds. It will also be connected to the extension that is planned.

Simonds asked Seseparasara if the American Samoa government had requested an exemption from the Department of the Interior for the use of the Malaloa Marina dock for non-recreational boats. She said the islands are different from the US mainland and it does not make sense to exclude non-recreational boats from using the dock. She suggested all of the territories make a request together.

Seseparasara said no such request had been made but he had discussed options with USFWS. The USFWS is awaiting a report on the dock from DMWR, which is due on March 28, 2019.

Simonds asked on what a potential purchase price would be based.

Seseparasara said USFWS is doing an appraisal to determine the worth of the outer side of the existing dock.

Simonds said that CNMI also would like to use its docks for non-recreational purposes and together the two territories could make a strong case to do so.

## **B. Fono Report**

Nate Ilaoa, Council staff, provided a brief legislative report. There was no fishery-related legislative action since the October Council meeting. He said, following the November mid-term election, there are 38 new members of the House of Representatives and incumbent Congresswoman Aumua Amata Radewagen won her bid for re-election capturing the large majority of the vote. Additionally, a veto override referendum was defeated in the vote.

## **C. Enforcement Issues**

Ilaoa provided a summary of both the American Samoa government and OLE activities for American Samoa since the 174th Council meeting. DMWR has issued two renewal and one new commercial fishing licenses in the last two quarters. It also continued to enforce seafood vendor compliance and the timely submission of invoices from those vendors. It included random checks of the participating businesses. Ilaoa also detailed dockside enforcement actions by OLE officers in American Samoa dealing with inspections, compliance assistance and boardings of US-flagged purse-seine vessels to ensure compliance. No violations were reported.

Seseparasara said the American Samoa government partners with NOAA OLE through a JEA Program to enforce fishing regulations in the EEZ around American Samoa.

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

Soliai reported on the American Samoa tuna industry. He asked to first comment on the Motu Lipoti regarding the issue of docking space in Pago Pago Harbor. He said the situation still presents a safety issue due to the lack of space for the commercial vessels to dock. Whenever a cruise ship or other large vessel is in port, the fishing boats are forced to dock at the cannery.

This presents a major safety concern not only for the cannery but also for the Port Administration due to multiple boats having to tie up alongside one another. This creates a danger for the crew members who have to cross multiple boats. He stressed the need to solve this problem.

Soliai informed the Council that Drew Lawler, the deputy assistant secretary for international fisheries, visited StarKist in February. During the visit he met with both longline and purse-seine boat owners and operators and their crews. He toured four purse-seine vessels and a longliner. The meeting was informative and allowed him to gain valuable information about the cannery operations and a perspective of the significance the fishery has and its importance to the economy. Soliai said he Lawler left American Samoa impressed by his tour and meetings as well as the industry operations, which gave him a broader perspective of the territory.

Soliai also reported on the reinstatement of the Guest Worker Program by Gov. Moliga upon a request from StarKist in the previous year. He spoke of the cannery's operations being impacted by poor attendance and absenteeism, which continues to be a hindrance. The governor approved the request to reinstate the program, and StarKist is in the process of recruiting workers from Independent Samoa, screening for qualification and working with the American Samoa government on approval of Immigration Office clearances. The company hopes this program's reinstatement will help to stabilize the workforce and maintain attendance at a level that will sustain the canneries operations.

Lastly, Soliai updated the Council on the status of StarKist's plans to relocate its California-based packing operations to American Samoa. He said the move has been delayed until 2020, but there is no definite timeline as of yet for the move. The company has informed the governor of the upcoming relocation and the projection that the move will create 250 to 300 new jobs for the American Samoa economy. This news has been well-received by the governor and the community, and he is hopeful the roll out will be in early 2020.

Lutu-Sanchez added that Lawler's tour of the longline vessel was a thorough one as he looked at every part of the boat from the engine room to the fish holds. He met with all of the American Samoa longline owners and learned who they were and who their crews were. Lutu-Sanchez hoped that the meeting with Lawler impressed upon him the importance of having fishing access in American Samoa waters. The longline owners also conveyed to him the importance of having a strong stance from the US delegation when at international fisheries meetings such as the WCPFC to support all US fishermen, including those in American Samoa.

#### **E. Education and Outreach Initiatives**

Ilaoa reported to the Council that four students from American Samoa applied for the US Pacific Territory Capacity Building Scholarship. Currently one American Samoa student receiving the scholarship is attending Hawaii Pacific University and two who had graduated through the program are back in American Samoa working for agencies. He added that the American Samoa AP members are working on a second version of the "Know Your Fisheries" brochures, which were developed for the Fishers Forum in American Samoa in 2015. The second version will focus more on socioeconomic information to highlight the importance of the fisheries to the local economy and potential careers in fishery-related areas.



Lutu-Sanchez added that the effort by the AP to bring more awareness to the community about the various fisheries is helpful because there is a lack of fisheries awareness in the Territory. She also spoke about efforts by the USCG to provide education and awareness training for the longline crews and masters, including development of a three- or four-day training session for April with the help of the District 14 office. She also noted that the AP had expressed concern with the terms of USCG active duty officers stationed in American Samoa and that the current single-year term does not help continuity of programs and enforcement activities.

## **F. Marine Conservation Plan Projects**

Ilaoa reported on the projects that DMWR included in its current Marine Conservation Plan for American Samoa. The projects fall under six main objectives.

- Maximizing social and economic benefits through sustainable fisheries
- Supporting quality scientific research to assess and manage fisheries
- Promoting an ecosystem approach in fisheries management
- Recognizing the importance of island culture and traditional fishing and managing fishery resources and foster opportunities for participation
- Promoting education and outreach activities and regional collaboration regarding fisheries conservation
- Encourage development of technologies and methods to achieve the most effective level of enforcement and to ensure safety at sea

DMWR also developed a set of evaluative criteria for each of the projects. The complete list of projects is in the briefing document under agenda item 11.F.

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

### **1. Advisory Panel**

There were no AP recommendations pertaining to American Samoa.

### **2. Scientific and Statistical Committee**

There were no SSC recommendations pertaining to American Samoa.

## **H. Public Hearing**

There was no public comment.

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

*Regarding the assignment duration for the USCG head of the Marine Safety Detachment in American Samoa, the Council **directed staff to communicate with the 14th District requesting its assistance in finding a solution, or innovative methodology, to address***

**continuity concerns caused by a one-year rotation of the active duty member service for the Marine Safety Detachment in American Samoa.**

*Moved by Sesepasara; seconded by Lutu-Sanchez.  
Motion passed.*

**XII. Mariana Archipelago**

**A. Guam**

**1. Isla Informe**

Duenas reported on the Guam fishing community, noting the upcoming fishing derbies and the Merizo Crab Festival. Guam has had a good wahoo run from October to January, which bled into a strong mahimahi run in 2019. He said the mahimahi are sticking around because there is a lot of cold water still around Guam. Even though they have a lot of mahimahi and wahoo, there is still a lot of shark depredation and many are reporting their catches being taken by sharks. Earlier this year, FAD buoy 4 got entangled in the prop of a repositioning ship, which concerned fishermen because it would have been disastrous had a smaller vessel done the same. The fishing community is considering requesting that the military assist in redeploying the FAD to avoid having Guam pay since the military was the cause of removal.

Muna-Brecht reported on the creel survey efforts by the Division of Aquatic and Wildlife Resources (DAWR) with an update on catch, species and methods used. Shark interactions were significant for troll and *talaya* (net) fishermen. She also covered the Boating Access Program's plan to build a southern boat ramp; the Department of Public Works and Port Authority of Guam's plan to rebuild parts of Agat Marina and Merizo Pier; and fishing derbies in June and July. She said DAWR continues to issue permits for seasonal takes of bigeye scads, juvenile jacks, juvenile goatfish and juvenile rabbitfish. She noted an effort by a Guam senator to prohibit SCUBA spearfishing in Guam and a vessel grounding that happened on the reef in Guam. Muna-Brecht also reported on protected species and work with Underwater World on sea turtle strandings. A beaked whale found in Agat later died, and the media was concerned that the use of sonar may have caused the death. Brain tissue samples from the whale were taken and sent to Hawai'i with hopes of receiving the results in six months.

Rice asked Duenas if the fishing community sees yellowfin or bigeye tuna or striped marlin.

Duenas said he has never seen a local striped marlin and has seen only those from foreign longliners that offload at the port. As for tunas, he said that few bigeye come through Guam, and yellowfin that pass through is common but on the small side.

Soliai noted that the boat ramp Muna-Brecht mentioned in her report was expensive. He asked if there was any increase in people utilizing the existing boat ramps.

Muna-Brecht said that recreational use has increased, but people will buy boats if they have access and will sometimes launch from shore where there are no ramps.

Sensui asked if the legislature had considered using bag limits instead of a SCUBA spear ban.

Muna-Brecht said that fishermen introduced that idea as well, which pointed to the necessity of including fishermen in the conversation before introducing the bill. The bill has been around for many years but got a lot of heated blowback from the fishing community historically, which points to the need for more conversation on the issue.

Sensui said that it was done in Kona and that, even in the face of evidence presented to the Board of Land and Natural Resources to the contrary, SCUBA spearfishing was banned.

Muna-Brecht said one assertion is that free divers could take more fish than SCUBA spear fishermen. The arguments can go both ways, which is why there needs to be a better look at the data and to have the conversation to collect the information that is not captured in surveys.

Simonds called on Sabater to provide an update on Guam data noting that decisions have to be made based on the creel surveys.

Sabater presented the available data and compared the total catch and the number of years for the snorkel spear fishery and SCUBA spear and showed that they are about equal. There is no evidence that one is catching more than the other, and there are many more snorkel spear fishermen than those using SCUBA spear. The science behind the proposed legislation utilized the underwater census survey that compares size frequency and estimated biomass using drop camera work done by an Australian scientist and not the catch information. The difference is apples and oranges. There are bigger fish in deeper waters, but analysis of the size frequency distribution of the catch is needed to determine whether fish caught by SCUBA spear are actually larger than those caught by snorkel spear.

Muna-Brecht countered that SCUBA spear fishermen go at night while the surveyors only work between 8 a.m. and 5 p.m. She asked how to determine what the SCUBA spear fishermen are catching. Fish ending up in the market have not shown a change in the size, although, anecdotally, free divers say that fish seem to be getting smaller.

Sesepasara said American Samoa banned SCUBA spearfishing through legislation that originated from the community. They noticed the size of their reef fish getting smaller, due to SCUBA spearfishing at night. He asked about the vessel grounding in Guam and who financed the removal of the vessel.

Muna-Brecht reported that the vessel was from a local parasailing company and the government did not fund the removal.

Sesepasara said that they have similar problems with vessel groundings and are looking at legislation to require non-local boats coming into American Samoa to have insurance.

## **2. Legislative Report**

Muna-Brecht reported on two proposed pieces of legislation. One would ban SCUBA spearfishing, which is contentious and was introduced without consulting either the agency or the community, causing a strong reaction from the community. That senator has engaged in conversations with both sides so there may be a chance to find a resolution that is mutually beneficial rather than a ban that would be impossible to enforce. The second is the Coral Reef Protection Act that was introduced in previous years. It is being circulated for feedback prior to being introduced this year. That Act would prohibit vessels from anchoring on or near coral reefs but would exempt vessels 24 feet and under from enforcement until additional moorings are put in place.

### **3. Enforcement Issues**

Muna-Brecht reported that all of the enforcement violations from January to March involved sea turtles. Not all of the turtles were released alive. The most recent case involved two carcasses left on the side of the road. Through a JEA, Guam gets reimbursed for personnel hours and wages spent on cases involving NOAA OLE. This agreement has been mutually beneficial and positive.

### **4. Mandatory Permit and Licensing Regulation**

Muna-Brecht reported that an issue for Guam is the ability for DOAg or the legislature to implement fishing permits without the convening of the Guam Fishery Council, enacted through legislation to develop fishing regulations for Guam. The Guam Fishery Council legislation specifically named organizations to be members. Some of the organizations no longer exist, which leaves the legislature in a limbo as to what to do in convening the Council. Other problems of getting members confirmed by the legislature exist. Efforts are underway to look at legislation to remove or rescind those boards and councils that are no longer needed or serve a purpose. What is apparent from the Guam Fishery Council legislation is that the fishing community wants to be consulted and be involved in the creation of fishery rules. Muna-Brecht added that she is looking at options to repeal that legislation and include the ability to develop fishing permits in consultation with the fishing community. She noted that creating a permit process for fishing could also require tourists who fish to pay a permitting fee, which would facilitate the tracking of fishing effort and catch.

Wamura said an associate of his is in the process of developing a fishing app that would connect fishermen to fishermen and fishermen to fish. He saw the need for noncommercial data, and they are working to include a noncommercial fishing reporting feature as a big part of the app. He also commented on the willingness of fishermen in Guam to have a registry permit or license because in Hawai'i they are met with much resistance from the fishing community. There is a fair amount of apathy from Hawai'i fishermen or a lack of leadership, and it is nice to see the opposite in Guam and CNMI.

### **5. Community Activities and Issues**

Felix Reyes, Council staff, provided the community activities and issues report for Guam. He reported a change in the governor and the legislature since the last Council meeting, resulting in leadership changes in the different agencies that the Council works with in Guam. He reported

on the issues with the status of repairs at the harbors and the lack or poor condition of infrastructure for fishermen. He also reported on efforts to collect data from kayak fishermen who are able to launch and return from places other than the harbors, so their data may not be collected in the creel surveys.

Muna-Brecht said that another group that may be overlooked in collecting fishing data is the paddleboard fishermen.

Watamura said he was impressed by how meticulous they were in collecting the data at the Council's spearfishing tournament in October 2018. Every fish was measured, weighed, identified, photographed and recorded, which is far ahead of what is done in Hawai'i.

## **6. Education and Outreach Initiatives**

Reyes reported that Council publications and reports are being widely distributed at the Mayors' Council Office as well as the libraries, Guam Museum, DOAg, Guam Fishermen's Cooperative, Guam Visitor's Bureau and many other places. The Council also participated with DAWR in the University of Guam's Charter Day events by providing information and publications. AP members have been participating in beach cleanups and are working with Council staff to develop the High School Summer Course on fisheries as well.

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

#### **1. Arongol Falú**

Kaipat provided the island report for the CNMI, including ongoing recovery efforts since Super Typhoon Yutu hit during the Council meeting in October 2018. During this time, collecting data and tagging fish has been ongoing as well. The Marine Resource Assessment Program, funded by Sport Fish Restoration, is working on plans for surveys around Saipan and the MPAs. The outreach program was put on hold as schools continue to recover from Yutu, but the DLNR is preparing materials in anticipation of the program starting up again in the near future. The FAD program reported that all of the FADs were lost except for two due to Yutu. The Division of Fish and Wildlife (DFW) is working on ordering and replacing 10 FADs.

Gourley provided an update on the CNMI Biosampling Program, a successful federal, state and private sector partnership in fisheries research, as funding and assistance has been provided by PIFSC, CNMI DFW and the Council with Micronesian Environmental Services. The program started in 2010, and data on reef fish has been collected for eight years. The program concentrates on surveyors getting data from six to eight markets on reef fish and invertebrates. To date, they have collected data from 2,911 fishing events, meaning complete catch from fishermen including where and when they fished. Data collected includes length, weight, otoliths and gonads from 195 different species from as far away as Pagan and as nearby as Tinian. Markets are sampled on two weekdays and one weekend. Gourley said the bottom line is that the commercial reef fish market is caught by spear at night approximately 95 to 98 percent of the time. Most of the spear fishers are guest workers. Potential reasons for the drops in numbers of fishers are changes in immigration and an improving economy. This can be attributed to the loss of highliners in the fishery. Markets do not have reef fish all the time

because of bad weather. In order of abundance in the markets, the species are unicorn surgeonfish, goatfish, rabbitfish, emperors and parrotfish. The program's goal is to use the biosampling data to help management review the applicability of regulations.

Rice said that in 2008 and 2009, the economy in Hawai'i was down so fish catch went up because those not working in construction went fishing. This might have a similar impact in CNMI as well.

Sensui commented on the importance of commercial fishing to the markets and the importance of night spearfishing, even if it is considered unpopular. That unpopular opinion that night fishing is destroying the resource is dispelled by this study.

Gourley said fishing effort is not the problem for some species.

## **2. Legislative Report**

Kaipat provided the legislative report noting that a size restriction bill that was not passed during the last Legislature has been reintroduced. The proposed House Bill 21-17 introduced by Rep. Roman Benavente is entitled "to prohibit the taking and selling of certain sizes of fish species by adding a new Section 5645 to Articles 4, Chapter 6, Division 5 of Title 2 of the Commonwealth Code; and for other purposes." The bill has not yet been placed on the House Calendar or Committee. DFW is monitoring this bill closely. Kaipat also reported that on March 6, 2019, Sen. Vinnie F. Sablan introduced a bill to amend 2 CMC Subsection 5631 to allow surround nets in the Third Senatorial District for the seasonal run of bigeye scad, or *atulai*.

## **3. Enforcement Issues**

Kaipat reported that due to Typhoon Mangkut in September and Super Typhoon Yutu in October 2018, DFW suspended all JEA enforcement activities to address the pressing cleanup activities. The JEA enforcement activities were resumed in January 2019.

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

### **a) Bottomfish Fishery Development Project**

There was no report provided on this activity.

### **b) Mandatory License and Reporting Regulation**

Kaipat reported on proposed regulations that will enable the DFW to collect reliable data in commercial harvest purchase and/or sale of products caught in the CNMI waters. With the assistance from the CNMI Attorney General and the DLNR Secretary, the regulations are out for public comment until March 20, 2019. A request was submitted to extend the comment for another 30 days.

## **5. Education and Outreach Initiatives**

Kaipat reported that the Council's CNMI coordinator, Floyd Masga, has been working to provide outreach materials, banners, photos and documents on all fishing-related activities in the CNMI to the community.

### **C. Marianas Shark Research Project**

Fitchett presented the Council's plans for shark depredation research in the fisheries of Guam and CNMI. The research plan is a result of a meeting in Saipan involving the Council, PIFSC and the fishermen to characterize the shark depredation issue. Fishermen have noted a high frequency of shark interactions, most of which are depredation events that contribute to the loss of fishing opportunities. With input from PIFSC, the Council drafted a research plan in October 2018 to explore which species of shark are responsible for depredation and what contributes to the risk of depredation. The plan is to address these questions by covering knowledge gaps on the local composition of species; determining the risks both perceived and quantified of depredation; elucidating seasonality and residency of sharks responsible for depredation; and estimating gear/fisher effects that may contribute to the propensity of shark interactions.

Muna-Brecht asked if equipment loss will be quantified.

Fitchett said that is something that could be considered.

Duenas asked if part of the research will track change in shark behaviors.

Fitchett said that should be considered as part of the research. As fisheries change, shark behavior would likely change, but other extrinsic factors may be driving depredation as well.

Watamura asked if there is a timeline for conducting the research.

Fitchett said, hopefully, the first part of the research will start in the summer of 2019 during the troll fishing season.

Watamura asked what can be done after the research is concluded.

Fitchett said the ultimate goal is to see if there is a conflict with the current regulatory measures associated with shark retention, catch and sale, as well as the social perception of catching and retaining sharks.

Gourley asked if it was worth collecting biological data, maturity, age and growth, pulling of vertebrae on the sharks that come up dead.

Fitchett said those are not within the scope of this research but it would be interesting beyond this research to look at life history and local demographics.

Simonds said, when the Council began talking about this project years ago, surveys were being done by PIFSC. However, what shark populations were present was unknown, so it is important to work on knowing as much as possible about those populations.

**D. Update on Marianas Trench Marine National Monument Management Plan and Sanctuary Request**

Tosatto reported on the status of the Marianas Trench Marine National Monument explaining that work is ongoing to develop a Draft Management Plan and a Draft Environmental Impact Statement for that plan. The release may be complicated by reviews of the monument areas by the Departments of the Interior and Commerce. Time will tell how that will proceed. Beyond that, consideration is being given on how to implement the plan. Regarding the request to overlay a National Marine Sanctuary over the Marianas Trench Marine National Monument, Tosatto said the request is at the Office of National Marine Sanctuary, along with many other Sanctuary requests. He said he has heard no intention to make progress on that request.

**E. Advisory Group Reports and Recommendations**

**1. Mariana Archipelago Fishery Ecosystem Plan Advisory Panel**

There were no recommendations from the Mariana Archipelago FEP AP.

**2. Scientific and Statistical Committee**

The SSC had no recommendations pertaining to the Mariana Archipelago agenda items.

**F. Public Comment**

There was no public comment.

**G. Council Discussion and Action**

*Regarding mandatory licensing and reporting in the Marianas, the Council **directed staff to work with the Guam DOAg and the CNMI DLNR on the development of licensing and reporting applications (i.e., online or mobile platform) for Mariana Archipelago fishermen and dealers to report their catch and/or fish purchases.***

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

**XIII. Administrative Matters**

**A. Financial Reports**

Simonds reviewed the 2018 grant expenses, noting that 2019 is the last year of the current multiyear cycle. Regarding FY2019, the regional councils will receive their share of the \$4 million line item, half of which goes to the Commissions and the international offices. This Council's share will be approximately \$150,000, which will be spent on staff that the Council will be hiring this year.

The Coral Reef Conservation Program recently notified Council staff that it will not be funding projects for species that have been removed from the management unit species and



reclassified as ecosystem component species. These projects amounted to \$140,000. The Council removed these species because PIFSC does not have enough information to do stock assessments but the Council is not dismissing management of them. The Council plans to follow up with headquarters about this decision as information for those species is needed to manage them as ecosystem components.

## **B. Administrative Reports**

Simonds reported that there are no staff changes, but there are contracts with former employees Marcia Hamilton and Paul Dalzell to go through the Council's libraries and legacy documents. Simonds noted that letters were distributed to Council members regarding the conflict of interest and recusal policy and that the comment period ended last week. The Council is looking for Headquarters to reevaluate its policy and consider the Council's issue about individual Council members carrying the burden of the company where they are employed. The comments were sent and are pending a response. Other updates included offering the Healthcare Flexible Spending Account to staff.

## **C. 2020-2024 Program Plan and Budget**

Mark Mitsuyasu, Council staff, reviewed the draft Five-Year Program plan for 2020-2024. The plan includes drivers for the Council, including the MSA, the Council's mission and Guiding Principles, FEP goals and objectives, and other authorities that require consideration when the Council makes a decision. Some provisions in the MSA are exclusively for this region, such as the Community Development Program, Community Demonstration Projects Program, Pacific Islands Area Fishing Agreements, Marine Education and Training, and provisions related to RFMOs. The plan for 2020-2024 does not propose changes to the Council's mission.

The Ecosystem Program in the 2015- 2019 plan included protected species, habitat, human dimensions and science. The plan also included priorities for fishing in indigenous communities and education and outreach. In the plan for 2020-2024, protected species will be a separate program, and ecosystems will be integrated into the pelagic and island fisheries programs. When the Council voted on the last plan, the top five priorities were the FEP reviews, support data collection and monitoring and research, capacity building, fisheries development and international fishery issues. The priorities for the new plan are timely processing of actions, protected species, coordinating data and research through the Fishery Data Collection and Research Committee (FDCRC), fishery development, and active participation in international science and management.

Regarding the Council family, the main ones that are required by the MSA are the SSC, the AP and the Fishing Industry Advisory Committee. The rest are established by the Council through research plans or as ad hoc advisory bodies. The staff has looked through the roles and the responsibilities of the different groups and identified some redundancies. Changes over the last several years have expanded the role of the Plan Team and that has overlapped with some of our advisory groups, such as the Protected Species Advisory Committee and Marine Planning and Climate Change Committee. Some of the advisory bodies will be repurposed or discontinued as a result.

When the FEPs moved from species-based to place-based, part of the move was to improve support to the Territories. The new plan will integrate quarterly trips out to the regions for staff to follow up on items such as projects, programs, initiatives and Council actions. The Council would also like to add another Council meeting annually to allow the Council to go to each jurisdiction each year instead of every other year. The current plan has been vetted through different advisory bodies and will be put forward before June.

Soliai thanked staff for the development of the plan and noted that Council looks forward to its implementation.

Simonds said that Chris Oliver and Headquarters included the Councils in many of the priorities the NOAA Fisheries Strategic Plan for 2019-2022 and NOAA Fisheries Priorities and Annual Guidance for 2019. For example, for the 2019 Guidance, Goal 1 is to amplify the economic value of commercial and recreational fisheries. The first priority of that goal supports reviews of the regional fishery management council actions, and the target accomplishment for 2019 is to reduce or eliminate the backlog of existing Council actions. Simonds said past strategic plans did not have anything similar. There will be a Regional Council conference call on March 28, 2019, during which Oliver will talk about this plan and how the Councils fit in.

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

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

Joshua DeMello, Council staff, reviewed the Council family changes matrix.

##### **2. Plan Team**

The agenda item was presented in the prior presentation.

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

The agenda item was presented in the prior presentation.

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

The agenda item was presented in the prior presentation.

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

The agenda item was presented in the prior presentation.

##### **6. Protected Species Advisory Committee**

The agenda item was presented in the prior presentation.

#### **E. Conflict of Interest and Recusal Policy**

The agenda item was presented under Administrative Reports.

## **F. Meetings and Workshops**

Simonds reviewed several meetings dealing with the regional councils and pointed out the conference call with Headquarters about the budget update. Final figures on what NMFS will distribute to all the regional councils will be available. The conference call will include discussions on the Modern Fish Act Guidelines, ecosystem-based fishery management and a habitat workshop proposal.

Other meetings reviewed include the Council Coordination Committee (CCC) Meeting in Charleston, South Carolina, which will include agenda items on Legislative Outlooks and Aquaculture, One Stop Policy Procedural Directives, BSIA Guidance, and BBNJ. The next SSC and Council meetings are scheduled for the weeks of June 18 and 24, 2019.

## **G. Standing Committee Recommendations**

Mitsuyasu said the Standing Committee formulated several recommendations based on the presentations provided, which will be included in the Council discussion and action section.

## **H. Public Comment**

There was no public comment.

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

*Regarding administrative matters, the Council directed staff to send a letter to the NMFS Assistant Administrator (AA) requesting:*

- a. A meeting be convened of Headquarters leadership, PIRO, PIFSC and Council in April 2019 to address processing of outstanding Council actions, consultations and NEPA issues and initiate coordination of regional planning to support NMFS's Regional Strategic Planning initiative; and**
- b. Funds being provided to host a facilitated joint strategic planning workshop for the Pacific Islands that will include staff from the PIRO, PIFSC and the Council prior to the national CCC meeting in May 2019.**

Tosatto said that he did not support the recommendation and that he did not need Headquarters leadership in the region. He said there is an ongoing partnership with the Council regarding Council actions, ESA consultations and NEPA issues, and thus a meeting outside of the routine is not necessary. Regarding the regional strategic planning process, Tosatto said that the process is intended to be a joint PIRO-PIFSC strategic plan in consultation with the Council, rather than a three-part strategic plan. He said that the plan is for NMFS, which has many partners, and that the Council is a primary partner for their fishery management mission and a key stakeholder in the protected species mission. Tosatto reiterated that there was no funding needed for a facilitated joint workshop and that he probably would not participate in such.

Lutu-Sanchez said that while she appreciated Tosatto's comments, she sees the need to support the involvement of Headquarters leadership for the benefit of the region overall.

Moved by Sensui; seconded by Lutu-Sanchez.  
Motion passed with Tosatto opposing.

Regarding administrative matters, the Council **endorsed the draft Council 2020-2024 Program Plan, revised program areas, priorities, advisory body changes and schedule and directed staff to finalize the plan and budget for transmittal to NMFS.**

Moved by Sensui; seconded by Lutu-Sanchez.  
Motion passed.

Regarding administrative matters, the Council **endorsed the following advisory body changes:**

<b>Body</b>	<b>Remove</b>	<b>New Appointment</b>
Hawai'i AP	Clarence Yamamoto resigned as alternate	None
Guam AP	Felix Reyes hired as Council coordinator for Guam	Myles Driscoll
CNMI AP	Juan Diego Blanco resigned as alternate	To be solicited
	Ray Teregeyo resigned as member	Ray Tebuteb from alternate
	Floyd Masga stepped down as alternate as he was hired as Council coordinator for CNMI	To be solicited
Pelagic Plan Team	N/A	Ashley Tomita, PIFSC
Archipelagic Plan Team	Alton Miyaska	Paul Murakawa, DAR
Archipelagic Plan Team	Jo-Anne Kurshima	Annette Tagawa, DAR
Archipelagic Plan Team	Kimberly Lowe	Stefannie Dukes, PIFSC (as ex officio status)
Education Committee	N/A	Eloise Sanchez, Guam Department of Education (DOE)
Education Committee	N/A	Pauline W.U. Chinn, UH Manoa Curriculum Department
Education Committee	N/A	Magdalene Leauanae, AS DOE
Education Committee	N/A	Asap Ogumoro, CNMI Public School System
FDCRC	Matt Sablan	Chelsa Muna-Brecht, DOAg
FDCRC	Carl Dominguez	Tyrone Taitano, GU Bureau of Statistics and Plans
FDCRC	Bruce Anderson	Brian Neilson, DAR

Moved by Sensui; seconded by Lutu-Sanchez.  
Motion passed.

Regarding administrative matters, the Council **recommended the chair and executive director continue to raise issue with NMFS regarding the arbitrary nature of the recusal**

**attribution policy as applied to employees on the March 28, 2019, CCC teleconference and at the May CCC meeting. In addition, staff should resend its letter to NMFS reiterating the need to remove employee as an affected individual in the recusal policy.**

*Moved by Sensui; seconded by Lutu-Sanchez.*

*Motion passed.*

**Regarding administrative matters, the Council supported amending the staff benefit package to include the option for staff to participate in a Flexible Spending Account program.**

*Moved by Sensui; seconded by Lutu-Sanchez.*

*Motion passed.*

**Regarding administrative matters, the Council directed staff to send a letter to PIFSC to publish the methodology for sampling and estimating bycatch of the Hawai'i deep-set longline fishery, which was independently peer reviewed by the Center for Independent Experts in 2015.**

*Moved by Sensui; seconded by Lutu-Sanchez.*

*Motion passed.*

**Regarding the timely completion of ESA consultations, the Council requested that the NMFS PIRO complete ESA Section 7 consultations on oceanic whitetip sharks for four of the Western Pacific Region's most important pelagic fisheries (Hawai'i deep- and shallow-set longline, tropical purse-seine and American Samoa longline) by June 1, 2019. The Council makes this request to ensure expeditious completion of the consultations to reduce litigation risks associated with the continued operation of these vital fisheries. The Council and its staff are ready to assist NMFS to complete these consultations according to the existing ESA-MSA Integration Agreement. To date, PIRO leadership has not ensured timely completion of ESA consultations for these fisheries as well as MSA fishery actions (e.g., territory bigeye specifications, American Samoa LVPA amendment, ACL specifications, FEP review, etc.), leaving the Council highly uncertain about its confidence in PIRO leadership to meet statutory deadlines and ensure the sustainability of the region's fisheries as mandated by MSA. If PIRO leadership cannot ensure completion by the requested deadline, the Council may take a vote at the June Council meeting on whether or not it has confidence in the Regional Administrator to lead NMFS PIRO. The Council directs staff to notify Chris Oliver, assistant administrator for NOAA Fisheries, of this timeline as well as concerns with the lack of timely completion of the ESA consultations for the region's pelagic fisheries.**

Prior to the motion being read on the floor, Tosatto asked that the recommendation not to be read as he found it personally offensive and questioned if the intent of this Council was to permanently damage the partnership that it has with the NMFS, PIRO and PIFSC. He stated that

the Council members do not understand the work their offices do and invited them to visit staff at each location. He said the Council should proceed if it has the ill intent.

Simonds said that there was no ill intent, but it is in response to what has happened with the fishery over the last several years, including the three years the fishery was shut down because PIRO did not complete paperwork. She reiterated the need for the Council to be included in PIRO's planning process and noted that the Council has tried through MOUs, documents and actions plans but nothing has worked. The intent is to work together, but, she said, Tosatto does not want to work with the Council. The Council is passionate about its mission and would like to know where to go forward from today with the current situation.

Soliai agreed that there is no ill intent and that the Council values the relationship it has with PIRO. He said that at this meeting the Council has listened to the plight coming from all of the main fisheries in the region that are impacted. He said that this is a call for expedited action to find resolutions and avoid having to go to court and that the Council would like more urgency in addressing the concerns discussed during the week.

Tosatto said that he appreciated that Simonds and Soliai do not think sending this message would do damage. He said that he takes full responsibility for everything PIRO does but the message this action would send to PIRO staff will be nonetheless damaging. He said, while there are many reasons for what occurs in the region, this Council has traditionally not thrown rocks at one another unlike at other Councils. He said that it is a complex business they work in and that they have the fisheries' best interest in mind, the responsibility for reducing bycatch and the trust responsibility.

Sensui added that this reiterates the need for urgency and to act upon these things in a timely manner. Aside from being responsible for protected resources and protecting habitat, the Council also has the responsibility for achieving maximum sustainable yield. There is the responsibility of ensuring that the Council's actions or failure to act do not adversely affect the people who make a living in these fisheries. Dang sent a heartfelt letter to show the kind of damage the closure has had to his operation, and Goto has mentioned how the inability to maintain a consistent supply has hurt markets. Sensui said every month a fishing boat stays at the dock and is unable to go fishing costs a minimum of \$14,000; that kind of cost can drive fishermen out of business. Sensui added that it is important to understand why the Council would take this kind of action.

Sesepasara said he personally feels that the Council values the participation and assistance from NMFS. His concern was about the change in the relationship between the Council and NMFS staffs. He asked about the type of assistance the Council would receive going forward.

Simonds said that there needs to be a change in the way the government agencies do business in the region. They need to be persuaded to respond more urgently to their and our public mandates.

Goto said that he is in a unique position as a businessman as he his clients include fisherman, harvesters, marketers and purveyors. His responsibility to them is to ensure the management process is being driven and that due diligence went into any particular issue.

Watamura said that has been part of the Council process for many years and the issues come down to a conflict between fisheries and protected species. Many of the fisheries are being affected and shut down because of protected species concerns. Considering that the composition of PIRO has more staff in the Protected Resources Division than in SFD, it becomes evident where all the money, attention and resources are being put. Watamura said he sympathized with Tosatto as he knows it must be hard to get the work done with the resources he has, but there are resources available in other areas.

Tosatto said that based on Goto's comments, he sees that this is not personal. He ensured Seseapasara that regardless of the outcome of this action that PIRO and PIFSC staff will act professional and strive for the best partnership possible. Tosatto agreed with Simonds' last statement and said that the finger-pointing in a single direction is what he largely thinks is wrong. He said that there is no purpose in having an open debate around all the other fingers that they could point to but added that any fishery management action has fingers to point, noting that PIRO has never received a document from Council staff that has been adequate to put into the Federal Register. He said he will always have a document that is legally sufficient and compliant with all of the laws because that is what General Counsel will advise, which takes time. There are many external drivers that Council staff may or may not know about. At the end of the day there is going to be a legally sufficient document that goes out the door and nothing else.

Soliai thanked Tosatto for his comments and added that there is no intent to throw rocks. The goal is to have Council staff assist NMFS to develop these consultations. If these fisheries close, communities in Hawai'i and in other parts of the Pacific Islands will be impacted. He said that the Council should move forward, that Tosatto's comments are duly noted and that the Council highly respects the work of NMFS and PIRO and looks forward to a continued partnership. He said it is up to each Council member on how to vote on the recommendation.

The recommendation was read on the floor.

Lutu-Sanchez said that the last couple of days have been eye-opening for her, seeing how the fisheries are being affected by issues that are completely out of fishermen's control such as BiOps and consultations. The fishermen cannot influence them nor do anything to expedite the process. The recommendation relays the desperate situation by asking leadership to work with all of the counterparts in different agencies to finish what needs to be done for the sake of fishermen who will be most affected. She said that she looks to Tosatto for his leadership to finish the consultations because fishermen cannot do them.

Okano said that not everybody agrees with decisions that his agency does, but that he still tries to maintain positive relations, whether it be with the Council, community, NOAA or the fishermen. He said he will abstain from the vote as he does not want to damage relationships and does not want to take sides.

Peck said USFWS is a nonvoting member of the Council but they participate and can make recommendations. Peck agreed with Okano's comments regarding relationships. He questioned the purpose for the second to the last sentence in the recommendation.

Soliai said that the sentence does say the Council "may" take a vote in June rather than "will," so the Council will consider it if the recommendation passes.

*Moved by Sensui; seconded by Lutu-Sanchez.*

*Motion passed with Tosatto opposing and Okano abstaining.*

#### **XIV. Other Business**

Kingma read a resolution for Disque who has been with the Council for the past two years, and Sabater read a resolution for Kingma who has been with the Council for nearly 16 years. Kingma shared his appreciation for Council and staff and said that he will be working with everyone in his new capacity as the executive director of the Hawaii Longline Association.

Meeting adjourned.





WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

**MINUTES OF THE  
176<sup>th</sup> MEETING OF THE  
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**March 19-21, 2019  
Laniakea YWCA, Fuller Hall  
1040 Richards Street  
Honolulu, HI 96813**

Approved by Council:

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Taotasi Archie Soliai, Chair

Western Pacific Regional Fishery Management Council

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## **I. Welcome and Introductions**

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

- Taotasi Archie Soliai, chair (American Samoa)
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Michael Duenas, vice chair (Guam)
- Dean Sensui, vice chair (Hawai‘i)
- Christinna Lutu-Sanchez (American Samoa)
- Ryan Okano, Hawai‘i Department of Land and Natural Resources (Hawai‘i DLNR) (designee for Suzanne Case)
- Michael Goto (Hawai‘i)
- Augustin Kaipat, CNMI Department of Lands and Natural Resources (CNMI DLNR) (designee for Raymond Roberto)
- Chelsa Muna-Brecht, Guam Department of Agriculture (DOAg)
- Ed Watamura (Hawai‘i)
- McGrew Rice (Hawai‘i)
- Henry Sesepasara, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Mike Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)
- Lt. Cmdr. Adam Disque, US Coast Guard (USCG) (designee for Rear Adm. Kevin Lunday, commander for USCG District 14)
- Brian Peck, US Fish and Wildlife Service (USFWS)

Also in attendance were Council Executive Director Kitty Simonds, NOAA Office of General Counsel Kristen Johns, and Scientific and Statistical Committee (SSC) chair James Lynch. Council member Michael Brakke, US Department of State, was absent.

Soliai opened the 176<sup>th</sup> meeting of the Council and welcomed Council members and the public. Following self-introductions by Council members and staff, Lunday was introduced and spoke on the responsibility of the USCG relative to fisheries and their management. The number one priority for the USCG is safety, followed closely by protecting the US economic exclusive zone (EEZ) from illegal fishing and ensuring proper management of domestic fisheries through laws and regulations. Lunday also mentioned the increase of fast-response cutters being stationed in the Hawaiian Islands.

Sesepasara requested for a USCG cutter to be based in American Samoa.



Lunday said he instructed the USCG staff to explore the capabilities of the new cutter to service the jurisdiction.

Lutu-Sanchez thanked Lunday and the USCG for supporting the American Samoa longline fleet, especially for offering classes to help prepare fishermen for future hurricanes and other natural disasters.

## **II. Approval of the 176<sup>th</sup> Agenda**

Soliai asked for a motion to approve the 176<sup>th</sup> meeting agenda.

Moved by Duenas; seconded by Sensui.

Motion passed.

## **III. Approval of the 174<sup>th</sup> and 175<sup>th</sup> Meeting Minutes**

Soliai asked for a motion to approve the 175<sup>th</sup> meeting minutes.

Moved by Duenas; seconded by Sensui.

Motion passed.

Approval of the 174<sup>th</sup> meeting minutes was deferred later in the agenda. At a later point in the agenda, Soliai asked for a motion to approve the 174<sup>th</sup> Council Meeting Minutes.

Moved by Gourley; seconded by Duenas.

Motion passed.

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

Simonds provided the Executive Director's report, focusing on how regional fisheries are threatened with an impending lawsuit and risk of injunction due to PIRO's failure to complete necessary consultations by NMFS. Simonds described the closure of the Hawai'i shallow-set longline fishery in 2018 as part of a court settlement in the lawsuit by Turtle Island Restoration Network and the Center for Biological Diversity against NMFS, under which the number of allowable interactions the fishery could have with loggerhead sea turtles was reduced from 34 to 17. The court also specified that the number could not increase without a new Biological Opinion (BiOp). However, NMFS has failed to meet its deadline for completing the BiOp, and the Council again would not be able to act on its management framework for sea turtle interactions at this meeting. Simonds reported that PIRO expects to deliver the draft BiOp on March 25, so the Council is scheduling a meeting on April 4, 2019, to accommodate the delay.

Simonds also reported on the Southern Exclusion Zone (SEZ) closure that resulted in the Hawai'i deep-set longline fishery having access to less than 18 percent of the US EEZ around Hawai'i due to false killer whale interactions. NMFS currently considers the impact of a serious injury to a false killer whale to be equivalent to the impact of a dead false killer whale even though the animals are released alive. The SSC requested that the Council request that NMFS develop alternative serious injury criteria for false killer whales that are probability-based rather than the current approach. Simonds also reported that the SEZ will not automatically reopen next

year. NMFS must determine that certain criteria can be met. A key piece of information impacting the reopening of the SEZ is the false killer whale abundance estimate, which is not yet available 15 months after the EEZ-wide survey was completed in 2017.

Simonds urged the Council members to keep in mind the dire state of the region's fisheries during the week's discussions and deliberations. The fisheries are on the brink of disaster because of years of inadequate progress and lack of oversight by PIRO. She concluded that the Council needs to help change the way the government agencies do business in the region and persuade them to respond more urgently to their and our mandates.

Tosatto said that the Pacific Islands Fisheries Science Center (PIFSC) and PIRO staffs work diligently to protect the region's protected species and manage the fisheries in partnership with the Council. Tosatto asked Simonds to stop before any damage is done to that partnership.

Simonds said she was not describing PIRO and PIFSC staff members, who have tried their best to do their job, but rather leadership.

## **V. Agency Reports**

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

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

Tosatto provided the NMFS PIRO report describing actions taken and progress made on the project since the last Council meeting last October. He especially noted that the Observer Program Managers of the Regional Office retired and that there has been an organizational change to place the PIRO Observer Program within the Sustainable Fisheries Division (SFD). Doing so will allow integration of the collection, transmission, and management and use of Observer Program data, with the hope of moving to electronic reporting from the observers.

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

Michael Seki, PIFSC director, provided the PIFSC report, which covered research ship time and planned cruises, recent protected species efforts, publications authored by PIFSC personnel and other notable activities not provided in the written report. The 35-day government shutdown that occurred from December 2018 through January 2019 negatively impacted PIFSC's ability to meet some crucial deadlines, including the territory bottomfish assessment. The NOAA vessel *Hiiialakai* will likely not be available for use for all of Fiscal Year 2019, and the vessel *Oscar Elton Sette* also had delays coming out of winter repair. PIFSC will accommodate as much of its work as possible on one ship, which unfortunately means delaying the scheduled trip to American Samoa. Seki mentioned the retirees and departures from PIFSC, including Jerry Wetherall, Darryl Tagami, Bruce Munday and Annie Yau. Lastly, Seki mentioned the Western Pacific Insular Fisheries Monitoring Workshop, a large effort on how NMFS and the Council will move forward with monitoring and reporting on the fisheries resource harvest throughout the region, and briefly described annual sea turtle research in the Northwestern Hawaiian Islands (NWHI) and recently completed coral reef bleaching surveys.

Gourley asked who to contact for questionable data found on the PIFSC data portal.

Seki said new programmers have made great headway in streamlining how the data are accessed. Stefanie Dukes, PIFSC staff, would be the individual to reach out to if there were issues discovered in the data.

Gourley noted his concern with data being put out for the general public assuming that it is correct. An example is a recent paper using biosampling data from Saipan in which the data were pulled from a NOAA report that represented consolidate data from multiple islands.

Seki said PIFSC often wants to make data available. Once the data is released, the interpretation is out of PIFSC's hands. This is the fear and the challenge of making data public.

Gourley asked about the report on the status of the CNMI coral reef, which has some inaccurate conclusions with regards to the local fisheries. The report was meant for managers and decision makers who would be using this information to make regulations and policies based on seemingly biased information.

Seki suggested sending him the report, and he will investigate who was involved.

Rice said that he enjoyed the report by Emily Rollins in 2011 and thinks that it is time for another survey to determine if more money is being made by fishermen recently.

Watamura asked about future commitments regarding the Modern Fish Act passed last December and what PIFSC's role might be in fulfilling the requirements of this act.

Seki said that PIFSC has not determined the road what the Modern Fish Act may entail on its science. He expects to meet with PIRO to figure out the best interpretation of what needs to be delivered prior to forming any plan.

Sesepasara asked who would be involved in the Western Pacific Insular Monitoring Workshop.

Seki said the heads of the territory management agency would be critical because decisions and commitments will have to be made.

Emily Rollins, PIFSC staff, added that both leadership and the technical staff will be involved. They hope to make important decisions at the workshop and want to ensure all appropriate decision-makers are present.

Sesepasara asked about the dates for the Western Pacific Insular Monitoring Workshop.

Rollins said the workshop will be held the week of July 22, 2019.

Muna-Brecht asked about the scope of the Western Pacific Insular Monitoring Workshop.

Seki said the scope is the territory data collection, including the bio-sampling program. The hope is to invest resources efficiently so as to get the best data streams possible. In doing so,

the workshop participants will go region by region and present what is currently being collected, the current data and the pros and cons (both on the data side as well as the bio-sampling side and eventually move to a discussion on the surveys, the agency's needs and the data collection plan.

**a) Status of Council Research Priority for the FY 2020 Annual Guidance Memo**

No report was provided on the PIFSC Annual Guidance Memo (AGM).

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

Johns provided the report for the NOAA Office of General Counsel, Pacific Islands Section. The first update was the litigation of the Territory of American Samoa versus NMFS challenging the 2016 rule that provided an exemption to eligible longline vessels in American Samoa from the Large Vessel Prohibited Area (LVPA). In March 2017, a Federal District Court vacated the rule. NMFS appealed that decision in the Ninth Circuit Court of Appeals. NMFS filed its opening brief on Feb. 21, 2019, and American Samoa will file a response due April 24, 2019. The second update regarded the Notice of Intent to Sue (NOI) that NMFS received on Feb. 7, 2019, from the Conservation Council for Hawaii and Mike Nakachi. The NOI alleges that major fisheries in the Western Pacific Region interact with the oceanic whitetip shark, which was listed under the Endangered Species Act (ESA) as threatened in January 2018, and that NMFS has failed to complete consultation under ESA Section 7 such that it failed to ensure that the continued operation of the fisheries does not jeopardize oceanic whitetip sharks.

Lutu-Sanchez asked if NMFS has prepared a response to the NOI and what the process is once an NOI is filed.

Tosatto said that he was not able to speak about NMFS' response to the NOI because the NOI initiated a legal process. NOIs happen throughout the agencies all the time. Sometimes the person who filed the NOI will actually sue at which time the process would enter a different phase. NMFS' response would depend on the allegations in the lawsuit. He said that the fishery continues to operate while NMFS continues to prepare the Biological Evaluation (BE) to reinstate the consultation on the American Samoa longline fishery.

Soliai asked for clarification on whether NMFS is waiting until the suit happens in order to provide a response.

Johns said that there is no formal response required by the agency at this time. If a suit is filed in District Court, then NMFS will have to file and answer and the normal litigation process will begin.

Soliai said that such a suit could be disastrous for certain Western Pacific fisheries. He asked if it would be correct to say that, if the plaintiffs file a suit and ask for an injunction, that the fisheries could be closed until the issue is resolved.

Johns said that the plaintiffs could seek to fully or partially enjoin the fisheries or they could also seek attorney's fees or litigation costs.

Sensui asked if NMFS would consider the oceanic whitetip shark consultations a priority over other consultations such as for loggerhead turtles given the lack of an existing BiOp due to the new listing.

Tosatto said not necessarily.

Simonds reported that the Hawai‘i shallow-set longline fishery had been closed as of 9:40 a.m. that morning (due to reaching the loggerhead turtle hard cap).

Gourley asked if NMFS has sufficient staff to take on four consultations at the same time as the sea turtle issue.

Tosatto said that the re-initiation of consultations is proceeding in the best possible way. He said that no one person can take a look at four different things at the same time and that many different staff members in different NMFS offices are involved. The consultations have to be carefully timed, which is one of the reasons they take time.

### **C. US State Department**

Eric Kingma, Council staff, presented the US State Department’s report on behalf of Brakke. Brakke recently attended the Pacific Communities (SPC) Heads of Fishery meeting in Noumea, New Caledonia, on March 11-13, 2019. No US Territory representative was in attendance. NOAA or Council staff as well as US Territory representatives should consider participating in the future, as many issues of mutual interest to the Pacific Islands Countries and US Territories are discussed at the SPC Heads of Fishery meeting. Kingma suggested that US Territory representatives contact Brakke if they are interested in attending future meetings.

Kingma reported on the ongoing negotiations of the Intergovernmental Conference on an International Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ). The second session will convene in New York from March 25, 2019, to April 5, 2019. The State Department convened a public meeting and teleconference with interested stakeholders on the issue on March 12, 2019. Kingma said he will provide a presentation to the Council regarding BBNJ during the pelagic section of the Council meeting agenda.

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

Peck provided the USFWS report. He reported on recent staff changes at USFWS. Jarod Underwood will report as the Papahānaumokuākea Marine National Monument superintendent on April 28, 2019. There is still no permanent main USFWS supervisor in the Honolulu office for the Refuge and Monuments. John Kasbohm is currently acting in the position. Tammy Summers, currently with the Department of Defense in the Marianas Naval Facilities, will be the new Superintendent for the Marianas Trench Marine National Monument and the Guam Refuge. Summers has worked with Protected Species Divisions of NOAA, many other universities and agencies across the Pacific, and is learning the Chamorro language.

Peck also presented on 10 new murals on the concrete wall along the Main Coast Road at the fuel tank farm entitled “World of the Sea.” The murals were done by local American Samoa artists and funded by the tank farm, Petroleum Coalition.

Gourley asked how the management plan was coming along for the Marianas Trench Monument. He believed there are two plans coming together for the monuments, one for NOAA and one for USFWS.

Tosatto said that there is one jointly developed management plan between NOAA and USFWS for the Marianas Trench Monument. One jointly-developed Environmental Assessment in support of that management plan is under review since the transfer of the submerged lands by the Department of the Interior and Department of Commerce. The agencies have been working through the Regulatory Framework that would be implemented once finalized. Predominant authority for the Monument actions would be in Interior’s realm. The Council will receive the draft management plan followed by the draft environmental assessment, the final management plan, and then the final environmental assessment with a record of decision.

Gourley asked since this reassessment has been going on for a relatively long time if everyone must wait until a decision is made before disseminating the plan.

Tosatto said not necessarily. Although the political determination is yet unknown, the Interior Department has sent its report up since the review was done, and some of that was seen. The plan will be released after NOAA and USFWS finalizes, it but it is unclear as to when that will be.

## **E. Enforcement**

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

Disque provided the USCG report. The USCG has been busy growing recently. Two major cutters have been patrolling the District 14 region for the first time since 2015. The first of the deployments was the brand new USCG *Cutter Munro*, one of the new national security cutters, to the Solomon Islands and Guadalcanal. The vessel is named after Signalman 1st Class Douglas Munro, who is the US Coast Guard’s only Medal of Honor winner for his actions evacuating marines out of Guadalcanal. Munro also traveled to Fiji and was able to commemorate the signing of the USCG 11th Bilateral Shiprider Agreement with Fiji. USCG *Cutter Mellon*, one of the older legacy 378-foot cutters on her way home to Alameda, Calif., visited Fiji and conducted the first bilateral shiprider operation with Fiji. Additionally, the USCG will host a symposium in April 2019 for all 26 fisheries enforcement officers from the Pacific Island countries. The goal is to help them understand how the USCG operates and increase interoperability as the USCG conducts operations with partner nations in Oceania.

Disque reported on the thriving Oceania Maritime Security Initiative, which is the USCG agreement with the Department of Defense that allows USCG officers to board Navy ships while transiting the region. The USCG will be conducting a patrol called an Initial Test and Evaluation of that platform for the Oceania Maritime Security Initiative. *Oliver Berry* and *Joseph Gersack*, the two newest fast response cutters, have been extending the USCG’s capacity to get

offshore to provide enforcement boarding and search and rescue capacity throughout the main Hawaiian Islands (MHI). The William Hart will join them in the summer of 2019. Three more are scheduled to be starting in Guam in 2020. There is a planning committee to get these fast response cutters rotating in and out of American Samoa in the next fiscal year. Kimble, the 418-foot national security USCG cutter, will be commissioned in the summer of 2019. The USCG is also looking forward to the arrival of USCG Cutter Midget in the same class of ships.

Disque said that this is his last report and attendance of a Council meeting. He expressed the gratitude of the USCG for maintaining the good relationship with the Council.

Muna-Brecht asked about the USCG role in providing assistance with the DOAg's Conservation Officers in managing their Marine Preserve Area under the Joint Enforcement Agreement (JEA).

Disque said he was not aware of any official interaction, but he would look into it with his contacts in Guam. The USCG always looks to partner with any like-minded agency that wants to protect resources or coincides with anything else in its mission.

Tosatto said that the JEA is with NOAA Office of Law Enforcement (OLE), and Martina Sagapolu can follow up during her upcoming presentation.

Duenas asked whether any fines or penalties were associated with the accidental crashing of a cruise ship into a fuel pier at Apra Harbor and who would receive that money.

Disque said that the USCG will be primarily interested in any pollution response and an investigation into what may have caused that collision from a prevention safety standpoint. He was not familiar with the case. It would be different if it was a US vessel versus a foreign vessel.

Simonds thanked Disque for his efforts in helping transport the Council members and staff to Guam from Saipan after Super Typhoon Yutu.

Disque said that recovery and response to any such incident is somewhat chaotic. While it took a while to figure everything out, the USCG was happy to help the Council get to Guam safely.

Gourley also thanked Disque for his efforts in helping transport the Council members and staff to Guam from Saipan after Super Typhoon Yutu. He said he saw Disque several times in the subsequent days organizing recovery efforts.

Disque said he was happy to help. The USCG's incident response is something that this district is very familiar with.

Watamura also thanked Disque for his efficient efforts, calling the USCG's handling of the situation inspirational.

Soliai thanked Disque for his efforts in supporting the Council and the USCG outreach that he initiated to the foreign fleets originally requested by American Samoa. He had spoken to

Lunday earlier about encouraging the continuation of the outreach efforts. Soliai wished Disque well in his future endeavors.

Simonds asked for a description of Operation Deep Seven.

Disque said that one of the local enforcement efforts of the Humpback Whale National Marine Sanctuary over the last 10 years is called Kohala Guardian. This year the whales have been doing very well, so consideration is being given to splitting enforcement effort to start looking at another pulse operation, the Hawai'i bottomfish fishery. The program is in its infancy this year especially with the government shutdown in January 2019, but ideally it will grow into a robust program just as Kohala Guardian has.

Sensui thanked Disque for helping the Council members and staff get from Saipan to Guam in the midst of recovery efforts. He asked if the USCG considered the use of remote aircraft to allow for more consistent monitoring of NWHI areas since the EEZ in the Western Pacific Region is large.

Disque said that, no, the USCG is still not officially using drones in operations. It is still in the research and development phase of implementing something like that. Every year, however, the Research and Development Branch of the USCG comes out to discuss ways to improve remote monitoring of the large EEZ.

Disque said he will be moving to Portsmouth, Va., as executive director on the USCG *Cutter Forward*.

## **2. NOAA Office of Law Enforcement**

Sagapolu, deputy special agent in charge of the Pacific Islands Division of the NOAA OLE, provided the NOAA OLE report. The OLE has opened 334 incidents relating to different types of activities covering the Pacific Islands in neighboring field offices from October 2018 to February 2019, many of which were associated with protected species. They opened 231 protected resources incidents, 94 relating to fisheries management, and nine for sanctuaries. Some of the investigations were described in greater detail, including a fraudulent logbook scheme, a violation submitted as a federal Lacey violation case involving marine mammal parts such as walrus tusks, and a purse-seine vessel making sets on live whales. Many are unhappy with how long these types of investigations can take. For example, the purse-seine violation happened in 2016. OLE Pacific Islands Division is committed to trying to expedite these investigations, but they are typically longer because OLE does not have control over these cases in terms of the data submitted to the Pacific Islands Forum Fisheries Agency (FFA). In response, OLE will be sending additional personnel throughout the year down to Honiara to review catch effort logs.

Sagapolu said that OLE has been busy this humpback whale season with protected species detail starting in January 2019 through April 2019. There have been 231 incidents associated with protected resources, including patrol efforts, outreach efforts and initial investigations. During the government shutdown right at the start of whale season, only 10 personnel covered the Pacific Islands Division. Officers from the field offices in American



Samoa and Guam were detailed to Honolulu to help provide coverage during this time. Another case related to two summary settlements issued to Hawaii tour vessels relating to OLE spinner dolphin operations on the west side of the islands and has also spread to the Big Island and Kaua'i. This sort of case is priority for OLE because it is addressing behavior of commercial assets that are placing paying customers in Hawai'i and deterring the actions of the animals.

Sagapolu provided information on the outreach efforts conducted by OLE and its JEA partners. OLE has made several visits to O'ahu, Kaua'i and Moloka'i to do outreach and address how to approach marine protected species. OLE also participated in community events such as the Makua Beach West Side Cleanup Festival, which took place on the west side of O'ahu where they collected more than 14,000 pounds of debris. Lastly, she described two events around the MHI and CNMI related to foreign fishing activity. The cases are ongoing, so no more information could be provided.

Rice asked if people are allowed to swim with spinner dolphins.

Sagapolu said that "leap frogging" is not allowed, and it is being enforced. OLE is looking at cases where a tour operator chases dolphins in the direction where the customer are or the operators drop their customers where the dolphins are coming and causing the animal to turn or alter their behavior.

Rice said he sees boats in the schools all of the time. He asked if the regulation was being enforced.

Sagapolu said it is being enforced by 14 individuals, but partnerships through the JEA and with DOCARE increase their enforcement capacity. A hotline is also available for people to call in to report.

Tosatto said that NMFS issued proposed regulations involving the harassment of spinner dolphins, but the rule was never finalized. Dolphin SMART is a program that includes boat operators who voluntarily follow a set of procedures that allows them to act better among these animals.

Sensui asked what is allowed around spinner dolphins.

Duane Smith, NOAA Office of General Counsel Enforcement Section (OGCE), said that the Marine Mammal Protection Act (MMPA) includes harassment, intentional and negligent operation of a vessel or any other negligent act that results in the disturbance of the animal. The harassment has two categories: any act to pursue, torment or annoy with the potential to injure, or any act to pursue, torment and annoy with the intent to disturb. Smith also described the pending proposed regulations that would make it illegal to swim with Hawai'i spinner dolphins by creating a 50-yard approach rule. Since this is not the current law, OLE enforces the MMPA as it stands and looks for either acts of pursuit, torment or annoyance that have the potential to disturb the animals or the potential to injure the animals, or they are looking for the negligent or intentional operation of a vessel or any other negligent or intentional act that actually results in the disturbance of the animals. These actions are a more complicated legal standard than a 50-yard approach rule.

Sensui asked about current regulations regarding small drones for whale watching.

Smith said approach rules for humpback whales make it illegal to come within 100 yards or to cause any object to come within 100 yards, which includes someone causing a drone to come within 100 yards of the animal. For other marine mammals, drones would be under the normal legal standard of the MMPA.

Watamura asked about the law on fishing around dolphin pods.

Smith said that it would be the same thing as for humpback whales. The standard in place makes it illegal to take this marine mammal under the MMPA. In his five years at his office and his five years previously at the Southeast Regional Office, Smith has never seen a case where fishing was the cause of disturbance. He has, however, seen an issue where people are intentionally feeding marine mammals and has prosecuted cases where fishermen have done that because feeding is defined as take.

Soliai asked what the fine is for coming within 100 yards of a humpback whale.

Smith said the penalties are on the OLE Summary Settlement Schedules and also on the Penalty Policy. He thought it is \$750 for an approach within 100 yards of humpback whales.

Tosatto said that impacts means different things to a lawyer and a fisheries manager. There are impacts of fisheries operating in and around marine mammals. In Hawai'i, the reason NMFS proposed the clarification of the rules was to move beyond the harassment provisions to a more place-based and approach-based, as it is documented that the rest time for Hawai'i spinner dolphins during the day is being interrupted by some of these operations.

Gourley asked if the vessel in the CNMI was a foreign vessel and for specifics such as the location and the number of fishers on board.

Sagapolu said it was a foreign vessel operating in US EEZ around Hawai'i and CNMI. He was not able to provide details until the investigation is completed and submitted to General Counsel for review and disposition.

Lutu-Sanchez asked whether the violations documented by the *Mellon* and *Sequoia* while patrolling the high seas included common violations and whether any US vessels were boarded and had violations on the high seas or if it is all foreign vessels.

Disque said that primarily all are foreign-flagged. If it is a foreign-flagged vessel on the high seas, the USCG submits a report to the flag state and the Western and Central Pacific Fisheries Commission (WCPFC). It is up to the flag state to hold the fishing vessel accountable. With shiprider boardings, it is the coastal state's responsibility; the USCG assists in providing evidence and any documentation possible to assist the coastal state with its maritime governance.

Lutu-Sanchez asked if there were common types of violations.

Disque said no. They are all fisheries violations, for example, not having the proper gear, such as for turtle extractions, and logbook violations. The *Sequoia* has been travelling west and

finding more significant logbook violations; the cutter will continue to be sent out that way until the violation rate starts to go down.

Lutu-Sanchez asked if the USCG reports the violation to the flag state.

Disque said yes, the flag state gets the case. For serious violations, the flag state is required to report back to the WCPFC on what actions it took.

Soliai asked if the Council would know if they were subject to any penalties.

Disque said only if they tell the Council, as there is no requirement for them to say what the penalties were except under cases with significant violations. In the past, there have been reports of fines and licenses suspended. In one case, the vessel was immediately recalled to the flag state.

Muna-Brecht asked what support is available for the conservation officers through the JEA with NOAA.

Sagapolu said that, under the JEA, a four-week intensive boat school training course is provided. At the end of the course, an in-classroom training session covers the different federal regulations that the Joint Enforcement Officers will be enforce. People in CNMI have asked for some class time on case report writing, how to prepare a case report and submit it to General Counsel and addressing the different types of areas for which they need help. They typically invite USFWS and USCG. OLE also provides on-the-job training. For example, OLE has participated in two search warrants involving the illegal take of sea turtles. They also perform joint boardings at sea and joint patrols.

Muna-Brecht asked if it is possible for enforcement vessels to have their own docking area. Currently in Guam, law enforcement ships have slips in the public-use sports fishing marina.

Sagapolu said, several years ago, the JEA requested funding to build a docking area. She also acknowledged that at the last Council meeting, locals complained that the patrol vessels were taking up too much space in a particular area. These were not their vessels, as they only have small patrol boats. OLE is able to fund tools and equipment that support the JEA.

Muna-Brecht asked about personnel funding.

Sagapolu said that she knows that the Guam DOAg is struggling because there are so few officers with some getting ready to retire. Some deputized officers already sworn in are being asked to participate in the program. OLE is working with Lt. Mark on this request.

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

Smith provided the report for the NOAA OGCE. A handful of cases are under investigation, eight are being prosecuted and three have been settled since the last Council meeting. Smith noted the difference between making mistakes in self-reporting fishery data and

blatantly falsifying logbooks. He urged all with contacts in the fishing industry to stress the importance of accurate self-reporting.

The OGCE continues to see violations where people have failed to renew their permit and continue to fish, which are preventable violations through outreach. He also reported on a couple of closed area violation cases, which are a result the vessels having the closed area inputted into their chart plotters but over time a point on the chart being deleted. He also reported on violations with some troll vessels coming from the Pacific Coast and fishing in the WCPFC area but not being aware of the rules for the region.

Smith said that this will likely be his last Council meeting as he plans on transitioning back to the Southeast Region. He thanked the Council and expressed gratitude for its collegiality and support.

John Han, OGCE section chief, presented his perspectives surrounding enforcement in the Western Pacific Region and nationwide. Han is currently stationed in Washington, DC. He covered three topics: the role of OGCE nationally and Han's role; what Han has seen nationally and how the Pacific fits in; and the recipe for making successful collaborations in this region.

Han explained that investigators investigate the crime and attorneys prosecute them, with the OLE, USCG and their JEA partners being the investigators and the Enforcement Section prosecutors being the attorneys. Han oversees the latter. The prosecutors decide what charges to charge, whether the evidence meets the requirements of those charges, how much of a penalty to assess, whether there should be a settlement, and whether there are extenuating circumstances to decline a case. Before 2011 each region operated almost independently of each other with little collaboration with other regions or with the centralized decision-maker in terms of enforcement, determined its own penalty schedule, determined what to charge and how to charge. In 2011, an Inspector General reviewed the Enforcement Program and made several recommendations, including centralizing decision-making, which became Washington, DC. Now, each region reports to Washington, DC, and Headquarters ensures consistency so that everyone across the country is treated fairly, consistently and transparently. There are times, however, when something happens that is unique to the Pacific and not applicable to fishermen in other regions.

Nationally, about 100 cases per year are charged. In the Western Pacific Region, purse-seine violations are the most common. Considering the dollar amount of the penalties, the Western Pacific likely leads the pack because of the nature of the purse-seine fishery. Enforcement is not just about penalties; it is more about compliance assistance. In an ideal world, the enforcement division would put themselves out of jobs.

Han said the recipe for success for having a sustainable enforcement process in the Western Pacific begins with civility and professionalism. A contentious environment between industry and government regulators is unproductive. He asked the Council to keep this in mind as it goes through this process.

Simonds said, because the Council is working on regulations for the industry, it works directly with the industry. She noted that the 50-mile closure around the NWHI in 1991 was originally 20 and 25 miles, but the 50-mile measure was brought to the Council by the fishermen

who were interacting with the monk seals. She also mentioned that the Council developed the vessel monitoring system (VMS) for Western Pacific fisheries in the late-1980s and early 1990s.

Han said rules and enforcement go hand-in-hand. Many people will follow the rules, but there will be those who break them due to negligence, recklessness or intentionality. This is where there must be some degree of penalties or some degree of deterrence.

Simonds asked what position Han held prior to becoming the OGCE section chief.

Han said he was a criminal prosecutor in Washington, DC, for nearly 15 years working on cases involving gangs, organized crime, drugs and National Security. He does not have a background in marine or fisheries science.

Watamura asked Han about his experience surrounding contentious issues between federal and state managers leading to the failure to collaborate on certain solutions.

Han referenced the red snapper disputes in the Southeast and Gulf of Mexico regions especially regarding the three-mile EEZ area under state control, which some states asked to extend to nine miles. He suggested looking there to see what problems occurred and the ways they saw themselves through them.

Sesepasara asked about the criteria that are taken into consideration for assessing the penalties of illegal fishing.

Han said that their website lists the criteria in the Penalty Policy. The policy rates each offense passed on the severity of the offense and the level of intentionality to give a starting range on penalty fines, which can be refined based on an individual's history of offenses or mitigation efforts. He emphasized that assessment by NOAA is a recommendation of what the penalty should be. The due process for disagreements is through neutral Administrative Law Judges and subsequent appeals to the NOAA Administrator.

Muna-Brecht asked about the protocol in situations in which the local District Attorney may be relatively lenient for a fishing violation and if NOAA General Counsel would step in and judge that case.

Smith said that state and federal bodies typically have concurrent jurisdiction. One of the first things done in the enforcement process is to consult and see who should be on the case. Cases could be prosecuted both locally and federally in certain situations. Both the state and federal governments can try an individual for the same offense as a matter of law. As a matter of practical policy, it is rare for the federal government to prosecute if someone has already been prosecuted locally.

#### **F. Public Comment**

There was no public comment.

## **G. Council Discussion and Action**

There was no further Council discussion or action on agenda items.

## **VI. Hawai'i Archipelago & PRIA**

### **A. Moku Pepa**

Rice reported the community's concern about the State of Hawai'i harbors. The raising of fees by the State is contentious because the harbors are not being maintained as they should. He read a comment from a fisherman on a public meeting held regarding the fees and noted that the fisherman objects to raising fees without getting something for the increase. Security, electrical sources and pump-out stations are lacking, and harbors have rampant vandalism and drug dealing. The fishing community does not oppose a rate increase if the facilities are upgraded and the issues are addressed. Rice provided a history of upgrades that fishermen made themselves and the lengthy process they went through to improve what they have themselves.

Rice also reported on fish aggregation devices (FADs). The FADs need to have structures under them to be productive. With two FADs missing in Kona, Rice suggested that when they are replaced by the State that they include structure under them as a pilot design to see if they work better than those that are currently deployed that have no structure. Barges and fish pens off of Keauhou are very productive because of the below-water structure available to aggregate fish. Rice also said that he asked the State of Hawai'i to provide a report on what the Sport Fish Restoration Fund money provided to the State was being used for.

Sensui reported on aquaculture in Hawai'i, noting reports from the news indicate that aquaculture was having a hard time. Others in the industry who historically participated are looking to restart in the future. The Hawai'i DLNR and Division of Aquatic Resources (DAR) are supportive of aquaculture, but problems occur when other agencies, such as a Transportation and Health, are involved in the process. The Hawai'i Aquaculture Development Program used to help interested parties navigate through the process, but it has not been active in recent years.

Sensui also reported on a project to enlist chefs to find ways of making invasive fish desirable to the general market. The project by Conservation International aims to develop recipes and other promotions to create demand that would reduce the number of invasive fish.

Goto provided a recap on the end of 2018 and the beginning of 2019 in the Hawai'i longline fishery. The fishery was able to finish on a strong note in 2018 thanks to the American Samoa and CNMI governments, who entered into allocation arrangements with the Hawaii Longline Association. The closure of the SEZ prevented the fishery from finishing even better at the end of the year, as it is a popular area during that time of the year with bigeye tuna migrating closer to the islands.

Goto reported that the shallow-set fishery, which reopened on Jan. 1, 2019, saw the first landings in the beginning of February. He said it is unfortunate that the fishery closed in mid-March when it typically runs through May and June. Some owners just sent out vessels this week so they did not get a chance to set gear before the closure. It is an economic burden on the

fishery. Vessels will have to convert back to deep-set gear in order to continue fishing. The market and the fishermen both lose in time and product. He said these situations are preventable.

Goto reported that the net effects of the amendment to the Billfish Conservation Act was that Hawai'i lost the high end of the market, as the high-end billfish were sent to the US mainland. Since the sale of Hawai'i billfish to the mainland is now prohibited, the Hawai'i market has to absorb that volume at a lower cost. He said it would be great to have the Council or NMFS mitigate the many negative detriments to the longline fisheries and determine the effects from events like closures and legislation.

Rice said that when the Billfish Conservation Act was created, it was a one-size-fits-all approach and did not consider the repercussions for Hawai'i. In Kona, fishermen release about 80 percent of their fish but do sell a fair amount, as part of the sale goes to providing a bonus to the deckhands. The problem now is, because fish dealers cannot export to the mainland, they are unwilling to buy a lot of marlin from fishermen. He also noted that one of his customers owns restaurants in South Carolina that featured marlin dishes, and his business was also affected because he cannot purchase marlin anymore. He said it is sad that the Hawai'i Congressional representatives in Washington, DC, did not support the fishermen and businesses on this issue.

Sensui asked Goto if he had noticed any loss in terms of the salability or price of marlin.

Goto said he could not speculate on that directly but noted that the loss is related to the vendors who used to buy the highest-end product to send to the East Coast markets such as Boston and South Carolina. Those options are no longer accessible. He said it is difficult to pinpoint whether the salability changed because the local market absorbed the product.

Simonds said, when this was happening, she polled the other Councils' executive directors about marlin in their markets. In Alaska, they used marlin for sashimi.

Rice said the Four Seasons Hualalai serves marlin and smoked marlin, so it is a high-end product.

Gourley said the billfish prohibition is just the start as another Congressional bill would require fishermen to throw away sharks. Gourley said he did not know if it is indicative of a movement but people in Washington, DC, need to be educated so fishermen are given a break and all parts of a fish can be utilized.

Goto said that the longline fleet is not actively releasing billfish as the fishermen believe the product has value, but they are no longer getting optimal value for the product due to the restrictions.

Simonds said the SSC and the Advisory Panel (AP) also had these discussions. The staff will be talking to PIFSC about drafting an economic report on the fishery to document the impacts.

Watamura reported on a recent loss of a fisherman at sea. Matt Moribe, president of the Keehi Boat Club and a participant of the bottomfish research program run by Pacific Islands Fisheries Group, fell off his boat and was lost at sea while leadering in a fish. The small-boat community has been traumatized and is working to improve safety to ensure this incident does not occur again.

Watamura also reported on the Bottomfish Restricted Fishing Areas (BRFA), noting that opening the BRFAs could provide more safety for fishermen, as fishing closer would make it easier to return to the harbor and to be found by other ocean users. He said safety is being compromised by infrastructure problems, such as with the Hawaii Kai boat ramp that was unusable due to the collapsed center platform. Fishermen are working with the Division of Boating and Ocean Recreation (DOBOR), which has said that they do not have the funding to fix the ramp. He noted that a need for better coordination and a protocol for boaters to assist the US Coast Guard in search and rescue. The development of a protocol with the proper search patterns and what to do when there is a “man overboard” and which equipment fishermen should have on board would be helpful for safety purposes.

Watamura then reported on education and outreach efforts by fishermen, noting they are still pushing to get fishery education into the classrooms to start teaching children about fisheries. A fishing app developed by Jim Hori will go live in the beginning of May to assist in this effort. The app provides lots of possibilities for education, outreach, data collection and safety at sea.

Rice said that his boat ramp was also broken and not only fishermen use it, but also recreational boaters and commercial tour operators. It took the State of Hawai‘i more than two years to get it fixed. He said the State is surrounded by ocean, with the harbors being the hub of the activities, but the representatives do not appreciate the service the harbor provides for the tourist industry and all citizens. In other places around the world, entire communities are built and sustained around boat harbors. The State of Hawai‘i needs to look at these examples and see how they are maintained and utilized to provide for the citizens.

Disque said that, in the case of the missing fisherman, it is rarely just one thing and usually a combination of factors that results in something of this magnitude. The USCG was actively searching with aircraft and surface craft and was quickly on-scene with those assets, including a cutter. In response to the comments about coordination of the search, he said that the USCG has a fairly good methodology to conduct these searches. Admittedly it is very difficult to coordinate search efforts to all the good Samaritans that might come out, but they are added to the USCG efforts. He said it is hard to provide a search pattern because they are fairly complex and it takes many years of training to learn how to do it. He offered to show the efforts that they put in relative to this type of case to Watamura and anyone else interested. He added that the Coast Guard Auxiliary hosts safety classes and is always at the Council’s Fishers Forum to provide information about those classes.

Sensui said, regarding boater safety, the aircraft owners and pilot association had the Pinch Hitter program where the spouse of a pilot would be trained to fly and land an airplane should something happen to the pilot. Something like that might be considered for fishing, to



train spouses to operate the vessel in the case of an emergency. He also noted that he wears a personal flotation device with a personal locator beacon every time he goes out. This allows the USCG to know where he is right away should he go overboard. While this incident was a tragedy, it pains him to think that something like that could have been prevented.

Disque said the personal locator beacons save lives. It is important to register the beacon properly and make sure that registration is up to date in order to save valuable time for the USCG. The initial action is to start calling the registered numbers to find out if the person is actually underway, where s/he is and so on, to avoid false alarms.

Okano provided the State of Hawai‘i report and responded to Rice’s comment about Sport Fish Restoration Funding. He said that 15 percent goes to DOBOR, though he did not know how the funds are spent. The remaining funds go to DAR, which uses the funding for surveys on the reef and within estuaries. The State also uses the funds for its FAD and artificial reef programs and to upgrade a database to make it more accessible and useable within DAR and DLNR. He said the Sport Fish Restoration funding assists in aquatic education efforts, the Hawaii Marine Recreational Fishing Survey (HMRFS), life history work and freshwater fishery work on Kaua‘i and Lake Wilson.

Okano also reported on leadership changes within the DLNR noting that on Jan. 28, 2019, Kaleo Manuel became the deputy for the Commission on Water Resource Management and Brian Neilson became the DAR administrator on March 19, 2019.

Okano reported that HMRFS intercepted 1,119 anglers and completed surveys for both shoreline and boat-based fishermen on Kaua‘i, O‘ahu, Maui, Moloka‘i and Hawai‘i islands. A Marine Recreational Information Program (MRIP) workshop was rescheduled to May due to the government shutdown. The workshop will cover survey design changes as well as a transition plan which will tailor the surveys to what is applicable to fisheries in Hawaii.

Okano noted that after implementing the Dealer Weekly Report requirement in July 2018, nearly 50 of the 250 primary dealers opted to not participate. The 50 dealers, who bought fish ex-vessel, straight from the fishermen, said they are not going to report and will buy their fish directly from wholesalers. The State will enforce this reporting requirement using the civil resources violation system when the online dealer report system is implemented in July 2019.

Okano reported on a lot of lost FADs, one every month lost from September through November, four in December and five in January. There are plans to replace these FADs, but the procurement process is slowing down the deployment.

A report has been completed on a mid-depth survey of West Hawai‘i coral reefs that has been ongoing since 2003. This report shows an increase in the abundance of the fish in Fish Replenishment Areas as well as open areas. Herbivorous fish constitutes 50 percent of the fish biomass. While abundance increased, the biomass did not increase or change. The shallow-water resource fish survey started in 2008 found that the biomass of herbivorous fish has decreased by almost 50 percent, mostly driven by a decrease in biomass of surgeonfish, which decreased by 69

percent. The *pakuikui* (Achilles tang) decreased by 90 percent. However, parrotfish increased significantly.

Okano reported that reef markers were installed in Kane‘ohe Bay to show boaters where the reefs are. They are designed with a PVC top and stainless steel in the reef. To date, 62 markers have been placed on 32 patch reefs.

Okano also reported on the deep-seven bottomfish fishery, noting that the 2018-2019 fishing season has an annual catch limit (ACL) of 492,000 pounds. As of February 2019, a total of 255 licensed fishers made 1,189 trips and caught almost 118,000 pounds.

Rice asked about the 15 percent of Sport Fish Restoration funding that DOBOR receives. He said that 5 percent should be used for infrastructure and asked if that falls under DLNR and if that is how the funds are used.

Okano said that should be the intent, but he would need to speak with the Ed Underwood, DOBOR administrator.

Rice said the Council has invited him to its meetings multiple times but he has not attended.

Okano agreed to talk to the DLNR chair about having him attend the next Council meeting.

Sensui asked about the study of the Fish Replenishment Areas and how it showed that there was no difference between the closed and open areas in regards to productivity and what conclusions are being drawn from the study.

Okano said the study is relevant to the aquarium fishery. The assumption is the breeders are not being taken inside the Fish Replenishment Areas, so the younger fish are able to go further out, which accounts for the overall increase. It is a form of spillover, but this is primarily for the management of yellow tang that does not travel far.

Sensui said, when the FADs were first implemented, streamers and other structure used to be off the anchor lines.

Okano said this was one of the first issues brought to his attention when he came to the Council and he did some research about structure under FADs. The reason given to him about the lack of structures under the FADs is that there is no scientific evidence that it brings in more fish. A secondary reason is structures will decrease the lifespan of the FADs, causing them to break away sooner. However, he is still looking to see if in the future some adjustments can be made and to consider the suggestion to conduct an experiment in Kona with and without structure.

Muna-Brecht noted that Guam is having similar questions with its marine preserves and asked how the increase is being measured.

Okano said in-water surveys have been conducted four times a year since 2003, with a total of 90 surveys completed. The coastline is divided into segments, and surveys were conducted in both open areas and Fish Replenishment Areas. A comparison of the number of fish they count across surveys is used to estimate abundance.

Muna-Brecht also asked about FADS, noting that her recent conversations with Guam fishermen about FADs and FAD designs have resulted in similar procurement and deployment issues. She said getting approval for changing the design can be difficult because of the federal funding and asked if DAR is in the same situation.

Okano said he did not know if the situation in Hawai‘i is similar, but he would try to find out more information and report back at a future meeting.

## **B. Legislative Report**

Okano provided a report on legislative activities in the state regarding fishery issues. Twenty-three bills related to fishing were introduced in the legislature in 2019. As of the Thursday before the 176th Council meeting, three bills were still alive, one on prohibiting the take of sharks and rays with both Senate and House versions making the crossover, and a bill on prohibiting the use of lay nets for fishing except under a permit obtained from the DLNR.

## **C. Enforcement Issues**

Okano reported that Jason Redulla was appointed to chief of the Division of Conservation and Resource Enforcement (DOCARE). He also reported that the first class from the DOCARE Academy recently graduated, noting that the academy was started because of a lack of good recruits. In his interactions with the new officers, DAR was able to provide assistance on fish identification and other training. He also noted that, in working with DOCARE officers, he discovered that they spend a lot of their time addressing homeless problems in the community rather than resource enforcement because they are also allocated to State parks. He said this is unfortunate that these resources are being taken away from fisheries management.

## **D. Bottomfish Restricted Fishing Areas Removal Report**

Okano reported on the action taken by the Board of Land and Natural Resources in January. The proposed action was to request the opening of BRFAs C, F, J and L and to delegate to the chairperson the authority to implement the decision. Factors that were considered included input from fishermen, including from public meetings in 2014 as well as an online opinion poll sent to fishermen in October 2018 and recommendations from the Council. Equality at the County level, habitat value, fishery catch, enforceability and safety was also considered. DAR is working to revise its reporting grids to capture catch from the BRFAs that have been opened.

Watamura read a letter from the Council to Suzanne Case at DLNR regarding the Board of Land and Natural Resources decision on BRFAs. The letter congratulated the Board on its decision to open four BRFAs but noted the Council was extremely disappointed that some of the BRFAs remain closed. The Council understood that the option to open all the BRFAs could not

be considered by the board but asked for action to be taken to remove the remaining BRFA's as the Board, at its January meeting, appeared to lack a clear understanding of the fishery's health, management and economic importance. A request was made to invite the Council and NMFS to present to the Board at its earliest opportunity available and to include NMFS and Council staff in the efforts to change the reporting system as it will affect the federal noncommercial bottomfish reporting system as well. The letter also recommended the Council's bottomfish working group continue to assist the State on any management changes to this fishery as a coordinated federal and State approach is required in this fishery. Watamura thanked Simonds for the letter and expressed his appreciation for the Council's efforts to re-open the BRFA's.

#### **E. Main Hawaiian Islands Kona Crab Benchmark Stock Assessment Western Pacific Stock Assessment Review Report**

Marlowe Sabater, Council staff, presented the highlights and findings of the Western Pacific Stock Assessment Review (WPSAR) of the Kona crab benchmark stock assessment conducted in September 2018. The review panel included two reviewers contracted through the Center for Independent Experts (CIE) and chaired by a member of the Council's SSC. The WPSAR generated three individual panel reviewer reports and one consensus report, and staff reported the decisions according to the WPSAR terms of reference.

Sabater noted that the WPSAR panel deemed this benchmark assessment to be an improvement to the last assessment in 2015, which had been used to specify the ACL for 2017. The panel advised on small changes in the model configuration, which were discussed during the review. The WPSAR noted that changes in the regulation pertaining to size-limit, male-only and directed fishing have marked changes in the effort dynamics for the Kona crab fishery. The WPSAR also noted that the fishery dependent catch per unit effort (CPUE) data are not informative about population size or productivity and that the population scale is only informed by the scale of the catch. WPSAR noted that independent measures of trap catchability through short-term intensive field experiments would improve scaling information for this assessment. Sabater noted that the WPSAR panel overall felt that this assessment is a significant improvement compared to the previous assessment that was used for management, and the SSC had significant discussion on the merits of the assessment.

Sesepasara noted the significant decrease in catch and asked if the factors involved in the decrease were known.

Sabater said that, over the years, several regulations were put in place including a minimum size, a prohibition on catching Kona crabs while fishing with other gear and a ban on the take of female crabs. Reports of the fishery that were reviewed by WPSAR showed an almost 80 percent discard rate in the fishery because of regulations alone, concluding that regulatory discards contributed to the sharp decline in the fishery. The assessment showed that the stock is healthy and that the any issues are not related to the resource but rather overregulation.

## **F. Benchmark Stock Assessment for the Main Hawaiian Islands Kona Crab with Catch Projections for 2020-2024**

Felipe Carvalho, PIFSC, summarized the Kona crab stock assessment developed by PIFSC, providing information on the biology and fishery of the Kona crab in Hawai‘i and key information about the 2018 stock assessment. The 2018 benchmark assessment improved the filtering of data records by redefining fishing effort as a single reported fishing day and exploring fisher effects (individual fisher effects and cumulative fishing experience) in CPUE standardization. Additionally, the 2018 assessment addressed previously unaccounted for uncertainty, including unreported catch, incidental mortality of female crab catch following the prohibition of female crab harvest in 2006, and a Bayesian prior on the initial ratio of biomass to carrying capacity. The assessment used a Bayesian state-space surplus production model in a new user-friendly framework, Just Another Bayesian Biomass Assessment (JABBA). The model fit standardized CPUE data in a generalized Pella-Tomlinson surplus production model.

Carvalho said the results from this assessment concluded that in 2016, the Hawai‘i Kona crab fishery was not overfished (defined as  $B/B_{MSY} < 0.7$ ) with a 1.7 percent probability of the status being overfished in 2016. In 2016, the stock was not experiencing overfishing (defined as  $H/H_{MSY} > 1$ ), with 0.0 percent probability of overfishing occurring. In fact, the stock was never overfished historically, and overfishing in the fishery occurred in only two years in the early 1970s. Projections for 2020-2026 quantified overfishing risks for various catch levels and concluded that a 50 percent risk of overfishing in 2026 corresponds to an annual reported catch of 33,989 pounds.

## **G. Hawai‘i Charter Fishery Cost Earning Survey (2012) Report**

Emily Rollins of the Joint Institute for Atmospheric and Marine Research (JIMAR) presented a study on the economic contributions from the Hawai‘i charter fishing industry. The goal was to understand how the charter fishing industry contributes to the economy to determine how regulatory changes or disasters might affect the broader economy. According to the study, in 2016, charter fishing vessels took 8,000 trips and landed just over 400,000 pounds of fish, the majority of which included blue marlin, yellowfin tuna and mahimahi. The economic contributions are made up of direct effects, which include sales, income and employment; indirect effects, which include inter-industry interactions; and induced effects, which is household spending. The input-output software IMPLAN was used to model the economic contributions by county and the state overall. Results show that the charter fishing industry supports 861 jobs statewide with more than \$20 million in labor income and close to \$50 million in economic output, or gross sales. Hawai‘i County had the largest economic contribution with nearly 400 jobs supported, more than \$7 million in labor income and more than \$17 million in economic output. Maui was second largest in terms economic contributions, or in terms of gross output, followed by O‘ahu and Kaua‘i. The main industries supported by charter fishing are fuel, ship building and repair, and owner-occupied dwellings, wholesale trade and real estate. The charter fishing industry also supported 69 jobs and more than \$14 million in economic output on the US mainland.

Rice said he was part of a survey in 2012 and noted that the economic contribution may be even more now. He requested a follow-up survey to see how it has changed since then.

Sensui said this study highlights the economic contributions, which emphasizes the need to improve infrastructure around the harbors because they play an important role in the State's economy.

Rice agreed and added that it provides fishermen with ammunition when going to the State to request better facilities.

## **H. Registry Permit License Study Group Meeting Reports**

Aarin Gross, Conservation International Hawaii Program, provided a report on the Registry Permit License (RPL) Study Group meetings conducted in late 2018 as well as a background on the study group and its report. The study group has been working for three years to understand whether a noncommercial marine fishing registry, permit or license system might be legally and financially feasible in Hawai'i. The recent Study Group meetings were a result of a request by DAR to provide outreach on the group's findings with stakeholders statewide. The initial outreach effort was launched in the summer of 2018, and then redesigned after getting feedback from the fishing community, with the assistance of facilitation consultants. The redesigned outreach approach utilized an information exchange that aimed to share information in multiple ways, provide attendees with a safe, neutral space to share information, and provide a way to collect input directly from them.

Gross provided information on the format of these meetings, which included a gallery of posters, an interactive question and answer booth, and input stations. Eight information exchanges on six islands were held between Nov. 20 and Dec. 13, 2018. An online option was also available until Dec. 25. At the end of the information exchange series, the study group produced a report detailing where they went, what they shared and what they heard. This Community Input Report was sent on Jan. 11, 2019, to attendees who provided e-mail addresses, distributed through the study group members' networks, posted on Conservation International's website and submitted to DAR for consideration. In the report, each of the eight information exchange events was discussed in detail, including context, unique challenges and the feedback received. The report also provided input collected directly from the attendees.

Rice asked if the study group reached a conclusion.

Gross said that the study group decided over the course of the entire project that the value of the group was its neutrality. Each individual member had clear opinions about the information reviewed and the way to go about moving forward on this issue.

Watamura asked if she knew what would happen in the future.

Gross said that the outreach effort was originally made at a request from DA, which had intentions to introduce a bill this legislative session. During the course of this outreach, DAR decided to hold off on introducing something until it read what was collected.

Rice said that Hawai‘i is the only state that does not require licenses for charter patrons. A noncommercial license could provide additional contributions to the charter fishing industry’s impact on the economy and potentially provide funding to fix the harbors.

Sensui said the study group’s intent was to get as much outreach as possible, but the meetings were held at the University of Hawai‘i and other non-traditional places. He commented that part of the problem with getting people to the information exchanges was the time frame. They were held during a weekday at 5 p.m. at venues that were far away from some of the larger fishing communities and required fishermen to pay for parking.

Gross said the study group the outreach was designed to make it clear that it was not a government effort, which is hard to do and get people to show up. Part of trying to distinguish this effort from government efforts was to use venues that are not traditionally used for government meetings, which limited them to private venues and other places that had different limitations. She said it was a balance of trying to get as many people in the room and avoid holding an event where people were prepared to show up with testimony, which quickly raises the temperature in the room.

Sensui said there are other places that are non-governmental that could be used and asked who is going to use this information in the end.

Gross said that the study group learned that there is value in making information about this issue easily accessible. If this issue is to be solved successfully, it has to be led by fishers.

Okano thanked the study group for its work.

Simonds echoed his sentiments and provided a history of the Council’s attempts to get fishermen together to agree on reporting their catch that dates back to the 1980s.

## **I. Education and Outreach Initiatives**

Sylvia Spalding, Council staff, provided a report on the Council’s education and outreach efforts since the last Council meeting in October. The Council’s lunar calendars were distributed. The Hawai‘i calendar included a companion DVD, which narrated the stories in the calendar. The YWCA, the Council’s partner on this year’s calendar, hosted a launch of the calendar and DVD. Each month in the calendar has a story about Hina, the Hawaiian moon goddess, and a Hawaiian value that is associated with it. The DVDs and calendars are being distributed to all women in prison in Hawai‘i at the state and federal level and Hawai‘i women prisoners in the mainland and at correctional facilities and halfway houses. The YWCA will continue the education effort by converting the calendar into a booklet to teach women to be confident and return to their traditional values.

Spalding also reported on the Fishermen Code of Conduct, which continues to be of interest to the community. Mike Buck has used it in an article in *Hawaii Boats and Yachts* magazine. The Waimanalo Limu Hui asked if the Council could make signs of the code to be posted in the area where it conducts its lessons. The Council provided the Hui with two signs as

well as copies of the Code of Conduct postcards and posters. The signs are also at boat harbors throughout the state as well as lifeguard stations.

Spalding noted that the Council continues to co-sponsor the *Go Fish! With Mike Buck* radio program. Recent topics have included the Modern Fish Act, fishing apps, the Council's newsletter and the Council's meetings and Fishers Forum.

Spalding also reported that the Council has been asked to talk to graduate classes at the University of Hawai'i Hawaiian Studies Department; been asked to provide materials to the Hawai'i Department of Education for its annual workshop for about 100 Hawaiian Studies teachers; been asked to help with three upcoming conferences: Ocean Observation 2019 to be held Sept. 16-20 in Honolulu; the 2020 International Pacific Marine Educator's Network Conference in Honolulu; and the 2020 National Marine Education Association Conference in Honolulu. The Council has been asked to be a part of the strategic planning for the National Marine Educators Association, which is a payoff of the efforts that the Council started around 2006 to have traditional ecological knowledge incorporated as part of marine education nationwide.

## **J. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

The Hawai'i AP had no recommendations regarding Hawaii Archipelago fisheries.

### **2. Scientific and Statistical Committee**

Lynch presented the SSC recommendations regarding Hawai'i Archipelago fisheries.

*Regarding the MHI Kona Crab Benchmark Stock Assessment*, the SSC recommended that PIFSC explore other models to account for sex-specific dynamics rather than the sex-aggregated production model in the next benchmark assessment. Further, the SSC recommended that this benchmark assessment of the MHI Kona crab be accepted as best scientific information available (BSIA) and be used for management purposes. The SSC also recommended that the Council direct staff to convene a working group to conduct the P\* and SEEM analyses to support the acceptable biological catch (ABC) and ACL specifications, respectively.

*Regarding Kona crab regulations and management*, the SSC recommended that female crab discards be recorded on fishermen trip reports to provide a more comprehensive record of commercial catch. The SSC also recommended that the sex ratio of Kona crabs on Penguin Bank be studied to evaluate the potential effects on the stock from sex-selective fishing. Further, the SSC again strongly recommended that alternative management options for Kona crab, including the extension of the closed season, changes in mesh size and retention of females be evaluated to stimulate fisher participation in this healthy fishery.

Sensui asked for clarification on the recommendation regarding changes to the mesh size.



Sabater said the fishing community was interested in exploring adjusting the catchability by changing the mesh size of the loop net.

**K. Public Comment**

There was no public comment.

**L. Council Discussion and Action**

*Regarding the Kona crab fishery, the Council endorsed the SSC's findings that the 2019 Stock Assessment for the Main Hawaiian Islands Kona crab to be the BSIA for the purposes of setting harvest level reference points and determining stock status.*

*Moved by Duenas; seconded by Goto.*

*Motion passed.*

*Regarding the Kona crab fishery, the Council recommended NMFS PIFSC explore the use of other models that would account for sex-specific dynamics rather than the sex-aggregated production model in the next benchmark assessment.*

*Moved by Watamura; seconded by Goto.*

*Motion passed.*

*Regarding the Kona crab fishery, the Council directed staff to convene a working group to conduct the P\* and SEEM analyses to support the ABC and ACL specifications, respectively.*

*Moved by Watamura; seconded by Goto.*

*Motion passed.*

*Regarding the Kona crab fishery, the Council requested the State of Hawai'i DAR record female crab and minimum size discards separately on the fishermen trip reports to provide a more comprehensive record of commercial catch. However, this would no longer be required if the no-take of female statute is removed. Further, the Council requested that DAR, a) pursue actions for the removal of the no-take of female statute; b) revise the regulations pertaining to Kona crabs to extend or shift the closed season to ensure that berried females are protected; and c) explore options for changing the mesh size of the Kona crab nets.*

Okano reported that he inquired within DAR about getting data on female crabs that are released. There is a field for reporting this information, but there is no verification. When fishermen sell their catch, DAR can verify it with the dealer reports, but it cannot verify self-reporting of discarded crabs. Okano said he will abstain from the vote due to the motion being a request to his division.

Sensui asked would there still be a need to get data on crabs that are sent back because they are less than minimum size if the requirement for release of females were removed.

Sabater said that currently there is no way to separate out the two types of discards. If the female discard provision is removed, discards would only be of crabs less than the minimum size.

Sesepasara asked if there were data on survival rates of discards.

Sabater said research conducted at the Waikiki Aquarium resulted in a 90 percent survival rate. A previous Australian study found that crabs did not survive with a loss of limb, presuming that the crabs bled to death. However, the recent study showed that even with the loss of a limb, the crab survives. Some photo evidence shows that the limbs grow back. In addition, a drop study where a camera followed crabs that were released showed that no predation occurs while the crabs are returning in the water column. Future research is in the works to determine how fast the crabs bury themselves once they hit the sand bottom.

Moved by Watamura; seconded by Goto  
Motion passed, with Okano abstaining.

*Regarding the Kona crab fishery, the Council **directed staff to work with Poseidon Fisheries Research in expanding its Saltonstall-Kennedy (SK) funded project to include the estimation of sex-ratio in Penguin Bank to evaluate the potential effects on the stock from sex-selective fishing.***

Simonds added that this SK project was the only project that was funded for the Western Pacific Region. This year the NMFS decided to just fund one project in each region, and this Kona crab project was funded for \$96,000.

Tosatto advised the Council that, in working with this group, it will be following its project plan, which can be changed only so far to make sure that it stays true to the SK award. He noted that the Council should be careful as it goes forward with this recommendation.

Sabater said the project is doing mark recapture studies and the recommendation would be to add Penguin Bank as a site.

Moved by Duenas; seconded by Goto.  
Motion passed.

*Regarding the Charter Fishery Cost Earning Survey, the Council **encouraged PIFSC to maintain a regular schedule of the economic evaluations and monitoring of the fisheries in the Pacific Islands.***

Moved by Rice; seconded by Watamura.  
Motion passed.

## **VII. Protected Species**

### **A. Discussion Paper on Seabird Bycatch Mitigation Measures**

Asuka Ishizaki, Council staff, presented a discussion paper entitled “Evaluation of the Potential Removal of Blue-Dyed Bait from the Pelagic Fishery Ecosystem Plan and Other Considerations for Improving Seabird Bycatch Mitigation Measures in the Hawai‘i Longline Fishery.” The paper was prepared in response to a Council directive from the 174th meeting in October 2018 following a report of outcomes of the Workshop to Review Seabird Bycatch Mitigation Measures for the Hawai‘i Pelagic Longline Fisheries convened by the Council in September 2018. The Council at its 174th meeting made several recommendations regarding enhancing outreach and providing support for research and development of alternative mitigation measures. The Council additionally directed staff to evaluate whether blue-dyed bait could be removed in advance while work is ongoing on outreach and development of alternative measures.

Ishizaki presented the history of blue-dyed bait implementation in the Hawai‘i longline fishery, research on the effectiveness of the measure and a review of available information evaluating whether removal of blue-dyed bait without additional replacement measures may be feasible without compromising effectiveness of the overall seabird measures. The existing suite of seabird measures in the Hawai‘i longline fishery was implemented starting in 2001 with the last amendment implemented in 2006. The Council originally recommended in 1999 implementing seabird measures by requiring that vessels use two or more mitigation measures out of a list to allow flexibility for fishermen and to gather operational data on the most effective gear combinations. The actual measures implemented were based on Reasonable and Prudent Measures (RPMs) in the 2000 USFWS BiOp on short-tailed albatross, which required that all Hawai‘i longline vessels use thawed blue-dyed bait. The Council’s regulatory amendment in 2006 added the side-setting option.

Ishizaki presented two considerations for removing blue-dyed bait without alternative measures. First, Hawai‘i longline fishery seabird measures would remain consistent with WCPFC and Inter-American-Tropical-Tuna-Commission (IATTC) measures if blue-dyed bait is removed without replacement measures. However, available information suggests that removal of blue-dyed bait from the Hawai‘i longline fishery’s seabird mitigation measures may result in a further increase in albatross interactions. Work on additional measures is therefore required prior to consideration of removal of blue-dyed bait.

Ishizaki presented strategies for improving mitigation measure effectiveness for the Hawai‘i longline fishery, including 1) addressing captain effects through strategic outreach (including consideration of a “report card” tool to provide information on bycatch performance and facilitate targeted outreach to assist captains with higher interactions to identify appropriate methods for reducing interactions); 2) identify tori line designs suitable for the Hawai‘i longline fishery; 3) encourage additional trials for making minor modifications to existing required measures to enhance effectiveness such as branchline weighting configurations; and 4) progress international bycatch assessment for North Pacific albatross species and assess the relative risk of the Hawai‘i longline fishery to albatross populations.

Rice asked what longline fishermen think is the best mitigation measure, in terms of what they do not mind using.

Ishizaki said that it depends on the captains and their vessel configuration. Some captains prefer side-setting, whereas others do not. Many captains do not favor blue-dyed bait, but a small number of them do not mind using them. Others who have started using tori lines voluntarily would prefer to use it without blue-dyed bait. Having the ability to choose from several options and switch methods if needed would help the fishermen.

Rice said that testing new measures would be difficult if the shallow-set fishery is closed.

Watamura asked about the water cannon as an alternative measure.

Ishizaki said the water cannon was considered in the workshop but was considered a low priority. It sprays water at the birds to keep them away from the vessel but requires additional water hoses and structure that take up room on the vessel and would require maintenance.

Tosatto reminded the Council that the objective of these measures is to meet the National Standard for reducing bycatch and also an international obligation. Given that blue-dyed bait is a RPM from the USFWS BiOp, the Council recommendation on modifying seabird mitigation measures would have to go through a new ESA consultation with USFWS.

Okano asked how far the report card concept has been developed, such as whether additional issues would be addressed or vessels would be scored on a curve.

Ishizaki said that those are items that still need to be considered. The report card could be as simple as providing the seabird interaction number for that vessel for the past year compared to the average of all other vessels. Data confidentiality would have to be considered. The purpose would be to provide individual feedback, as the only information available to them now is the fleet-wide numbers. There have been discussions about incentivizing good performance.

Okano asked if other species such as turtles and false killer whales could be included.

Ishizaki said, at this time, the report card concept is discussed only in the context of seabirds. However, a similar idea was discussed in the context of loggerhead turtle interactions in the shallow-set fishery last year, with the idea of the industry taking on the issue as a way to stay under the hard cap, similar to examples from Alaska and West Coast fisheries where industry-level private agreements create the structure.

Lutu-Sanchez asked if any captains, especially those who have been in the fishery for many years, have been identified with higher or lower interactions and whether there has been discussion with them on what they are doing that causes higher or lower interactions.

Ishizaki said that the exploration of captain effects came from industry members asking at the Council's first workshop in 2017 as to whether higher interactions were attributed to newer captains who were not as aware of past seabird issues. However, the analysis did not show a strong experience effect, meaning that it was not only the new captains that were experiencing

higher interactions. There is a need to better understand what is driving some captains to have higher interactions, which is in part why the strategic outreach approach is being considered. That would allow those discussions about potential causes to occur, as it is possible that the cause is due to minor details that do not appear in data. For example, a vessel may be meeting regulatory requirements for side setting, but if the side setting is occurring at the minimum distance from stern and bait is being thrown toward the stern, that would reduce the effectiveness of the measure.

Lutu-Sanchez asked what the feedback is from the industry on the ability to choose options from Column A and B as in the WCPFC measure, compared to the existing Hawai'i longline fishery requirements.

Ishizaki said the workshop had some discussion on the structuring of the requirements, but that is something that the Council can consider going forward. If the Council is interested in moving toward a menu type approach, coordination with USFWS would be necessary given the history of seabird measures in the Hawai'i longline fishery. The WCPFC and IATTC measures do not distinguish between deep-set and shallow-set vessels, but these two sectors operate very differently, and some seabird measures are more suitable for one or the other of the sectors. Seabird interactions are relatively easier to mitigate as the interactions occur at the vessel; making the measures simple so that they become a routine part of the vessel operation would improve their effectiveness. The measures also have to be easy to deploy and safe for the crew.

Watumura said that it would be difficult to take away one of the existing measures when interactions are increasing, and asked for Ishizaki's opinion on the matter.

Ishizaki said that given the evidence and the increase in interactions, taking the blue-dyed bait away now without additional measures would be poor timing.

Simonds said that the point is to try the tori lines to see if they work the same or better than blue-dyed bait. The Council should also be working on reducing regulations, as the Administration has asked the Councils to do so. It has been years since changes were made to the seabird regulations; it is a good time now to consider changes given the uptick. She also said that the other important aspect is to do a workshop to evaluate bycatch in the international fleets.

Sesepasara asked if there are any confidential data involved with the report card concept.

Ishizaki said that confidentiality would have to be maintained. The report card would be tailored to individual captains or owners, so that the only individual data they would see are theirs and all others would be summarized.

Lutu-Sanchez said that it would be useful for individual captains to see what is happening compared to the rest of the fleet. Captains do not want to see increase in interactions. Each captain has his/her own habits and operational practices, so having options would be beneficial.

Sensui asked if the interaction numbers presented for the Hawai'i longline fishery include strikes.

Ishizaki said that the numbers are based on observed interactions in terms of hookings or entanglements and do not include strikes.

Sensui said that he suspect birds can see blue-dyed bait in the water given their sharp vision, even though the intent was that the blue-dye creates a camouflage effect.

Ishizaki said that it would be logical that seabirds can see contrast in blue color if they are feeding on the open ocean looking for food on the blue water. Studies from Australia and New Zealand show seabirds initially have little interest in the blue-dyed bait but by the end of the field trials they are striking at the bait, suggesting that they are seeing the blue-dyed bait.

Muna-Brecht asked if any studies have been done on the impact of blue dye and the biology of birds, considering that the dye is not a naturally occurring substance.

Ishizaki said that the dye is food coloring and she was not familiar with any studies of that nature.

Sensui asked what is required to change a vessel configuration from stern-set to side-set.

Ishizaki said that the main change is where the line shooter is mounted. When the side-setting measure was being considered, there was financial assistance provided in the order of a few thousand dollars per vessel to cover the one-time cost of converting to side-setting.

## **B. Status of the False Killer Whale Take Reduction Team Recommendations**

Kevin Brindock, PIRO, provided an update on the status of the False Killer Whale Take Reduction Team (FKWTRT) recommendations. He began with an overview of the Take Reduction Plan's goals and measures, including requirements on hook and branchline specifications and the SEZ closure. The SEZ was closed in Feb. 22, 2019, after two mortalities and serious injuries of false killer whales were confirmed inside the EEZ. In 2018, false killer whale interactions observed in the Hawai'i deep-set longline fishery totaled 13, four of which occurred inside the EEZ and triggered the SEZ closure in July. Additional details since the Take Reduction Plan implementation in 2013 show that approximately 70 percent of false killer whale interactions result in either mortality or serious injury.

Pursuant to the Take Reduction Plan regulations, the SEZ does not automatically reopen after the end of the calendar year when the SEZ closure is triggered for two consecutive years. There are four reopening criteria specified in the regulations. Of these, the fourth criterion specifies that the SEZ may reopen if the average level of mortality and serious injury within the remaining open areas of the EEZ around Hawai'i for up to the five most recent years is below the Hawai'i pelagic stock's potential biological removal (PBR) level.

FKWTRT is currently considering recommendations to amend the Take Reduction Plan, the process of which began at the in-person meeting held in April 2018. Measures currently under consideration include changes to hook and branchline specifications, modifications to the SEZ closure, crew training, electronic monitoring and move-on guidelines.

Goto said that he is not on the FKWTRT but is affected by the Take Reduction Plan. He asked if there was an estimated time frame for reopening the SEZ.

Brindock said that the regulations state that the closure will last at least for the remainder of the calendar year and that the reopening timing would depend on whether reopening criterion one or four could be applied. Criterion one provides for reopening upon consideration of recommendations from the FKWTRT as well as relevant information. Evaluation of the fourth criterion would require consideration of data from the full calendar year in which the SEZ trigger was met.

Goto asked if the updated information on the most recent five-year mortality and serious injury determinations are available.

Brindock said they would not be available until after the end of the calendar year when the recent five-year mortality and serious injury levels can be estimated with this year's data.

Tosatto said that while not definitive, only criterion one could reopen the fishery on Jan. 1, 2020, based on a consensus recommendation from the FKWTRT. Criteria two and three would not reopen the fishery until at least two years following the closure. Under criterion four, the math needed to determine whether reopening is warranted cannot start until after Dec. 31, 2019, so reopening timing would be some period of time into 2020 or as quickly as NMFS could do the math in 2020.

Brindock said that, regarding the first criterion, the FKWTRT is currently working on recommendations to amend the plan. The recommendations for the SEZ closure can be independent or concurrent with the other recommendations.

Lutu-Sanchez asked what percentage of the fishing areas is closed to the deep-set fishery due to the SEZ and if the reduction was about 20 percent of the EEZ.

Brindock said he does not have the exact number and pointed to the map showing SEZ and monument closure areas. The changes in the monument boundaries affected some of the open fishing areas. The area to the north and east of the MHI remain open to deep-set fishing.

Goto said the SEZ, the longline closure around MHI and NWHI, and the expanded Papahānaumokuākea Monument area combined is about 83 percent of the EEZ around Hawai'i, which leaves 17 percent open.

Watamura asked what is considered serious injury and who makes that determination.

Brindock said a serious injury is an injury that is more likely than not to result in mortality. The NMFS Policy Directive and Instruction outlines the process for making injury determinations. When PIFSC makes an injury determination, that information is reviewed by PIRO and the Pacific Scientific Review Group. The injury determination follows the criteria developed from expert workshops held over a decade ago.

Watamura said it is his understanding that a hook embedded in the mouth, regardless of the length of trailing gear, is considered a serious injury. He asked if that was correct.

Brindock said that a lip hooking has a different criterion, but, aside from that, it is correct.

Watamura said shorter trailing gear should make a difference on the serious injury determination. He said he understood the anatomy of false killer whales is such that trailing gear could wrap around internally and become a fatal injury. However, if the trailing gear was short enough, such injuries could be prevented.

Brindock said that based on the current criteria, a hook in the mouth with the exception of lip hookings would result in a serious injury determination given the best available science used at the time of developing the criteria.

Watamura asked if any changes to the determination may be expected.

Brindock said that NMFS is conducting a review of the injury determination guidelines.

Rice asked if NMFS is considering new information to inform the serious injury criteria.

Brindock said that part of the process is a review of all relevant information and any new publications or studies since the current criteria were developed.

Rice said there was a dead false killer whale that had six hooks in the stomach, but the hooks were not the cause of death. He said that information should be taken into consideration.

Brindock said that type of information would be included in the review.

Sensui asked what type of modification to the SEZ was under consideration.

Brindock said that the FKWTRT's draft recommendation included a conditional removal of the SEZ if gear and other aspects of the plan modifications were adopted.

Sensui asked how the SEZ area was determined given that interactions also occur outside of the SEZ boundary.

Brindock said that the SEZ was identified based on higher levels of interactions expected in the area at the time. Since the plan implementation, about 30 percent of the interactions inside the EEZ have occurred within the SEZ boundaries.

Goto asked Brindock to confirm that the most recent Stock Assessment Report shows that the mortality and serious injury level is below the PBR.

Brindock said yes, but that does not incorporate interactions that occurred in 2018 or later.

Tosatto said that the goal of the FKWTRT is to drive the mortality and serious injury level to zero.



Rice provided a statement regarding the false killer whale serious injury and SEZ issues later in the agenda. He said that based on his experience of being on the water more than most people, the existing serious injury determination does not reflect reality. Marlins are typically released with the hook and trailing gear. He catches three to six marlins annually that are in good shape with trailing gear from previous captures. False killer whales are much larger and smarter than marlin. Based on his experience, the existing serious injury criteria are hurting the fishermen when the animals are likely surviving. He said the serious injury issue needs to be changed to reflect reality. On the issue of SEZ closure, Rice said that opening the fishery on Jan. 1, 2020, should be paramount rather than waiting for six months after the start of the year for a report that calculates whether mortality and serious injury is below PBR. Information available now show that mortality and serious injury will be well below PBR. The timing of the reopening affects fishermen's lives because they are currently only able to fish in 17 percent of the EEZ. He said Council members in their role as managers are bound by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) but are not able to do their job correctly because necessary reports are not available. If NMFS needs more help, it should contract more people to complete reports in a timely fashion so that fishermen can fish and managers can manage according to MSA.

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

Brindock provided updates on ESA and MMPA Actions.

NMFS on Sept. 20, 2018, published a positive 90-day finding in response to a petition to list cauliflower coral under the ESA. The petition also included a request to identify the Hawai'i portion of the range as a "significant portion of the range" for the species. NMFS must first find that the species is neither threatened nor endangered throughout its entire range before conducting an analysis of a significant portion of the range. NMFS is currently conducting a status review for this purpose.

NMFS is conducting a global status review of leatherback turtles to determine if any of the subpopulations constitute a distinct population segment (DPS) and whether they should be listed as threatened or endangered under the ESA. The status review is in progress and expected later in 2019.

The status review of giant clams in response to a listing petition is currently in review. Critical habitat for three listed DPSs of humpback whales that occur in US waters is under consideration, and a proposed rule is expected later in 2019.

The recovery plan for the insular false killer whale is expected to undergo peer review in the next couple of months. The plan will undergo public comment following peer review. NMFS is also in the early stages of developing recovery plans for the three DPSs of humpback whales.

NMFS will be convening a Recovery Planning Workshop for oceanic whitetip sharks on April 23-24, 2018. Input from the workshop will be used to develop recovery objectives, criteria and recovery actions. Recovery plan development is in early stages for the scalloped

hammerhead shark DPSs. The draft recovery plan and draft five-year review for loggerhead turtles is planned for release in 2019.

NMFS also published the proposed 2019 List of Fisheries in October 2018, which included updates to the number of participants in the fisheries and changes to the species that interact with the fisheries.

Gourley asked how listing of giant clams may affect aquaculture for the species.

Brindock said, if listed, the species would be subject to ESA regulations and other requirements of the ESA such as Section 7 consultations, but the status review has not been concluded to determine whether listing is warranted.

Gourley said he has experience with giant clams. They breed quickly. He said it seems to be an odd animal to list under the ESA when there are aquaculture farms in the Pacific raising them. He hoped NMFS would do the right thing.

Tosatto said that aquaculture of ESA listed species could be possible. It would require a permit and clearance under the ESA for recovery actions. Some food fish are listed under the ESA, some of which are harvested, so it would likely be determined on a case-by-case basis.

Gourley asked if critical habitat for humpback whales is being considered for the Marianas.

Brindock clarified that critical habitat for three humpback whale DPSs, including the Western North Pacific DPS that does occur in the Marianas, is under consideration, but that he was not suggesting that critical habitat is being considered in the Marianas.

Gourley said that humpback whale calving in the Marianas raises a red flag and that critical habitat would be under serious consideration for the Marianas.

Brindock said data is limited for humpback whales in the Marianas and for the DPS.

Sensui said cauliflower coral is apparently one of the most common corals anywhere.

Brindock said that the information regarding distribution and abundance will be considered in the ongoing comprehensive review.

## **D. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

There were no AP recommendations regarding protected species.

### **2. Scientific and Statistical Committee**

Lynch presented the SSC report and recommendations. The SSC had extensive discussion regarding MMPA, SEZ and PBR calculations and had fundamental concerns about

how the program is being implemented scientifically. The SSC also questioned the value of the SEZ based on the available data. The SSC believed that the way PBR is being calculated does not reflect the best available scientific information regarding the actual impacts on the take on the population and that a comprehensive population viability analysis (PVA) provides a more appropriate approach. The SSC also discussed the application of NMFS' Serious Injury Determination criteria and raised concerns regarding the assignment of 100 percent mortality estimate to interactions that result in serious injury determinations. Information presented at the SSC indicated that the mortality and serious injury estimates could be reduced by half by changing the assumptions regarding the probability of mortality resulting from serious injuries. These assumptions have a significant impact on the fishery. Lynch presented the following SSC recommendations:

*Regarding the status of False Killer Whale Take Reduction Team recommendations*, the SSC recommended that NMFS implement effective captain and crew training to reduce the risk of false killer whale mortality or serious injury from gear interactions in the Hawai'i longline fishery while also promoting crew safety.

*Regarding false killer whales*, the SSC recommended that the Council request NMFS to develop approaches for incorporating comprehensive PVA to supplement the use of PBR and to reduce uncertainty in PBR estimates under its policy guidelines for preparing MMPA Stock Assessment Reports. The SSC further recommended that the Council request from NMFS data sufficient for the SSC to develop the PVA in parallel to the NMFS process.

*Regarding false killer whales*, the SSC recommended that the Council request NMFS to consider developing probability-based serious injury determination criteria for false killer whales.

Sensui said the MMPA says that the Commerce Secretary should provide assistance to regional fishery management councils. He asked Lynch if NMFS is assisting the Council and SSC.

Lynch said the MMPA, as he understands it, requires the Secretary to provide assistance to the councils to implement the act and deferred to NMFS on the question.

Tosatto said that he was not sure to which section of the MMPA Sensui was referring, but it likely does not stand alone or in superiority over other mandates within the act. He said he supports many of the academic ventures and views of the SSC. He said the MMPA has limitations and he has been supporting NMFS' exploration of a variety of MMPA issues. However, NMFS is bounded by the provisions of the MMPA, particularly pertaining to how PBR should be calculated. Regarding the provision of the MMPA pertaining to the Secretary providing assistance to the councils, Tosatto said he has to support the FKWTRT and its goals equal to his ability to provide assistance to the Council. The type of assistance he could provide to the Council would be gear studies to address depredation.

Sensui clarified for the record that he was referring to MMPA Section 118(i), which directs the Secretary of Commerce to provide assistance to regional fishery management councils in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

Lynch also reported on the SSC discussions related to seabird mitigation measures and presented the following recommendation:

*Regarding seabird mitigation measures*, the SSC recommended that Council evaluate within the next year whether blue-dyed bait has a negative impact on target species catch rates. Impacts on catchability may result in increased effort to compensate for the loss in target catch, which in turn could increase seabird interactions across the fleet.

**E. Public Comment**

There was no public comment.

**F. Council Discussion and Action**

*Regarding seabird bycatch mitigation measures*, the Council **endorsed the strategies for identifying alternative mitigation measures and improving seabird measure effectiveness for the Hawai‘i longline fishery as outlined in the discussion paper, including addressing captain effects through strategic outreach, identifying tori line designs suitable for the Hawai‘i fishery, encouraging trials for making minor modifications to existing required measures and progressing international bycatch assessments for North Pacific albatross species. The Council further directed staff to work with industry, NMFS, Pelagic Plan Team and other expertise as appropriate to identify draft minimum standards for tori lines, taking into consideration existing standards established for other fisheries, designs currently used voluntarily by Hawai‘i longline vessel operators, and diversity of vessel size and configuration in the Hawai‘i longline fishery.**

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding Seabird Bycatch Mitigation Measures*, the Council **requested NMFS to facilitate coordination with USFWS regarding any potential issues or concerns in the process of identifying and testing alternative mitigation measures.**

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding seabird bycatch mitigation measures*, the Council **recommended NMFS to prioritize conducting international bycatch assessment for North Pacific albatross species to improve impacts assessment of relative risk of the Hawai‘i longline fishery compared to other fisheries operating in the region.**

Tosatto said he did not have a problem with the recommendation but he did not know what it means because NMFS does not conduct bycatch assessments of albatross species and there is no international body that has that responsibility. He said he will look into it and respond.

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding seabird bycatch mitigation measures, the Council requested NMFS to evaluate whether blue-dyed bait has a negative impact on target species catch rates. Impacts on catchability may result in increased effort to compensate for the loss in target catch, which in turn could increase seabird interactions across the fleet.*

Tosatto said it would help him to consider what the Council is looking to get out of the recommendation, and said that he does not understand the intent of the second half of the recommendation.

Lynch said that the concern of the SSC is that if the blue-dyed bait is impacting target catch rate, it could have indirect effects resulting in greater impacts.

Tosatto said he still does not understand.

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding false killer whales, the Council directed staff to send a letter to NMFS in response to the SEZ temporary rule requesting that NMFS:*

- a. Establish a protocol for evaluating the five-year average estimated level of false killer whale mortality and serious injury for the 2015-2019 period at the close of the 2019 calendar year to allow reopening of the SEZ on Jan. 1, 2020, if the evaluation based on the protocol determines that the mortality and serious injury level inside the EEZ remain below PBR; and**
- b. Consider the reopening criteria based on the BSIA at the close of 2019 and to expedite the review of available information and reopening criteria.**

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding false killer whales, the Council recommended that NMFS work with Council staff to develop and implement effective captain and crew training program to reduce the risk of false killer whale mortality or serious injury from gear interactions while also promoting crew safety in the Hawai'i longline fishery.*

(This recommendation was originally worded as “the Council recommends that NMFS implement effective captain and crew training...”)

Tosatto said that the Council’s Fishery Ecosystem Plan (FEP) currently requires training only for owners and captains.

Soliai asked if the recommendation needs to be revised.

Ishizaki said the recommendation stems from the SSC discussion and focused on the lack of crew training.

Tosatto said that the Council has considered it appropriate to require the captains and owners get trained and NMFS implements it by regulations. The government process, by fiduciary responsibility of taxpayer dollars, is for PIRO to provide training to the ones who are required to have it. To do training in excess of the requirement begins to touch the edges of his fiduciary responsibility for taxpayer dollars. He said he cannot waste them on crew training if the Council has not required crews to be trained. If the council thinks crew training is appropriate, the Council should take action to require crew training. That is a serious undertaking and commitment for funds. He thought in this case there is probably some way to accomplish the intent of this recommendation through outreach, but he would not be able to take on obligations without formal Council action to have a requirement.

Lynch said given the MMPA requirement for NMFS to provide assistance to the Council, the recommendation could be reworded to request that NMFS work with Council staff to develop and implement an effective captain and crew training program.

Lutu-Sanchez said it is best to encourage crew training. Logistically crew training can be difficult especially given crew turnover. The American Samoa longline fishery encourages crew members to attend the training because they are the ones on the deck.

Goto said an added difficulty is the language barrier with the crew, which has been the experience with the crew handbooks developed by the industry.

Simonds said she understood the language barrier issue, as it has always been an issue. Last year at the Council meeting there was discussion about NMFS working with crew and captain about electronic reporting, and the Council at the time suggested the need for translations. She said that it is important for crew to have some kind of training, however it is done.

Goto and Rice agreed to the amended language.

Sensui asked if this would apply strictly to the Hawai'i longline fishery or whether it would cover American Samoa.

Ishizaki said this is in the context of false killer whales, which is a Hawai'i longline fishery issue.

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding false killer whales, the Council requested NMFS to develop approaches for incorporating comprehensive PVA to supplement the use of PBR and to reduce uncertainty in PBR estimates under its policy guidelines for preparing MMPA Stock Assessment Reports. The Council further requested that NMFS provide data on the pelagic stock of false killer whales sufficient for the SSC to develop a PVA in parallel to the NMFS process.*

Tosatto said he would vote no for a couple of reasons, including that alternatives to PBR are not allowable under the MMPA. A request for NMFS to consider the development of an

alternative approach had come from the Council in the past, and there are aspects of the MMPA that NMFS is reviewing. He said the recommendation crosses the line of what he should be spending NMFS resources on (i.e., developing alternatives to established statutory requirements), so NMFS is unlikely to meet this request and therefore he would vote no. He said he would be open to the provision of data, as that would help reveal if there is a viable way forward.

Lynch said that the SSC recognizes that NMFS is bound by regulation, including those for PBR. The SSC's intent was to develop alternative analyses that could inform consideration of the issue but not to replace PBR because SSC recognizes that would not be possible.

Watamura said that the recommendation is clear on the intent.

Moved by Goto; seconded by Rice.  
Motion passed with Tosatto opposing.

**Regarding false killer whales, the Council requested NMFS to consider developing probability-based serious injury determination criteria for false killer whales.**

Tosatto said he would support this recommendation as he thinks NMFS should be considering how to operate within the guidelines of the MMPA and broaden its view, including taking a serious look at the Serious Injury Determination Criteria. This is the time to do that, and the recommendation would help him leverage the regional interest in this for a national question.

Rice said that a large false killer whale with trailing gear is not going to have a large impact on the animal. He has seen animals with worse injuries that live long and prosperous lives. The current determination of a hook and line being considered a take needs to be reconsidered.

Watamura said he strongly supports this recommendation and reiterated his earlier comment that it goes against logic that a hook in a mouth means it would be a fatal injury. He said he can see how some length of line could possibly cause problems. However, if the line could be shortened, that should change the determination.

Moved by Goto; seconded by Rice.  
Motion passed.

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

There were no public comments.

## **IX. Program Planning and Research**

### **A. Legislative Report**

Gourley provided the legislative report. He emphasized the Subcommittee on Water, Oceans and Wildlife of the House Natural Resources Committee, chaired by Jarad Huffman of California, and discussed two pieces of fisheries-relevant legislation. Kili Sablan of CNMI reintroduced HR 737 to prohibit the sale of shark fins and other purposes. The bill has 163 co-sponsors, including representatives from Hawai'i, Guam and American Samoa. Gourley said the

bill would prohibit fishermen from selling usable portions of a legally-caught fish because sharks can be legally landed in the Marianas. An additional legislation introduced by Ted Lieu of California in HR 614 would prohibit the sale of any shark fin product.

Sensui said, if a resource can be harvested without harming it, that should be key.

Soliai asked for details on the status of the shark legislation.

Gourley said HR 737 has been introduced and will likely be called for a vote in the next month or two.

Simonds said the efforts on the shark legislation are misguided similar to the Billfish Conservation Act. It is not a “technical amendment” when it involves the prohibition of sustainable fish.

Watamura said the intent of the legislation seems questionable. The intent is that fins are not removed from living sharks, which is not common practice in the Western Pacific Region.

Simonds said current laws effectively prevent shark finning by prohibiting the finning at sea and requiring whole sharks be landed. The legislation at hand does not address shark finning for this reason.

Sensui said prohibiting the sale of any part of a shark is ridiculous considering that Hawai‘i has sharks landed at the auction and certain sharks are targeted as prime game fish.

Gourley asked if the auction would have to dispose of the fins if sharks are landed in Hawai‘i.

Goto said that the federal law requires sharks to be landed whole, but State law dictates possession of fins to be illegal. The auction currently removes and discards the fins when the shark is weighed. Some value is lost in product or gross weight of the shark. Mako shark is the most commonly retained shark in Hawai‘i and holds a large value in the local fisheries.

Simonds suggested that the Council write to the Secretary of Commerce and get support from the Administration as it did for the Billfish Act.

Sesepasara asked if the legislation addressed the cultural use of the sharks.

Sensui noted that shark skins are sometime used for drum heads.

Simonds said that the cultural use issue could be included in the letter.

## **B. Report on Saltonstall-Kennedy Grant Review**

Cliff Cosgrove, NMFS, gave an overview and update on the SK Grant Review process. The SK program distributes roughly \$10 million across 40 grant awards focusing on sustainable fisheries, protected resources, habitat conservation, science and technology, agriculture, enforcement and international affairs to address the needs of fishing communities. In 2018, there



was \$513 million collected from tariffs on fish imports to the United States, and 30 percent of that went to NOAA for projects. The SK Program runs both a competitive grant program and a national program, the latter of which is used to address needs that were not adequately addressed during the grant competition. Sixty percent of the funds are required to be handed out via competitive grants. NOAA typically obligates closer to 90 percent. Priorities are set on an annual basis by NMFS.

Cosgrove described the application process from pre-proposal through the selection of recipients for the grant award. In 2019, the SK competition focused on the demand side of the fishery supply chain, which deals with the selling, eating and other usage of fish. A contracting firm independently reviewed the program in mid-2017. They found that the program spends too much time on project selection such that dissemination of the results is not prioritized. The question then became what results dissemination would look like if there was more time to do so. To answer these questions, the contracting firms are conducting feedback sessions, which coincide with the Council meetings in all eight regions. A session was scheduled to be held in Honolulu at NOAA Training Room at Pier 38 on March 20, 2019.

Lutu-Sanchez asked for examples of the National Program to address areas that were not addressed in the competitive grants that Cosgrove had mentioned in his presentation.

Cosgrove said that most of the money is distributed through the competitive process, but some small amount of money is given to certain programs or projects to address needs.

Lutu-Sanchez asked for the proportion of SK grants that have been awarded to the Western Pacific Region relative to the other regions.

Cosgrove said that he does not know the percentage. Some people have said that the Pacific region cannot compete with some of the large regions that submit many more proposals. However, Cosgrove found that proposals from the Pacific Island region have a funding rate of greater than 50 percent of submitted proposals and that the “win rate” for the Pacific Islands region is greater than any other region in the country. The quality of the proposals received is good, but it becomes a numbers game where it is also about the total number of proposal received.

Simonds said that the Council is displeased that the total amount that the Pacific Islands region received this year was reduced relative to previous years. She asked about the Operations, Research and Facilities Account (ORF) and if the \$482,000 that was issued to the South Atlantic Council for expanding stock assessments came from the discretionary fund.

Cosgrove said he did not know off hand, but thought that at least some of the funds came from ORF.

Simonds said that the Pacific Islands region is the largest in terms of discrepancy between fishery values and funding received. The Council has talked to Headquarters about further funding for the Pelagic Program.

Cosgrove said that the SK program has no control over what ORF allocates, as this amount is established by Congress.

Simonds said the funding increased from \$10 million in the 1980s to \$513 million presently.

Cosgrove said, if the program worked like it was designed, he would not have a job because the idea is to lower domestic reliance on fishery imports by funding money back through the community to come up with new ideas to develop fisheries.

Simonds agreed that the original intent was to help in fisheries development and management, but funds have since gone to government employees. The Council has raised issue with SK funding going to former Trust Territories, which receive a large amount of funding from the US government as well as foreign governments. She said the SK project should place lower priority in funding projects for the former Trust Territories.

Cosgrove said that NMFS is bound by the Compact States Agreements for granting. Regarding the ORF transfer, Cosgrove mentioned processes to prevent the administrative use of the funds.

Lutu-Sanchez asked about the first priority that Cosgrove listed in his presentation.

Cosgrove said it is “promotion, development, and marketing,” but there are sub-factors considered under this priority. The idea was to prioritize marketing projects designed to develop new fisheries for underutilized species or something similar as opposed to more research-oriented projects.

Lutu-Sanchez asked how effective the grants are in improving fisheries and decreasing the overall seafood deficit.

Cosgrove said that this is the focus of the internal review results pertaining to dissemination of results. There is no way to quantify what the results of funded project have been. Individual benefits from a project can be easily observed, but there is no way to determine if the projects collectively have made significant impacts over a time period in a region.

Lutu-Sanchez asked if remote communities are at a disadvantage when it comes to competing for grants. The applications she had been a part of in the past showed her the difficulties in competing against university-based grants. Much of the award money goes towards their research as opposed to the fishing community. She asked what the SK program is doing to address these problems surrounding remote communities.

Cosgrove said they are aware of such discrepancies. The presentation given and the feedback meeting later that day are part of efforts to address the issue. Scott Bloom, PIRO, holds grant writing workshops and webinars related to these kinds of proposals to spread awareness of the program with mixed success. The program has recently changed some of the review criteria to focus specifically on the priorities being addressed for SK. Priorities were added to encourage more proposals, as SK did not want to dissuade proposal submissions if certain priorities or

criteria were not explicitly met. The program is also going to improve its outreach, as the National Program does not often visit some communities in a couple regions.

Sesepasara asked about funds that used be earmarked for the Pacific Islands. He believed that competing for projects within the Pacific Islands is more appropriate than trying to compete with larger entities on the mainland.

Cosgrove said that part of the process is having the proposals reviewed by subject matter. The review panels are comprised of 17 individuals from the fishing industry, with at least three individuals from each region.

Simonds said the Council has advocated for the regionalization of these types of programs and several years ago suggested that the funding be allocated proportionally, with larger Councils getting larger shares. She said the program is doing well in getting to that phase, but the Council would like to see separate regional programs.

Cosgrove said some regions are more in favor of the national program, whereas others are more interested in regionalization. The national program allows a lot of the administrative matters to be run through Headquarters.

### **C. SSC Working Group Reports**

#### **1. Blue Ocean Marine Protected Area Subgroup Report**

Mark Fitchett, Council staff, presented the report from the SSC's blue ocean marine protected area (MPA) subgroup. The working group was led by Ray Hilborn, SSC member, in response to spatial management issues related to closures associated with fisheries management. The working group convened after a brief presentation by Hilborn on the theoretical impacts of MPAs in open waters. Empirical evidence showed there is no clear argument that open ocean MPAs have any discernible conservation benefit, likely due to the fact that effort is dispersed rather than eliminated when an area is closed. The working group was also provided with an overview of BBNJ which may have imminent proposed high seas closures. The working group explored objectives pertaining to pelagic fisheries including increasing target pelagic fish abundance, especially bigeye tuna in Hawai'i and albacore tuna in American Samoa. The working group also discussed how to measure the effectiveness of new or established spatial closures. It determined that historically performance metrics were not identified prior to the establishment of MPAs or other spatial closures. The working group ultimately preferred bottom-up approaches, especially industry-led initiatives such as gear restrictions.

Watamura said that he attended Hilborn's presentation at the SSC meeting because he is concerned about the opening of the BRFA's. He was encouraged by Hilborn's results, which reinforced why all of the BRFA's should be opened.

Gourley asked if there is a purpose behind creating the blue water MPAs and if there is some sort of reasoning associated with fisheries management or biodiversity conservation.

Fitchett said the formation of blue water MPAs is not necessarily prioritizing fisheries management, and crew safety and costs are often disregarded throughout these decisions.

Lynch said that Hilborn has published extensively on this topic. His presentation suggested that people wrongly assume MPAs are akin to terrestrial parks that will achieve similar value. The SSC, therefore, focused on the purpose behind these areas and the science supporting them.

Sensui asked if there is any justification for the Papahānaumokuākea Monument expansion.

Lynch said that the SSC had not taken that specific issue up for discussion, but SSC members are skeptical of the effectiveness of these types of MPAs in general due to the lack of supportive science. Development of spatial closures must also allow for fishery management within them. Benefits of these types of closures seemed to be mostly apparent within the area, but it is unlikely that they show promise with respect to general fisheries management.

## **2. Modern Fish Act Subgroup Report**

Lynch provided an overview of the Modern Fish Act subgroup of the SSC. The Modern Fish Act was passed in December 2018 and requires the Secretary of Commerce to work with the SSCs, fishery management councils and others to develop a report that helps facilitate greater incorporation of data in stock assessments for better fishery management decisions. The working group realized that this Council actively works to obtain all available data before making decisions through the MSA process. The working group noted the amount of work that goes into analyses such as WPSAR and believed that all of the processes currently in place for the Council satisfy the goals of the Modern Fish Act. While there may be some areas for improvement with respect to obtaining additional data from the public, the Council has not intentionally excluded data for an analysis. The working group also emphasized making sure that outward-facing websites and other outward-facing information asks the public for data regularly and that the folks are reminded of the Council's interest in obtaining their data.

Watamura commented on the large gap in gathering non-commercial fishery data in Hawai'i. He said his understanding of the Modern Fish Act was also the usage of new technology. Technologies such as fishing applications should be a focus going forward. Watamura said he previously attended a Recreational Data Summit and felt that the Western Pacific Region was far behind other regions in collecting these sorts of data streams.

### **D. Magnuson-Stevens Reauthorization Act Five-Year Research Priority 2020-2024**

Sabater presented on the five-year research priorities, which are required under the Magnuson-Stevens Reauthorization Act (MSRA) to be developed and updated in conjunction with the SSC. Sabater provided an overview of the 2020-2024 research priorities, which were developed around the management needs identified in the Council's Five-Year Program Plan. The research priorities were developed in collaboration with PIFSC, and efforts had been made to enhance the monitoring and tracking of the research priorities. Several small working groups

were held with PIFSC staff and program leads to develop research priorities for the next multiyear period and were followed by a workshop. In an attempt to improve the tracking and monitoring of research priorities, subsets of these research priorities would be identified as priorities for PIFSC's Annual Guidance Memo (AGM) process. Once in the AGM, PIFSC can consider the priorities and incorporate them into its annual budget request to be implemented the following year. Sabater said the PIFSC director will provide a report updating the status of these priorities at subsequent SSC and Council meetings.

Sabater reported on the annual process of the AGM, starting with the AP reviewing past priorities in April, followed by the SSC's review. The SSC in October will identify specific research needs to be transmitted to PIFSC. In the first quarter of the following year, the priorities would be incorporated into the PIFSC's draft AGM and the Council will be provided with an opportunity to comment on the draft. Implementation begins in October of the following year, and PIFSC would deliver a report once complete. The process will concurrently restart in April for the next year's AGM. Staff noted that this year, 13 of the 19 priorities are high priorities for PIFSC and are in line with their Science Plan, while only four are considered low priority. For the 176th meeting, the Council was tasked with endorsing the research priorities for transmission to the Secretary of Commerce and PIFSC.

#### **E. NOAA Climate Science Workshop and Regional Action Plan Reports**

Phoebe Woodworth-Jefcoats, PIFSC, was not present to deliver the NOAA Climate Science Workshop and Regional Action Plan reports. Sabater presented the reports on her behalf. The Council was involved in the NOAA Second Annual Collaborative Science Workshop from Sept. 4 to 6, 2018. The workshop goal was to identify priorities to advance regional climate science. While the first year was mostly focused on information-gathering, the second year was focused on identifying priorities. The next three years will be focused on evaluating progress. The workshop utilized a "speed-dating" format in which managers and scientists rotated to discuss different climate-associated topics. The top priority identified was about understanding the future shift in species distribution underpinned with a robust baseline.

The NOAA Regional Action Plan identifies many different activities, who is involved, who is going to do it, and the types of actions required for the different objectives. In 2018, several environmental variables were included in the North Pacific swordfish stock assessment to inform recruitment, and biological sampling was continued.

Thomas Remington, Council staff, reviewed how the Council's Five-Year Program Plan aligns with the climate-associated research priorities from the workshop and the Regional Action Plan. The Council's Five-Year Program Plan includes four of the four priorities identified in the Second Annual Collaborative Climate Science Workshop report. The Council's Five-Year Program Plan included 15 of the 18 objectives identified in NOAA Regional Action Plan. The three objectives that were not included in the Council's program plan were actions that are not under the Council's purview.

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

Spalding presented on recent Council efforts toward outreach and education on the regional, national and international levels since the last Council meeting. Two quarterly newsletters were published. Staff assisted with the book entitled *Tradition-Based Natural Resource Management* by Ed Glazier published Palgrave MacMillan, which looks at the Aha Moku natural resource management. The Council has been instrumental in the Puwalu, a series of conferences that led to the State recognizing this traditional system. The lunar calendar for Hawai‘i 2019 was released. Council staff also wrote several articles for *Hawaii Fishing News* on a monthly basis and for *Lawaia* magazine on a quarterly basis. The Council held its Fishers Forum the night before this presentation, and there was a lot of outreach associated with publicizing the event. Spalding also reported on media requests and social media presence in recent months. The Council also provided information to educators, students, the general public and the government by request. Several large posters were produced for the Fishers Forum.

Spalding reported on the scholarship program developed through a Memorandum of Understanding (MOU). Four students have graduated and are working in CNMI Division of Fish and Wildlife and in the American Samoa DMWR and the National Parks Services. Another five students are completing their degrees at University of Hawai‘i at Hilo, Hawai‘i Pacific University and University of Guam, and three students will begin the program in the fall of 2019. The MOU had a five-year term, after which the MOU is to be reviewed and either re-issued or amended. Spalding provided proposed changes to the Council based on review by the AP and the Council’s Education Committee, including changing the title to “U.S. Pacific Islands Fisheries Education and Employment Capacity Building MOU” and revising the aspirations to add vocational and kindergarten through 12th grade fishery-related education opportunities and community outreach efforts in Hawai‘i, American Samoa, Guam and the CNMI.

Sesepasara asked about developing a curriculum at the undergraduate level.

Spalding said that the Council has directed staff to get fisheries in the K through 12 levels, whether in curriculum or lesson plans. The issue at the tertiary level is typically the lack of dedicated faculty to teach the curriculum, rather than a problem of not having a curriculum.

Sesepasara said that he supports technical training because the fishermen around the archipelago do not have access to this kind of technical assistance.

Lutu-Sanchez asked, with respect the changes being made to the scholarships, whether private sector partners such as the cannery in American Samoa were considered. She said it would be useful for students to see a wide range of avenues where their degrees could be utilized.

Sensui asked if the Honolulu Community College was involved in the vocational training since they have a Marine Education Training Program.

Spalding replied no. She said that the MOU focused on the Territories initially. The inclusion of the Honolulu Community College could be a consideration for the MOU revision.

Watamura asked for clarification on whether the focus was on the Territories and not in Hawai‘i.

Spalding said that the original MOU was strictly for the Territories because the need was not as great in Hawai‘i. However, it has now been broadened by including the University of Hawai‘i at Manoa’s Department of Education as a signatory and trying to include Hawai‘i DLNR.

Watamura said including the Hawai‘i Department of Education is important for including fishery education into the school curriculum.

Simonds said that there is a limited amount of funds for the scholarship program. If it is being expanded, that means more money has to be added. The Territories are the places that really need the help.

Okano agreed that there is greater need in the Territories, but added that there is still great need for natural resource students in Hawai‘i.

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

### **1. Advisory Panel**

The AP had no recommendations pertaining to the Program Planning agenda items.

### **2. Scientific and Statistical Committee**

Lynch presented the SSC report and recommendations pertaining to program planning agenda items.

*Regarding the Blue Ocean MPA Subgroup report*, the SSC recommended that the Council endorse the following recommendations for effective spatial management:

- 1) Prior to developing spatial management areas, objectives and performance metrics must be explicitly specified to evaluate the effectiveness of spatial management. Performance metrics must concurrently address conservation objectives (e.g., increase in abundance or decrease in bycatch), economic objectives (e.g., net economic benefit, price per pound, quality of product), social objectives (e.g., crew safety, equitable access, food security, cultural value, transfer of local/cultural knowledge).
- 2) Monitoring of performance metrics is needed with regularity to gauge efficacy of existing closures and suitability for future spatial fishing closures or modifying existing closures. Monitoring needs to account for changes in performance metrics before and after management action, such as counterfactual analyses.
- 3) Modifying fishing gear or methods is likely to be more effective to minimize protected species bycatch rather than permanent closed areas.
- 4) Maintain flexibility in regulations so that industry can find voluntary means to reduce bycatch interactions and have input in the development of mitigation measures.
- 5) Research should evaluate whether existing closures meet stated objectives and performance metrics.
- 6) Prior to implementing any closure or other spatial management action of any kind, compliance monitoring and enforcement should be planned and tenable.

*Regarding the Modern Fish Act Subgroup report*, the SSC recommended that the Council direct staff, in collaboration with the SSC Chair Jim Lynch, to develop a process paper to be presented to the SSC at its next meeting in June 2019.

Lynch reported that the paper will identify the specific existing methods that are used to incorporate data in any recommendations that the Council would make in terms of public outreach or encouraging additional solicitation of data.

*Regarding the Modern Fish Act Subgroup report*, the SSC endorsed the MSRA Five-Year Research Priorities for transmittal to the Secretary of Commerce and NMFS.

#### **H. Public Comment**

There was no public comment.

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

*Regarding legislation*, the Council **directed staff to draft a letter to the Secretary of Commerce regarding proposed legislation that prohibits the commercial sale of shark parts from legally caught sharks, which appears to conflict with the MSA and existing federal regulations that allow and require the sustainable harvest and landing of whole sharks.**

Okano provided brief testimony originally given by his Department relevant to the Hawai‘i Senate Bill associated with shark finning, recognizing the important part sharks and rays play in maintaining healthy marine ecosystems. Okano indicated that he would vote against this recommendation.

Gourley recommended a rewording to convey that HB 737 is prohibiting the commercial sale of fins on legally caught sharks.

Sensui asked about the Shark Sales Elimination Act from Tom Leiu of California.

Gourley responded that it does not have any co-sponsors yet.

Sensui asked if this recommendation does not address the Shark Sales Elimination Act.

Gourley said it does not, but it might address shark fin sales in both simultaneously.

Sensui clarified that the bill would make it illegal to possess, buy or sell shark parts or anything containing a shark part.

Gourley clarified that the recommendation at hand is dealing specifically with shark fins.

Tosatto noted that he believes the wording of “shark parts” to be adequate since the MSA requires the landing of whole sharks with fins attached. He noted the importance of utilizing a caught fish to its maximum economic value.



Sesepasara asked if the meat of the shark is considered a shark part, and what the sense would be in catching a shark and not being able to use any part of it.

Gourley said the federal law allows the landing of whole sharks, but this legislation would prohibit that. It would potentially prohibit any kind of possession.

Sensui agreed with Gourley's assessment.

Moved by Gourley; seconded by Sensui.

Motion passed with Okano opposing.

**Regarding the SK grant program, the Council reiterated its previous recommendation to regionalize the solicitation for the SK grant program to allow more flexibility in the prioritization of the projects and provide better opportunities for community-based projects to receive SK funding. In addition, the Council directed staff to draft a letter to Chris Oliver requesting similar funding to Expand Annual Stock Assessments under the Operations, Research and Facilities Account budget to be allocated for critical priorities pertaining to US Pacific Islands pelagic fisheries research and development.**

Moved by Duenas; seconded by Lutu-Sanchez.

Motion passed.

**Regarding the SSC Working Group on Developing a Roadmap to Effective Spatial Management, the Council directed staff and the spatial working group (SWG) to develop a white paper describing the following recommendations to be set as guidelines for any existing or proposed spatial management activity:**

- a. **Prior to developing spatial management areas, objectives and performance metrics must be explicitly specified to evaluate the effectiveness of spatial management. Performance metrics must concurrently address conservation objectives (e.g., increase in abundance or decrease in bycatch), economic objectives (e.g., net economic benefit, price per pound, quality of product) and social objectives (e.g., crew safety, equitable access, food security, cultural value, transfer of local/cultural knowledge).**
- b. **Monitoring of performance metrics is needed with regularity to gauge efficacy of existing closures and suitability for future spatial fishing closures or modifying existing closures. Monitoring needs to account for changes in performance metrics before and after management action, such as counterfactual analyses.**
- c. **Modifying fishing gear or methods are likely to be more effective to minimize protected species bycatch rather than permanent closed areas.**
- d. **Maintain flexibility in regulations so that industry can find voluntary means to reduce bycatch interactions and have input in the development of mitigation measures.**
- e. **Research should evaluate whether existing closures meet stated objectives and performance metrics.**

- f. **Prior to implementing any closure or other spatial management action of any kind, compliance monitoring and enforcement should be planned and tenable.**

*Moved by Gourley; seconded by Sensui.*

*Motion passed.*

*Regarding the SSC Work Group on the Modern Fish Act, the Council **directed staff, in collaboration with the SSC Chair Jim Lynch, to develop a white paper that describes the process on how non-governmental sources of data and scientific information are incorporated in the fishery management process and to present the paper at the June 2019 meeting.***

*Moved by Gourley; seconded by Sensui.*

*Motion passed.*

*Regarding the Council's Five-Year Research Priorities, the Council **directed staff to transmit the revised research priorities to the Secretary and PIFSC.***

*Moved by Gourley; seconded by Sensui.*

*Motion passed.*

*Regarding the US Pacific Territories Fishery Capacity Building MOU, the Council **amended the MOU title to US Pacific Islands Fishery Education and Employment Capacity-Building MOU and expanded the purpose to support vocational training opportunities and K-12 fishery-related education and community outreach efforts throughout the US Pacific island region. The Council further supported the changes as presented by staff to revise the goals and amends the list of signatories to include the University of Hawai'i Department of Education Curriculum Studies, Hawai'i Department of Land and Natural Resources, American Samoa Department of Education, Guam Department of Education, Guam Community College and CNMI Public School System.***

Tosatto said that he would be abstaining from the vote on this recommendation because he is an individual signatory on behalf of NMFS and will have his own independent review.

Okano said that he would also be abstaining.

Watamura asked why State of Hawai'i Department of Education is not included in this recommendation.

Spalding said that the University of Hawai'i Department of Education Curriculum Studies, the University of Hawai'i Institute of Marine Biology and University of Hawai'i at Hilo are included in the MOU. The State of Hawai'i Department of Education has not been included because it may be difficult for it to get approval to sign the agreement.

*Moved by Gourley; seconded by Lutu-Sanchez.  
Motion passed with Tosatto and Okano abstaining.*

## **X. Pelagic and International Fisheries**

### **A. American Samoa Longline Annual Fishery Report**

Keith Bigelow, PIFSC, provided the 2018 annual report for the American Samoa longline fishery. The report covered fishery statistics including participation, effort and catch. Bigelow noted that the reports were preliminary and included data processed through approximately Feb. 15, 2019, as the SSC meeting was before the data freeze date of March 15, 2019. The report included about 70 percent of the American Samoa data and about over 90 percent of the Hawai'i data.

The American Samoa longline fleet had 13 active vessels in 2018, which is a reduction from 15 in 2017. Two vessels may have been sold. Few vessels operated outside the EEZ, and that number is confidential. The estimated total effort was approximately 97 longline trips in 2018, a reduction compared to 2017, and 1,700 sets in 2018 compared to 2,300 sets in 2017. Effort peaked in 2007 with 17 million hooks and decreased to 4.5 million in 2018.

South Pacific albacore is the target species, and an estimated 60,000 albacore in number were caught by the fleet in 2018. CPUE increased slightly from 13.2 albacore per 1,000 hooks, compared to 11.7 in 2017. As for yellowfin, 2017 was a good year with 25,000 fish caught, compared to lower catches in 2018 of 11,600 yellowfin. As for other species, 2018 was a good year for catch rates of bigeye tuna and blue shark, although sharks are not retained.

Bigelow noted some positives, including fuel prices have been lower than Hawai'i. Some disadvantages of the American Samoa longline fleet include the small EEZ and the elimination of LVPA exemption due to litigation. The permit structure is also a disadvantage with many permits for American Samoa tied up with Hawai'i owners.

Lutu-Sanchez asked, in light of the declining albacore catch in the territory, what would act as a trigger for action that would prevent catches from going to zero. Citing mitigation measures discussed in previous sections, Lutu-Sanchez asked what mitigation measures would arise to help the fishery in American Samoa.

Bigelow deferred to the managers but said that 60 percent of the South Pacific albacore catch is taken by China and Chinese Taipei. Through WCPFC, there are established limit reference points. Most recently in December 2018, a target reference point was established, which may curb expansion of the China and Chinese Taipei fleet.

Tosatto added there are provisions that address a commercial fishery failure and a Declaration of a Disaster when funding can be applied to provide assistance. While South Pacific albacore is assessed healthy, it is an international issue. Tosatto addressed the permit structure issue and said the fishery is not failing.

Rice asked if the LVPA is a major source of distress.

Lutu-Sanchez asked Bigelow if catch was higher in other areas.

Bigelow mentioned that his report in 2016 and 2017 reported catch difference inside and outside of LVPA, but does not do so for 2018 as LVPA was closed for most of the year.

Lutu-Sanchez mentioned perceived low fuel prices are not relevant because their prices are more expensive than neighboring islands. She also said the LVPA has an obvious handicap on the fishery's ability to follow the stock and puts the fishery in harm's way further offshore in rougher weather. She said the current season is going to be poor and asked when the recommendation to open the LVPA will come into fruition.

Kingma said the Council took final action in June 2018 to recommend a regulatory amendment to provide exemption to large longline vessels over 50 feet to access the LVPA beyond 12 miles with 2 nautical mile buffers around each of the offshore banks to address some of the concerns raised by the small-boat fishing community. The Council's action included a four-year sunset period. Council sent an informal transmission to PIRO SFD for the regular document review process in August 2018. Council received comments back from SFD a short time after, but full comments by General Counsel were only received two weeks prior to the 176th Council meeting. He anticipated the full package to be transmitted before the June Council meeting, with a 95-day Secretarial review period to follow.

Lutu-Sanchez questioned the reason behind the long wait by SFD and General Counsel and asked if the situation does not qualify as a disaster at this point.

Kingma said the that Council has always held the position it wants to take this action immediately to address the economic conditions facing the fleet and will do its best to transmit that as soon as possible.

Lutu-Sanchez said the fleet is in a decline and the timeliness of action does not take into account what is happening in the EEZ around American Samoa. She reminded the Council of the hardship the fleet is experiencing due to the distance they need to travel to fish.

Sensui asked if the LVPA was the only major issue or hardship.

Lutu-Sanchez mentioned the lack of local government support and the high fuel cost. The fleets are trying to make just a profit to survive. StarKist has offered advances to the fleet to continue operating, and those advances are only covering fuel and bait. The longer distances to travel are consuming all the fuel.

Simonds said the situation is unfortunate. The complicating factor is the ESA consultation for the American Samoa longline fishery has not started. She asked the General Counsel whether the amendment can be approved before the consultation is complete.

Elena Onaga, NOAA Office of General Counsel, said that under the ESA, the federal government cannot take action unless it complies with the law. One of the re-initiation triggers for a BiOp is whether there is a new listing.

Simonds said that Council's staff is working on completing the LVPA document for transmittal.

Soliai asked when the BiOp will be completed.

Tosatto said he cannot give a timeline for completion other than to say that the statutory timeline is 135 days and a potential 45-day extension.

Soliai asked that completion of the BiOp be expedited to help with the struggling fishery.

Rice said that federal regulations are demolishing three of the main fisheries in the region and the Council's hands are tied and unable to do the work under MSA. He warned that the American Samoa fleet could be lost as well as the Hawai'i shallow-set longline fleet. He warned the deep-set fishery could leave and fish elsewhere. Rice lamented Hawai'i will be buying "gassed" tuna from the Marshal Islands as a result.

Tosatto said that he appreciates the severity of the situation in American Samoa, but regulations are in place to address requirements of MSA, ESA and MMPA.

Sensui referred to the NOAA Fisheries Priorities and Annual Guidance for 2019, which identifies supporting reviews of priority Council actions and reducing or eliminating the backlog of existing Council actions as a priority under the first goal. He said that this priority points to the need to complete the American Samoa action urgently so that the fishery is not impacted by unfinished business.

## **B. Hawai'i Longline Annual Fishery Report**

Russell Ito, PIFSC, provided the 2018 annual report for the Hawai'i longline fishery. The report covers fishery statistics including participation, effort and catch. Ninety percent of the data from the previous year's logbooks had been entered. There were 144 vessels that operated in the Hawai'i longline fishery including vessels based in California, with 133 vessels exclusively in the deep-set fishery and 11 vessels that fished both deep-set and shallow-set. Participation of 11 vessels in the shallow-set fishery represents about half compared to the previous year, due to the fishery shut down in the early part of 2018 as a result of sea turtle interactions. The data included 1,500 trips, including 1,490 deep-set trips and about 30 shallow-set trips. Effort for 2018 included 19,200 deep-sets and about 400 shallow-sets. Of the total hook effort of 54 million hooks, 39 million hooks were set on the high seas. Recent spatial distribution looks similar to historical average, although the long-term average shows a little more effort on the peripheries. Eastern Pacific effort was greater than in the Western and Central Pacific compared to 2017.

Bigeye tuna catch was 197,000 fish, while yellowfin was down at 57,000 fish from a record of 81,000 fish in 2017. Overall, yellowfin catch has been increasing while bigeye catch has been steady. Albacore has declined since 2010. The annual average bigeye CPUE decreased by about 10 percent but was higher than 2004 to 2012.

Swordfish catch was down to 12,000 fish in 2018 compared to 20,000 fish in 2017, likely related to the shallow-set closure in 2018. Most catch was in the Eastern Pacific with significant

catch near the MHI right before the closure. Typically, the shallow-set fishery starts in the Eastern Pacific, and the fishing effort and catches tend to move toward the Western Pacific as the season progresses. Swordfish CPUE by the shallow-set fishery has been relatively high for the last three years.

Billfish catches show a lot of variability. Shortbill spearfish has declined the last two years. Striped marlin catches have been pretty steady from 2014. Both species had about 14,000 fish last year. Blue marlin has an increase in the catch, up to about 18,000 fish in 2018. Blue marlin has been getting better; striped marlin is around the same; and spearfish is down from its peak in 2016. Other pelagic management unit species catches presented included pomfret, mahimahi, oilfish, moonfish, ono and blue shark.

Ito also presented recent developments, including false killer whale interactions closing the SEZ. He heard that 2018 was a high depredation year, and that has continued into 2019. Prices have been good; sea turtle interactions were a problem; and electronic reporting has made progress.

Goto said 2018 saw a record low in swordfish take in part due to the closure attributed to the litigation and added that 2019 may be a new record low due to the recent closure.

Ito said he thinks 2019 will be another low record for swordfish.

Rice said that the closed SEZ area appeared to have high bigeye tuna catch historically and asked Ito for confirmation.

Ito said the higher catches in the SEZ area typically occur in latter part of the year so the SEZ closure is likely to impact catches later in the calendar year.

Rice said the closure will likely have a negative impact on the fishery.

Lutu-Sanchez asked when a fishery closes, such as with the shallow-set fishery, if jobs for data collectors and those studying the fishery are also eliminated because of the lack of fishing activity.

Ito said those types of jobs are not eliminated. Instead resources are shifted elsewhere when the fishery closes. Ito said fishermen also lose money on gear, bait and supplies. The bait used in the shallow-set fishery is more expensive than those used in the deep-set fishery. He said target species cannot be mixed during a trip, so vessels are required to return to port to reconfigure their gear.

Goto said, when the Western and Central Pacific Ocean (WCOPO) closes, the deep-set fishery also has to return to port. Closures impact the fishing operations for months to come.

Lutu-Sanchez said it is discouraging to see disastrous reports on US fishermen and at the same time see presentations of government budgeting and funding for other things like data collection and research. She acknowledged the importance of data collection and research for management but asked what researchers would study if there are no more fishermen fishing.

Ito said fishing effort will shift to deep-set and add more competition to the fleet. A benefit of the shallow-set fishery is that it disperses the effort amongst the fleet by having two different target species.

Rice expressed his concern that the vessels may give up participating in the shallow-set sector as a result of the closures two years in a row.

### **C. Hawai'i Shallow-Set Longline Fishery**

#### **1. Status of the Hawai'i Shallow-set Longline Endangered Species Act Consultation**

Tosatto reported that NMFS has an agreement with the Hawaii Longline Association to complete the draft BiOp by March 25, 2019, and the full BiOp by April 30, 2019.

#### **2. Managing Loggerhead and Leatherback Sea Turtle Interactions in the Hawai'i-Based Shallow-Set Longline Fishery (Final Action)**

Ishizaki provided a status of the FEP amendment action item on the framework to manage leatherback and loggerhead sea turtles in the Hawai'i shallow-set longline fishery. The shallow-set fishery closed the prior day due to a hard cap on loggerhead interactions based on a litigation settlement the previous year.

The Council at its 173rd meeting in June 2018 recommended amending the Pelagic FEP to establish a management framework for the Hawai'i shallow-set longline fishery that consists of 1) annual limits on the number North Pacific loggerhead and leatherback turtle interactions consistent with the anticipated level of annual interactions that is set forth in the current valid BiOp and 2) individual trip interaction limits for loggerhead and leatherback turtles as a framework. The Council also recommended specifications under the framework as follows: 1) annual limits of 37 North Pacific loggerhead turtles and 21 leatherback turtles; and 2) individual trip limit of five North Pacific loggerhead turtles. The Council did not recommend a leatherback trip limit specification but has the option to recommend a number at a later time if such a need arises.

The Council's recommendation for specifying the loggerhead and leatherback turtle annual limits was based on the anticipated level of interactions analyzed in the BE initiating re-consultation of the Hawai'i shallow-set longline fishery under the ESA Section 7 consultation process. As part of its recommendation, the Council noted that it would review its recommendation if the new BiOp from the ongoing consultation results in a jeopardy decision or otherwise results in a different incidental take statement for North Pacific loggerheads or leatherbacks. The draft BiOp was expected to be available by October 1, 2018. However, completion of the draft BiOp was delayed.

The Council at its 174th meeting in October 2018 reviewed the Approach to the Assessment for the BiOp and considered the SSC's report regarding the PVA. The Council recommended convening an interim Council meeting, if needed, to review draft BiOp and

consider any revisions to its June 2018 recommendations based on the BiOp and stated that it will reconsider a specification of leatherback individual trip limits if necessary.

Following the 174th Council meeting, NMFS reached an agreement with the Hawaii Longline Association, the Applicant to the consultation, on a new timeline of delivering the draft BiOp on Jan. 31, 2019, and the final BiOp on Feb. 28, 2019. Also subsequent to the October Council meeting, the General Counsel advised that the Council could consider additional leatherback measures even prior to the draft BiOp given the long-term decline status of the leatherback turtles.

The Council convened its 175th meeting on Dec. 17, 2018, to consider final action on additional mitigation measures for the Western Pacific leatherback turtles in advance of the draft BiOp completion, with expectation of a draft delivery on Jan. 31, 2019. Upon reviewing available information and considering public comment, the Council deferred action until the draft BiOp and more complete information on the impacts of the fishery on the Western Pacific leatherback turtles are available to fully inform the Council decision. The Council also reiterated its 173rd Council meeting recommendation about NMFS providing funding support for research and minimizing trailing gear.

After the government shutdown, Council staff requested that PIRO deliver the draft BiOp by March 1 in advance of the March SSC and Council meeting. However, NMFS set a new timeline with draft BiOp delivery date of March 25, 2019. The Council will reconvene on April 4, 2019. The Council also plans to convene BiOp Review Advisory Panel on April 2 to review the draft BiOp in advance of the Council meeting. The SSC nominated members for the BiOp Review Advisory Panel.

Rice asked how early the fishery may reopen if the sea turtle hard cap is modified.

Ishizaki said, if no major changes to the Council recommendation are needed as a result of the draft BiOp, the amendment and National Environmental Policy Act (NEPA) documents are mostly written and the reviews of those documents could go relatively quickly. There will be a 95-day post-transmittal period.

Tosatto confirmed Ishizaki's timeline and mentioned making sure the ESA compliance is up to date. He said he did not expect a NEPA delay.

Rice said that fall would be a good time for the fishery to reopen.

Goto said the fleet would be anxious to fish at the later part of the calendar year. The market will take a hit after being closed two years in a row. He said the shallow-set fishery provides more than half of the swordfish to the United States and the market has been developing for decades. He then read a written letter from Roger Dang, the eldest son of two original Vietnamese-American vessel owners who now own more than 20 vessels, a supply company, a petroleum company and most recently bought Fresh Island Fish.

My name is Roger Dang. I'm writing to you tonight from the Seafood Show in Boston on behalf of the entire community of Hawaii's swordfish fleet and also



others in the fishing industry, including fish buyers and wholesalers, fishing gear and bait suppliers and logistics companies to express a how highly untimely and unfortunate this is for all of us. We have all spent the last several months working with some of the largest swordfish buyers in the US to develop a buying and shipping program to support the US/Hawaii swordfish industry. These buyers initially expressed concerns on the reliability and continuity of supply because of the hard cap being reached in 2018. Still, they committed since the start of the 2019 season and just as recently as yesterday agreed to decrease the reliance on foreign imported swordfish and increase their purchases of Hawaii swordfish.

Hawaii fishermen produce a highly-desired swordfish product and we need the proper level of support from the agency. The likely delay of the BiOp was critical for us and we feel the agency has failed us greatly. This has directly caused our mainland US partners to lose confidence in our ability to sustain production, and I fear that they will continue to discount Hawaii as a reliable source of sword going into the future.

Please, your attention to this matter is required and any and all progress is greatly appreciated. Best regards, Roger Dang.”

Goto added that Dang’s voice is the future of the fishery. He said he and Dang are focusing on what the Hawai‘i seafood industry will look like for the next 30 or 40 years, but current issues are making matters difficult for the fishery.

Lutu-Sanchez said that swordfish product would come from somewhere else if Hawai‘i is removed from the supply chain. The issue is similar to American Samoa where albacore will come from somewhere else, with US fisheries being supplanted by Chinese longliners.

Lutu-Sanchez asked Tosatto if he needed more staff to rectify the delays with the BiOp and other actions.

Tosatto said that there is a shortage of staff across the board and a long-term deficit of NMFS consultation capacity nationwide. It has rotated around the country where there are longest backlogs. There are regions that have backlogs on consultations numbering in the hundreds. He said that Congress has not responded positively to consultation resource requests and that the budget is smaller. PIFSC and General Counsel also have limitations with full workloads. He said his staff is prioritizing issues and making competent decisions. The delays are unfortunate and may seem unreasonably long, but they want to do things correctly.

Onaga said that General Counsel turns over most legal review fairly quick and accurately. Losses in court increased scrutiny. Onaga wants all matters to be legally defensible. Attorneys working on issues will stay on those issues for consistency and expertise. She said her team also needs another person.

Sensui asked Sesepasara if the American Samoa governor understood the gravity of the situation, being the plaintiff in the LVPA case.

Sesepasara said that the governor is aware of the situation. The governor had reached out to see what DMWR could do and asked to reach out to the longline association in American Samoa to see what the government could do. Sesepasara said there is a Fisheries Task Force, and the governor signed a letter inviting one of the members of the longline association to be part of the Task Force. That invitation was declined, which was a disappointment to the governor. Sesepasara added the governor wants the two groups to come together to some kind of compromise or an agreement. The Task Force chairman reached out to Lutu-Sanchez and that invitation was also turned down. Sesepasara said he came to the June 2018 Council meeting with the governor's attorney with the intention to present the governor's compromise. However, they were also instructed to not present the governor's recommendation if litigation would continue.

Lutu-Sanchez said that an invitation was extended to the Tautai O Samoa Longline and Fishing Association to be part of the governor's Fisheries Task Force in American Samoa. She personally received an invitation as the president of Tautai O Samoa Longline and Fishing Association to attend the meeting of the Fisheries Task Force, rather than to be part of the Task Force. Lutu-Sanchez asked the Task Force if it was at liberty to discuss anything or make any decisions on behalf of the American Samoa government with regards to the LVPA issue. She said that the longline participants are not party to the litigation, and the LVPA matter is in the hands of the lawyers and thus the Task Force cannot have influence over the issue while it is in litigation. Therefore, her response to the Task Force was that she has no purpose to be part of its discussion because it would not make a difference in the litigation. Lutu-Sanchez said the only parties that can make a difference would be the American Samoa government or the US government. She said the American Samoa government could withdraw in consideration of the fleet's situation, but she cannot make that decision for the government.

Sesepasara said that the governor's Fisheries Task Force advises the governor and does not make decisions.

#### **D. US Participating Territory Longline Bigeye Limits (Final Action)**

Kingma presented on US Participating Territory Longline Bigeye Specifications for 2019 and beyond under the Amendment 7 framework. Since 2014, the Council's status quo recommendation has been 2,000 mt total catch limits and 1,000 mt allocation limits for each US Participating Territory (American Samoa, Guam and CNMI). Under the WCPFC conservation and management measure, the US Territories are not provided longline bigeye limits, whereas the United States is provided a separate longline bigeye limit of 3,554 mt. Since 2011, Hawai'i longline vessels have been accessing quota from the US Participating Territories because the existing US quota levels are not commensurate with the Hawai'i longline fleet capacity or local market demand. In addition to the status quo option, other catch and allocation limits were presented including a total catch limit of 2,000 mt and allocation limit of 2,000 mt per US Territory.

Kingma presented the historical bigeye catch times series in the WCPO, noting that the earlier part of the catches being dominated by longline. Mixed gears appeared starting in the early 1980s with the advent of the purse-seine fishery in the WCPO. Bigeye catches in the purse-seine fishery started to increase in the mid-1990s when a lot of FAD-associated fishing occurred in that operation. In recent years, the purse-seine fishery has had similar bigeye catch as the

longline by weight but more individual juvenile fish. Overall total is recently lowest since 1996, due in large part to WCPFC management measures.

Kingma said that the most recent assessment found that the stock was not overfished and overfishing was not occurring. The next WCPO bigeye stock assessment is scheduled for 2020, and the existing WCPFC conservation and management measure for tropical tuna expires in 2020.

Kingma said much higher quotas are allocated to Japan, followed by Korea, Chinese Taipei, China, Indonesia and then the United States. The United States limit of 3,554 mt is caught entirely by the Hawai'i longline vessels operating out of Hawai'i. Indonesia and Japan have been underutilizing their quotas for a number of years. Indonesia reported a catch of 13 mt in 2017 but was still provided a limit of 5,889 mt. Japan also caught well below its limit. China received a 500-mt transfer from Japan that was endorsed by WCPFC. The United States has been constrained under relatively low limits compared to other countries. In every year since 2009, the Hawai'i longline fishery has been subject to closures in the WCPO for reaching these limits established by the Commission. Other countries that catch less than 2,000 mt can catch up to 2,000 mt, but only a few countries are getting close.

Kingma presented analyses with up to 3,000 mt carried over to the US/Hawai'i fishery per Territory using latest stock assessment metrics. In each of the scenarios, the stock would not exceed overfishing limits or be overfished. The allocations would not impede the fishery or the stock. Status quo of 2,000 mt carried per Territory would not have a negative impact.

Kingma mentioned there is a BiOp being developed for the deep-set fishery. The new BiOp is analyzing higher effort levels in the fishery and effort levels that are likely well beyond the allocation limits and full utilization of 2,000 mt per Territory.

Goto said the allocation is needed in light of the shallow-set closure and also needed for the coming year. He said the deep-set BiOp should be completed in a timely manner.

Tosatto said the CPUE is returning to the long-term average even with entrants from the shallow-set fishery. He added said ESA adds to the timeline in processing any action, pending the Council's final recommendation. He said the status quo options have been analyzed already, which leads to a likely timely completion. He asked Kingma on the status of implementing multi-year specifications.

Kingma said the Council had taken final action on the multi-year specifications in June 2018 and provided the draft to PIRO SFD. The Council expects to transmit that this year so it would be available to the Council to consider multi-year specifications in 2020.

Simonds added that the expectation is to do the multi-year specification for future years rather than for 2019 so as not to complicate the process.

Tosatto said his staff linked limits under the WCPFC and it worked reasonably successfully to implement international obligations, even though there might be a three-year measure in WCPFC. The bigeye limit has been in place for several years, and his staff has been

able to convince General Counsel to further implement those, so further analyses is not needed for a multi-year specification. He said the process should be quick and easy if they stay within the existing analysis and remain current in their ESA coverage.

Rice asked if the Option 2 was good enough for Goto to stay operational.

Goto said the fishery will operate as best it can under that specification.

Simonds said an allocation of 3,000 mt should be sufficient even if the fishery picks up.

Sensui asked if the allotment doubled, if the market could absorb that much fish.

Goto said 2015 was an unprecedented year and the market was not ready for it. But by 2016 when the catch rate was still very high, the market adjusted to the supply. With the size and effort of the Hawai'i fleet, the fishery can provide a consistent supply for the demand of Hawai'i-landed seafood.

Sensui said that the amount of imported fish could be supplanted by Hawai'i.

Goto said the confidence in local versus foreign product quality plays a factor, with foreign product having history of mishandling. Local Hawai'i product is held at higher standards. The Hawai'i fishery could be losing to a foreign product, despite better local quality.

Tosatto said there is also an Eastern Pacific IATTC component to catch. That catch limit applies to larger vessels, so smaller vessels can fish East when limits are reached.

Watamura commented on the booming demand for fresh tuna and poke shops nationally. He mentioned a daily demand of 70,000 pounds of fish. He asked Kingma if there were drawbacks to going to maximum allocation.

Kingma said that the Council does not want to delay rule-making given the pending BiOp and prefers not to have a period of a closure between allocations.

Okano asked if the total amount of bigeye available to Hawai'i under Option 2 and 3 would be the same.

Kingma said no. Option 2 would limit the amount of transfers to 1,000 mt per Territory for a total of 3,000 mt allocation. Option 3 would be utilization of 2,000 mt in potential allocations or roughly 6,000 mt total. Still under those levels, even well beyond potential 9,000 mt of Territory and US allocations, these specifications are still comfortable with respect to the reference points.

Rice commented on the Billfish Conservation Act. He said it was brought in through Congress mainly from the East Coast by representatives from the Atlantic coast where their billfish populations are in a different situation. He said DC and East Coast leaderships have a "one size fits all" outlook on billfish, without considering the dynamics in the Pacific Islands. He said there is a lack of congressional support for the Pacific Island fisheries and the new billfish rule should have been made through MSA and not through Congress. Rice described economic

hardship to small boat and charter fleets in the region. In the Hawai‘i the chart fleet, a deckhand gets paid minimum wage but a deckhand could receive additional pay for the marlin they sell.

Goto said the longline fishery may take a larger overall economic hit, and the charter fishery could take a relatively large hit.

Watamura said the economic loss is not just the fresh fish being reduced locally, but all marlin products cannot be sold to the mainland.

Simonds said she has asked PIFSC staff to evaluate the impacts of the Billfish Conservation Act on the local high-end market.

Rice mentioned the largest impact will be the Honolulu market because its price was double that of the Kona charter fleet.

## **E. International Fisheries**

### **1. Inter-American Tropical Tuna Commission**

#### **a) Tuna Growth Workshop**

Fitchett presented on the IATTC workshop to evaluate bigeye and yellowfin tuna ageing methodologies and growth models in the Pacific Ocean, held in La Jolla, Calif., from Jan. 23 to 25, 2019. Growth has been critical in stock assessments, recently with WCPFC fisheries like bigeye tuna and South Pacific albacore. There has been some contention over the methods of aging between the IATTC and WCPFC. Some validation techniques between both areas were explored and discussed at the IATTC Growth Workshop.

The workshop evaluated validation techniques of daily and annual estimates of age for both bigeye and yellowfin tuna. Improved growth modeling, uncertainty and implications of growth models on Eastern Pacific and WCPO bigeye tuna stock assessments were discussed. Discrepancies in ageing techniques and future works by the IATTC and Commonwealth Scientific and Industrial Research Organisation (CSIRO) were also addressed through an emerging research plan. Both parties claim that one is over or under estimating ages at size. The working group convened this workshop to establish guidelines on aging techniques.

An old growth model assumed a higher expected maximum size and a lower expected age at size, which previously rendered a more negative outlook on the bigeye tuna stock. The new growth model leads to an updated reproductive schedule. The old growth model was struck from any stock assessment moving forward. However, some valid arguments emerged among the scientific community, the IATTC and the SPC that the new growth model could be due to a result of selectivity based on where the samples are collected. The SPC noted some spatial variability in growth that it wants to incorporate in future assessments. One goal that the SPC and IATTC stock assessment scientists are coming together on is a Pacific-wide stock assessment that accounts for regional growth differences.

## **b) Tuna Stock Assessment Workshop**

Fitchett presented the outcomes of two IATTC-sponsored workshops. The first workshop to improve the longline indices of abundance of bigeye and yellowfin tunas in the Eastern Pacific Ocean was held Feb. 11-15, 2019, in La Jolla, Calif. The second workshop was to update the IATTC stock assessments. IATTC scientists were still finalizing the report and doing some extra model runs; therefore, a report was not available. Some notable issues were with the CPUE indices and data usage. There is some uncertainty in the recruitment from the prior stock assessment, as well as growth, and stock structure of bigeye tuna. There is a hypothesis that the IATTC should exclude data originating from the northwest corner of its purview, or a “Hawai‘i stock” that is not a part of the eastern Pacific.

There was an update in 2018 that led to a pessimistic outcome of the eastern Pacific bigeye stock, which included some new information. It was recommended that oceanography be more heavily incorporated to explain some of the CPUE changes, as well as movement in and out of the region. Lastly, the assessment will need to reconcile uncertainty in recruitment; a “regime” shift was perhaps noticed in yellowfin and bigeye. The workshop report is expected to be available by May 2019 for the IATTC Science Committee meeting.

Rice asked how satellite tags have been deployed for studying stock structure.

Fitchett said tags were at liberty at least 30 days, with some over a year.

Watamura said he heard discussion of a Hawai‘i stock and asked what scientific advances are underway to confirm this.

Fitchett confirmed that studies using microchemistry in otoliths and stable isotopes suggest that there is likely a unique stock structure for bigeye in the Central Pacific. Tagging has shown little relative mixing outside of this area. He also mentioned Council staff is assisting on a genetic study throughout the Pacific for bigeye and striped marlin.

Tosatto said that spatial stock structure has significant policy and management implications.

## **2. Western and Central Pacific Fisheries Commission 15**

Kingma presented the outcomes of the 15th Regular Session of the WCPFC convened in Honolulu in December 2018. Notable issues addressed at the meeting included at-sea labor standards; harvest strategies; target reference points for South Pacific albacore; mitigation of shark, bird and turtle bycatch; compliance monitoring; redefining FADs employed in purse-seine fisheries; and conservation and management measures for tuna stocks.

The Commission prioritized a rebuilding plan for North Pacific striped marlin, but it is also subject to a new stock assessment that will be developed by the International Scientific Committee for Tuna and Tuna-Like Species in the North Pacific Ocean (ISC). Kingma noted that the SSC considered this issue and also made a recommendation for PIFSC to complete life history work.

Transshipment was addressed, and a small working group convened to begin means to reform and reduce the practice. US longline fisheries do not practice transshipment.

The Commission agreed to interim target reference points for South Pacific albacore over an interim duration of 20 years. They include a spawning biomass that exceeds 56 percent of the spawning biomass in absence of fishing, an increase from most recent spawning biomass estimated to be 52 percent spawning biomass in absence of fishing. An 8-percent increase in CPUE from 2013 levels was also agreed as a target. WCPFC's science providers will investigate ways to achieve these targets and will review the target reference point every three years.

Tosatto said the nominations for the US Permanent Advisory Committee (PAC) of the WCPFC close on March 25, 2019. A conference call will be held early in the summer and an in-person PAC meeting will be held in October 2019, with relevant Councils participating. He reported that the process is underway to nominate Drew Lawler as the WCPFC commissioner for NMFS, Kenny Alameda departed his seat and Stuart Chikami was named an alternate commissioner.

Simonds said Council members have been provided with the Federal Register Notice for the PAC and also the list of those who are currently on the PAC. The Council is waiting for Lutu-Sanchez to be appointed by the White House.

Sesepasara asked if Tosatto had a list of PAC applicants.

Tosatto said no.

### **3. 2018 Workshop on Identifying the Spatial Stock Structure of Tropical Pacific Tuna Stocks**

Fitchett presented on the 2018 Workshop on Identifying the Spatial Stock Structure of Tropical Pacific Tuna Stocks hosted by the SPC in Noumea, New Caledonia, on Oct. 9-12, 2018. The workshop identified genetic techniques to discern spatial distinctions of bigeye, yellowfin, skipjack and albacore tuna. A research work plan emerged from discussions led by scientists throughout the Pacific region. Existing biological and tagging studies on these species were also reviewed.

Stock structure delineations are often defined by biological definitions of stocks, while some are arbitrary and others are based on fishery and political regions. The stock structure workshop aimed to determine biological and spatial groupings to reconcile any non-biological stock structure issues. Tools for this include tagging, molecular and chemical markers by region, and genetics. Genetic techniques have improved rapidly as “next generation” and can determine similarities of animals by region on generational timescales, as opposed to evolutionary timescales. Tagging and observations of fish movement coupled with genetic studies can determine gene flow (natal homing) versus fish flow (adult movement patterns).

Fitchett said recent studies indicate bigeye tuna likely exhibit a local Central North Pacific Hawai'i stock or sub-stock. Based on microchemistry studies on otoliths, yellowfin tuna likely have a distinct local Hawai'i stock. The same study indicates bigeye tuna have similarities

between Hawai‘i and the Line Islands, distinctly different from the Marshall Islands and the Solomon Islands. Tagging studies show some degree of regional mixing, with a few “nomadic” fish. Fitchett concluded that research objectives are to discern similarities and differences between the Central, East and West Pacific. A research plan will emerge. In the meantime, bigeye tuna stock assessments use two debatable stock structure assumptions.

Watamura noted there were few tagging observations around the Hawaiian Islands.

Fitchett said there was some Central Pacific tagging in the Line Islands. Recoveries of these tags did not show much movement up north. He agreed there was not much tagging effort.

Watamura wondered where the fish would go if there were effort in the region around Hawai‘i.

Fitchett said some tagging data was not incorporated with the cooperative tagging project between the SPC and IATTC shown in the presentation. However, some fish tagged north of 20°N did move south but did not move much to the east or the west.

#### **4. North Pacific Fisheries Commission**

Gourley presented on the outcomes of the North Pacific Fisheries Commission Scientific Committee meeting. He noted an annual report, some changes in the State Department contacts and meetings of Small Scientific Committees on Bottomfish, Vulnerable Marine Ecosystems and Pacific Saury, as well as the Fourth Scientific Committee meeting. There was a request for proposals for a consultant to help the Commission develop a VMS Enforcement System.

Sabater added some supplemental information. The Scientific Committees on Bottomfish and Vulnerable Marine Ecosystems conducted a workshop in November 2018 in China. The workshop participants included representatives from China, Japan, Russia, Canada and Korea. The workshop goal was to develop a list of data needs for the Commission to document the effort footprint in the Convention area and to determine the reporting requirements for interactions with the vulnerable marine ecosystem. A professor from the University of Florida presented a project that links georeferenced fishing vessel data with underwater cameras systems to produce an effort map overlaid onto a vulnerable marine ecosystem.

#### **5. 7<sup>th</sup> Meeting- South Pacific Regional Fishery Management Organization**

Tosatto presented on the 7th meeting of the South Pacific Regional Fisheries Management Organization (SPRFMO), held in The Hague, Netherlands, on Jan. 19-27, 2019. Issues addressed included recommendations from the Science Committee, compliance and SPRFMO conservation management measures. Fisheries include jack mackerel, non-tuna pelagic species off South America, bottomfish and seamount groundfish, vulnerable marine ecosystem and habitat issues in the Australian and New Zealand area, and squids mostly off South America. There are no US fisheries participating. A VMS system is in place, but there are no at-sea boardings. China has been an obstructionist in the Commission. The Cook Islands will begin an exploratory trap fishery for a couple seamount crustacean species and have some seamount



fisheries near American Samoa. The United States has a defunct squid fishery, for which there has been some interest recently. The Scientific Committee meeting will be held in Cuba. Vanuatu will host the next annual meeting.

## **6. UN Intergovernmental Conference on Biodiversity beyond National Jurisdiction**

Kingma presented on the BBNJ. The first session of the Conference was convened in September 2018 in Rome. The second session will take place from March 25 to April 5, 2019, in New York. In 2015, the UN General Assembly agreed to develop an international legally binding instrument under the UN Convention on the Law of the Sea. Negotiations are underway to develop a new legally binding convention for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. The new convention has four main themes: 1) marine genetic resources, 2) “area-based management tools” including MPAs, 3) environmental impact assessments, and 4) capacity-building and the transfer of marine technology.

Recommendations, proposals and criteria for selecting MPAs in the open ocean are synonymous with overtures from environmental nongovernmental organizations encouraging utilization of high seas closures through international efforts. Kingma said the theme on transfer and sharing of benefits is a mechanism to garner support of the developing countries in what is likely a developed nation-driven initiative.

Developments in BBNJ may allow nongovernmental organizations an instrument to influence or develop international fisheries policies on the high seas that would otherwise not be tenable under the purview of regional fisheries management organizations (RFMOs). Negotiations on BBNJ have included discussions on how existing legal instruments should not be undermined. However, the legal instrument for which BBNJ is under may supersede RFMO management authority. The US Department of State is leading negotiations at the United Nations on behalf of US interests, including international fisheries. The UN Committee on Fisheries has affirmed that it is the foremost forum for which debate and discussion on proposed actions regarding BBNJ should take place.

Kingma said that the Council may express significant concerns with the development of the convention such that high seas closures could be imposed and override existing tuna RFMO authority. High seas fishing grounds are incredibly important to the Hawai‘i longline fishery. Any closures to high seas waters adjacent to the US EEZ in combination with existing monument prohibitions and other closures would devastate the Hawai‘i longline fishery. Kingma listed criteria from the President’s Guide that can be used for selecting MPAs.

Goto said that the BBNJ is a looming risk.

Tosatto said that NMFS is not ignoring it and it is not clear if BBNJ is far enough along to undermine RFMOs like the Fish Stocks Agreement.

Kingma said he believed proponents of this Convention are opting for a new global body that has the ability to establish MPAs that would upend tuna RFMO management.

## **F. Advisory Group Report and Recommendations**

### **1. Advisory Panel**

There were no AP recommendations pertaining to pelagic agenda items.

### **2. Scientific and Statistical Committee**

Lynch presented the SSC report and recommendations pertaining to pelagic agenda items

*Regarding the Hawai‘i longline annual fishery report*, the SSC recommended that PIFSC work with California fish dealers and the Southwest Fisheries Science Center to obtain weight information for landed catch.

*Regarding the Hawai‘i shallow-set longline fishery*, the SSC recommended that the following members of the SSC serve on the draft BiOp review group: Jim Lynch, Steve Martell, Shelton Harley, Milani Chaloupka, Justin Hospital, Ray Hilborn and Don Kobayashi.

*Regarding the US Participating Territory longline bigeye specifications*, the SSC found that the methodology used to assess the relative impacts of the specification limits remains appropriate and utilizes a similar approach to the analyses conducted by the SPC to evaluate the effectiveness of the WCPFC tropical tuna measure. Based on the evaluation conducted by Council and PIFSC, the SSC further noted that projected impacts from the options are believed to not lead to bigeye overfishing and are consistent with Commission management objectives.

*Regarding the maturity, age and growth of Central North Pacific striped marlin*, the SSC recommended that PIFSC complete the histological maturity study for North Pacific striped marlin sampled from the Hawai‘i longline fishery and to provide the information to the ISC prior its July 2019 meeting.

## **G. Standing Committee Recommendations**

Goto presented the Pelagic and International Standing Committee report and recommendations.

*Regarding the Hawai‘i shallow-set longline fishery*, the Standing Committee endorsed the SSC recommendation that the following members of the SSC serve on the draft BiOp review group: Lynch, Martell, Harley, Chaloupka, Hospital, Hilborn, and Kobayashi. The Standing Committee further recommended that a Council meeting be convened shortly after receiving the draft BiOp if warranted.

*Regarding false killer whales*, the Standing Committee endorsed the SSC recommendation [under Protected Species agenda item] that the Council request NMFS to develop approaches for incorporating comprehensive PVA to supplement the use of PBR and to reduce uncertainty in PBR estimates under its policy guidelines for preparing MMPA Stock Assessment Reports and further that the Council request from NMFS data sufficient for the SSC to develop the PVA in parallel to the NMFS process.

*Regarding false killer whales*, the Standing Committee endorsed the SSC recommendation [under Protected Species agenda item] that the Council request the request NMFS consider developing probability-based serious injury determination criteria for false killer whales.

*Regarding the US Participating Territory longline bigeye specifications*, the Standing Committee recommended that for 2019 that NMFS specify for each US Participating Territory, a 2,000-mt longline bigeye catch limit and specify that each territory can each allocate up to 1,000-mt of their bigeye catch limit.

*Regarding the BBNJ*, the Standing Committee recommended a letter be sent to the Department of State to convey concerns with the proposed convention text, including a request that high seas fisheries targeting tuna and tuna-like species be exempt from any potential high seas closures established under the new BBNJ convention. The letter should also include recommendations made by the spatial working group and endorsed by the SSC.

## **H. Public Comment**

Goto said that General Counsel advised that the present agenda item be referred to as public comment instead of public hearing.

Lutu-Sanchez, commenting on the LVPA issue, said that Sesepasara and Council members may not be aware of correspondence regarding the Tautai O Longline Association's participation in the Fisheries Task Force. A letter was to be distributed.

Carlos Sanchez, providing public comment, said that the lack of public comment may be due to boredom or lack of interest. He said Lutu-Sanchez is of high integrity and knows what she is talking about. He accused the American Samoa government of going to "the weakest link" within the fishing community in regards to the Fisheries Task Force.

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

*Regarding the Hawai'i longline annual fishery report*, the Council **endorsed the SSC recommendation that PIFSC work with California fish dealers and the Southwest Fisheries Science Center to obtain weight information for landed catch by Hawai'i longline limited entry permitted vessels.**

Moved by Goto; seconded by Rice.

Motion passed.

*Regarding review of the draft BiOp for the Hawai'i shallow-set longline fishery*, the Council **directed staff to establish a BiOp Review Advisory Panel consisting of the following members: Lynch, Martell, Harley, Chaloupka, Hospital, Hilborn and Kobayashi.**

Tosatto commented on availability of the draft to SSC members and said he will consult with General Counsel on this matter.

Lynch confirmed all members are SSC members.

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding review of the Draft BiOp for the Hawai‘i shallow-set longline fishery, the Council* **directed staff to provide the draft BiOp to the BiOp Review Advisory Panel and convene the group on April 2, 2019. The BiOp Review Advisory Panel shall focus its review on the effects analysis, conclusions and any Reasonable and Prudent Measures/Alternatives, if applicable, and provide its recommendations to the Council at its meeting scheduled on April 4, 2019.**

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding the US Participating Territory longline bigeye specifications, the Council* **recommended for 2019 that NMFS specify for each US Participating Territory (American Samoa, Guam and CNMI), a 2,000-mt longline bigeye catch limit and specify that each Territory can allocate up to 1,000 mt of its bigeye catch limit through specified fishing agreements. The Council further recommended that NMFS implement these specifications by July 1, 2019.**

**The Council directed Council staff to finalize and transmit the specifications for Secretarial review, as appropriate. 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 authorized 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 the chair were authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.**

Sesepasara asked what happens if only one jurisdiction transfers quota or if there is no transfer.

Simonds said that depends on whether the Hawai‘i quota is reached.

Moved by Goto; seconded by Rice.  
Motion passed.

*Regarding North Pacific striped marlin, the Council* **endorsed the SSC recommendation that PIFSC complete an ongoing histological maturity study for striped marlin sampled from the Hawai‘i longline fishery and further that PIFSC should provide the information to the ISC prior its July 2019 meeting, which is when North Pacific striped marlin stock assessment is scheduled to be presented.**

Moved by Goto; seconded by Rice.  
Motion passed.

Regarding the UN Intergovernmental Conference on Biodiversity beyond National Jurisdiction, the Council **directed staff to write to the Department of State to convey concerns with the proposed convention text, including a request that high seas fisheries targeting tuna and tuna-like species be exempt from any potential high seas closures established under the new BBNJ Convention. The letter should also include recommendations made by the Spatial Working Group and endorsed by the SSC.**

Gourley asked if any other species should be included in the recommendation, like squid.

Soliai said to leave it as it is.

Moved by Goto; seconded by Rice.  
Motion passed.

Regarding economic impacts from the 2018 amendment to the Billfish Conservation Act, the Council **requested NMFS PIFSC Socioeconomics Program to evaluate the economic impacts on US Pacific Island fisheries from the 2018 amendment to the Billfish Conservation Act.**

Goto asked Bigelow who is leading the Socioeconomics Section of PIFSC.

Bigelow noted it was Hospital.

Simonds noted that the Council would be involved.

Bigelow suggested adding the request to the Council's Omnibus letter to PIFSC.

Moved by Goto; seconded by Rice.  
Motion passed.

## **XI. American Samoa Archipelago**

### **A. Motu Lipoti**

Sesepasara reported on DMWR's outreach efforts to three of the schools in the territory with more school visits planned for April. He spoke about DMWR's data collection efforts with the *alia* fishery and reported that, since the last Council Meeting, there were 143 runs that included 66 weekday collections and 13 weekend and holiday collections. DMWR's Fisheries Division handles all creel survey data collection, commercial fishermen licenses and seafood vendor commercial receipt book collections.

Sesepasara reported that DMWR staff has been working with the Fisheries Officer in Independent Samoa to collect DNA of various bottomfish species. Those samples are being sent to Australia to a genome research facility in Victoria. The Fisheries Division staff and its partners in neighboring Samoa collected 120 samples of *Acanthurus lineatus*, *Myripris berndti*

and *Scarus oviceps*. The facility in Australia will analyze their DNA sequences to determine if the species in the two Samoas are the same.

Regarding DMWR's FAD Program, Sesepasara said his staff has worked to replace one of the FADs on Tutuila that was lost during tropical cyclone Gita in February 2018 and is fabricating a new FAD to be deployed soon. He also reported that DMWR has been working with the purse-seine fishing boats to develop a new, biodegradable FAD design. The purse seiners reached out to DMWR to assist them with testing and monitoring the new designs, financing the top portion of the FAD and utilizing DMWR's current FAD locations to test them.

Sesepasara provided data from the last quarter of 2018 for *alia* pelagic catch. He indicated that the data included both *alia* trolling and longline catch, as there is still a single longlining *alia* operating in American Samoa. The lone vessel landed about 2,108 pounds of albacore tuna.

Sesepasara also provided a status update on the repair work that was conducted on the *alia* fishing boats on the islands of Ofu and Olosega in the Manu'a group. Six *alia* were repaired on those islands. Following the repair work, the Fale-Lua-Nu'u Fishermen's Cooperative Association hosted the first Manu'a fishing tournament the week before Christmas in 2018. Sesepasara thanked the Council executive director for assisting with the tournament by providing fuel for the boats. He noted that fuel availability continues to be a major issue for the Manu'a fishermen. He said the tournament was a success. Although a delay with the boat that brought in the fuel for the tournament cut the originally scheduled fishing time from three days to a day and a half, more than 700 pounds of fish was caught. He said the repair work will now be shifted to Ta'u Island. The contractor DMWR hired to fix the *alia* on Ofu and Olosega is already there preparing to conduct those repairs. According to Sesepasara, the Taisamasama Fishermen's Cooperative Association on Ta'u is planning to hold its own fishing tournament when the repairs are completed, and he would request assistance from the Council when that happened.

Sesepasara concluded by reporting on the Malaloa Marina dock extension project. He indicated that Gov. Lolo Moliga is making that project a high priority and that \$1.6 million has been identified for the dock extension's construction. He also noted that he is in the process of negotiating with USFWS to purchase the outer 400-foot edge of the dock. He said that currently it is designated for recreational boats and transient yachts because it was constructed with USFWS funds. It will also be connected to the extension that is planned.

Simonds asked Sesepasara if the American Samoa government had requested an exemption from the Department of the Interior for the use of the Malaloa Marina dock for non-recreational boats. She said the islands are different from the US mainland and it does not make sense to exclude non-recreational boats from using the dock. She suggested all of the territories make a request together.

Sesepasara said no such request had been made but he had discussed options with USFWS. The USFWS is awaiting a report on the dock from DMWR, which is due on March 28, 2019.

Simonds asked on what a potential purchase price would be based.

Sesepasara said USFWS is doing an appraisal to determine the worth of the outer side of the existing dock.

Simonds said that CNMI also would like to use its docks for non-recreational purposes and together the two territories could make a strong case to do so.

## **B. Fono Report**

Nate Ilaoa, Council staff, provided a brief legislative report. There was no fishery-related legislative action since the October Council meeting. He said, following the November mid-term election, there are 38 new members of the House of Representatives and incumbent Congresswoman Aumua Amata Radewagen won her bid for re-election capturing the large majority of the vote. Additionally, a veto override referendum was defeated in the vote.

## **C. Enforcement Issues**

Ilaoa provided a summary of both the American Samoa government and OLE activities for American Samoa since the 174th Council meeting. DMWR has issued two renewal and one new commercial fishing licenses in the last two quarters. It also continued to enforce seafood vendor compliance and the timely submission of invoices from those vendors. It included random checks of the participating businesses. Ilaoa also detailed dockside enforcement actions by OLE officers in American Samoa dealing with inspections, compliance assistance and boardings of US-flagged purse-seine vessels to ensure compliance. No violations were reported.

Sesepasara said the American Samoa government partners with NOAA OLE through a JEA Program to enforce fishing regulations in the EEZ around American Samoa.

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

Soliai reported on the American Samoa tuna industry. He asked for first comment on the Motu Lipoti regarding the issue of docking space in Pago Pago Harbor. He said the situation still presents a safety issue due to the lack of space for the commercial vessels to dock. Whenever a cruise ship or other large vessel is in port, the fishing boats are forced to dock at the cannery. This presents a major safety concern not only for the cannery but also for the Port Administration due to multiple boats having to tie up alongside one another. This creates a danger for the crew members who have to cross multiple boats. He stressed the need to solve this problem.

Soliai informed the Council that Drew Lawler, the deputy assistant secretary for international fisheries, visited StarKist in February. During the visit he met with both longline and purse-seine boat owners and operators and their crews. He toured four purse-seine vessels and a longliner. The meeting was informative and allowed him to gain valuable information about the cannery operations and a perspective of the significance the fishery has and its importance to the economy. Soliai said he Lawler left American Samoa impressed by his tour and meetings as well as the industry operations, which gave him a broader perspective of the territory.

Soliai also reported on the reinstatement of the Guest Worker Program by Gov. Moliga upon a request from StarKist in the previous year. He spoke of the cannery's operations being impacted by poor attendance and absenteeism, which continues to be a hindrance. The governor approved the request to reinstate the program, and StarKist is in the process of recruiting workers from Independent Samoa, screening for qualification and working with the American Samoa government on approval of Immigration Office clearances. The company hopes this program's reinstatement will help to stabilize the workforce and maintain attendance at a level that will sustain the canneries operations.

Lastly, Soliai updated the Council on the status of StarKist's plans to relocate its California-based packing operations to American Samoa. He said the move has been delayed until 2020, but there is no definite timeline as of yet for the move. The company has informed the governor of the upcoming relocation and the projection that the move will create 250 to 300 new jobs for the American Samoa economy. This news has been well-received by the governor and the community, and he is hopeful the roll out will be in early 2020.

Lutu-Sanchez added that Lawler's tour of the longline vessel was a thorough one as he looked at every part of the boat from the engine room to the fish holds. He met with all of the American Samoa longline owners and learned who they were and who their crews were. Lutu-Sanchez hoped that the meeting with Lawler impressed upon him the importance of having fishing access in American Samoa waters. The longline owners also conveyed to him the importance of having a strong stance from the US delegation when at international fisheries meetings such as the WCPFC to support all US fishermen, including those in American Samoa.

#### **E. Education and Outreach Initiatives**

Ilaoa reported to the Council that four students from American Samoa applied for the US Pacific Territory Capacity Building Scholarship. Currently one American Samoa student receiving the scholarship is attending Hawaii Pacific University and two who had graduated through the program are back in American Samoa working for agencies. He added that the American Samoa AP members are working on a second version of the "Know Your Fisheries" brochures, which were developed for the Fishers Forum in American Samoa in 2015. The second version will focus more on socioeconomic information to highlight the importance of the fisheries to the local economy and potential careers in fishery-related areas.

Lutu-Sanchez added that the effort by the AP to bring more awareness to the community about the various fisheries is helpful because there is a lack of fisheries awareness in the Territory. She also spoke about efforts by the USCG to provide education and awareness training for the longline crews and masters, including development of a three- or four-day training session for April with the help of the District 14 office. She also noted that the AP had expressed concern with the terms of USCG active duty officers stationed in American Samoa and that the current single-year term does not help continuity of programs and enforcement activities.



## **F. Marine Conservation Plan Projects**

Ilaoa reported on the projects that DMWR included in its current Marine Conservation Plan for American Samoa. The projects fall under six main objectives.

- Maximizing social and economic benefits through sustainable fisheries
- Supporting quality scientific research to assess and manage fisheries
- Promoting an ecosystem approach in fisheries management
- Recognizing the importance of island culture and traditional fishing and managing fishery resources and foster opportunities for participation
- Promoting education and outreach activities and regional collaboration regarding fisheries conservation
- Encourage development of technologies and methods to achieve the most effective level of enforcement and to ensure safety at sea

DMWR also developed a set of evaluative criteria for each of the projects. The complete list of projects is in the briefing document under agenda item 11.F.

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

### **1. Advisory Panel**

There were no AP recommendations pertaining to American Samoa.

### **2. Scientific and Statistical Committee**

There were no SSC recommendations pertaining to American Samoa.

## **H. Public Hearing**

There was no public comment.

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

*Regarding the assignment duration for the USCG head of the Marine Safety Detachment in American Samoa, the Council **directed staff to communicate with the 14th District requesting its assistance in finding a solution, or innovative methodology, to address continuity concerns caused by a one-year rotation of the active duty member service for the Marine Safety Detachment in American Samoa.***

*Moved by Seseapasara; seconded by Lutu-Sanchez.  
Motion passed.*

## **XII. Mariana Archipelago**

### **A. Guam**

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

Duenas reported on the Guam fishing community, noting the upcoming fishing derbies and the Merizo Crab Festival. Guam has had a good wahoo run from October to January, which bled into a strong mahimahi run in 2019. He said the mahimahi are sticking around because there is a lot of cold water still around Guam. Even though they have a lot of mahimahi and wahoo, there is still a lot of shark depredation and many are reporting their catches being taken by sharks. Earlier this year, FAD buoy 4 got entangled in the prop of a repositioning ship, which concerned fishermen because it would have been disastrous had a smaller vessel done the same. The fishing community is considering requesting that the military assist in redploying the FAD to avoid having Guam pay since the military was the cause of removal.

Muna-Brecht reported on the creel survey efforts by the Division of Aquatic and Wildlife Resources (DAWR) with an update on catch, species and methods used. Shark interactions were significant for troll and *talaya* (net) fishermen. She also covered the Boating Access Program's plan to build a southern boat ramp; the Department of Public Works and Port Authority of Guam's plan to rebuild parts of Agat Marina and Merizo Pier; and fishing derbies in June and July. She said DAWR continues to issue permits for seasonal takes of bigeye scads, juvenile jacks, juvenile goatfish and juvenile rabbitfish. She noted an effort by a Guam senator to prohibit SCUBA spearfishing in Guam and a vessel grounding that happened on the reef in Guam. Muna-Brecht also reported on protected species and work with Underwater World on sea turtle strandings. A beaked whale found in Agat later died, and the media was concerned that the use of sonar may have caused the death. Brain tissue samples from the whale were taken and sent to Hawai'i with hopes of receiving the results in six months.

Rice asked Duenas if the fishing community sees yellowfin or bigeye tuna or striped marlin.

Duenas said he has never seen a local striped marlin and has seen only those from foreign longliners that offload at the port. As for tunas, he said that few bigeye come through Guam, and yellowfin that pass through is common but on the small side.

Soliai noted that the boat ramp Muna-Brecht mentioned in her report was expensive. He asked if there was any increase in people utilizing the existing boat ramps.

Muna-Brecht said that recreational use has increased, but people will buy boats if they have access and will sometimes launch from shore where there are no ramps.

Sensui asked if the legislature had considered using bag limits instead of a SCUBA spear ban.

Muna-Brecht said that fishermen introduced that idea as well, which pointed to the necessity of including fishermen in the conversation before introducing the bill. The bill has been

around for many years but got a lot of heated blowback from the fishing community historically, which points to the need for more conversation on the issue.

Sensui said that it was done in Kona and that, even in the face of evidence presented to the Board of Land and Natural Resources to the contrary, SCUBA spearfishing was banned.

Muna-Brecht said one assertion is that free divers could take more fish than SCUBA spear fishermen. The arguments can go both ways, which is why there needs to be a better look at the data and to have the conversation to collect the information that is not captured in surveys.

Simonds called on Sabater to provide an update on Guam data noting that decisions have to be made based on the creel surveys.

Sabater presented the available data and compared the total catch and the number of years for the snorkel spear fishery and SCUBA spear and showed that they are about equal. There is no evidence that one is catching more than the other, and there are many more snorkel spear fishermen than those using SCUBA spear. The science behind the proposed legislation utilized the underwater census survey that compares size frequency and estimated biomass using drop camera work done by an Australian scientist and not the catch information. The difference is apples and oranges. There are bigger fish in deeper waters, but analysis of the size frequency distribution of the catch is needed to determine whether fish caught by SCUBA spear are actually larger than those caught by snorkel spear.

Muna-Brecht countered that SCUBA spear fishermen go at night while the surveyors only work between 8 a.m. and 5 p.m. She asked how to determine what the SCUBA spear fishermen are catching. Fish ending up in the market have not shown a change in the size, although, anecdotally, free divers say that fish seem to be getting smaller.

Sesepasara said American Samoa banned SCUBA spearfishing through legislation that originated from the community. They noticed the size of their reef fish getting smaller, due to SCUBA spearfishing at night. He asked about the vessel grounding in Guam and who financed the removal of the vessel.

Muna-Brecht reported that the vessel was from a local parasailing company and the government did not fund the removal.

Sesepasara said that they have similar problems with vessel groundings and are looking at legislation to require non-local boats coming into American Samoa to have insurance.

## **2. Legislative Report**

Muna-Brecht reported on two proposed pieces of legislation. One would ban SCUBA spearfishing, which is contentious and was introduced without consulting either the agency or the community, causing a strong reaction from the community. That senator has engaged in conversations with both sides so there may be a chance to find a resolution that is mutually beneficial rather than a ban that would be impossible to enforce. The second is the Coral Reef Protection Act that was introduced in previous years. It is being circulated for feedback prior to

being introduced this year. That Act would prohibit vessels from anchoring on or near coral reefs but would exempt vessels 24 feet and under from enforcement until additional moorings are put in place.

### **3. Enforcement Issues**

Muna-Brecht reported that all of the enforcement violations from January to March involved sea turtles. Not all of the turtles were released alive. The most recent case involved two carcasses left on the side of the road. Through a JEA, Guam gets reimbursed for personnel hours and wages spent on cases involving NOAA OLE. This agreement has been mutually beneficial and positive.

### **4. Mandatory Permit and Licensing Regulation**

Muna-Brecht reported that an issue for Guam is the ability for DOAg or the legislature to implement fishing permits without the convening of the Guam Fishery Council, enacted through legislation to develop fishing regulations for Guam. The Guam Fishery Council legislation specifically named organizations to be members. Some of the organizations no longer exist, which leaves the legislature in a limbo as to what to do in convening the Council. Other problems of getting members confirmed by the legislature exist. Efforts are underway to look at legislation to remove or rescind those boards and councils that are no longer needed or serve a purpose. What is apparent from the Guam Fishery Council legislation is that the fishing community wants to be consulted and be involved in the creation of fishery rules. Muna-Brecht added that she is looking at options to repeal that legislation and include the ability to develop fishing permits in consultation with the fishing community. She noted that creating a permit process for fishing could also require tourists who fish to pay a permitting fee, which would facilitate the tracking of fishing effort and catch.

Watamura said an associate of his is in the process of developing a fishing app that would connect fishermen to fishermen and fishermen to fish. He saw the need for noncommercial data, and they are working to include a noncommercial fishing reporting feature as a big part of the app. He also commented on the willingness of fishermen in Guam to have a registry permit or license because in Hawai'i they are met with much resistance from the fishing community. There is a fair amount of apathy from Hawai'i fishermen or a lack of leadership, and it is nice to see the opposite in Guam and CNMI.

### **5. Community Activities and Issues**

Felix Reyes, Council staff, provided the community activities and issues report for Guam. He reported a change in the governor and the legislature since the last Council meeting, resulting in leadership changes in the different agencies that the Council works with in Guam. He reported on the issues with the status of repairs at the harbors and the lack or poor condition of infrastructure for fishermen. He also reported on efforts to collect data from kayak fishermen who are able to launch and return from places other than the harbors, so their data may not be collected in the creel surveys.

Muna-Brecht said that another group that may be overlooked in collecting fishing data is the paddleboard fishermen.

Wamura said he was impressed by how meticulous they were in collecting the data at the Council's spearfishing tournament in October 2018. Every fish was measured, weighed, identified, photographed and recorded, which is far ahead of what is done in Hawai'i.

## **6. Education and Outreach Initiatives**

Reyes reported that Council publications and reports are being widely distributed at the Mayors' Council Office as well as the libraries, Guam Museum, DOAg, Guam Fishermen's Cooperative, Guam Visitor's Bureau and many other places. The Council also participated with DAWR in the University of Guam's Charter Day events by providing information and publications. AP members have been participating in beach cleanups and are working with Council staff to develop the High School Summer Course on fisheries as well.

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

#### **1. Arongol Falú**

Kaipat provided the island report for the CNMI, including ongoing recovery efforts since Super Typhoon Yutu hit during the Council meeting in October 2018. During this time, collecting data and tagging fish has been ongoing as well. The Marine Resource Assessment Program, funded by Sport Fish Restoration, is working on plans for surveys around Saipan and the MPAs. The outreach program was put on hold as schools continue to recover from Yutu, but the DLNR is preparing materials in anticipation of the program starting up again in the near future. The FAD program reported that all of the FADs were lost except for two due to Yutu. The Division of Fish and Wildlife (DFW) is working on ordering and replacing 10 FADs.

Gourley provided an update on the CNMI Biosampling Program, a successful federal, state and private sector partnership in fisheries research, as funding and assistance has been provided by PIFSC, CNMI DFW and the Council with Micronesian Environmental Services. The program started in 2010, and data on reef fish has been collected for eight years. The program concentrates on surveyors getting data from six to eight markets on reef fish and invertebrates. To date, they have collected data from 2,911 fishing events, meaning complete catch from fishermen including where and when they fished. Data collected includes length, weight, otoliths and gonads from 195 different species from as far away as Pagan and as nearby as Tinian. Markets are sampled on two weekdays and one weekend. Gourley said the bottom line is that the commercial reef fish market is caught by spear at night approximately 95 to 98 percent of the time. Most of the spear fishers are guest workers. Potential reasons for the drops in numbers of fishers are changes in immigration and an improving economy. This can be attributed to the loss of highliners in the fishery. Markets do not have reef fish all the time because of bad weather. In order of abundance in the markets, the species are unicorn surgeonfish, goatfish, rabbitfish, emperors and parrotfish. The program's goal is to use the biosampling data to help management review the applicability of regulations.

Rice said that in 2008 and 2009, the economy in Hawai‘i was down so fish catch went up because those not working in construction went fishing. This might have a similar impact in CNMI as well.

Sensui commented on the importance of commercial fishing to the markets and the importance of night spearfishing, even if it is considered unpopular. That unpopular opinion that night fishing is destroying the resource is dispelled by this study.

Gourley said fishing effort is not the problem for some species.

## **2. Legislative Report**

Kaipat provided the legislative report noting that a size restriction bill that was not passed during the last Legislature has been reintroduced. The proposed House Bill 21-17 introduced by Rep. Roman Benavente is entitled “to prohibit the taking and selling of certain sizes of fish species by adding a new Section 5645 to Articles 4, Chapter 6, Division 5 of Title 2 of the Commonwealth Code; and for other purposes.” The bill has not yet been placed on the House Calendar or Committee. DFW is monitoring this bill closely. Kaipat also reported that on March 6, 2019, Sen. Vinnie F. Sablan introduced a bill to amend 2 CMC Subsection 5631 to allow surround nets in the Third Senatorial District for the seasonal run of bigeye scad, or *atulai*.

## **3. Enforcement Issues**

Kaipat reported that due to Typhoon Mangkut in September and Super Typhoon Yutu in October 2018, DFW suspended all JEA enforcement activities to address the pressing cleanup activities. The JEA enforcement activities were resumed in January 2019.

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

### **a) Bottomfish Fishery Development Project**

There was no report provided on this activity.

### **b) Mandatory License and Reporting Regulation**

Kaipat reported on proposed regulations that will enable the DFW to collect reliable data in commercial harvest purchase and/or sale of products caught in the CNMI waters. With the assistance from the CNMI Attorney General and the DLNR Secretary, the regulations are out for public comment until March 20, 2019. A request was submitted to extend the comment for another 30 days.

## **5. Education and Outreach Initiatives**

Kaipat reported that the Council’s CNMI coordinator, Floyd Masga, has been working to provide outreach materials, banners, photos and documents on all fishing-related activities in the CNMI to the community.

### **C. Marianas Shark Research Project**

Fitchett presented the Council's plans for shark depredation research in the fisheries of Guam and CNMI. The research plan is a result of a meeting in Saipan involving the Council, PIFSC and the fishermen to characterize the shark depredation issue. Fishermen have noted a high frequency of shark interactions, most of which are depredation events that contribute to the loss of fishing opportunities. With input from PIFSC, the Council drafted a research plan in October 2018 to explore which species of shark are responsible for depredation and what contributes to the risk of depredation. The plan is to address these questions by covering knowledge gaps on the local composition of species; determining the risks both perceived and quantified of depredation; elucidating seasonality and residency of sharks responsible for depredation; and estimating gear/fisher effects that may contribute to the propensity of shark interactions.

Muna-Brecht asked if equipment loss will be quantified.

Fitchett said that is something that could be considered.

Duenas asked if part of the research will track change in shark behaviors.

Fitchett said that should be considered as part of the research. As fisheries change, shark behavior would likely change, but other extrinsic factors may be driving depredation as well.

Watamura asked if there is a timeline for conducting the research.

Fitchett said, hopefully, the first part of the research will start in the summer of 2019 during the troll fishing season.

Watamura asked what can be done after the research is concluded.

Fitchett said the ultimate goal is to see if there is a conflict with the current regulatory measures associated with shark retention, catch and sale, as well as the social perception of catching and retaining sharks.

Gourley asked if it was worth collecting biological data, maturity, age and growth, pulling of vertebrae on the sharks that come up dead.

Fitchett said those are not within the scope of this research but it would be interesting beyond this research to look at life history and local demographics.

Simonds said, when the Council began talking about this project years ago, surveys were being done by PIFSC. However, what shark populations were present was unknown, so it is important to work on knowing as much as possible about those populations.

**D. Update on Marianas Trench Marine National Monument Management Plan and Sanctuary Request**

Tosatto reported on the status of the Marianas Trench Marine National Monument explaining that work is ongoing to develop a Draft Management Plan and a Draft Environmental Impact Statement for that plan. The release may be complicated by reviews of the monument areas by the Departments of the Interior and Commerce. Time will tell how that will proceed. Beyond that, consideration is being given on how to implement the plan. Regarding the request to overlay a National Marine Sanctuary over the Marianas Trench Marine National Monument, Tosatto said the request is at the Office of National Marine Sanctuary, along with many other Sanctuary requests. He said he has heard no intention to make progress on that request.

**E. Advisory Group Reports and Recommendations**

**1. Mariana Archipelago Fishery Ecosystem Plan Advisory Panel**

There were no recommendations from the Mariana Archipelago FEP AP.

**2. Scientific and Statistical Committee**

The SSC had no recommendations pertaining to the Mariana Archipelago agenda items.

**F. Public Comment**

There was no public comment.

**G. Council Discussion and Action**

*Regarding mandatory licensing and reporting in the Marianas, the Council **directed staff to work with the Guam DOAg and the CNMI DLNR on the development of licensing and reporting applications (i.e., online or mobile platform) for Mariana Archipelago fishermen and dealers to report their catch and/or fish purchases.***

*Moved by Gourley; seconded by Duenas.*

*Motion passed.*

**XIII. Administrative Matters**

**A. Financial Reports**

Simonds reviewed the 2018 grant expenses, noting that 2019 is the last year of the current multiyear cycle. Regarding FY2019, the regional councils will receive their share of the \$4 million line item, half of which goes to the Commissions and the international offices. This Council's share will be approximately \$150,000, which will be spent on staff that the Council will be hiring this year.

The Coral Reef Conservation Program recently notified Council staff that it will not be funding projects for species that have been removed from the management unit species and



reclassified as ecosystem component species. These projects amounted to \$140,000. The Council removed these species because PIFSC does not have enough information to do stock assessments but the Council is not dismissing management of them. The Council plans to follow up with headquarters about this decision as information for those species is needed to manage them as ecosystem components.

## **B. Administrative Reports**

Simonds reported that there are no staff changes, but there are contracts with former employees Marcia Hamilton and Paul Dalzell to go through the Council's libraries and legacy documents. Simonds noted that letters were distributed to Council members regarding the conflict of interest and recusal policy and that the comment period ended last week. The Council is looking for Headquarters to reevaluate its policy and consider the Council's issue about individual Council members carrying the burden of the company where they are employed. The comments were sent and are pending a response. Other updates included offering the Healthcare Flexible Spending Account to staff.

## **C. 2020-2024 Program Plan and Budget**

Mark Mitsuyasu, Council staff, reviewed the draft Five-Year Program plan for 2020-2024. The plan includes drivers for the Council, including the MSA, the Council's mission and Guiding Principles, FEP goals and objectives, and other authorities that require consideration when the Council makes a decision. Some provisions in the MSA are exclusively for this region, such as the Community Development Program, Community Demonstration Projects Program, Pacific Islands Area Fishing Agreements, Marine Education and Training, and provisions related to RFMOs. The plan for 2020-2024 does not propose changes to the Council's mission.

The Ecosystem Program in the 2015- 2019 plan included protected species, habitat, human dimensions and science. The plan also included priorities for fishing in indigenous communities and education and outreach. In the plan for 2020-2024, protected species will be a separate program, and ecosystems will be integrated into the pelagic and island fisheries programs. When the Council voted on the last plan, the top five priorities were the FEP reviews, support data collection and monitoring and research, capacity building, fisheries development and international fishery issues. The priorities for the new plan are timely processing of actions, protected species, coordinating data and research through the Fishery Data Collection and Research Committee (FDCRC), fishery development, and active participation in international science and management.

Regarding the Council family, the main ones that are required by the MSA are the SSC, the AP and the Fishing Industry Advisory Committee. The rest are established by the Council through research plans or as ad hoc advisory bodies. The staff has looked through the roles and the responsibilities of the different groups and identified some redundancies. Changes over the last several years have expanded the role of the Plan Team and that has overlapped with some of our advisory groups, such as the Protected Species Advisory Committee and Marine Planning and Climate Change Committee. Some of the advisory bodies will be repurposed or discontinued as a result.

When the FEPs moved from species-based to place-based, part of the move was to improve support to the Territories. The new plan will integrate quarterly trips out to the regions for staff to follow up on items such as projects, programs, initiatives and Council actions. The Council would also like to add another Council meeting annually to allow the Council to go to each jurisdiction each year instead of every other year. The current plan has been vetted through different advisory bodies and will be put forward before June.

Soliai thanked staff for the development of the plan and noted that Council looks forward to its implementation.

Simonds said that Chris Oliver and Headquarters included the Councils in many of the priorities the NOAA Fisheries Strategic Plan for 2019-2022 and NOAA Fisheries Priorities and Annual Guidance for 2019. For example, for the 2019 Guidance, Goal 1 is to amplify the economic value of commercial and recreational fisheries. The first priority of that goal supports reviews of the regional fishery management council actions, and the target accomplishment for 2019 is to reduce or eliminate the backlog of existing Council actions. Simonds said past strategic plans did not have anything similar. There will be a Regional Council conference call on March 28, 2019, during which Oliver will talk about this plan and how the Councils fit in.

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

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

Joshua DeMello, Council staff, reviewed the Council family changes matrix.

##### **2. Plan Team**

The agenda item was presented in the prior presentation.

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

The agenda item was presented in the prior presentation.

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

The agenda item was presented in the prior presentation.

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

The agenda item was presented in the prior presentation.

##### **6. Protected Species Advisory Committee**

The agenda item was presented in the prior presentation.

#### **E. Conflict of Interest and Recusal Policy**

The agenda item was presented under Administrative Reports.

## **F. Meetings and Workshops**

Simonds reviewed several meetings dealing with the regional councils and pointed out the conference call with Headquarters about the budget update. Final figures on what NMFS will distribute to all the regional councils will be available. The conference call will include discussions on the Modern Fish Act Guidelines, ecosystem-based fishery management and a habitat workshop proposal.

Other meetings reviewed include the Council Coordination Committee (CCC) Meeting in Charleston, South Carolina, which will include agenda items on Legislative Outlooks and Aquaculture, One Stop Policy Procedural Directives, BSIA Guidance, and BBNJ. The next SSC and Council meetings are scheduled for the weeks of June 18 and 24, 2019.

## **G. Standing Committee Recommendations**

Mitsuyasu said the Standing Committee formulated several recommendations based on the presentations provided, which will be included in the Council discussion and action section.

## **H. Public Comment**

There was no public comment.

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

*Regarding administrative matters, the Council directed staff to send a letter to the NMFS Assistant Administrator (AA) requesting:*

- a. A meeting be convened of Headquarters leadership, PIRO, PIFSC and Council in April 2019 to address processing of outstanding Council actions, consultations and NEPA issues and initiate coordination of regional planning to support NMFS's Regional Strategic Planning initiative; and**
- b. Funds being provided to host a facilitated joint strategic planning workshop for the Pacific Islands that will include staff from the PIRO, PIFSC and the Council prior to the national CCC meeting in May 2019.**

Tosatto said that he did not support the recommendation and that he did not need Headquarters leadership in the region. He said there is an ongoing partnership with the Council regarding Council actions, ESA consultations and NEPA issues, and thus a meeting outside of the routine is not necessary. Regarding the regional strategic planning process, Tosatto said that the process is intended to be a joint PIRO-PIFSC strategic plan in consultation with the Council, rather than a three-part strategic plan. He said that the plan is for NMFS, which has many partners, and that the Council is a primary partner for their fishery management mission and a key stakeholder in the protected species mission. Tosatto reiterated that there was no funding needed for a facilitated joint workshop and that he probably would not participate in such.

Lutu-Sanchez said that while she appreciated Tosatto's comments, she sees the need to support the involvement of Headquarters leadership for the benefit of the region overall.

Moved by Sensui; seconded by Lutu-Sanchez.  
Motion passed with Tosatto opposing.

Regarding administrative matters, the Council **endorsed the draft Council 2020-2024 Program Plan, revised program areas, priorities, advisory body changes and schedule and directed staff to finalize the plan and budget for transmittal to NMFS.**

Moved by Sensui; seconded by Lutu-Sanchez.  
Motion passed.

Regarding administrative matters, the Council **endorsed the following advisory body changes:**

<b>Body</b>	<b>Remove</b>	<b>New Appointment</b>
Hawai'i AP	Clarence Yamamoto resigned as alternate	None
Guam AP	Felix Reyes hired as Council coordinator for Guam	Myles Driscoll
CNMI AP	Juan Diego Blanco resigned as alternate	To be solicited
	Ray Teregeyo resigned as member	Ray Tebuteb from alternate
	Floyd Masga stepped down as alternate as he was hired as Council coordinator for CNMI	To be solicited
Pelagic Plan Team	N/A	Ashley Tomita, PIFSC
Archipelagic Plan Team	Alton Miyaska	Paul Murakawa, DAR
Archipelagic Plan Team	Jo-Anne Kurshima	Annette Tagawa, DAR
Archipelagic Plan Team	Kimberly Lowe	Stefannie Dukes, PIFSC (as ex officio status)
Education Committee	N/A	Eloise Sanchez, Guam Department of Education (DOE)
Education Committee	N/A	Pauline W.U. Chinn, UH Manoa Curriculum Department
Education Committee	N/A	Magdalene Leauanae, AS DOE
Education Committee	N/A	Asap Ogumoro, CNMI Public School System
FDCRC	Matt Sablan	Chelsa Muna-Brecht, DOAg
FDCRC	Carl Dominguez	Tyrone Taitano, GU Bureau of Statistics and Plans
FDCRC	Bruce Anderson	Brian Neilson, DAR

Moved by Sensui; seconded by Lutu-Sanchez.  
Motion passed.

Regarding administrative matters, the Council **recommended the chair and executive director continue to raise issue with NMFS regarding the arbitrary nature of the recusal**

**attribution policy as applied to employees on the March 28, 2019, CCC teleconference and at the May CCC meeting. In addition, staff should resend its letter to NMFS reiterating the need to remove employee as an affected individual in the recusal policy.**

*Moved by Sensui; seconded by Lutu-Sanchez.*

*Motion passed.*

**Regarding administrative matters, the Council supported amending the staff benefit package to include the option for staff to participate in a Flexible Spending Account program.**

*Moved by Sensui; seconded by Lutu-Sanchez.*

*Motion passed.*

**Regarding administrative matters, the Council directed staff to send a letter to PIFSC to publish the methodology for sampling and estimating bycatch of the Hawai'i deep-set longline fishery, which was independently peer reviewed by the Center for Independent Experts in 2015.**

*Moved by Sensui; seconded by Lutu-Sanchez.*

*Motion passed.*

**Regarding the timely completion of ESA consultations, the Council requested that the NMFS PIRO complete ESA Section 7 consultations on oceanic whitetip sharks for four of the Western Pacific Region's most important pelagic fisheries (Hawai'i deep- and shallow-set longline, tropical purse-seine and American Samoa longline) by June 1, 2019. The Council makes this request to ensure expeditious completion of the consultations to reduce litigation risks associated with the continued operation of these vital fisheries. The Council and its staff are ready to assist NMFS to complete these consultations according to the existing ESA-MSA Integration Agreement. To date, PIRO leadership has not ensured timely completion of ESA consultations for these fisheries as well as MSA fishery actions (e.g., territory bigeye specifications, American Samoa LVPA amendment, ACL specifications, FEP review, etc.), leaving the Council highly uncertain about its confidence in PIRO leadership to meet statutory deadlines and ensure the sustainability of the region's fisheries as mandated by MSA. If PIRO leadership cannot ensure completion by the requested deadline, the Council may take a vote at the June Council meeting on whether or not it has confidence in the Regional Administrator to lead NMFS PIRO. The Council directs staff to notify Chris Oliver, assistant administrator for NOAA Fisheries, of this timeline as well as concerns with the lack of timely completion of the ESA consultations for the region's pelagic fisheries.**

Prior to the motion being read on the floor, Tosatto asked that the recommendation not to be read as he found it personally offensive and questioned if the intent of this Council was to permanently damage the partnership that it has with the NMFS, PIRO and PIFSC. He stated that

the Council members do not understand the work their offices do and invited them to visit staff at each location. He said the Council should proceed if it has the ill intent.

Simonds said that there was no ill intent, but it is in response to what has happened with the fishery over the last several years, including the three years the fishery was shut down because PIRO did not complete paperwork. She reiterated the need for the Council to be included in PIRO's planning process and noted that the Council has tried through MOUs, documents and actions plans but nothing has worked. The intent is to work together, but, she said, Tosatto does not want to work with the Council. The Council is passionate about its mission and would like to know where to go forward from today with the current situation.

Soliai agreed that there is no ill intent and that the Council values the relationship it has with PIRO. He said that at this meeting the Council has listened to the plight coming from all of the main fisheries in the region that are impacted. He said that this is a call for expedited action to find resolutions and avoid having to go to court and that the Council would like more urgency in addressing the concerns discussed during the week.

Tosatto said that he appreciated that Simonds and Soliai do not think sending this message would do damage. He said that he takes full responsibility for everything PIRO does but the message this action would send to PIRO staff will be nonetheless damaging. He said, while there are many reasons for what occurs in the region, this Council has traditionally not thrown rocks at one another unlike at other Councils. He said that it is a complex business they work in and that they have the fisheries' best interest in mind, the responsibility for reducing bycatch and the trust responsibility.

Sensui added that this reiterates the need for urgency and to act upon these things in a timely manner. Aside from being responsible for protected resources and protecting habitat, the Council also has the responsibility for achieving maximum sustainable yield. There is the responsibility of ensuring that the Council's actions or failure to act do not adversely affect the people who make a living in these fisheries. Dang sent a heartfelt letter to show the kind of damage the closure has had to his operation, and Goto has mentioned how the inability to maintain a consistent supply has hurt markets. Sensui said every month a fishing boat stays at the dock and is unable to go fishing costs a minimum of \$14,000; that kind of cost can drive fishermen out of business. Sensui added that it is important to understand why the Council would take this kind of action.

Sesepasara said he personally feels that the Council values the participation and assistance from NMFS. His concern was about the change in the relationship between the Council and NMFS staffs. He asked about the type of assistance the Council would receive going forward.

Simonds said that there needs to be a change in the way the government agencies do business in the region. They need to be persuaded to respond more urgently to their and our public mandates.

Goto said that he is in a unique position as a businessman as he his clients include fisherman, harvesters, marketers and purveyors. His responsibility to them is to ensure the management process is being driven and that due diligence went into any particular issue.

Watamura said that has been part of the Council process for many years and the issues come down to a conflict between fisheries and protected species. Many of the fisheries are being affected and shut down because of protected species concerns. Considering that the composition of PIRO has more staff in the Protected Resources Division than in SFD, it becomes evident where all the money, attention and resources are being put. Watamura said he sympathized with Tosatto as he knows it must be hard to get the work done with the resources he has, but there are resources available in other areas.

Tosatto said that based on Goto's comments, he sees that this is not personal. He ensured Sesepasara that regardless of the outcome of this action that PIRO and PIFSC staff will act professional and strive for the best partnership possible. Tosatto agreed with Simonds' last statement and said that the finger-pointing in a single direction is what he largely thinks is wrong. He said that there is no purpose in having an open debate around all the other fingers that they could point to but added that any fishery management action has fingers to point, noting that PIRO has never received a document from Council staff that has been adequate to put into the Federal Register. He said he will always have a document that is legally sufficient and compliant with all of the laws because that is what General Counsel will advise, which takes time. There are many external drivers that Council staff may or may not know about. At the end of the day there is going to be a legally sufficient document that goes out the door and nothing else.

Soliai thanked Tosatto for his comments and added that there is no intent to throw rocks. The goal is to have Council staff assist NMFS to develop these consultations. If these fisheries close, communities in Hawai'i and in other parts of the Pacific Islands will be impacted. He said that the Council should move forward, that Tosatto's comments are duly noted and that the Council highly respects the work of NMFS and PIRO and looks forward to a continued partnership. He said it is up to each Council member on how to vote on the recommendation.

The recommendation was read on the floor.

Lutu-Sanchez said that the last couple of days have been eye-opening for her, seeing how the fisheries are being affected by issues that are completely out of fishermen's control such as BiOps and consultations. The fishermen cannot influence them nor do anything to expedite the process. The recommendation relays the desperate situation by asking leadership to work with all of the counterparts in different agencies to finish what needs to be done for the sake of fishermen who will be most affected. She said that she looks to Tosatto for his leadership to finish the consultations because fishermen cannot do them.

Okano said that not everybody agrees with decisions that his agency does, but that he still tries to maintain positive relations, whether it be with the Council, community, NOAA or the fishermen. He said he will abstain from the vote as he does not want to damage relationships and does not want to take sides.

Peck said USFWS is a nonvoting member of the Council but they participate and can make recommendations. Peck agreed with Okano's comments regarding relationships. He questioned the purpose for the second to the last sentence in the recommendation.

Soliai said that the sentence does say the Council "may" take a vote in June rather than "will," so the Council will consider it if the recommendation passes.

*Moved by Sensui; seconded by Lutu-Sanchez.*

*Motion passed with Tosatto opposing and Okano abstaining.*

#### **XIV. Other Business**

Kingma read a resolution for Disque who has been with the Council for the past two years, and Sabater read a resolution for Kingma who has been with the Council for nearly 16 years. Kingma shared his appreciation for Council and staff and said that he will be working with everyone in his new capacity as the executive director of the Hawaii Longline Association.

Meeting adjourned.