



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

MINUTES OF THE 122ND COUNCIL MEETING of the
WESTERN PACIFIC REGIONAL
FISHERY MANAGEMENT COUNCIL

March 23-25, 2004

Hawaii Convention Center
1801 Kalakaua Ave.
Honolulu, HI 96815

Western Pacific Regional Fishery Management Council
1164 Bishop St., Suite 1400
Honolulu, HI 96813

APPROVED BY COUNCIL: _____

A handwritten signature in black ink, appearing to be "Wayne S. ...", is written over the first line of the signature line.

CHAIR

Western Pacific Regional Fishery Management Council



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TABLE OF CONTENTS

I.	INTRODUCTIONS	1
II.	APPROVAL OF AGENDA	1
III.	APPROVAL OF 119 th , 120 th and 121 st MEETING MINUTES	1
IV.	ISLAND REPORTS	2
	A. American Samoa.....	2
	B. Guam.....	3
	C. Hawaii	6
	D. Commonwealth of the Northern Mariana Islands.....	11
V.	REPORTS FROM FISHERY AGENCIES AND ORGANIZATIONS.....	12
	A. Department of Commerce.....	12
	1. National Marine Fisheries Service	12
	a. Pacific Islands Regional Office	12
	b. Pacific Islands Fisheries Science Center	14
	2. National Marine Sanctuary Program	16
	3. NOAA General Counsel.....	20
	B. Department of Interior – US Fish and Wildlife Service.....	22
	C. Department of State.....	23
VI.	ENFORCEMENT/VMS	27
	A. USCG Activities	27
	B. NMFS Activities	30
	C. Enforcement Activities of Local Agencies	32
	D. Status of Violations.....	32
	E. National VMS Program and Policies	35
	F. Electronic Logbooks Amendment (Action Item)	40
	G. Standing Committee Recommendations.....	41
	H. Public Hearing	43
	I. Council Discussion and Action	43
XII.	D National Bycatch Implementation Plan	44
VII.	OBSERVER PROGRAMS.....	45
	A. NWHI Bottomfish Observer Program	45
	B. Native Observer Program.....	50
	C. Hawaii Longline Observer Program, including Longline Observer Data System.....	47
	D. Public Comment.....	51
	E. Council Discussion and Action	51
VIII.	PRECIOUS CORAL FISHERIES	51
	A. New Precious Coral Beds in the NWHI.....	51

B. Additional Research on <i>Carijoa riisei</i>	52
C. SSC Recommendations	53
D. Standing Committee Recommendations	53
E. Public Comment	54
F. Council Discussion and Action	54
IX. CRUSTACEANS FISHERIES.....	54
A. Update on Multi-FAN CL Lobster Model	54
B. SSC Recommendations	54
C. Standing Committee Recommendations	54
D. Public Comment.....	55
E. Council Discussion and Action	55
X. FISHERY RIGHTS OF INDIGENOUS PEOPLES.....	55
A. Community Demonstration Projects Program (2 nd Solicitation)	55
B. Guam Voluntary Community Monitoring Program Options	56
C. Marine Conservation Plans	58
D. Standing Committee Recommendations.....	58
E. Public Comment	58
F. Council Discussion and Action	58
XI. PELAGIC/INTERNATIONAL FISHERIES	59
A. American Samoa & Hawaii Longline Quarterly Reports	59
1. Quarterly reports	59
2. Southern albacore CPUE in 2003	63
B. Turtle Management	66
1. Council’s Regulatory Amendment & DSEIS	66
2. Additional measures to conserve sea turtles (Action Item)	74
3. Post-hooking mortality workshop.....	66
4. Risk assessment seminar.....	70
5. New Biological Opinion on Pelagic Fisheries	71
6. Progress on turtle conservation projects	78
C. Squid and Seabird SEIS	79
D. Seabird Conservation	81
1. New measures to mitigate seabird interactions (Action Item).....	81
E. Marlin Management	83
F. Private FADs	84
G. Shark Management	89
H. Marine Mammal Management.....	90
I. International meetings	93
1. Bellagio Conference	93
2. 4 th ISC Meeting.....	94
3. IATTC 4 th Bycatch Working Group	96

4. Asia Region Seabird Bycatch Workshop.....	98
5. 24 th Sea Turtle Symposium.....	98
6. Indian Ocean South East Asia Sea Turtle Conference.....	99
J. SSC Recommendations.....	100
K. Standing Committee Recommendations.....	102
L. Public Hearing.....	102
M. Discussion and Action	103
XII. ECOSYSTEMS AND HABITAT	111
A. Coral Reef Fish Stock Assessment Workshop.....	111
B. NWHI Sanctuary Alternatives: Criteria and Rationale.....	114
C. Review of Council MPA Policy (draft).....	118
D. National Bycatch Implementation Plan*	121
G. SSC Recommendations.....	121
H. Standing Committee Recommendations.....	124
I. Public Comment	124
J. Council Discussion and Action	125
XIII. BOTTOMFISH FISHERIES	127
A. International Deep-Slope Fishery Workshop.....	127
B. Seamount Groundfish Moratorium (expires 8/04).....	129
C. HURL Bottomfish Research Project.....	132
D. Bottomfish Stock Assessment Workshop Recommendations	130
E. Preliminary CNMI Bottomfish Management Options.....	138
F. SSC Recommendations.....	140
G. Standing Committee Recommendations.....	141
H. Public Comment.....	141
I. Council Discussion and Action	141
XIV. PROGRAM PLANNING	144
A. Regulatory Streamlining.....	144
B. Ecosystem-based management on an archipelagic basis	141
C. Programmatic EIS.....	147
D. Legislation.....	148
E. Pacific Islands Region Strategic Plan	148
F. Programmatic Grants Report	149
G. Council Chairs and Executive Directors' Meeting.....	149
H. Status of Hawaii \$5 million Disaster Funds for Federal Fisheries	149
I. Annual Reports	150
J. Federal Fishery Data Collection	150
K. WPacFIN	151
L. SSC Recommendations.....	153
M. Standing Committee Recommendations.....	153

N	Public Comment.....	153
O	Council Discussion and Action.....	154
XV.	ADMINISTRATIVE MATTERS.....	154
	A. Financial Report.....	154
	B. Administrative Report.....	154
	C. Meetings and Workshops.....	155
	D. Advisory Group Changes.....	155
	E. Standing Committee Recommendations	155
	F. Public Comment	155
	G. Council Discussion and Action.....	155
XVI.	OTHER BUSINESS	159

I. INTRODUCTIONS

Roy Morioka, chair, formally opened the 122nd meeting of the Western Pacific Regional Fishery Management Council (Council) on October 21, 2003. Morioka welcomed all the participants and asked each member of the Council to introduce him/herself. Members in attendance were Manuel Cruz, Guam; Manny Duenas, Guam; Edwin Ebisui, Hawaii; Bill Gibbons-Fly, Department of State; Frank Farm, Hawaii; Judson Feder, Southwest Regional Counsel, National Oceanic and Atmospheric Administration (NOAA); Stephen Haleck, American Samoa; Ernie Lau (representing Peter Young), Hawaii Department of Land and Natural Resources (DLNR); Sean Martin, Hawaii; Cmdr. Dwight Mathers (representing Rear Adm. Charles Wuster), US Coast Guard (USCG) 14th District; Frank McCoy, American Samoa; Roy Morioka, Hawaii; Don Palawski (representing Jerry Leinecke), Pacific Island Remote Refuge Complex, US Fish and Wildlife (USFWS); Samuel Pooley, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office; Benigno Sablan, Commonwealth of the Northern Marianas Islands (CNMI); Richard Seman, CNMI; Craig Severance, Scientific and Statistical Committee (SSC); Kitty Simonds, Executive Director; and Ray Tulafono, American Samoa.

II. APPROVAL OF AGENDA

Morioka asked for approval of the agenda. The motion was moved, seconded and approved.

III. APPROVAL OF 119th, 120th and 121st MEETING MINUTES

Morioka asked for a motion to approve the 119th meeting minutes. The motion was moved and seconded. Hearing no discussion or corrections, Morioka asked for a vote, and the minutes were approved.

Morioka asked for a motion to approve the 120th meeting minutes. The motion was moved and seconded. Morioka asked for corrections or discussion.

Pooley noted that on pages 119 and 120 the discussion was about the Council requesting NOAA Fisheries to seek the Council's status as an applicant. In the middle of the page it says that he concurs that there was no answer. Pooley said it is possible he did that, but he is unaware of that status one way or another. More significantly, Pooley added, it is noted in the minutes that the motion passed unanimously. Pooley said he would be surprised if he had voted in favor of a motion that told NOAA what to do. Pooley said that he guessed that he abstained, but he did not keep sufficient records to know one way or another.

Simonds said that the Council staff would check the tapes.

Morioka asked for any other corrections.

Ebisui noted that on page 85, Section heading E.1, the minutes provide an update on Judge Kotelley's "funding." Ebisui said he believed the correct word is "finding."

Morioka asked for any other changes. Hearing none, he asked for approval of the minutes as circulated and as indicated for the verification of the vote on page 119 and the correction on page 85. The minutes were so approved.

Morioka asked for a motion to approve the 121²⁵ meeting minutes. The motion was moved and seconded. Morioka asked for corrections or discussion. Morioka noted that on page 10, Ebisui's name was misspelled as "Ebisu." Hearing no further discussion or corrections, Morioka asked for a vote, and the minutes were approved.

IV. ISLAND REPORTS

A. American Samoa

Tulafono noted that in December 2003, the governor of American Samoa issued an executive order prohibiting shark finning in territorial waters. The order complements the federal regulation that prohibits shark finning in federal waters.

Tulafono said Hurricane Heta, which devastated American Samoa in January, damaged the territory's fisheries, infrastructure and buildings. While the floating docks were badly damaged, the replacement docks that had arrived before the hurricane had not yet been installed when the hurricane hit. He said he believed the Federal Emergency Management Agency (FEMA) would replace most of the infrastructure. FEMA has approved close to \$100,000 for the department to replace infrastructure.

Tulafono said the enforcement unit has been working very hard, especially trying to make people aware of the problems facing the territory, especially the damage on the coral reef areas. For example, Tulafono said, the birds in America Samoa have been looking for food and have come close to houses and villages. The enforcement unit has been dealing with problems of this type.

Sports fishing and commercial fishing has been bad. During the last tournament there were very few yellowfin, mahimahi and even skipjack.

Morioka asked whether the bad fishing corresponded with El Nino years and non-El Nino years.

Tulafono said he thought so.

Morioka asked Haleck if he had anything further to add to the report.

Haleck reiterated Tulafono's report about the birds flying into the villages and close to the homes and within the farms. He said some of the local people are buying fruits, such as apples and oranges, from the stores and hanging them in the trees so that the bats and birds have food to eat. Some of the villages have reported birds dropping dead because of the lack of food. The local communities are really stepping up and helping, Haleck said.

McCoy verified Tulafono's report on to the poor fishing conditions. He said he spent about five days out in the water, probably traveling some 600 miles around the islands. Fishing was very poor both within close proximity to the islands and out to 100 miles. He said the water was extremely hot, around 83 degrees, which may have been a problem.

McCoy confirmed Ray's report about the territory's loss of all flotation and aggregation devices. He said the hurricane was unusual in that it brought in high sets of waves, around 40-footers. He said they'd look to see if there was a correlation between the weather and the poor fishing or whether it was an indication of overfishing.

Morioka asked the Council members for questions on the American Samoa report. Hearing none, he moved to the Guam report.

B. Guam

Morioka asked Duenas to provide the Guam report.

Duenas said John Calvo would provide the presentation.

Calvo said the pelagic fishery is okay. The Guam Fishermen's Co-op has reported that the mahimahi season is in full swing, with members are averaging more than 100 pounds per trip. Wahoo catches have been good. Yellowfin and skipjack tuna catches have been poor. The Bureau of Statistics has completed the 2003 tuna transshipment data entry, and the staff is resolving some problems from the daily reports and continuing to scan documents from 2002 and prior to archive them. Aquatics and Wildlife has reported that the fishery has recovered from the effects of two super-typhoons in 2002. Bonita has increased 34 percent, yellowfin tuna by 79 percent and Pacific blue marlin by 31 percent. Mahimahi has decreased 57 percent and wahoo by 27 percent. A plan is being developed to tag Pacific blue marlin.

As for bottomfish, the Co-op has reported poor fishing conditions due to rough seasonal seas. Aquatics notes that the 2003 bottomfish catch decreased by 4 percent, but the catch per unit effort (CPUE) increased 57 percent. They also report that trips remained relatively the same during the two years.

As for crustaceans, the Co-op has reported poor fishing conditions due to the rough seasonal seas. Aquatics reports that the lobster catch from shore fishermen has increased tremendously and much of that is because the fishermen are doing more shore fishing because of the rough seas.

Fishermen at Cocos Lagoon have reported observing much more abundant and larger fish due to the adjacent marine protected area (MPA).

Regarding enforcement, the Co-op has reported two cases of sea turtle harvesting, which is under NMFS Law Enforcement. There is a pending protected species case regarding a beaked whale that was found on foreign fishing boats. Guam is continuing to have shark fin violations on foreign fishing boats. Aquatics' Enforcement Division continues to be challenged enforcing local laws. Much of it is due to inadequate funding and environmental AG availability. NMFS has various cases in the works, which will be covered during the enforcement report.

As for marine reserve areas, Aquatics is conducting fish assessment surveys in two of the five marine reserves, and tagging and fish migration studies within the reserves is being explored.

As for fish aggregating devices (FADs), there are continued reports of untethered FADs floating off the island's coast and seamounts. Of the 14 buoys on the west side of the island, only one is offline currently. NOAA has installed a weather buoy on the east side of the island and is exploring additional sites for the deployment of additional FADs.

As for the Endangered Species Act (ESA), the Aquatics and Wildlife Division recently added another biologist to assist with this program. Large green sea turtles have been observed coming in to nest. Calvos showed picture from one of the hatchings in January, which he said was sort of odd, according to the records for Guam.

Regarding coastal reefs, Aquatics has noted NOAA's new updates to generate more catch reports. Additional inshore creel surveys were added to attempt to evaluate spillover from the marine reserves. Trina Leberer and Gerry Davis accompanied Gov. Felix Camacho to the 11th US Coral Reef Task Force (USCRTF) meeting, which was held in February in Washington, DC. Gov. Camacho provided progress updates on the three-year local action strategies to address priority focus areas affecting coral reefs under the US Coral Reef Initiative. According to the Guam Coastal Management Program, the 9th Annual International Coastal Clean-up was held in September. Guam continues to improve on the Local Action Strategies addressing threats to the health of the reefs and to work on proposals of projects to meet the requirements.

Regarding coastal marine development issues, Aquatics has reported the damage of two fishing platforms during Super-typhoon Pongsona and is waiting FEMA funding for these. Guam Coastal Management has noted a baseline environmental study of the coastal environment located downstream of the landfill; mapping of septic tanks, sewers and livestock confinements in the watersheds of Southern Guam; assessment of the impacts of the water activities for the tourism market; work on developing clean marine initiatives; identification and removal of sources of PCB and pesticide contamination; continued leakage at Orote Point even though it was capped; progress with permitting application, with all the hardware and software installed; the commencement of training for the GIS software this month; and the development of a Coastal Nonpoint Source Pollution Control Program.

As for fishing communities, the Co-op has noted that a decline of the island's economy has caused subsistence fishermen to cross over to the commercial category. The fishermen are seeking the definition of community-based fishery in order to perpetuate coastal fishing communities.

As for fishing tournaments, two are being planned. The first is Aquatics and Wildlife's annual kid's fishing derby, planned for July. The second is the Guam Mariana Islands International Fishing Derby scheduled for August with the Guam Fishermen's Coop. The committee is being formed and planning will be occurring soon.

As for new initiatives, the Co-op has made a request with the Environmental Working Group to provide funding for a collection site for used marine lubricants, coolants, etc. with the Co-op being the responsible part of that program.

Regarding marine educational initiatives, Aquatics is developing an in-flight video to educate visitors about the island's coral reef issues, which should be completed by June. The Guam Coastal Management is working on a clean marina campaign and with the Department of Agriculture to reduce the frequent arson acts that remove vegetation and cause erosion and sediment runoff onto the coastal areas.

Regarding fisheries development, Aquatics has reported that the Commercial Fish Receipt Book Program continues to encounter challenges. There are so many commercial entities involved, and it's been difficult to get some of the small fish markets to participate.

On the international realm, Aquatics and Wildlife reported that Trina Leberer, Manny Duenas, John Santos and Mike Gawel attended the Pacific Islands Regional Ocean Forum in Suva, Fiji. As noted earlier, Gov. Camacho attended the 11th USCRTF meeting. The US Ocean Commission will be issuing its report to governors for their comments in March.

Morioka asked the Council members from Guam if they had anything to add.

Cruz complimented Calvos on his presentation.

Duenas urged the Council to review the recommendation from the Standing Committee, he believed, about the enforcement impacts with regards to ownership on shark fin cases and also pursue the passage or regulation amendment with regards to cultural take of sea turtles. Duenas said there are two incidents of indigenous persons (one Micronesian and one Chamorro descendant) being arrested for harvesting sea turtles and being threatened with a \$50,000 fine and one-year imprisonment. Duenas said these cases should be seriously considered for their impacts on coastal communities and traditional ways of harvesting.

Duenas said that a number of sea turtles on the north shore of Guam are being tagged, one with a satellite tag. He said he thought there is probably better technology and a better way of identifying these turtles beyond putting epoxy on their backs and threatening them as they are nesting. Duenas said a wild animal threatened on its nesting site would not return to that nesting site, so more damage than good may be going on.

Morioka asked for questions from Council members. Hearing none, he moved to the Hawaii report.

C. Hawaii

Lau said that his staff members Walter Ikehara and Gary Moniz would provide the report.

Ikehara directed the Council to Document 4.C.1 in the binder and said he'd touch upon some of the highlights.

- Hawaii participated in the bottomfish stock assessment workshop held in January and sponsored by the Council, NMFS and DLNR.
- Some divers have been trained to use trimix to conduct dives down to 200 feet of saltwater. The intent is to try to conduct surveys of the black coral beds off of Maui. There are hopes of getting funding for a project later on this year.
- DLNR has been working on Hawaii's MPA inventory. The data is not on the national website yet but will be hopefully soon. The DLNR's MPA Coordinator has been working to involve communities interested in helping to implement MPAs.
- The State is reviewing its size limits and bag limits. Questionnaires went out to the public to get fishermen's views on the effectiveness of the size limits that were implemented December 2002.
- Six cruises have been scheduled to replace missing FADs and expired light packs.
- The State is continuing to collect modules for the artificial reef program and would like to get them in place as soon as possible. A Marine Gap Analysis Workshop was held to look at data acquired for all islands and new datasets and to try to ensure compatibility across all the data. Those are beginning to be integrated into a spatial database.
- A USCRTF Local Action Strategy Workshop was held in November. Information from that workshop is being compiled and the State's local action strategies for coral reef fisheries management will be revised.
- The State is hoping to hire fairly soon a firm to take care of its Living Reef Campaign, which is a part of Hawaii's local action strategy.
- The Hawaii Marine Recreational Fishing Survey conducted 606 angler intercepts between October and December 2003. Of those 204 were for shoreline fishermen, 161 were from charter boat and 241 from private boat fishers. The intercept data is put into an Access database and sent to Silver Springs for compilation and incorporation into that database.

- One of Hawaii's aku boats sank in its slip and was removed from the fleet, leaving only four vessels in the fleet. Two are actively fishing, and two are being repaired.
- More than 21,000 tags have been distributed to tag ulua. About half of the tags, (10,148) were used, and 1,700 have been recovered.
- A bill has been introduced in the Legislature to institute a civil violations system in the Department, i.e., laws to promulgate civil violation penalties for fishing regulations. DLNR is also asking for authority to adopt fishery rules in cases where endangered or threatened species may be involved.
- The State's commercial marine licensing system has been upgraded. DLNR staff can now process a fishing license through the Internet. Hopefully by early summer, a public version of the system will allow direct access by fishermen to either renew their license or obtain a new license. The State is also now issuing plastic credit card fishing licenses, which are more durable than the paper ones used previously. Additionally, starting July 1, 2004, commercial fishers who do not comply with the commercial fishing report requirements will be refused renewal of their licenses. The intent is to improve the collection of the commercial fishing reports.
- The State's stock enhancement program has released about 7,000 coded-wired tagged moi and about 3,200 mullet off the Natatorium and about another 1,200 off of the Ilikai, which is in the Waikiki area.
- Wahiawa Reservoir is being monitored monthly for aquatic invasive species. So far the Salvinia infestation from a year ago has been clear. A new aquatic harvester has been acquired to clean up some of the California grass area at the reservoir harboring the remaining Salvinia colonies.

Moniz added to the Hawaii report, beginning with monk seals. He noted a case on Kauai and another on the Big Island and Maui. On Kauai, a seal that apparently wanted to be fed would follow boats even up the ramp and onto the platform as they were hauled out. People were reportedly feeding the seal. Officers were continually being sent to the harbor. Just recently, a large monk seal was found dead on the east coast of Kauai. Moniz believes it was the same seal. Necropsy reports are pending. The second case involves a seal that was habituated to humans and continued to interact with them on the Big Island and at Molokini and Makena on Maui. It was finally transported to Johnston Atoll. Moniz said there have been a number of seal haulouts throughout the State. He thought more should be done to let the public know about these activities, which he characterized as everyday and not unique occurrences.

Moniz reported that the normal volume of stranded or dead turtles on the beach continues. More turtles are hauling up on the beach during the daytime. The public has been concerned that they're dead or dying, but they're fine. There are three ongoing investigations on Maui relative to turtles and turtle shells, which the State is addressing with NMFS.

There is a statewide increased focus on the healing powers of dolphins, and swim tours have increased everywhere. There are numerous websites about the medicinal powers of dolphins. Swimmers, snorkelers, kayakers, boat tours, etc. are crowding the pods in their resting areas statewide. More operations seem to be popping up.

There are no reports of illegal shark finning activities. However, Enforcement has been getting lots of reports of sharks near shore and a lot of calls from people about aggressive sharks. There have been two shark attacks, one on Maui where a surfer's board was bitten, and one off Kauai, where a person lost her arm. There is also an increased interest in shark feeding activities, i.e., where tours go three miles offshore to attract sharks by feeding them so people can dive with them in a cage.

No illegal bottomfish activity has been reported statewide.

Enforcement has received some interesting calls from people who think they've observed dead or dying humpback whales. In actuality, the whales (cow/calf type groups) come very close to shore to rest and are fine. There have been an increased number of whales off of the Kalapana area of the Big Island, where the water is extremely deep near shore.

Problems with gillnets continue. The responsible person cannot be identified because the nets are unmarked, so it is difficult, if not impossible, to form a prosecution. There are rooms full of recovered (or found) property.

Regarding criminal versus administrative penalties that Ikehara touched briefly on earlier, Moniz agreed to the approach being pursued. He said approximately 47 percent of statewide inspections are conducted on aquatics-related activities and about 7 percent on boating activities. But as statistics begin to change, approximately 15 percent of the criminal investigations are related to aquatics and about 36 percent of the criminal investigations are related to boating. When it comes to criminal citations, 10 percent of the activities are related to aquatics citations, whereas 56 percent of the criminal citations are directed at boating activities, this includes boat ramps, underwater checks, etc. Moniz says they have considerable calls for assistance in the various harbors. There is a preference for someone with a gun and law enforcement powers to be standing by in the harbor 24 hours a day. As more and more parks close down, a variety of younger people and other individuals are migrating to the open parking areas of the harbors and keeping enforcement personnel busy.

Lau said he had an addendum to the report that he wanted to cover very briefly. He referred the Council members to item 4.C.1.A, regarding dolphin watching tours. Lau said there is increased activity of tour boats operating off Waianae Coast on Oahu and other areas in the state, e.g., La Perouse Bay on Maui and Kealakekua Bay on the Big Island. The tours focus on resident schools of dolphins that are resting in the area. There is a lot of concern about these types of operations, and a bill was introduced in the Legislature to limit the number of dolphin tour boat operations on the Waianae Coast. The bill died, but, as an alternative, the Legislature may pass a resolution expressing the need for protection of the dolphins. Lau said coordination between NOAA Fisheries and the State to address this

issue needs to improve or the State may need to take some action to deal with the increasing pressures of these commercial activities on the ocean waters, which are starting to take its toll on the resources.

Moniz added that there is a shark-feeding ban but to circumvent it operations go just beyond 3 miles to conduct their operations in perceived federal waters. He said the State would discuss with Feder later this week the issue of where state jurisdiction ends for enforcement purposes and where federal jurisdiction begins. Moniz predicted that shark feeding, shark tours will be a growing industry and suggested that the Council consider amending the Pelagics and Coral Reef Ecosystem FMPs to prohibit shark feeding tours in the Hawaii EEZ and facilitate enforcement of this law.

Morioka asked if there were questions regarding the Hawaii report.

Ebisui asked whether any expert had expressed an opinion with respect to the wisdom of acclimating sharks to human beings.

Lau was not aware of any other than an opinion in the newspaper. He said the concern is that feeding sharks will start to congregate and habituate to coming closer to boats and people, which could lead to increased shark attacks in near shore waters. He said they don't want to see more incidents like that girl on Kauai who lost her arm surfing.

Ebisui noted that two shark tours operate daily out of Haleiwa, and just inshore of that area there are at least four surf breaks with a lot of people in the water, who are concerned about getting these large sharks used to being around human beings.

Lau said that was their concern too. He also noted that tow-in surfers go further out from the break. He reiterated the State's concern and need to get clarification on its jurisdiction so it could start to enforce this activity more carefully.

Martin asked Ikehara about the status of the State's Section 10 permit.

Ikehara said NMFS contracted EarthTec to conduct the environmental impact statement (EIS). NMFS also informed the State a couple months ago to amend the incidental take permit (ITP) to include Hawaiian monk seals. The State and NMFS have had meetings about those recommendations and other changes that they have suggested for the ITP. The State is in the process of following up on these recommendations.

Morioka asked for further questions. He then asked Ikehara about the recent increase of histamine poisoning reports and the focus on moi. Morioka asked whether the State was alerted to that and whether these incidents were associated with farm-raised or wild-captured moi.

Ikehara said he'd have to check into that, but he thinks a lot of the moi in the market and restaurants are farm-raised so there's a good chance that it is connected to that variety.

Morioka asked if there were any other questions for the State of Hawaii.

Farm asked Ikehara for the name of the aku boat that sank.

Ikehara did not know it.

Farm asked whether there would be some results or report on the ulua tagging and moi research.

Ikehara said DLNR staff gave a report a couple of weeks ago on the ulua tagging. He said he hoped the tagging results could be analyzed and applied to populations and movements throughout the islands. He said they would like to get more information out of the tagging program.

Morioka asked Ebisui if he had anything to add to the Hawaii report.

Ebisui said no.

Morioka asked Farm the same question. Farm passed.

Morioka asked Martin the same question.

Martin said he had a couple of items. The shallow-set fishery for the longline industry is about to reopen. Martin wanted to make sure the Council got thanked and recognized for their hard work expediting that.

Associated with that, the California swordfish fishery will be closing down in April. The industry anticipates the return of some of those boats that had relocated to California and, therefore, an increased effort. Currently, the deep-set fishery is taking place almost exclusively to the south of the islands. So it is very timely that this new rule will go into effect April 1, as typically the fleet would be vacating that area and that is where the effort is right now. So they were looking forward to that.

Martin also discussed the status of the fishing village at Pier 38. He said he went to the first meeting on this project in 1988. The project is moving along quite rapidly at this point, and the new fish auction is expected to open in July. In addition, several of the wholesalers that many of the islanders work with, as well as us here in Hawaii, will benefit. Many wholesalers are in the process of negotiating leases with the State to relocate down to Pier 38. Martin encouraged everyone to take a drive to the facility located off of Nimitz Highway. A couple of structures are going up in addition to the State building that has been there for a couple months.

Morioka asked if there were any questions.

Ebisui asked Martin for a guess on how many boats would relocate from California to Hawaii.

Martin guessed that 15 to 18 have access to Hawaii longline permits, i.e., they had them but may have transferred them off the vessel so they could participate in the California fishery. He expected that most, if not all, of those boats would relocate back here

at least until the Pacific Council puts a fishery management plan (FMP) that would allow them to fish out of California.

Morioka asked for further questions. Hearing none, he moved to the CNMI report.

D. Commonwealth of the Northern Mariana Islands

Seman referred the Council to document 4.D.1 and said he'd point out some highlights.

- With the assistance of the Council, the Division of Fish and Wildlife (DFW) continues to work towards the bathymetry mapping of the entire Farallon de Mendinilla (FDM) reef and surrounding water. A mapping firm out of California has been hired and the scientific exploration team consisting of five members will begin operation on June 5.
- The DFW Enforcement Unit apprehended eight individuals in five incidents for violations in three MPAs. Three of these individuals have been resolved through administrative hearings; one case is now pending before the CNMI Superior Court; and one is being scheduled for an administrative hearing.
- DFW has secured additional funds for the deployment of 12 new FADs that will replace 10 that were lost to weather and other factors. They will be deployed around Saipan, Tinian and Rota.
- DFW is involved in ongoing research of bluefin fish similar to the Mafuti research that was recently completed. The results will be published in a series of scientific papers. The bluefin research will provide better understanding of the fish life history, age and size variation.
- A seafood handling and sanitation training was conducted in CNMI from Feb. 4 to 7 by John Kaneko, PhD, from PacMar and Paul Bartram from Hawaii Seafood Distributors. Eleven participants completed the training. Three of the participants were from the Northern Islands mayor's office and will be involved with the Northern Islands Remote Fishing Station Project, as proposed in the Community Demonstration Projects Program (CDPP).
- With regards to submerged lands, while the CNMI's appeal on Judge Munson's decision is pending at the US 9th Circuit Court in California, the CNMI and the federal government have agreed, with the approval of Judge Munson, for a stipulation of stay on the designation of 0 to 3 miles around the islands in the CNMI for purposes of enforcing local marine laws and statutes. There's no word yet as to when the appeal will be heard, but apparently a year and a half to two years is normal.
- In the international area, at the request of Gov. Babauta last year, the Council has completed the development of a Pacific Insular Area Fisheries Agreement (PIAFA)

in the CNMI report. The report provided information on potential revenue from foreign fishing that can be used to clean up the Puerto Rico dump as mandated by the Environmental Protection Agency (EPA). This mandate will cost around \$10 million, and the local government has already identified \$3.9 million. With secured funding from the PIAFA, the mandate will eventually be satisfied without additional burden on the local government.

- CNMI's current Marine Conservation Plan (MCP) will be expiring this September, and a new one has been developed and hopefully submitted to the Council for action. All 12 projects identified in the current plan are intact, including the two new projects, which is the Northern Island Remote Fishing Station and, of course, the Puerto Rico dump closure.
- The 20th Annual Saipan Fishing Tournament, sponsored by the Saipan's Sports Fishermen's Association, has been tentatively scheduled for August this year.

Morioka asked Council members for questions or comments. Hearing none, he asked Sablan if he had any additions.

Sablan said fishing is very poor because of inclement weather. Mahimahi are running but are very difficult to catch in 30-knot winds.

Morioka asked Council members for further comments or questions. Hearing none, he moved to reports from fishery agencies and organizations.

V. REPORTS FROM FISHERY AGENCIES AND ORGANIZATIONS

A. Department of Commerce

1. National Marine Fisheries Service

a. Pacific Islands Regional Office

Pooley referred the Council to document 5.A.1.A.1 and said he would raise one point that is covered in that and then mention a couple of other things.

USCG Cmdr. Mike Tosatto, who is in Guam at the moment, has been selected as the Deputy Regional Administrator. He will be retiring from the USCG and is expected to begin his new job on June 1 of this year. There were a number of good applicants for the position, and it was not an easy selection. Tosatto should be at the next Council meeting.

As for the other major positions, there is a lot of recruiting to build up of the region. However, there is no announcement yet on either the Regional Administrator or the Science Center Director. Interviews for the Assistant Regional Administrator positions for Habitat and Protected Resources have been completed, but the recruitments have not been completed. The same is true of the Administrative Officer. The top management team will

be in place early to late summer and the face of NOAA Fisheries here will begin to change because there will be more people to do more tasks.

There was a Congressional appropriation of \$5 million to establish the new region. The Regional Office has a spending plan that needs to be approved by Congress. The plan focuses on two areas: the administrative structure and the Marine Mammal Protection Act activities, which have been mentioned in the State of Hawaii, among others. Several people will be hired for that, assuming the spending plan is approved as presented. Those recruitments can't begin until the spending plan is approved.

Budget initiatives on a variety of issues have also been submitted and some good budget supplements have been received, for example, on the National Environmental Policy Act (NEPA), which will allow the Regional Office to have managers to guide some of the projects.

Al Everson has been successful in acquiring Habitat and Coral Reef money again. The Regional Office has been working with the Council and the Science Center on a consolidated sea turtle budget and has submitted a spending plan for the observer program, which is probably the office's most difficult circumstance at the moment. During work on the longline amendment, the talk was on having 100 percent observer coverage in the swordfish fishery. That is required by the biological opinion, and is an objective that will be met. At the moment, there will be no funds remaining around January 1. There's a fiscal year there, but money cannot be banked ahead and Congress did not provide as much money as was hoped for. There is no significant National Observer Program, so there is nothing to pull from. This is a point of a potential concern, but nothing yet to panic about.

Lastly, the agency is putting on a national conference on the future of the Nation's Living Marine Resources, Oct. 18-20 in Washington, DC, following the Council's very successful conference on the Magnuson Act. It was one of the anniversaries of the Magnuson Act. People are working with the Councils on this.

Morioka asked for questions from Council members. He then asked Pooley about the permit assistant new hire listed on page 4. He asked whether the agency was proceeding with the Coral Reef Ecosystem FMP permit requirements.

Pooley said the Regional Office is essentially expanding its permit staff for that reason. There are three levels of permits. Everyone is aware of the standard longline and bottomfish permits. Sometime during this year there will be the High Seas Fisheries Compliance Act permits, which are currently issued out of Long Beach, and then subsequently the extended permits under the Coral Reef FMP. The Regional Office is trying to streamline and be ready for that.

Morioka noted that Coral Reef Ecosystem FMP goes into effect on Thursday, the 25th, and that tonight the Council would be holding a public hearing. He asked if anyone would be discussing how folks would be impacted.

Simonds said Jarad Makaiau would be doing that with the Regional Office's staff.

Pooley said Alvin Katekaru would be there as well and could talk about that issue.

Morioka asked for further questions. He then thanked the Council staff and Council members from the island areas for the timely submissions of their written island reports and applauded Guam for its classy presentation.

Martin asked Pooley about the status of relocating the Science Center and Regional Office.

Pooley said the NOAA Chief Administrative Officer came to Honolulu about two months ago on a site visit to look at a variety of sites to consult with the NOAA partners here and to meet with the various landowners, including the State of Hawaii.

. b. Pacific Islands Fisheries Science Center

Morioka introduced Jeff Polovina, PhD, from the Pacific Islands Fishery Science Center.

Polovina said that, as the Science Center turns one-year-old next month, he'd like to highlight two areas the Center had decided to be more active in when it was created, i.e., the Western Pacific and the international fisheries arena.

For many years, the Science Center's presence in the Western Pacific Ocean was well served by Dave Hamm and his West Pac FIN group. This last year, the Center had a large coral reef program and a series of cruises out in the Marianas in the fall, and just this January and February the R/V *Sette* was in American Samoa conducting coral reef cruises and a longline oceanographic cruise and deploying pop-up archival tags from a commercial longliner for albacore and bigeye.

In the international arena, the Center hosted in January and early February the Interim Scientific Committee (ISC), which is the body that may be providing scientific advice for the Western and Central Pacific Convention on migratory fish, possibly with the Inter-American Tropical Tuna Commission (IATTC). A working group was formed that will be responsible for getting bycatch information from international fisheries. Polovina said he would be representing the ISC at the Prep Con meeting in Bali next month. The Science Center has also added a position in the director's office, Bob Skillman, who will handle international fisheries scientific issues.

Regarding the Center's research direction, Polovina said the monk seal program is expanding its forage ecology work to the main Hawaiian Islands to learn more about how seals are feeding and using habitat there. Also, the Center is pursuing transfer of gear technology to a number of foreign fisheries to reduce bycatch. They are developing changes in evaluating different gears and baits and in estimating survivability in post release, largely of turtles but with recognition that marlins could be an issue, also.

Morioka asked Council members for questions.

Sablan inquired about the status of the Marianas coral reef survey and asked if reports would be released next year.

Polovina that there would be. He said the group has been productive and a number of reports may be out already. He would contact Rusty Brainard about that.

Morioka asked about page 1 of the Science Center's report. He asked whether the beach counts were strictly in regards to the Northwestern Hawaiian Islands (NWHI) and had nothing for the main Hawaiian Islands.

Polovina said just the NWHI.

Morioka asked whether there has been any beach counts on the Main Hawaiian Islands beach counts, including Niihau.

Polovina said he thought some surveys have included sporadic checks on beach usage in the main Hawaiian Islands, but there is no regular program, particularly of Niihau, of surveying the beaches there.

Morioka said anecdotal evidence indicates that more and more animals are showing up in the main Hawaiian Islands and this report would be inaccurate if it did not include this area during a total population assessment. He requested that the Science Center give a thorough report of animals versus a report on a segment that seems to be on the decline and not on another segment that seems to be on an increase, as this type of reporting provides an inaccurate portrayal of evidence as available.

Morioka then referred to page 2 of the Science Center's report with regard to shark predation. He said the Council has been advised on the issue of long-lived and slow gestation periods of certain sharks. He asked if Galapagos sharks also fell into that category of being very slow reproducing, and how the removal of these animals may be affecting the ecosystem as a whole. Expressing concern, he asked for a better understanding of the population dynamics that occurs when apex predators such as these are removed.

Polovina said the intent is not to try to reduce the overall shark population, but to remove the few that are really actively preying on pups and residents around Tern and some of the other pupping areas.

Morioka said the Science Center's report says that when this was done the sharks started to expand their foraging area. He said this creates another problem because now the sharks are starting to forage off all of these other islands. Morioka said this is placing fishermen more at risk in terms of what they are able to do within the ecosystem environment. Morioka asked the Science Center to focus on and be cognizant of the impacts to humans in the ecosystem also.

Simonds asked whether the Science Center would be able to complete the lobster research. Did it have enough funds? How long would the research be going on before there would be results that could be analyzed to determine lobster quotas?

Polovina said part of the funding for the tagging charters has been secured through the Cooperative Fisheries Program and that the Science Center is hoping to secure the remaining portion with some of the State funds. He said he would like the stock assessment group to concentrate its effort into modeling and analyzing the tagging and survey data and report back to the Council with model results by June. These results should indicate the conditions of the stock and the sort of quotas that could be considered.

Morioka asked for further questions

Polovina asked the Council and the Council staff about how much material to put in these reports. He said they are sometimes fairly lengthy and asked whether this level of detailed material is good.

Morioka said this report was one of the better ones they have seen.

2. National Marine Sanctuary Program

Allen Tom, the Pacific Regional Coordinator for the National Marine Sanctuary Program, said today's report would cover the Fagatele Bay Sanctuary in Samoa and the Hawaiian Islands Humpback Whale Sanctuary, and Thursday's report would cover the NWHI Coral Reef Ecosystem Reserve. The sanctuary program is based on partnerships. In these two sites the partners are the Territory of American Samoa and the State of Hawaii. While there aren't any marine sanctuaries in CNMI and Guam, funds are available to help them with their MPAs, if they are interested. Language in the program's Reauthorization Act says the other sanctuaries, so assistance can be provided.

Fagatele Bay is the program's smallest and oldest sanctuary in the Pacific Region. The coral reef ecological investigation that was done by the NOAA ship *Oscar Sette* and NMFS was very successful. It was the first look at Fagatele Bay. There was a hurricane in January, but the coral reef was left rather intact. The data is still being compiled, but it looks like the bay survived fairly well.

Tom said he had for all Council members copies of the Ocean Fest poster that was created by the artist Robert Nelson for Fagatele Bay. The poster actually portrays Maui.

The Fagatele Bay Sanctuary's management plan review is about 20 pages long and in serious need of update. The management plan review is scheduled for the next fiscal year, 2005. During the review, everything—from boundary to regulations to where our offices should be—is put on the table.

Tom said Nancy Daxboeck, who is the current manager of the sanctuary, would be coming to Hawaii to work with Tom in the region. Her current position, which is now a federal position, would then returned to the territory as it used to be. Funding for the position would be given to the territory as a grant.

The Ocean Fest will have its anniversary on April 30 of this year.

Regarding the Humpback Whale Sanctuary, Tom discussed four items.

- Congress has provided money so construction can begin on a new building at the Kihei facility on Maui. An August groundbreaking is being considered for this approximately \$3 million project. More information about the Kihei project can be found on the program's website.
- The Humpback Whale Sanctuary has been very innovative in creating partnerships, not only with State of Hawaii but also with a variety of other organizations. One of them that came to fruition this year was with the Outrigger hotels. The Outrigger is working with the Sanctuary Foundation to have kiosks and other information outlets at the Outrigger hotels. This is a great project not only here in Hawaii but also throughout the Pacific where there are other Outrigger hotels.
- A vessel-whale interaction workshop was held this past fall. That information is being worked on and a report will be coming very shortly. It is currently going through a review process with the Advisory Council.
- Simonds wrote to NOAA asking about the SPLASH project. It's the Structure of Population Levels and Abundance and Status of Humpback Whales. The SPLASH project is just about the Humpback Whale Sanctuary. The managers of that Sanctuary, Naomi McIntosh and Jeff Walters, will provide an update about SPLASH.

Tom concluded by saying that the Advisory Council will meet April 21.

Simonds noted that the Western Pacific Fishery Management Council is a voting member of the Advisory Council.

Tom introduced McIntosh and Walters and asked them to talk briefly about the SPLASH project.

McIntosh said the program's Science and Rescue Coordinator David Mattila runs the project. He is an expert on this topic and the best person to provide information about the project. Every year the humpback whales migrate to Hawaii waters during the winter months and are found in these waters from November through about May. During the sanctuary's designation process, the question often arose as to where else the Hawaii humpback whales go and how are they doing in these other regions. These are questions that this project seeks to answer. In 1997 about 1,000 whales were identified off of Hawaii. Once they left the island, the whales could be tracked to areas where studies are ongoing. Southeast Alaska saw some migration interchange between Mexico and Japan as well.

The SPLASH project will look at areas where there is not a lot of field research, sampling areas that are remote and where we haven't had researchers operating in. Where do the whales that feed in Aleutian Islands migrate to in the winter months to breed? Is there any interchange between the Hawaii whales and the area off of Panama and Central America? To conduct the SPLASH project, the Sanctuary has partnered with various researchers throughout the North Pacific to ascertain the population structure, level of abundance and status of humpback whales. Various platforms to research in these areas and

various research partners to conducting research in these areas are being considered. We will be collaborating with people who have been conducting research in these areas for a very long time. The project began this winter and is scheduled to span three winters and two summers. Partners include NOAA Fisheries, National Park Service, Canada's Department of Fisheries and Oceans, the National Marine Mammal Program in Mexico, universities and NGOs. These researchers will use the same research methodologies, using photos to look at the underside of humpback whale tails to identify individuals and their migration destination. Biopsy sampling, essentially taking a skin biopsy and looking at DNA and relationships between whales, will also be used. We also want to photograph other parts of humpback whales to look at scar patterns and try to identify whether or not whales have survived incidences of entanglement and vessel interaction.

The primary objective is to look at population structure, to look at the abundance of the whole population in the North Pacific, to look at trends in abundance, and population parameters, reproductive rates, mortality rates, and opportunistically to look at human impacts, the entanglement issue, vessel strikes, whether or not whales are being affected by toxin, and to better characterize the habitat.

This project has already begun in Hawaii. There are sampling areas off the Big Island, Maui and Oahu. Penguin Banks and the areas off of Kauai have been very challenging due to the weather.

The Hawaii Humpback Sanctuary has also been supporting the sanctuary in American Samoa. Mattila spent two weeks there in September last year and he did biopsy samples of about 17 whales. That was pretty phenomenal because they had no information about any of their whales in that area. That information will be contributed to the research operations in the South Pacific.

Morioka asked Council members for questions.

Simonds expressed appreciation for the international cooperative research, but she wanted to make sure that NOAA took advantage of this research by including information on all the other cetaceans that they observe. She said the big concern is with the latest lawsuit regarding false killer whales. She asked that the Council be on record recommending that this opportunity be used to get as much information as possible on the other cetaceans.

McIntosh said the researchers are very much interested in opportunities to get more information about other species that might be encountered. They would be happy to provide the data to the Council.

Tom said that, if the Council would like to provide funds, the sanctuary program would be glad to partner with it.

Simonds said NOAA has a lot of funds for this project.

Walters added a few words about the State side of the Sanctuary's federal-state partnership. The State is a co-managing partner in the Humpback Whale Sanctuary and the

DLNR Division of Aquatic Resources provides resource assistance ranging from research to technical support and helps operate and maintain the program's two vessels. It also administers funds for research and education and outreach and helps with stranding and disentanglement activities and responding to injuries. It doesn't regulate fishing in any way, but has various regulations regarding protecting the humpback whales.

The DLNR office will include three new staff people. David Nichols, a new hire, previously worked with NMFS. He's on Oahu and helping with program operations and support. He was one of the two guys that helped remove the big whale carcass at Bellows recently. Someone will be hired very soon to open up a new office in the Kona area for the Humpback Whale Sanctuary. The person is going to start out with a lot of education and outreach work and assisting with ocean tour operators so they can enjoy the whales while doing it in a sustainable and appropriate manner. The office is expected to open this summer. On Kauai, the DLNR Sanctuary office administers decisions primarily related to management of monk seals. Tom Farey has done a good job over tracking and managing the haulouts. He's got a very systematic survey of all of haulouts around the islands.

Walters reiterated the issues regarding seals begging in the harbors and how it turn into an enforcement problem. He said the Sanctuary program is trying to be proactive and to work with the community and try to set an example for the whole state in terms of seals and people co-existing in the main Hawaiian Islands. This position was funded by NMFS, but was not long term. So a new source of funding is being sought to support the monk seal management and conservation in the main Hawaiian Islands.

Walters noted that the leadership staff took a field trip to the sanctuary office on Maui. He said one thing that the State office is very proud of is its Congressional mandate to facilitate ocean uses that are compatible with the sanctuary, especially traditional Native Hawaiian uses. When asked, the Native Hawaiians said the best way the Sanctuary program could facilitate traditional Hawaiian uses and practices would be to help people understand how Native Hawaiians respected and used the ocean environment in a sustainable way, teaching them about ocean stewardship that was practiced by Native Hawaiians. Consequently, this poster was developed. The seascape represents many Native Hawaiian uses, such as fishponds, voyaging, navigation, various fishing methods and a fishing shrine. It also shows the reverence that the Native Hawaiians had towards dolphins and whales. For example, they used the teeth from the whales for ceremonial purposes. It talks about surfing. It's a very rich seascape. A version of the poster that has text down the side describing all these uses will be distributed to schools. This is an example of how the Humpback Whale Sanctuary is trying to facilitate traditional Hawaiian uses in the sanctuary.

Morioka asked the Council members if they had any questions. Hearing none, he moved to the next agenda item.

3. NOAA General Counsel

Feder noted that his report is 5.A.3.A in the Council's briefing book. He said he would report on several cases that directly concern fisheries under the jurisdiction of the Council and then a couple cases in related fisheries that might interest the Council.

The first is the case by the CNMI government against the United States government (CNMI vs. United States). This is not a case against NOAA, in particular. But NOAA is very interested in it because it concerns who owns the submerged lands around the CNMI. CNMI brought this case against the United States alleging that the submerged lands around the CNMI belong to the CNMI. The case was filed about four years ago and has a convoluted procedural history. The bottom line is the US District Court in the CNMI ruled last August that the submerged lands belong to the federal government and found that federal law preempted two local laws (the Marine Sovereignty Act and the Submerged Lands Act). CNMI appealed that decision to the 9th Circuit Court of Appeals. That appeal has not been scheduled yet. It usually takes many months. In the meantime, the US and CNMI governments entered into a stipulation to stay in part the ruling of the district court that the two local laws were preempted. This stay applies within 0 to 3 miles offshore the CNMI to allow the CNMI to enforce local laws in that area. That stipulation was formalized in an order by the court on January 20 of this year.

The second case is the Hawaii Longline Association (HLA) against NMFS about management of the Hawaii longline fishery. This case, too, has a fairly tangled procedural history. It involves both a biological opinion (BiOp) issued by NMFS in 2001, regulations issued to implement that biological opinion that were promulgated in June 2002 and a second biological opinion issued in November 2002. HLA alleged that the jeopardy analysis in these opinions was not lawful under the ESA and that the June 2002 regulations to conserve sea turtles violated the Magnuson Act and the Administrative Procedure Act. The court ruled that NMFS should have treated HLA as an applicant under the ESA, which would have accorded the HLA certain procedural rights in the Section 7 Consultation that led to the biological opinion, including the development of reasonable and prudent alternatives. So the court did not rule on the questions of the jeopardy analysis, but found for the HLA on procedural grounds, that NMFS unlawfully failed to treat the HLA as an applicant, and because of that procedural violation vacated both of the biological opinions that covered the Hawaii longline fishery and the June 2002 regulations to conserve sea turtles. The vacating of the biological opinions and the regulations are effective on April 1. Hence, there has been rapid movement in the last few months to establish new regulations to conserve sea turtles, and NMFS issued a new biological opinion, finding that the Council's recommendation from last December would not be likely to jeopardize sea turtles. NMFS has not made a final decision on the Council's recommendation to establish new sea turtle conservation regulations, but that decision is probably going to happen early next week and NMFS expects to issue regulations to conserve sea turtles that will be in compliance with the ESA sometime early next week. This case by the HLA will likely become dormant and be dismissed in the near future.

The third case is the Hui Malama I Kohola case, brought Nov. 11, 2003, by three environmental groups alleging that NMFS violated Section 118 of the Marine Mammal

Protection Act by classifying the Hawaii longline fishery as a Category 3 fishery under the Marine Mammal Protection Act. Category 3 means that the fishery only has a remote likelihood of interacting with or causing mortality or serious injury of marine mammals. The environmental groups allege that the record shows that the Hawaii longline fisheries interactions with marine mammals, and particularly false killer whales, are so frequent that the fishery should have been categorized as a Category 1, which means it has frequent interactions with marine mammals. This case involves the dispute over the calculation of the numbers and other information used by NMFS in categorizing the Hawaii longline fishery as a Category 3 fishery. This case is coming up for oral argument tomorrow, Wednesday, here in Hawaii before Judge King, US District Court, 10 am. It's an open hearing, and the public is welcome. One of the principal arguments the government is making at this stage in the case is that the plaintiff's allegations are soon to be rendered moot because NMFS is scheduled to reconsider the categorization of this fishery anyway, as it does every year, and NMFS is expected to issue a proposed categorization of this fishery in the next month or so and finalize the decision to categorize this fishery in June of this year. Obviously, the decision hasn't been made about the categorization of this fishery in the future, and the decision to categorize this fishery again may result in additional litigation.

The fourth case is The Ocean Conservancy case, in which environmental groups challenged the research conducted by the NMFS Pacific Islands Fishery Science Center on longline fishing techniques that mitigate the taking of sea turtles. This research was conducted under a research permit issued by the NMFS under Section 10 of the ESA. The plaintiffs allege that the research and the permit violated NEPA and ESA. The district court in Honolulu ruled in favor of NMFS under the ESA, but ruled against NMFS under NEPA and found the NMFS should have prepared an EIS on this research. The case is dormant because, since that time, NMFS revoked its own permit and began to prepare an EIS. But NMFS is not aggressively pursuing the EIS and that research and is considering other ways to conduct research into gear types, including perhaps using the new swordfish fishery.

There are two other cases that might be of interest to the Council. The first is the case brought on the West Coast of California by the Center for Biological Diversity and other environmental groups that challenges the operation of the California-based pelagic longline fishery that operates on the high seas. That fishery was not managed under the Magnuson Act. It was permitted by NMFS, however, under the High Seas Fishing Compliance Act. That Act requires that all US fishing vessels fishing on the high seas must operate under a permit issued under that act. The plaintiffs alleged that NMFS should have conducted a Consultation under Section 7 of the ESA because it issued permits to the California longline fishery. NMFS won at district court level but lost at the appellate court level last August. The 9th Circuit found that NMFS should have engaged in a Section 7 Consultation. Coincidentally, the Pacific Council had just developed a new FMP governing highly migratory species, and among the fisheries that that new FMP would govern was the longline fishery off the West Coast. So NMFS engaged in a consultation on fisheries as managed under that plan and that plan has since been approved in part. The part that was disapproved was the part that allowed the longline fishery off the West Coast to operate basically without restriction. NMFS found that the continued operation of the swordfish fishery on the high seas off the West Coast would likely jeopardize loggerhead sea turtles,

and as a result NMFS partially disapproved the plan to the extent that it allows longline fisheries east of 150° W longitude. NMFS has issued a regulation under the ESA closing the swordfish fishery east of 150° W longitude in compliance with that BiOp to ensure compliance with the ESA. That regulation will become effective on April 12. Related to this case, NMFS has stopped issuing High Seas Fishing Compliance Act permits around the country to fisheries that are not otherwise covered by a biological opinion.

The last case involves the purse seine tuna fishery in the Eastern Tropical Pacific, the fishery that is regulated by IATTC. The Earth Island Institute and several other environmental groups brought suit in the District Court of Northern California alleging that NMFS made an unlawful finding under the Dolphin Protection Consumer Information Act about the impact of that international purse seine fishery on depleted dolphin stocks. That case is in the summary-judgment briefing phase. A hearing is scheduled on April 26. The findings of this case are of great interest to IATTC. To some extent the continued viability of the International Dolphin Conservation Program is dependent on the court's decision about whether to uphold the US finding about the impacts of the fishery on depleted dolphin stocks.

Morioka asked Council members if they had questions.

Sablan asked Feder his opinion on whether the submerged lands case that is pending in the 9th Circuit Court would stay there or would it be moved up to the US Supreme Court.

Feder said he understood that the 9th Circuit would hear the case first and not the US Supreme Court.

Sablan asked if this would be true even with the expiration of CNMI's association or affiliation with the 9th Circuit Court by this June. Starting this June of this year June, CNMI cases that are appealed would not go to the 9th Circuit but straight to the US Supreme Court.

Feder said he was not familiar with that.

Sablan asked him to look into that.

Feder said he would.

Seman said that the CNMI government has put together a Submerged Lands Task Force regarding this appeal, and the task force has put forth recommendations to the governor.

Morioka thanked Seman for the update and announced a 5-minute break.

B. Department of the Interior – US Fish and Wildlife Service

Palawski said he'd touch based on a couple of activities that are occurring at the Pacific Remote National Wildlife Refuges.

First, he thanked the NMFS Pacific Science Center for its assistance in the Equatorial Research Cruise, which started in January at Johnston Atoll and is ongoing today. At Johnston Atoll they had some very unprecedented seas, and huge waves there caused some problems for the research. But they did manage to move to Baker and Howland Island National Wildlife Refuges to conduct assessment and monitoring using the multi-discipline approach. Currently, the R/V *Oscar Sette* is speeding towards Jarvis and will do assessments at Jarvis, Palmyra and Kingman.

As mentioned at the last Council meeting, USFWS is looking forward to working with Tulafono and his staff at the American Samoa Department of Marine and Wildlife Resources on the removal of a shipwreck that occurred at Rose Atoll in 1993.

In the NWHI, USFWS has a contractor to replace the seawall at Tern Island. Funding was not sufficient to do the entire sea wall. Rock revetment will be conducted on the north and the south, northwest and southwest sides of Tern Island starting in early April. Project completion is expected in about three to four months.

Funding was received through the federal Department of Transportation to keep the airport open at Midway Atoll through October for emergency landings by trans-Pacific commercial flights.

Morioka asked Council members if they had questions.

C. Department of State

Morioka welcomed Gibbons-fly from the State Department, who is Director of th Office of Marine Conservation in the Bureau of Oceans, International Environmental and Scientific Affairs.

Gibbons-Fly said he wanted to focus on a couple of different issues, particularly with respect to the two organizations that are or soon will be responsible for the conservation and management of pelagic highly migratory species. Those two organizations are the Western and Central Pacific Fisheries Commission, which is currently in the Preparatory Conference phase, and the IATTC, which is responsible for highly migratory species in the Eastern Pacific to the east of the 150° W longitude.

With respect to the Preparatory Conference, the 5th session of the Western Pacific Preparatory Conference was held Sept. 29 to Oct. 3 in Roratonga, Cook Islands. A major outcome of that meeting was resolution of language and the rules of procedure relating to the functions of the Northern Committee. The Northern Committee is a subsidiary body of the Western Pacific Convention that will, among other things, provide recommendations in support of conservation and management measures for the stocks that occur mostly in the area north of 23° N, and those are the North Pacific bluefin, the northern albacore and the North Pacific stock of swordfish. Resolution of this issue was particularly important for the participation of Japan and the work of the Commission. With the resolution of that issue, the Government of Japan is in the process of undertaking the internal review procedures to be able to sign and eventually become members of this new organization.

The fifth session also agreed on a structure for the provision of scientific advice to the Commission in its early years. It completed work on the draft rules of procedure, not only with respect to the Northern Committee, but also with respect to the participation of territories in the work of the Commission. Progress was made towards the completion of the Commission's financial regulations, including the means to include effective participation of developing coastal states and territories in the meetings of the Commission, trying to make sure there are funds available for many of the developing coastal states and territories to participate. The meeting also made some progress laying the groundwork to address conservation and management issues once the Commission is up and running, which is expected to happen later this year. A resolution was adopted that called for the preparation of a management options paper for yellowfin and bigeye tuna. That paper is now available on the Preparatory Conference website and can be downloaded. In addition, the Preparatory Conference at its last session made progress on monitor, control and surveillance issues, including a scheme for high seas boarding and inspection. All of the Preparatory Conference documents, both for the previous sessions and for the upcoming session, can be found on the Internet at www.ocean-affairs.org.

With respect to the status of the Convention, New Zealand deposited in December the thirteenth instrument of ratification for the Convention, which triggers the six-month time frame for the entry into force for the Convention. So the Convention will enter into force on June 19 of this year. That means that this session of the Preparatory Conference upcoming in Bali, which is scheduled for April 19 - 23 will be the last working session of the Preparatory Conference. The next meeting will be a very short meeting of the Preparatory Conference to simply conclude the work of the conference and will move right into the first meeting of the commission itself. The issues that will be addressed by the Preparatory Conference in its next session will relate primarily to the administrative and financial requirements that the Commission is going to have to have in place in order to function in its early years. Of particular concern is the need to finalize an agreement on the initial budget of the Commission and particularly the scheme of contributions that would determine each country's contribution to the Commission. That will probably be the highlight of the meeting. On more administrative matters, the financial regulations will be finalized and criteria adopted for the executive director.

With respect to bigeye and yellowfin tuna, one of the main issues the Commission will be focusing on is the increasing growth and fishing capacity in the region, both in terms of purse seine capacity and longline capacity. It is a priority of the United States to try to get a handle on that particular issue.

The other issue that we hope the Commission will address early in its life will be the issue of bycatch of sea turtles, sharks, seabirds and other non-targeted species. The US Delegation will have this on its agenda at the first meeting of the conference and will be laying the groundwork for some of that at the upcoming session in Bali.

With respect to the IATTC, the main issues that are of interest to this Council are the conservation and management measures relating to yellowfin and bigeye tuna. In December 2003 there was a closure of a large part of the Eastern Pacific Ocean to the tuna purse seine fishery. The measure was directed toward the high incidence of mortality of

juvenile bigeye tuna identified in that area. Then from Aug. 1 to Sept. 11, 2004, there will be a closure of the entire Eastern Pacific purse seine fishery. The intent of this measure is to limit or reduce fishing mortality on both yellowfin and bigeye tuna. The Inter-American Tropical Tuna Commission (IATTC) has also been active in efforts to limit fishing capacity. They do have the capacity management plan in place and are working to have a cap on the fishing capacity, to try to work that capacity level down in line with the sustainability of the yellowfin and bigeye stocks in the Eastern Pacific Ocean. The IATTC is also active in bycatch. Finally, IATTC adopted last year a revised convention that significantly updates and provides a much stronger legal constitution for the operation of the IATTC. The original IATTC Convention was adopted in 1949. It was about five paragraphs, and it had served us well for a number of years. But given the increasing number of tasks that the IATTC was undertaking, more and more of the participants felt that IATTC might have been exceeding the legal mandate given to it. So a number of years were spent negotiating a new Convention, which in many ways mirrors the Western and Central Pacific Convention, in that it is an implementing agreement for the UN Fish Stocks Agreement. It incorporates many of the provisions of the UN Fish Stocks Agreement, in particular, by ensuring the broadest possible range of coverage of species; providing for a precautionary approach to fisheries management; ensuring authority for conservation and management measures not only for target species, but nontarget fish species, associated and dependent species and species belonging to the same ecosystem; strong provisions for compliance and monitoring control and surveillance, both in terms of at sea through an observer program; etc. This new IATTC Convention was adopted in June, signed in December, and will enter into force when seven of the current 13 members of the IATTC have ratified it.

Gibbons-Fly briefly reported on the recent consultations in Tuvalu under the South Pacific Tuna Treaty. This annual consultation rotates through the Pacific Island States under the treaty on fisheries between the Pacific Islands States and the United States, which governs the operation of the US tuna purse seine fleet operating in the Western Pacific. US relations with the Pacific Island states, the states of the Forum Fisheries Agency, under this Convention is a very strong and solid one. It's evolved over a period of 16 years. The US agreed on an adoption of a 10-year extension of the treaty last year. This consultation was the first consultation under the 10-year extension of the treaty.

Gibbons-Fly noted that on Wednesday discussion is scheduled on several other meetings that State Department has been involved in, including the ISC, the Bellagio Sea Turtle Conference and the Indian Ocean Sea Turtle MOU.

Morioka thanked Gibbons-Fly for the report and noted that the Council is very interested in what the United States is doing on the international scene. Morioka said the Council appreciated the report and Gibbons-Fly's attendance the day before at the Standing Committee. He asked if the Council members had any questions.

Duenas said he would like to see more participation by the Pacific Island groups at the Prep Cons. As the island entities start developing these cooperative enforcement agreements with NOAA and NMFS, there is an opportunity to increase capacity to monitor the EEZ. Duenas asked if there might be opportunity to give Pacific Island groups greater

participation in the Forum Fishery Agency and the IATTC. Duenas said the Pacific Island groups are greatly impacted by the international regimes surrounding their island nations, such as the one created by the Forum Fisheries Agency (FFA) limiting transshipment of pelagics on the high seas, which occurs around Guam and the CNMI. Duenas said the State Department's addressing capacity was appreciated. He noted that Taiwan recently released a vessel with 2200 gross metric tons of capacity and suggested that the harvesting rate by these purse seiners will be detrimental to coastal island communities. Duenas reiterated the effect that international treaties have on Pacific Island nations and their need to be more involved in these activities.

Morioka asked for further comments and questions.

Gibbons-Fly said he'd like to talk more about the sea turtle strategy the next day because a number of the meetings that will be reported on tomorrow relate to the sea turtle issue and there is a common thread and a common strategy that is woven through all of those meetings. It's clearly not solely a State Department effort but an effort that has been done in close cooperation with the Council, NMFS and other elements of NOAA. It is truly a US government strategy.

With respect to Duenas's comments, Gibbons-Fly said there is always a place for representatives of the Pacific Island territories on the US Delegation to the Commission. He asked interested parties to contact his office if they wanted to get on the delegation. With respect to participating in the Commissions itself, Gibbons-Fly said there is a status that is somewhere in between observer and member. It was a category that was created specifically for territories not only of the United States, but also of France and New Zealand. Territories may participate, sit at the table, have their own plaque and participate fully in the deliberations and discussions. There are limitations with respect to participation of territories when it comes to voting on a particular issue because there is concern of a number of other countries that don't have territories and multiple votes for a single party. There are provisions that in particular cases the member in question could delegate its vote on a particular issue to a territory if a territory had a particular interest, such as Guam's interest in transshipment, for example. Gibbons-Fly said this is an issue he would be interested in discussing with the representatives of territories because these issues need to be worked out as the ratification process moves forward in Washington. Participation of territories will be based on the submissions of declarations to the depository at the time the United States submits its instrument for ratification to the Convention. So the State Department will need to cooperate and coordinate closely with each of the territories that want to participate in this process to make sure that the federal government and the territories agree on the nature of the participation and understand what their agreement is.

Simonds asked about the FFA.

Gibbons-Fly said that membership in FFA is an issue for the FFA states. He said he understood that membership in FFA is limited to the states of the Pacific Forum, which are essentially Australia, New Zealand and the 14 independent Pacific Island states.

Simonds noted that the territories and the Council have always had observer status with the FFA.

Morioka asked for further questions. He then noted that recreational and subsistence fishermen never seem to be able to organize sufficiently to gain a lobbyist or a position to be heard. He asked how the recreational and subsistence fishermen could best approach the Department of State to get involved in some of these international meetings. In the Atlantic, under the International Commission for the Conservation of Atlantic Tunas (ICCAT), there are several fishery regulations with regard to marlin, bluefin tuna and yellowfin tuna as to how many recreational fishermen can take. Morioka said he sensed the same situation evolving in the Western and Central Pacific.

Gibbons-Fly said that when the State Department goes to international meetings, it is in a position of committing the United States to adopt certain conservation and management measures. It needs to have as much information about the interest of the full range of constituents that would be affected by any such decision. In terms of the best way to provide this information, it is done in a number of different ways. In some cases an organization is formed and someone is hired to represent its interest. If the person can't be sent to the meetings, he or she can at least participate in US delegation meetings in advance of the meetings. Gibbons-Fly said that he thought there's also a role for the Council to play in this regard, to the extent that it represents both commercial and recreational interests.

Morioka said the Council's role would be essential and he hoped the Council is on the State Department's mailing list and advised of upcoming delegation meetings, etc.

Morioka asked about the State Department's view on FADs and free-floating FADS, e.g., the impacts to marine mammals, endangered species and entanglement issues,

Gibbons-Fly said in the Eastern Pacific there is a unique dynamic in that the two primary fishing methods for yellowfin and skipjack tuna are either to fish on tuna in association with FADs and/or fish on tuna in association with dolphins. So there has been a strong push in the Eastern Pacific for more fishing on FADs and less fishing on dolphins. It has been in the last few years that some of the environmental concerns about the use of FADs have started to come to light. The IATTC has done some interesting analysis on bycatch in the respective fisheries and at the current levels of dolphin mortality in the Eastern Pacific. They've compared the dolphin catches associated with catching a ton of tuna on dolphins to the capture of juvenile yellowfin, juvenile bigeye, wahoo, mahimahi, sharks, sea turtles, etc. when catching a ton of tuna on a FAD. It's forcing a number of people to look at the tradeoff between these fisheries in the Eastern Pacific. In general the Eastern Pacific, the fishery has historically been a balanced one, and for the time being that is probably the best way to proceed given that shifting effort too heavily on to dolphins or too heavily on to FADs has its own set of environmental consequences, depending on where your priorities lie. So that's a little different than perhaps the issue out here in the Western Pacific where you don't have that dynamic. You have the issue of FADs and then you have the issue of most tuna that's not caught on FADs, as I understand it, is caught on free-swimming or unassimilated schools. But to the extent that the federal government takes a position on FADs or the State Department takes a position on FADs, we have to look

at it in both areas. So FADs in the Eastern Pacific do provide an alternative to fishing on dolphins, and it does provide an important component of the fishery. So we need very much to take that into consideration. Gibbons-Fly said FADs are being looked at very carefully in the Pacific and the trend in the use of FADs is down considerably from a few years ago, looking at some of the material under the Tuna Treaty, the number of sets on FADs, particularly by the US fleet, but perhaps also by other fleets. There was a time just three or four years ago that the use of FADs, the number of sets on FADs, was just going almost straight up. That's come down considerably in the last three or four years. He said as long as it's kept in balance, it's like anything else. Problems occur when things get out of balance.

McCoy asked what has substituted the sharp decline in the use of FADs.

Gibbons-Fly said, based on the information from the Western Pacific fleets, there is a return to fishing on freely-associated schools. He said most of the tuna that's being caught on FADs is skipjack. To catch yellowfin, which most of the vessel owners do, because they're getting about \$400 to \$500 more per ton for yellowfin than they are for skipjack, they're going to fish on freely-associated schools and not go after the skipjack that they're going to catch on the FADS.

McCoy said it's economically driven.

Morioka asked for further questions.

VI. ENFORCEMENT/VMS

A. USCG Activities

Morioka turned the meeting over to Co-chairs Tulafono and Martin.

Tulafono gave the chair to RADM Wurster.

Wurster noted that this was his first attendance at a Council meeting. He said he took over as commander of the 14th District from Rear Adm. Utley. His previous assignment, back in Washington, DC, was as chief of acquisitions for the USCG. Prior to that, he served as chief of staff at the USCG Pacific's area in Alameda, Calif., and also as the commanding officer of the USCG's support case in Kodiak. Both of those previous assignments provided him with an overview of living marine resource issues. The issues are the same everywhere: conservation of fisheries for current use, as well as to provide for future generations, and also the preservation of endangered species. As the USCG Commander in the Central and Western Pacific, Wurster's primary interest as part of this Council is the safety of human life at sea and even-handed enforcement of the regulations that are established so there is a level playing field for all the fishers.

Wurster introduced Cmdr. Dwight Mathers, his staff expert Fisheries and Living Marine Resource issues, who would provide the USCG update.

Mathers directed the Council to the written report in the binders at tab 6.A.1. This report covers the USCG fisheries enforcement from the Oct. 1, 2003, to Feb. 29, 2004.

- During this period six foreign fishing vessels were suspected of fishing within the US EEZ. The USCG was unable to respond due to lack of available resources at that time and the timeliness in which the incursions were discovered.
- In November and December two of the USCG's Polar Class Icebreakers conducted surface and aerial patrols of the EEZ surrounding Howland and Baker during a transit south to break ice in Antarctica. Neither one of those vessels detected any illegal activity at that time.
- In November the USCG cutter *Kukui*, a buoy tenders based in Honolulu, conducted a week-long domestic fisheries patrol north of the main Hawaiian Islands and used that opportunity to conduct at-sea boardings. The weather was pretty rough and they weren't able to do as much as they wanted.
- In January, working with NOAA Fisheries Enforcement, two US longliners were detected setting gear in the Kirbati EEZ. NOAA Fisheries Enforcement is currently investigating these cases.
- In January a USCG cutter patrolling in Guam cited a vessel for illegal take of a green sea turtle. NOAA Fisheries Enforcement Al Santos is investigating that case.
- The USCG continued to conduct dedicated surface and aerial patrols in the Hawaiian Islands Humpback Whale National Marine Sanctuary. No violations were detected to date this year.
- The USCG provided support flights to the NOAA Protected Species Management Division to relocate a monk seal from the Big Island to Johnston Atoll. This particular monk seal was having some problems with human interaction, and NOAA Fisheries decided to remove it to prevent any further interactions.
- The USCG provided a support flight to Council to help map some of the personal FADs northeast of the Big Island. Eric Kingma may be reporting on this later.
- The USCG continued a positive working relationship with NMFS in cooperating activities and operations with special agents in Hawaii, Guam and American Samoa.
- A USCG cutter recently came across a US fishing vessel in the EEZ around Kingman and Palmyra Reef Atoll that had picked up 17 foreign crewmembers from Christmas Island and was preparing to distribute them to other US fishing vessels in the area. While this practice in itself is not illegal, the fishing vessel did not have a sufficient amount of personal flotation devices or life rafts to account for the number of people onboard. One of our primary concerns is safety of life at sea. Vessels that might be engaging in this activity must have the proper safety

equipment. In this case, the vessel was able to transfer those people to other vessels in a short enough period of time that we allowed them to continue fishing and we may have supplied them additional life jackets to make sure they could fish safely.

- USCG Chief of Operations Randolph Beltz and Chief of Fisheries Enforcement Cmdr. John Davis will be participating in the Executive Directors and Chairmen's meeting next month in Kauai.

McCoy asked if there was any money exchanged in the case of the 17 fishermen.

Mathers said he believed in this case some of the longline vessels here in Hawaii are having difficulties finding sufficient crews to man their vessel. They were going to the Philippines and other countries to bring those crewmen in. Customs and Border Protection has started enforcing more strictly some of the requirements for visas to do that. So to provide for vessels, some of the agents for the vessels started bringing those people into Christmas Island and then putting them on vessels to fish. While he did not know about the pay arrangement, he assumed that something had been worked out through the agent or vessel owners. Because it's the pelagic fishery, the vessels are allowed to have foreign crew, whereas other fisheries are allowed to have a certain number of US crew versus foreign crew. So the USCG concern is for safety, that they have the proper safety equipment. A secondary concern is that those vessels come back in to make port calls into Hawaii or other areas, that the vessel report in properly to Customs and Border Protection so that the status of those individuals, those foreign crew members onboard those vessels, can be determined to see if they have the proper visa to either go ashore or to be detained onboard that vessel to comply with US Immigration

McCoy said his question was leading to the role USCG plays in Homeland Security issues. He said some of these situations are occurring within America Samoa and wondered if it doesn't open a hole.

Mathers said the concern is that as the vessels come in, the people are subjected to some kind of background check. He said McCoy's and the USCG concern is the same for these vessels from a Homeland Security perspective, to make sure that those people aren't intent on doing other activities that they shouldn't be doing. Mathers said the USCG has been working closely with Customs and Border Protection in the Department of Homeland Security.

Tulafono asked for any other questions.

B. NMFS Activities

Tulafono called on Judy Fogarty for NMFS enforcement activities.

Fogarty said this was her first Council meeting and she was getting quite an education. She asked John Reghi from her office to provide the report to the Council.

Mathers interjected that he wanted to point out some of the other USCG members in the audience: Chief Dave Peelman from the Pacific Region Fisheries Training Team,

who trains the units in Hawaii and in Guam; Master Chief David Kokata from the Marine Safety Office, who is a commercial fishing vessel safety examiner; and Cmdr. Bob Wilson.

Reghi introduced himself as the assistant special agent in charge of the NOAA Fisheries Office of Law Enforcement with Pacific Islands Enforcement Division. In April 2003 NOAA Fisheries Enforcement announced that the Pacific Islands Enforcement Division was created. It is the newest and smallest of all of Office of Law Enforcement (OLE) enforcement divisions. The Division is in the process of augmenting its investigative resources, which has included a new special agent in charge, Judith Fogarty. Fogarty comes from the US Customs Service, where she was the resident agent in charge of Orange County, Calif. Her background expertise includes supervision of management of complex civil and criminal investigations involving violations of US law ranging from smuggling to fraud and money laundering. She has quite a comprehensive and impressive background. Also in the audience today from Headquarters is Deputy Chief Mark Spurrier.

Reghi directed the Council to item 6.B.1, the Division's enforcement report, which covers the period since the last Council meeting. He started his report with the Hawaiian Islands:

- The OLE continues to detect minor technical violations of the Western Pacific pelagic regulations in the main Hawaiian Islands. Those violations include failure to mark gear appropriately, failure to strategically discharge offal as required, various logbook discrepancies and increasingly severe failure to provide sufficient departure notice to the longline observer program to facilitate observer placement. Longliners who actively fish and land on the Big Island still need to contact the OLE for potential observer placement.
- There have been two successes recently regarding protected species violations. One involved the harassment of a monk seal, which resulted in a \$500 fine, paid by the respondent. Another involved the harassment of a humpback whale, also a \$500 fine he paid.
- Importations of marine mammal products used in exotic medicinals, primarily consisting of seal reproductive organs, are still being detected. Those have been intercepted at Honolulu International Airport before they've been introduced onto the island.
- Attention has been given to shark fin shipments coming through Honolulu International Airport. These are being reviewed as potential violations of the Lacey Act.
- On Maui, enforcement efforts continue with the humpback whale season. An enforcement officer is on staff full-time around the island.
- A special agent is assigned in full-time capacity to meet the enforcement needs of the Coral Reef Ecosystem Reserve as it works toward sanctuary designation.

- OLE is also looking at approximately half a dozen vessels that have not renewed their Hawaii limited entry permits yet may be engaged in some form of fishing.
- OLE is also working closing with the Pacific Islands Regional Office on the Protected Resource Workshop requirements associated with the Hawaii limited entry permits.

In CNMI, OLE is in the process of reconciling and completing cooperative enforcement agreements.

In Guam, OLE has had several physical arrests of individuals who have taken threatened and endangered sea turtles. Those cases were referred to the Office of the United States Attorney for further disposition.

In American Samoa, OLE has been addressing Protected Species Workshops and expired permits. The resident agent in American Samoa is actively reviewing potential violations. She is also contributing some of her time and expertise to Fagatele Bay National Marine Sanctuary, as well as the Coral Reef Advisory Group.

In the FFA, Special Agent Kevin Painter is assigned full-time to provide investigative and advisory support and to conduct enforcement workshops throughout the region.

Tulafono asked for questions.

C. Enforcement Activities of Local Agencies

Morioka said this has been done already.

D. Status of Violations

Paul Ortiz reported that there are two new prosecutors, one in Long Beach and one in Washington, DC, who are helping with some of the Southwest and Pacific Islands Regions' cases. Ortiz said the he has personally for the last 18 months been assigned to work on the large amount of enforcement issues concerning Antarctic and Patagonian toothfish, or Chilean seabass, fishery.

Ortiz noted that NMFS and the CNMI for many years have been working on a cooperative enforcement agreement. In the last two weeks extensive strides have been made to complete that agreement, and as of about an hour ago a final draft may have been completed that will be sent to DC for final clearance. Then it will be sent to CNMI for their signature.

Ortiz said his report could be found at 6.D.1, and he would raise a couple of highlights from the report.

- Five cases have been charged in the last quarter.

- The first three are closed area violations by longline fishing vessels out of Hawaii. These incursions were not particularly deep into any closed area, but they were deep enough to be a concern. They have been addressed with \$10,000 penalties.
- The second two cases are from Guam and involve the importation and possession of shark fins. Shark fin cases have been a focus of the agency now for almost two years. I believe the report from Guam is that the foreign fleet is beginning increased cooperation and compliance, i.e., they're beginning to land the carcasses. Under the Shark Finning Prohibition Act sharks can be finned if the entire carcass of the shark is retained. Three cases have been settled. Only two listed in the written report. Ortiz said he believed in the last two weeks a prosecutor settled the F/V *Finback* case.
- As for American Samoa, Ortiz discussed a case from 2001 involving a longliner flagged out of Samoa. He believed the name of the vessel was *Le Vaimooia*. It is not an alia vessel but a full-scale longline vessel that over the course of a month or so made approximately 16 incursions into the US EEZ and a number of illegal incursions in other EEZ in the region. After an excellent investigation by Edwin Seui from American Samoa and Martina Sagapolutele, a NMFS special agent, the vessel owner and the master of the vessel were charged with a \$120,000 penalty and the fish that was taken illegally during that fishing trip was seized. Ortiz said foreign fishing vessels operating illegally in the US EEZ is one of the top priority cases for the OLE and for his office, throughout the country. For a number of reasons, the case has been delayed for almost two years. A USCG Administrative Law Judge heard the case in Honolulu last month. The vessel owner and the master did not appear to defend the case. OLE flew in its witnesses from American Samoa, and the judge upheld the penalty of \$120,000. The other side wants to appeal. Ortiz believed the appeal would end this week; at which time efforts to collect the penalty would begin. Under PIAFA, the monies will be provided to the American Samoa government.

Simonds asked if the \$120,000 assessment holds, what American Samoa's portion of that amount would be.

Ortiz was not sure. The enforcement and hearing costs would be deducted. This included a lot of airfare and personnel hours. He said in one case that did not go to hearing, the enforcement cost was \$30,000 to \$40,000.

Simonds said she thought American Samoa is the only territory that has actually received funds in the past for these incursions and assessments.

Farm asked about the probability of collecting the full amount and, if that is not successful, what happens to this vessel and its operations.

Ortiz said the likelihood of collecting any money from foreign vessels is driven by two things, the cooperation level OLE has with the flagged nation of the vessel and the

amount of times in the future that this vessel wants to make a US port call. If the vessel doesn't cooperate and the penalty goes into default, OLE would work with the US Attorneys Office in Honolulu. If the vessel returns to a US port, it can be seized until compliance is received. Ortiz said the vessel in question historically makes port calls into Pago Pago so he hopes the vessel owner and the Government of Samoa will cooperate to work out payment of the penalty. Ortiz said there is some question whether any particular company can afford to pay a \$120,000 fine. The company had raised some of these issues early on in the litigation. If the company can't, OLE will try to work with them. Ortiz said this company, he believes, runs the full-sized longline vessel and a number of alias. It may take years to get the full penalty. Some kind of agreement, time payments or something like that, could be worked out. But, if they refuse to pay, OLE will work with the Department of Justice to take appropriate action should the vessel ever return to a US port.

McCoy asked about the second line of Ortiz's report, where it says in the US EEZ adjacent to American Samoa. He asked if it shouldn't read the American Samoa EEZ.

Ortiz said he believed that language is the language that is used in the Pacific Insular Area.

Duenas said, on Guam, there seems to be a dispute on the percentages of the fins versus carcass for the foreign boats, particularly the Taiwanese, because they use the parts of the shark for bait and parts of the shark for food on their voyages. So there is a major discussion on Guam as to the 5 percent rule. Duenas said he wished someone would revisit that number, at least for Guam. He said Taiwan does use shark and they do bring it home every winter when they go home. They leave in October. But in the meantime, they actually put it into containers and ship it out of Guam.

Duenas also noted that the off loadings are conducted by agents, which are stevedores, baggage handlers type, who get paid by the offload and who are fined for offloading the shark fins. There are no Customs agents and no enforcement agents standing by to monitor this. They just turn up one day and do enforcement at random. Duenas said someone should be there 24/7 to monitor the offloading and not just do it haphazardly on a random basis. Duenas added that when these companies are asked to offload stuff that are not supposed to be offloaded, they get compensated for the offloading instead of fined. Duenas noted that these people do not own the vessel, yet they are part of any legal action.

Duenas noted the listing of *Miss Lisa* from Hawaii in the report. He said he was sure they sold their fish to United Fisheries Agency, which doesn't buy shark fins, but they offload. Duenas said unless the guy that's offloading is arrested too, there is an obvious disparity between the enforcement in Guam and in Hawaii.

Duenas also had noted that FFA began implementing the VMS system as of last year August, he believed. He asked who in the enforcement section is monitoring those signals as the vessels move into the various US EEZ and adjacent areas surrounding US territories. Those vessels come into Guam, CNMI, American Samoa and Hawaii. Duenas said he didn't think Kevin Pang is staying up 24/7 or actually looking at every report produced by those signals. He asked if the local jurisdiction, such as Manny Cruz' office,

could be allowed access to that information through a standing cooperative enforcement agreement.

Ortiz provided a response on *Miss Lisa*. He said he believed the entire shark fins in that case were seized. He said if a Honolulu-based company that was taking possession of illegal shark fins, they would be charged.

With regard to the VMS issue, Ortiz did not know who currently monitors those boats. He believed the system that is going to be used has alarm bells and whistles and things that tells areas when boats are coming into their EEZ so that a 24-hour monitor is not necessary. Ortiz was not sure who is getting those reports and monitoring them, but he would try to get an answer to those questions.

E. National VMS Program and Policies

Mark Spurrier introduced himself as the deputy chief of enforcement in the NOAA Fisheries OLE.

He noted that VMS is the largest investment of information technology (IT) within OLE and that this year the VMS program becomes the largest single government-operated VMS system in the world. It's currently being utilized in 30 other nations. He commended the Council for its efforts and early risk-taking with the implementation of VMS.

Spurrier then gave an overview of VMS. It is satellite-based tool for monitoring control and surveillance. It provides accurate locations over periodic and ad hoc time intervals. It can allow where there are two-way communication the transmission of catch and effort data. It provides very specific and cost-effective responses. VMS information can be relied on for routine patrols and is a solid platform for integration of communication requirements.

Spurrier said there was a lot of discussion in NOAA Fisheries over the multiple types of boxes that will be required on vessels. He said NOAA Fisheries wanted to limit that, so a VMS program was built with the idea that it is the platform upon which other sensors and other types of enforcement measures and activities can be built upon in the future.

Spurrier said VMS does not eliminate the need for traditional air and sea surveillance. It doesn't eliminate USCG activities and support. It doesn't reduce the overall enforcement cost, and it doesn't reduce the investigative workload but rather increases it.

VMS supports the NOAA Fisheries strategic plan for FY '03 through '08. The use of VMS will be expanded to meet NOAA Fisheries strategies to monitor and observe. VMS is being considered as one of the primary ways for NOAA Fisheries to modernize law enforcement.

According to the Inspector General's report, dollar for dollar, VMS is more cost effective than traditional methods of surveillance. The system can monitor fleet activities 24 hours a day, seven days a week at a fraction of the cost of USCG at-sea, air and vessel

patrols. Thus while a VMS program creates new costs and increases OLE's workload, it enables more effective and efficient use of federal assets. The report concludes with a recommendation for the development of a strategy for the implementation of VMS across all NMFS regions. This has already occurred. VMS activities currently occur within five NMFS divisions, and a sixth division, which is now the Southwest Division, is being set up to monitor vessels within their FMPs.

One of the NOAA Fisheries policies is that every deputy within the office is responsible for all IT activities. Jonathan Pinkerton is the National VMS Program manager in Silver Spring. He's got an extensive background and has brought forth a number of initiatives and changes to the VMS program, mostly on the IT side.

The VMS Steering Committee was created in 2000. It was organized to evaluate the software of the project and the award that was provided for the surveillance package. The members spent two months working on this project, probably three or four days a week. They were brought into Silver Spring on two different occasions during that time period. This resulted in the cancellation of the contract for the purchase of the software because the software did not function. New software was located. SmartTrac by Absolute was being used in Hawaii from the initial start. It worked well and had a strong history. SmartTrac was purchased to meet the mission needs in the Southeast and then to support OLE throughout the nation. The Steering Committee is continuing to do education and outreach efforts, helping out with new vessels and new programs and looking at ways to better streamline our process and efficiency.

Spurrier thane clarified a question one of the Council Members asked him previously about the Council being a member of the VMS Steering Committee. Spurrier said there was a prior Steering Committee that didn't work very well and fell apart. It was an internal Steering Committee made up of NOAA employees. In addition, there was a Steering Committee that was an advisory committee that was outside of Enforcement. There were some issues under the Federal Advisory Committee Act (FACA), on the creation of an advisory committee externally, and that based on those regulatory issues, the decision was made not to move it forward. Apparently that decision was never communicated back.

The VMS program goals are to continuously monitor and achieve near perfect compliance with closed seasons, closed areas and international boundaries. The only study done so far has been in the Pacific Island Region. That study showed a 97 percent compliance rate. VMS augments traditional surveillance efforts and provides support for both OLE and USCG fisheries enforcement efforts.

The National VMS Program looks at providing some type of central program management to address system redundancy and enhanced disaster recovery capability, which didn't exist prior to 2000, and to provide centralized type of approval and vendor management. The systems have substantially come down in price. The VMS program recently approved a system in one of the divisions now that cost \$1,300. Prior to that, the systems were in the \$2,500 range. Boatracs in the Northeast costs \$6,000 to use, including units.

There have been a number of issues that have been raised on data use. Confidentiality of information is addressed in the Magnuson-Stevens Fishery Conservation and Management Act, Section 402(b). VMS is implemented under the Magnuson-Stevens Act, and the information that is submitted in compliance is confidential except to federal and Council employees responsible for fishery management plan development and monitoring, which includes NOAA Fisheries and the USCG Fisheries Enforcement Division.

For our program technology, the SmartTrac vessel tracking system is the surveillance package, which actually shows up on the screen and shows what the vessels are doing. As for Inmarsat Communication Services, several have been approved: Telenor, Xantic and LandSea as well as Argos Satellite Service in Alaska and in the Northwest where boats are fishing in both regions. Argos currently has only a one-way-based communication capability. Our program asks that all system transmitter units that are being approved be two-way capable. Orbcomm is one of the newest entries into the satellite services. Apparently Meridian will be filing a package within the next six months to get approval both for their system and for the communication package. Spurrier showed a slide on SmartTrac to show Council members what it looks like.

Spurrier briefly discussed the National VMS Data Flow Model. Every division, except for Southwest right now, has their own server. All that information is uploaded from the vessel to the satellite, down to the Land Earth Station, and then into the server and the divisions.

He then explained why Headquarters is getting data. He said that, from an IT perspective, it was better to have all the data in one location and build one disaster plan than it would be to build a disaster plan for every division and mirror all those databases back to Headquarters. This method also allowed for a direct connection to the USCG to get the information to them. A replication from Headquarters is sent through an encrypted T1 line to the USCG office, which then in turn is sent on their DOD-secured terminals. That system is now up and running after a number of technical difficulties over a two-year period. As of three weeks ago, that data has been flowing live.

There are program managers in each of the divisions: Guy Holt in Alaska, Jim StCyr in Gloucester, Joe Albert in the Northwest, Bev Lambert in the Southeast, and Bob Harman in the Pacific.

In Alaska, 609 vessels are currently being monitored. In the Northeast Enforcement Division, 408 vessels are being monitored with additional growth this year anticipated. In the Northwest, 200 vessels are being monitored, with an additional 207 pending installation. In the Southeast 207 vessels are being monitored. The Pacific Islands currently monitors 183 vessels.

The basis for the investment is to improve surveillance and safety and enhance security for rapid identification of the suspects. There are a number of cases where VMS has been used to support search and rescue (SAR) operations. The servers are set up to

handle 10,000 vessels each. The system currently used will support future fish catch data information and transmission.

The VMS program reduces fishery flyovers because the vessels can be targeted. It reduces cutter activity because patrols can be targeted. It reduces search and rescue costs in that it does have two-way messaging capability so additional support can be provided to the USCG as far as vessel locations. In the Northeast when a vessel starts going into a closed area, an email will be sent to notify the captain that the vessel is entering a closed area.

From 1994 to 2000 there were no funds appropriated for VMS within OLE. All the monies that were spent to develop the VMS actually occurred from other programs. In 2001, \$1.3 million was appropriated. This increased by \$700,000 in 2002. In 2003 a \$500,000 increase was received. In 2004, there was a \$1.5 million increase. The operational costs for the national system is approximately \$4.3 million. Bill Hogarth, the Assistant Administrator for NOAA Fisheries, has said to Congress that he believes that NOAA Fisheries should pay all costs to operate these systems.

In the Pacific Islands, all costs are paid for, e.g., the units, installation and all communication costs. In the Northeast, the fishermen pay all costs. Those costs are associated with only one per unit. That unit costs \$6,000 per vessel. In Alaska, Hogarth was able to find some monies to help offset the cost of implementation. There was a reimbursement program of few thousand dollars for Alaska fishermen who bought units and had them installed. In the Southeast, in the highly migratory species (HMS) fishery, the fishermen paid all costs. In the Northwest, right now the fishermen pay all costs but ways to offset that are being pursued. If full budget funding is received in the President's FY 04-05 budget, 900 units will be available for deployment within the nation's fisheries management programs.

Spurrier briefly discussed IT security. He said a number of secured links are in place. Most of those are encrypted. A number of firewalls are set up for limiting access.

Spurrier briefly discussed program challenges, including changing requirements, funding for operations and expansion, readiness to implement new VMS in new fisheries, monitoring every increasing numbers of vessels and maintaining current generation of technology and type approving new technology.

Tulafono asked for questions from the Council members.

Martin said, from the earliest days of implementation of VMS, the Council has demonstrated its concerns about the information and how the information is shared and used. Martin said that Spurrier's presentation indicates that it is shared and used based on Magnuson. Martin said there continues to be concerns about who within NOAA Fisheries has access to that information. One of the concerns is as the information is more widely distributed there is more opportunity for that information to filter out of the security program that you currently have in place. Martin suggested that the VMS program more clearly define how the information can and will be shared.

Spurrier said the program is working with Hogarth's office to develop a NOAA Fisheries-wide policy, that will be presented to the leadership Council next month for review and for comments. Spurrier said that every employee or contractor that gets access to this data has to sign a nondisclosure agreement and confidentiality agreement. As to the FFA issue, Spurrier said he'd look into that.

Morioka asked whether the Council had requested a preview of the National VMS Policy and whether it would be presented at the Chairman's meeting.

Spurrier said that is for the data confidentiality policy that is being created so that there would be a very clear understanding on who has access to that. The policy is in its first draft form and is being circulated to Hogarth's level within NMFS and then will be presented at that point for review and for input.

Morioka asked, in its current form, are there provisions for the USCG to use VMS data for expediting their boarding requirements on the high seas.

Spurrier said it was his understanding that the USCG policy is it could only be used for fisheries enforcement.

Morioka asked if this included boardings, etc.

Spurrier said it would be if it's in response to enforcing the fishery management plans or regulations, but not for anything beyond that, e.g., not for immigration purposes.

Wurster said the USCG would use VMS for safety and SAR.

Spurrier concurred.

Morioka said the concern raised by fishers was, would that data be used to spot-check vessels, e.g., for safety gear, etc., on a random basis.

Mathers said the intent of sharing VMS data with the USCG is not to target specific vessels. But it makes sense to use VMS to do patrol planning or to know where vessels are. If the fishing fleet is operating south of the main Hawaiian Islands, it doesn't make sense to send a USCG cutter north where they're not going to interact with the fleet. But the intent of the USCG is not to use VMS to look for a particular vessel. The intent is to know there are 10 vessels over here so that is where to do the enforcement.

Morioka said that is why a policy clarification would be beneficial, so everyone understands what the rules are and how these things are evolving. Morioka asked where the policy has been and how has it evolved and about the participation of the fishers in that process.

Spurrier said the policy he is referring to is the use within NOAA Fisheries versus the USCG policy, which would be a separate issue.

Mathers said the USCG legal advisor has come out with policy saying that the VMS data should be used for fisheries enforcement. It shouldn't be used at this time for maritime awareness or enforcement of other laws without the express permission of NOAA Fisheries because of the way the VMS provisions are within the Magnuson Act at this time.

Simonds said the Council has asked NOAA Fisheries to develop a policy on VMS since 1995. All of these years, the Council has asked that the policy development include the Councils and the fishermen, and that was what the first Steering Committee was all about. She said it is important for the government to have policy.

F. Electronic Logbooks Amendment (Action Item)

Tulafono reminded the Council that agenda 6.F is an action item.

Council staff member Eric Kingma said the purposes and need of this measure is that electronic logbook forms have the potential to save significant time for fishery participants, improve data accuracy and save time and money for NMFS. For the last four or five years the Pacific Islands Fisheries Science Center has been conducting a pilot program, for the most part, with Hawaii longline fishery participants. They found that fishermen were able to save 30 minutes per day complying with reporting and recording-keeping requirements. In addition, the Science Center was able to save four days per year for each vessel that used electronic logbooks.

This regulatory amendment would amend the regulations implementing the FMPs in the Western Pacific, in particular, 50 CFR Section 660.14(a), reporting and recordkeeping fishing record forms. The document analyzes five alternatives:

- Alternative 1: status quo, no action alternative.
- Alternative 2: allow the optional use of electronic logbook forms with data submitted on paper or NMFS-approved nonpaper media. For example, 3.5 floppies, CD, DVD, memory sticks, etc.

Kingma noted that Alternatives 2 through 5 would also require that paper logbooks be onboard and used in case of computer malfunction.

- Alternative 3 (the preferred alternative): allow the optional use of electronic logbook forms with data submitted on nonpaper media and also allow the transmission through e-mail or satellite systems.
- Alternative 4: mandatory use of the logbook forms and data required to be submitted on nonpaper media. Paper logbook forms would not be accepted.
- Alternative 5: mandatory use of electronic logbook forms and mandatory transmittal via e-mail or satellite systems.

Kingma reviewed the advantages and disadvantages of the alternatives.

The advantage of Alternative 1 is the fishermen are familiar with these regulations, it works relatively well and it is fairly inexpensive. What doesn't work well is that it is fairly inaccurate information, which the Science Center has to go through and validate, and that takes a lot of time and resources for them. It doesn't take advantage of the current technology that could improve and increase efficiency and data accuracy. The current system is not reducing the paperwork burden on fishery participants, which is required under the Paperwork Reduction Act.

The advantage Alternative 2 is the increased flexibility for fishery participants in recordkeeping and reporting requirements. It also improves data accuracy and reduces paperwork burden on fishers. E-log forms force fishery participants to maintain their logs as they're fishing, as they're setting, for example, longline gear. The disadvantage is that initially fishermen would have to purchase, if they don't have already, computer equipment and the software program. There's also the disadvantage of potential corruption of E-logs, inability to copy data or submission. The potential corruption of electronic data storage and media storage is a potential issue. Kingma pointed out Kurt Kawamoto, who is the data manager for the pilot program, and asked Council Members to direct any questions concerning the program that was used in the pilot program to him.

The advantage of Alternative 3 is it increases the flexibility and options for fishery participants and takes advantage of more efficient methods of data transmission. The disadvantage of Alternative 3 is potential corruption of E-log program and potential issues concerning confidentiality during electronic transfer.

The advantage of Alternative 4 is elimination of data entry step for NMFS personnel. The disadvantage is it reduces fishery participants' flexibility.

Alternative 5 increases efficiency in submission and transmission for NMFS, but satellite transmission can be expensive. There are also the other disadvantages.

Alternative 3, the preferred alternative, provides the greatest flexibility for fishery participants. It consists of the current system, the use of E-logs and submittal on nonpaper media and transmission through e-mail or satellite systems.

G. Standing Committee Recommendations

Recommendation 1: The Committee recommends tabling the electronic logbook draft regulatory amendment for the 122nd meeting and that collaboration between NMFS IT, NOAA OLE, NOAA General Counsel, Pacific Islands Fishery Science Center and the USCG, industry and Council staff continue on identified issues, such as hard copy backups and electronic signatures.

Recommendation 2: The Committee recommends that Council staff and legal counsel investigate for the 123rd meeting alternatives available to commercial, subsistence and recreational fishers to address liability with regard to incidental interactions with protected species.

Recommendation 3: The Committee recommends that Council staff and legal counsel investigate for the 124th meeting an assessment of joint and several penalties for violations.

There was move for the Council to adopt the three recommendations by the Standing Committee. The motion was seconded.

Morioka invited comments.

Martin said he'd like to review yesterday's Standing Committee discussion regarding Recommendation 1. He said the Standing Committee's uncertainty was based on Enforcement's response to a question regarding the potential consequences should an electronic media logbook that is handed in comes out blank when plugged into a computer. From the industry perspective, this is a great concern because of the liability associated with fishery violations.

Ortiz said, in that case, as with any situation, an investigation would be conducted to determine as best possible what caused the violation. In theory, if someone doesn't turn in logbooks, it is a violation of the Magnuson Act and can incur civil penalties. But, in any case, an investigation would be conducted. An investigation involving this sort of material would likely involve some sort of computer forensics work to determine what created the problem. If something wrong with the disk can be proved, then that would be a mitigating factor and there would be no charge.

Spurrier added that another issue that was raised the day before related to the lack of data during a boarding or if there is data but no printed copy. If the USCG needs the information, would it have the capability of copying the hard drive to look at later? One of the discussions in the hallway regarded pursuing some type of IT protocol for a backup capability or a way to provide this data and to work together to come up with some type of solution and then present those IT solutions back to the Council.

Kawamoto said that the problem of a corrupted disk has occurred before. Usually another disk is requested and is okay. If a handheld PDA is used, the error can be detected immediately at the dock. The boarding parties may have a harder time, as they may not want to lug around a laptop. With something smaller, there are problems with the screen size.

Morioka asked Kawamoto how long they have been doing these operations.

Kawamoto responded about four years. He said they had worked through a lot of problems during this time and feel they at a stage to proceed.

Mathers said that he checked with the USCG to see how they do at-sea boardings in Alaska and part of the requirements of their pilot program is that the vessel must carry a printer and printout the logs and sign them for the boarding officer during the boarding. He noted that a lot of the vessels in Alaska are much larger, with enclosed bridges, etc. He said the USCG preference is to be able to get something that the boarding officer can look at while onboard the vessel and not have to page through computer screens, and so on.

Martin said he was concerned about the liabilities to vessel owners. He noted that there were discussions about signatures and what's legal. Is a disk legal? He said, if that is acceptable to NMFS Enforcement and the scientific people that evaluate the data, he was good with it.

Morioka said rather than table the issue, his inclination as the chair, is to proceed but give Council staff and those agencies listed until the next Council meeting to present to the Council the solution for final action by the Council. He suggested that the Standing Committee chair get together with Kingma to draft some language.

Tulafono said that was fine.

H. Public Hearing

Morioka asked for public comment. There was none.

I. Council Discussion and Action

Morioka asked Tulafono to get together with Kingma to discuss Recommendation 1 while the Council moved to Recommendation 2.

There was a motion and a second on Recommendation 2.

Morioka asked for discussion and questions. There was none. He asked for public comment. There was none. The Council voted unanimously to carry Recommendation 2.

There was a motion and second on Recommendation 3. Morioka called for discussion and questions. There were none. Morioka called for the vote. The vote was unanimously in favor, except for Martin, who recused himself on the vote.

Tulafono read the modified Recommendation 1: The Council recommends that NMFS IT, NOAA OLE, NOAA General Counsel, Pacific Islands Fishery Science Center, USCG, industry and Council staff resolve outstanding issues so that the Council may consider final action on the Electronic Logbook Regulatory Amendment at the 123rd meeting, June 2004.

Morioka asked whether the second of that motion would accept the modification.

Cruz said yes.

Morioka asked for discussion and questions. There were none. He called for the vote. The motion was carried unanimously.

The meeting broke for lunch. Council members were told to reconvene at 2:10 pm.

XII. D. National Bycatch Implementation Plan

Joe Arceneaux provided a briefing on the Bycatch Implementation Plan for the Western Pacific Council. He said the plan identifies specific bycatch issues and projects in the five fisheries for the period FY 04 and FY 05. It has two major components, the plan and a list of action items. The fisheries covered are the pelagics, crustaceans, precious corals, bottomfish and coral reef ecosystem fisheries.

Arceneaux mentioned some of the subjects addressed under each fishery.

- Pelagics: Proof of bycatch reporting, deployment of data collectors, validation of self-reporting discards, enhanced market opportunities for American Samoa fisheries, and NMFS and industry collaboration with mitigation techniques for bycatch reduction.
- Crustaceans: Describe bycatch occurring in the fishery; examine existing data to analyze effectiveness of the mesh size and trap size changes.
- Precious corals: Nothing.
- Bottomfish: Assess amount and species composition of bycatch in the small boat recreational and charter fisheries; improve and increase gear selectivity.
- Coral Reef Ecosystem: Assess amount and type of bycatch in the charter and subsistence fisheries; perhaps increase the frequency and scope of creel surveys; perhaps assess the protected species bycatch; investigate incentives to reduce bycatch with the trap and net fisheries.

Among the action items are the following:

- Standardization of data and metadata development.
- Research gear modification and practice changes to mitigate bycatch.
- Identify and investigate data needs in the Western Pacific Region.
- Keep data management system updated.
- Continue bottomfish program as is.
- Expand Protected Species Workshops and modify as needed to deal with the different fisheries and issues
- Identify bycatch issues.

Arceneaux said the plan should be finalized in about a month or so.

Morioka asked about recategorizing released fish in the Pacific, noting that a Secretarial Order provided the recategorization in the Atlantic.

Pooley said the Magnuson Act, and not a Secretarial Order, excludes Atlantic highly migratory from the bycatch definition.

VII. OBSERVER PROGRAMS

A. NWHI Bottomfish Observer Program

Kevin Busscher provided a report on the NWHI bottomfish observer program. He reviewed the program staff and their duties. The staff includes one operations coordinator, one training coordinator and eight debriefers. In addition, to data quality, the debriefers are handling the following responsibilities:

- training assistant for Arceneaux
- managing the database for the longline and the bottomfish
- handling protected species permits and reports
- managing photo database
- developing an emergency action plan for observers at sea
- enforcement liaison
- bottomfish program development, i.e., answering questions for the Science Center, e.g., regarding the development of the protocol for collecting fatty acid samples
- GIS plotting of bycatch takes, e.g., seabirds interactions
- vessel tracking and monitoring, i.e., calculating current coverage and ensuring 20 percentage is maintained

Busscher covered several other areas of the observer program, as follows:

- Databases: An Oracle database is used for the longline fishery. The bottomfish fishery utilizes Microsoft Access, but will be converted to Oracle.
- Program funding. There is approximately \$4 million for the fiscal year in 2004, excluding swordfishing funds.
- Training. A longline training class was completed in February, with 20 observers, including four Alu Like trainees. The next training is scheduled for June, with between 10 and 20 observers in the class, depending on the needs of the upcoming

swordfish fishery. Training for observers of the bottomfish fishery occurred in October, with seven participants. Another class is tentatively scheduled for May.

- Longline coverage: For 2003: 266 trips with 22.2 percent. For 2004: 23.4 percent coverage through March 6. There are currently 33 observers in anticipation of coverage needed for the swordfish fishery. This is higher than the usual 25 observers on hand. The intent is to keep 20 percent longline coverage to have 100 percent swordfish coverage.
- Bottomfish coverage. 21.7 percent coverage (i.e., five of 23 departures had observers) for the fourth quarter of 2003, when the observer program began.
- Protected Species: The longline fishery in 2003 interacted with four turtles, 68 albatross and five marine mammals. The bottomfish fishery had zero observed interactions in the fourth quarter. There were three interactions when the bottomfish vessels were trolling in between the sets, i.e., two boobies and one black-footed albatross, all released alive.
- Longline research project. Collection has occurred for marine mammal DNA samples, lobster phyllosoma, DNA samples from incidentally-caught sea turtles, DNA samples from various sharks, an albatross specimen for UH and USFWS, fish specimen for outreach programs by the Science Center and the Pacific Islands Region staff, and tuna stomach samples for the Pelagic Fisheries Research Project.
- Bottomfish research project. Collected fish samples for fatty acid analysis will help determine the important components of the monk seal diet.
- American Samoa longline observer program: There is an office space in American Samoa for the observer gear, computers and data entry. Observer deployment is expected to occur in August of 2004.

Tulafono asked about the reality of the American observer program.

Busscher said, he believed the regulations have not been finalized, but observers are expected to be placed there in August.

Tulafono said the fishermen have been asking when the program would begin and it would be good to provide them notice.

Ebisui asked whether the seabird interactions with the bottomfish vessels occurred during bottomfish or troll operations.

Busscher said it occurred when the vessels were trolling between spots. The birds were going after the lures. One was entangled. They were all released alive.

McCoy asked Busscher whether he anticipated adequate funding for the remainder of the fiscal year.

Busscher noted that approval of the budget has been slow.

Pooley said that more direct responses were being sought.

McCoy asked whether the fishery could be shut down due to lack of observers.

Busscher said he doubted it.

C. Hawaii Longline Observer Program, including the Longline Observer Data System

Karen Sender said the longline observer data system (LODS) has received a lot of national attention. She reviewed the history of its development, which began in the summer of 2002 when the staff from the Pacific Islands Region and Fisheries Science Center began reviewing existing longline observer data in order to identify opportunities to improve the overall quality of the data and to reduce the burden on observers. The data system they built is more complete, easily maintained and completely documented than it was before. LODS is an end-to-end data management solution articulating the four major data management areas of data collection, data resource development, data maintenance and data dissemination.

Sender covered the team's philosophy of data management, noting that the value of data depends on the manner in which it is collected, managed and disseminated. The most important considerations to maximize that value are security, quality, timeliness, clarity and defensibility. Security implies that the data is safe from tampering and is accessible to those who are authorized to obtain it. Quality implies that users of the data have confidence in its accuracy, understand how it is collected and that the data was processed in a consistent and appropriate manner. Timeliness implies that data is available as soon as it is needed to address the issues for which it is collected. Clarity eliminates a possible misinterpretation of data by maintaining a complete and fully accessible documentation under all aspects of how that data was collected and managed. Defensibility ensures that every aspect of the data and the data transaction is captured.

Sender covered some of the ground rules and features of the new system. Full documentation and other presentations of the system can be accessed online.

- If it's too difficult to use and maintain, it's worthless. The data collection forms are clear and coordinated with the data entry.
- Data management is clearly documented on every level.
- Data access is straightforward and easy to do with appropriate privileges to address confidentiality.
- There is a single data source. With the previous system data was entered in an Access database and e-mailed to the Fishery Science Center, which put it into flat tables. One database scheme then was transported into another database scheme in a

relational manner. There were so many points of failure in that process between collecting the data and getting into the final database that the data was getting contaminated.

- Data is reported off of one database so multiple people doing statistics aren't getting different numbers.
- Use data management best practices to ensure data quality and usability, and use format standards to promote consistency and ease of integration with related datasets, like the longline logbook and landings data.
- System security. Use database roles to control data access and data management. Different levels of users. Through the use of hierarchical rules (e.g. for debriefers, data mangers, etc.) control can be maintained over who can enter, change and approve data.
- Comprehensive data auditing. Capture user and data history, i.e., the who, what, when of every data transaction.
- Complete and accessible documentation, including metadata describing how the data was collected e.g., any relevant log mandates, regulations, references and other issues regarding that piece of data.
- Consistent and audible data processing. Each trip is processed in a documented and consistent manner.
- A web-based information portal, i.e., a single point of entry for accessing information resources and applications for this data system.
- Reference code management. 49 different reference code lists are managed outside of the system, but integrated with the data entry application, reducing the maintenance issues to make a minor change in the system.
- A data issues manager where users can log on to the internet, state what data item or trip they have a problem with, say why they find an issue with that and be able to propose a correction. That information can automatically be e-mailed out to the managers at the Pacific Islands Region Office, where they can log onto the system, research that problem and document if they are going to change it, how they are going to change it, or why they are not going to change it.
- Integrated workflow tracking to ensure data processing is done in a consistent and trackable way. The system includes tools so program managers can add or delete tasks. Persons entering data cannot progress to the next stage of data processing until they have done and checked off the preceding tasks that are required. Every one of those actions, who did it and when, go into the database. So later, statistics can be generated on how long it took to do a certain phase, maybe a certain task, etc., so the system can be made more efficient.

- Use of national standards.

Sender noted that the tools and techniques for the system were built as modules so they can be packaged and used on other data systems. She reviewed some of these modules, e.g., the data validation management tool, the data issues management tool and the data element registry (i.e., centralized place for documenting metadata). She said the information on them and the system are available online.

Sender said that in the future they would like to improve the system based on the statistics from the transactions documentation, the history of the changes in the data, the issues management tool and the workflow. She said they would also like to apply these tools and techniques to other data systems, e.g., the ones for bottomfish and Oracle.

She said other observer systems are looking at the LODS. Southwest has already committed to putting their longline observer data into the LODS. South Korea has been looking at it as a model to adopt it. Taiwan is starting to look at it.

The tools and techniques are being packaged for posting them on the fishery information system (FIS) national website, so other Science Centers and fishery groups can use them. FIS is a national program that was Congressionally mandated several years ago to provide quality fisheries information to answer questions about fisheries on a national level

Sender said that development of LODS was initiated without funding. But in the end, FIS provided a substantial amount of money for personnel time and for equipment to upgrade firewalls and database servers

Sender said she and Arceneaux was going to Seattle for a meeting of the Fishery Shipboard Computer System, an electronic system being developed to potentially use for capturing observer data at-sea electronically. Discussions were going to be initiated based on the LODS model.

Lau asked Sender to confirm that development of LODS was begun on Sender's own time with no budget in the beginning.

Simonds said this was correct.

Lau asked long it took to get a prototype up and running

Sender said it was difficult to tell. They started in the summer of 2002 and spent six to eight months to build teams and begin discussions. But now that the tools are developed, other data systems could be addressed in a timely manner.

Lau asked how the observers feel about the applications.

Sender said the users at the Science Center compliment daily the ability to go online and see documentation, the ability to report errors and not have personalities get threatened, to be able to know exactly what the data means and the data quality. She said

just raising the awareness of the data management practices so improved the data that the data users are thrilled. In the old days they would have to spend a lot of time cleaning up data. Now they just run the data.

B. Report on the Native Observer Program.

Eddie Agae said in the fourth quarter 2003 they coordinated their training class with a NMFS class that included a certification leg. In the first quarter 2004, they tried to do the same but it did not work out. At the time 18 applicants were ready to go, including four from American Samoa and two from Guam. They decided to push forward with just Alu Like's prep course, which was offered to the 12 applicants, excluding those from American Samoa and Guam. When the applicants learned that the certification leg wasn't being offered, seven dropped out. The five remaining applicants successfully completed the class. At the very end of the course, the class learned that they could participate in a certification course being offered for observers NMFS had hired. One of the Alu Like class members wasn't prepared to continue because he was from a neighbor island and had not secured the additional three weeks it would take to participate in the certification course. The four remaining completed the course and were certified. Out of 20 individuals in this class, who were mostly hired observers and had college degrees, the Alu Like participants ranked number one with an overall average of 97 percent, eighth with a 94 percent average, 11th with a 91 percent average and 13th with a 90 percent average.

For the rest of the year, the no-cost extension courses to be offered include two more ocean hazardous materials courses. A recruiting visit will be made in Guam, Saipan and Palau. Due to the planned opening of an observer program in American Samoa, the applicants who originally were going to go through the fourth quarter training will be contacted. The no-cost extension is will conclude May 31. A third-year funding proposal has been submitted.

Duenas thanked Alu Like for coming to Guam. He said one woman and one man were nominated to participate in the program. Duenas said he was disturbed that the training did not occur for the Guam applicants. He said, if NMFS and others are going to require programs of Guam, a schedule should be developed so they can participate in the training.

Tulafono told Agae that he believed that the certification for the American Samoa graduates from earlier courses has lapsed.

Agae said, yes, they have exceeded their time frame, so they need to be recertified and returned to Honolulu to take a refresher course. NMFS offers a rebrief class. Agae said they would contact them and look at bringing them back to Honolulu.

Tulafono said it would be great if they could be recertified and work in American Samoa because most of the fishermen there do not speak English, so having Samoan observers would be helpful.

D. Public Comment

Morioka asked for public comment. There was none.

E. Council Discussion and Action

The Council had no further discussion on the observer programs.

VIII. PRECIOUS CORALS FISHERIES

A. New Precious Coral beds in the NWHI

Joshua DeMello reminded the Council that at the 120th Council meeting they were quickly briefed on the discovery of new precious coral beds in the Northwestern Hawaiian Islands. Based on information from the NOAA Ocean Explorer website, Leg II of the exploration studied the reproductive biology and population genetics of precious corals in the Hawaiian Archipelago. The Hawaii Undersea Research Lab (HURL) website provides the dive plan.

In September the exploration started at Kure and then moved to Banks 8 and 9, up Pioneer Ridge, Laysan, Raita, St. Rogatien and then to Necker. They eventually ended up at the refuge. So basically they started up at the top and worked their way back down after they went up on their first leg.

The research cruise participants included HURL, University of Hawaii at Manoa, University of Hawaii at Hilo, Hawaii Pacific University, NOAA Fisheries, Woodshole Oceanographic Institution, Smithsonian, University of Alaska and University of Virginia. The objective of the precious corals leg was to examine the reproductive biology of deepwater corals, particularly gold and red corals, and to determine the dispersal capabilities of each of the three precious coral species.

While most of the results of the project won't come out until the next few months to almost a year, some of the discoveries described on the Ocean Explorer website include the following:

- four new precious coral beds with young gold coral trees
- evidence of human impact on coral beds by longlining (Chris Kelley from HURL said they reviewed the videotapes and couldn't confirm that there was fishing gear.)
- two new species and one new genus of black coral and also a couple new species.

DeMello said, in addition, a monk seal unexpectedly swam up to the submersible on one of the coral bed dives at more than 500 meters below the surface. He shared a short video showing the NWHI precious coral beds, samples being taken and the monk seal swimming by.

B. Additional Research on *Carijoa riisei*

DeMello reminded the Council that at the meeting in June of 2003, Dr. Grigg gave a report on a new species of invasive soft coral that was infecting the black corals in the black coral fishery. Since then, his graduate student, Sam Kahng, has been researching the Carijoa. He has been working with Sea Grant, University of Hawaii and University of Florida.

Carijoa is commonly called snowflake coral. It is an alien soft coral from the tropical Western Atlantic and Caribbean. It was first discovered in Hawaii in 1972 within Pearl Harbor. It is commonly found in shallow waters on firm substrata, shaded from direct sun in areas of moderate current flow.

DeMello showed a picture of Carijoa.

Carijoa threatens native biodiversity by monopolizing resources and displacing species in suitable habitat. Carijoa riisei is currently the most invasive species of the 287 non-indigenous marine invertebrates. Surveys of the Maui black coral beds discovered it overgrowing and killing up to 70 percent of black coral colonies at a depth of 80 to 110 meters.

DeMello showed an image of black coral being overgrown by Carijoa. The soft coral out-competes for space the black coral and the oysters that grow on the black coral. Carijoa also impacts hard corals, DeMello showed Carijoa overgrowing plate corals.

DeMello discussed a second study is in the Keyhole Pinnacles in the Auau Channel, between in Maui and Lanai. He showed a couple of transects that they did in 2001. He said they are continuing to go over the same transects looking at Carijoa's effect over time.

DeMello showed a video from a remotely operated vehicle at a depth of 91 meters showing Carijoa at these black coral beds. In the deeper depths, Carijoa has a higher percentage of coverage on the black corals, and it seems to be light limited because it grows in darker areas and is temperature limited, flourishing at 70 to 110 meters.

DeMello displayed a graph showing the percent of black corals being covered by Carijoa. The adult trees have a greater coverage of Carijoa, which is a population concern.

There is a direct mortality on native corals at a depth of 70 to 110 meters. It is killing the black coral and seems to be taking over the plate corals. It also excludes macrofauna for space and eats zooplankton. So it is competing with the black coral in that department also.

Carijoa has continuous reproduction. It grows fast and has low mortality. There are no predators, no competitors and their mortality is driven based on natural events. It is so successful in Hawaii because there's an empty niche for soft corals here, there's lots of space and, its life history allows it to out-compete, and it's associated with maritime dispersal vectors, such as ship hulls and ballast water.

Research is looking at effects on the ecosystem, how far has it spread, how it has spread between the islands and how can an invasion be managed. The researchers also

want to continue the time series investigations to see how it is changing over time and also determine the extent of the problem, to see if it actually is a problem (e.g., will it completely take over the black coral, will the black coral bounce back) and to explore and confirm their hypothesis of upper and lower depth bloom in black coral.

C. SSC Recommendations

Craig Severance said the SSC suggests a person with expertise in fishing gear review the videotapes of the suspected fishery-related damage to the bed in order to identify any gear involved in the coral damage.

With respect to *Carijoa riisei*, the SSC is concerned with the ecological impacts of this alien invasive species and is very supportive of the continuation of the research.

D. Standing Committee recommendations

Farm said the Standing Committee heard the same report that was just presented, and, although the Council had requested official, detailed information on the NWHI research, it seems to be delayed or not forthcoming except by the website. In that respect, the Standing Committee has two recommendations, which Farm presented as motions.

The Standing Committee on precious corals recommends that the Council engage NOAA Fisheries, Pacific Islands Fisheries Science Center, to contact HURL requesting verification of the type of fishing gear, if any, identified as the suspected cause of the new precious coral bed damage.

The Standing Committee on precious corals concurs with the concerns of the SSC regarding *Carijoa riisei* and its ecological impacts and is very supportive of the continuation of research.

Tulafono seconded the motions.

E and F. Public Comment; and Council Discussion and Action

Morioka asked for discussion on recommendation one, regarding the NWHI precious corals issues. There was none.

The Council voted unanimously in favor of recommendation one.

Morioka asked for public comment on the *Carijoa riisei* recommendation. There was none.

The Council voted unanimously in favor of recommendation two.

IX. CRUSTACEANS FISHERIES

A. Update on Multi-FAN CL Lobster Model

The Council heard an update on the MultiFAN CL lobster model that Gerard DiNardo, from the Pacific Islands Fisheries Science Center, is working on to assess the NWHI lobster stock. DiNardo was in France for the Ecosystems Indicators meeting, so DeMello provided the presentation.

DiNardo's work on the model is progressing. He's working with Pierre Kleiber to use the MultiFAN CL to model the fishery. Meetings are going on to discuss the development of the model and how it's being used. The stock assessment report is due out in June. This is the first step towards addressing the lobster fishery.

B. SSC Recommendations.

Severance reminded the Council that this recommendation has been repeated multiple times. The SSC would welcome progress on this application and encourages NMFS to allocate the necessary resources toward this end. The SSC also reiterates the need for continued NMFS experimental lobster fishing cruises to the Northwestern Hawaiian Islands to tag and recapture both slipper and spiny lobsters.

C. Standing Committee Recommendations

Lau said the Standing Committee heard an update on the main Hawaiian Islands lobster stock assessment, which was provided by DeMello, with input from Ikehara. During the public comment period, Martin said the State DLNR has received \$5 million Fisheries Disaster Relief funds from Congress and he urged us to move quickly to get that money out, maybe to help with the lobster tagging and retrieval program in the Northwestern Hawaiian Islands. Lau said the State is committed to move that process along very quickly.

Lau then gave the recommendations of the Crustaceans Standing Committee. It recommended that NOAA Fisheries, Pacific Island Fisheries Science Center, provide to the Council at the 123rd Council meeting an update on the NWHI lobster stock assessment model.

The motion was seconded by Farm.

Martin encouraged the Science Center to meet the projected June date for completion of the report.

Polovina noted that he did go on record that morning saying that the results would be available by the next Council meeting in June. Polovina said he sent an email to DiNardo and Chris Boggs to confirm the importance of the issue.

D. Public Comment

Morioka asked for public comment. There was none.

E. Council Discussion and Action

Morioka asked for discussion. There was none. The Council voted unanimously in favor of the motion.

X. FISHERY RIGHTS OF INDIGENOUS PEOPLES

A. Community Demonstration Projects Program (2nd Solicitation)

Kelvin Char announced that four awards being signed and sent to the recipients announcing receipt of funding for the demonstration projects. The first award is to a fishpond project on the Island of Oahu. The recipient is Alu Like, partnering with Bishop Estate Kamehameha Schools. Total sum approved is \$129,683. The second award is a project to work with the keiki and other young adults on the Island of Molokai to get them re-involved with the aku boat fishery. The principal who serves as the representative for that community on Molokai is James Keliipo Mawae. The sum to be received is \$125,000. The third award is to the Guam Fishermen's Cooperative to support an experimental fishery involving deepset longline fishing. The sum of that award is 155,000. The last award goes to the Mayor's Office of the Northern Islands Municipality, CNMI, to support the remote island fishing station. It is an experiment to take the domestic fishery further north than Saipan to explore the feasibility of harvesting those resources by the domestic fishery. The sum of that award is \$90,000.

Char noted that the sums are not equal. They are based primarily on the tasks that were originally proposed by the parties represented in these communities.

He also noted that, if it was not for the intervention of Sablan, CNMI may not have received an award this cycle because the Island of Anatahan became a little active and it was considered not acceptable as a site, and consequently the total award was reduced to \$90,000 sum to run the demonstration project on one island.

Char said they are now in the process of finalizing the language and the protocols for the next Federal Register Notice to solicit proposals from communities. The next Federal Register Notice will be the first of a generation of Omnibus Federal Register Notices that will allow more efficient flow of monies and efficient implementation of the program, i.e., the publication of single solicitations will not be required in order to receive proposals.

Morioka asked Council Members to join him in applauding the Council's executive director for the foresight and the energy she has exerted to ensure that this project came to fruition.

Simonds noted that it's been seven years since the Magnuson Act was changed to allow these programs to go forward and to allow monies to be allocated for these projects. She thanked Char and NMFS for making it happen.

Duenas ,on behalf of Guam, thanked Char for his effort in trying to realize this project.

Simonds asked Char if the next solicitation would be the Omnibus in June.

Char said they would try to get the Omnibus out by then.

Simonds said they have to plan for the workshops in the islands.

B. Guam Voluntary Community Monitoring Program Options

John Calvo reported on the Guam Voluntary Community Monitoring Program. He said the Council has basically pushed forward a community development program volunteer fishery data collection pilot project, which was first brought up during the Council meeting in Saipan.

He provided background on the Guam, noting that its fishery is artisanal and blends subsistence, recreational and commercial purposes. The Guam Fishermen's Cooperative Association was established in the late 1970s. It currently has a membership of almost 200 and accounts for an estimated 80 percent of the local commercial catch.

Calvos reviewed fishery regulations in place, including applicable National standards in the Magnuson-Stevens Act. He said there is currently no license or permit requirement for any fishery sector by the Government of Guam. The Western Pacific Pelagic FMP governs longline fishing in the EEZ surrounding Guam. There is an amendment to the Western Pacific Bottomfish FMP to regulate vessels over 50 feet in length to 50 miles from shore. The Bottomfish FMP prohibits the use of explosives, poisons, gillnets and demersal longline. The Community Development Program (CDP) was created by Section 305(2)(a) of the Magnuson-Stevens Conservation and Management Act, to provide access for eligible communities to any fishery under the authority of the Western Pacific Fishery Management Council. Calvos discussed the CDP and the CDPP and then gave some background on the Guam voluntary community monitoring program pilot project. During the 118th Council meeting, the Guam advisor proposed the voluntary program to gather fishery data as a community development program. The primary motivation for proposing the voluntary reporting of fishery data by the small boat fleet is the desire of the fisheries not to have federal management of the fishery through a permit and mandatory reporting system. The primary motivation for the program is to have sensitivity to the cultural needs and demands of the local fishermen. The secondary motivation is awareness on the part of fishers that international negotiations might result in the establishment of quotas for each fishing nation.

Calvos said good fishing data is important because it provides a history of catch and participation levels for any future applications. It helps identify why changes are occurring in marine resources and assess the status of the stocks. It also shows how regulations are impacting the fisheries. It also shows the fishery dynamics, how fisheries change over time. It allows fishery managers to develop sensible regulations based on accurate information.

Currently WPacFIN oversees three data collection processes: the creel surveys, inshore and offshore, which is handled by Division of Aquatics and Wildlife; vendor data collection surveys, also handled by the Division of Aquatics and Wildlife; and the foreign longline vessel fishery data reports, which is handled by the Bureau of the Statistics and

Planning. The new data collection process would augment the current data collection processes. The current volume with the creel survey shows a majority of the interviews reflect those fishermen who use a coral reef fishing method. Therefore, there is a desire to acquire more data on bottomfish and coral reef fishermen. Also, more data increases the accuracy of the expansion of data and this provide us an opportunity to have education and outreach for the local fishing community.

The participants of the pilot project include WPacFIN, Division of Aquatics and Wildlife, the Council, the Guam Fishermen's Cooperative Association and the fishermen. The first four basically comprise the Guam Fishing Community Development Program.

Calvos reviewed the responsibilities for each organization relative to the project. West Pac FIN is responsible for the data collection requirements, staff training of the data collection process, audit of the surveys and the process and any recommendations for improvement of the process. The Council is to provide coordination and preparation of the working document, set up a Microsoft Access database for the Guam fishing community survey, assist in the monitoring of the process, provide the funding for when technical assistance to do the data entry, provide administrative services and coordinate the education and outreach for the program. The Division of Aquatics and Wildlife would provide supervision of technical assistance, provide the work space and equipment, oversee the data process, provide education and outreach during the regular creel surveys, oversee the distribution and collection of survey forms, utilize the Microsoft Access database for the community database and utilize Fishery FoxPro for fishery data entry. The responsibilities for the Guam Fishermen's Cooperative Association include education and outreach to fishermen, promoting the projects amongst the fishing community, providing a meeting place to promote the project, recruiting participation from fishermen, distributing and collecting survey forms and providing drop boxes at the island's two primary launching points. The responsibilities of fishermen are to complete the fishing community survey, attend the workshop and meetings, learn about the project, volunteer to participate in the project, follow the data collection process, submit forms in a timely manner and encourage other fishermen to participate in this volunteer program.

The volunteer fishery data collection pilot survey is two surveys. The first will be the Guam Fishing Community survey and the next is the Guam volunteer fishery data collection survey. The Guam Fishery Community survey is used to collect data to be used to establish size and activity of the fishing community relative to the population of Guam, provide profiles of local fishermen, provide a profile of the whole fishing community and also to establish 100 percent volunteer effort from the fishermen. The Guam volunteer fishery data collection survey will basically collect fishery catch data from volunteer fishermen, augment the creel survey data, maintain education and outreach opportunities for the local fishermen, provide an opportunity for fishermen to participate in the data collection process. The fishing community survey has commenced, and 132 surveys have been processed into the database. The fishery community database is ready for additional data entry and a technical assistant is to be hired. WPacFIN, via the Aquatics and Wildlife, is printing a survey. The Guam Fishermen's Coop fishermen will commence using the volunteer fishery data collection survey on April 1.

C. Marine Conservation Plans

Charles Kaaiai reported that CNMI came in with two additional projects to its existing MCP, i.e., the Northern Island Remote Fishing project and the cleanup of Puerto Rico dump. So the MCP that we'll be reviewed for approval in June will be CNMI's previous MCP plus these two additional projects.

D. Standing Committee Recommendations

Sablan reported that there are no Standing Committee recommendations.

E, F. Public Comment, and Council Discussion and Action

Morioka asked for the CNMI contingent's preference on the latest project that has been received.

Seman said that, even though it is in draft form, they would recommend that the Council, after reviewing the content of that new addition to the previous MCP, make a motion to approve it.

Sablan seconded the recommendation.

Morioka asked for Council discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka asked for public comments with regard to the fishery rights of indigenous peoples.

Cruz made a correction to the comments under 10.D.1. He said the third sentence should be struck or edited as he never said that the language of the final status was offensive.

Kaaiai said it would be taken care of.

Simonds expressed the Council's support of the voluntary data-reporting project and noted that the Council would be supporting a person for this project, who would work out of the Guam Fisheries Department.

Hearing no further comments or other business from the Council members, Morioka adjourned the meeting was adjourned for the day.

XI. PELAGICS/INTERNATIONAL FISHERIES

Morioka reconvened the 122nd Western Pacific Regional Fishery Management Council meeting on Wednesday, March 24. He announced that Agenda Item 11.D, Item 2 will now be Item 5, Item 3 will become Item 2, Item 4 will become Item 3 and Item 5 will become Item 4. He provided some positive comments on the public forum on the federal

fishery data reporting and Strategic Plan for the Pacific Islands Region held the night before by NMFS and the Council.

Pelagics Committee Chair McCoy called on Paul Dalzell and Russell Ito to give the American Samoa and Hawaii longline quarterly reports.

A. American Samoa & Hawaii Longline Quarterly Reports

1. Quarterly reports

Ito said he'd present the fourth quarter 2003 summarized vessel activity effort and CPUE. He displayed a slide of vessel activity from 1987 through 2003 and noted the rapid increase in the late 1980s up to a peak of 141 vessels in 1991, the leveling thereafter and then the drop in 2001 when there's an out-migration of boats to California. There were 110 vessels active last year, i.e., 10 more than in 2002. Twenty vessels that had fished in the Hawaii longline fishery were operating out of California in 2003.

Ito presented a slide on vessel activity by quarter. There were 100 vessels active in the fourth quarter of this year. Activity has been a little below the long-term average, but not very far below.

He showed the number of trips from 1991 to 2003 by trip type category, i.e., tuna trips, mixed trips and swordfish trips. There were 1,216 trips made last year. All of them were directed towards tuna because of the closure of the swordfish fishery and shallow sets.

He said there were 337 trips made in the fourth quarter, which was close to the long-term average. The year previous had the record of 390 trips.

A record of 29 million hooks was set last year, up from 27 million in the previous year. Most of the hooks, about 15 million, were set outside of the EEZ. A total of 11 million were set in the EEZ surrounding the main Hawaiian Islands; 3.5 million in the EEZ surrounding the Northwestern Hawaiian Islands; and a little under a million hooks in the EEZ surrounding the US possessions, primarily Johnston Atoll and Kingman and Palmyra.

Ito said the boats tend to fish close near a port in the fourth quarter so that they can turn around and go back out and supply that time of the season where there's a high demand for longline-caught tunas.

Last year's catch included 107 thousand bigeye tuna. About 50 percent of the tuna was caught outside of the EEZ, which Ito said is unusual, because usually the majority of bigeye tuna originates from the EEZ surrounding the main Hawaiian Island. About a third of the bigeye catch that was caught in the EEZ surrounding the main Hawaiian Islands, so those two areas account for about 80 percent of the bigeye catch. Last year's catch also included 27,000 yellowfin tuna with about two-thirds of the yellowfin tuna caught in the EEZ of the US possessions, primarily Kingman and Palmyra. About 20,000 albacore were caught, about half of them is caught on the high seas. So as a whole, bigeye catches have been on an upward trend. Albacore has a lot of inter-annual variability on a downward trend. Yellowfin tuna may be on a slightly upward trend.

In the fourth quarter of last year, 32,600 bigeye were caught, down from the record high of 56,000 fish caught in the previous year. As a whole, bigeye catches have been good in 2003, above the long term or at the long-term average. An interesting point about the fourth quarter bigeye catch is about two-thirds of it was caught in the EEZ surrounding the main Hawaiian Islands.

Although the bigeye catches were high, the CPUE was near the record low. Only 4.2 fish caught per thousand hooks. There wasn't that much difference in catch rates by area. The highest being the EEZ surrounding the Northwestern Hawaiian Islands at 4.8 fish per thousand hooks. Albacore CPUE was way below its long-term average, only .1 fish per thousand hooks last year. Yellowfin tuna CPUE on tuna trips was only 0.6 fish per thousand hooks. The interesting observation was the Kingman/Palmyra area had yellowfin tuna CPUE at 10 fish per thousand hooks. However, probably due to the distance traveled and hence the quality of fish at that time of the year, there's not much effort in that area.

Billfish catch by the Hawaii longline fishery was predominantly swordfish. It drops to 4,000 in 2001 and 2002 as a result of the prohibition of shallow longline sets. There were only 3,000 fish caught last year and the predominant area of catch rate is on the high seas. Striped marlin catch has been low throughout the late 1990s and into 2002. About 27,000 fish were caught last year, mostly in the EEZ surrounding the main Hawaiian Islands. About 6,000 blue marlin were caught last year.

Longline swordfish catch is near record lows, compared to the long-term average. The fourth quarter saw a slight increase of 1,200 fish. About half of the fish were discarded. The highest catches for swordfish was on the high seas.

Swordfish CPUE by tuna targeted-trips was below 0.3 fish per thousand hooks. By comparison, a typical swordfish would be about 15 fish per thousand hooks.

The striped marlin CPUE was at or near record lows in all four quarters of 2002. It increased a little in 2003, but it's still about half of what its long-term average is, with the exception of the fourth quarter where it spiked to 1.5 fish per thousand hooks, which is the long-term average.

Blue marlin CPUE remained stable throughout the year. It's a strong component of the catch. CPUEs are low, i.e., only .2 fish per thousand hooks in the fourth quarter of 2003.

Shark catches by the longline fishery are predominantly blue sharks. A peak of about 150,000 declined in the 2001 to 2003 period mainly due to changes in the segment of the fishery using shallow sets, which has high catches of blue sharks. The exception is last year when it spiked to about 50,000 blue sharks. A lot of that increase in the blue shark catch came from the tuna longlines that were fishing in the main Hawaiian Islands.

For the other shark species, the catches are a magnitude lower. For example, there were only about 3,000 thresher sharks caught last year and about 2,000 makos.

Longline blue shark catch has been low the last two years, with the exception of the fourth quarter of last year, with 26,800 blue sharks caught, above the long-term average. Most of the blue sharks in this quarter were caught in the EEZ surrounding the main Hawaiian Islands. Blue shark CPUE for tuna-targeted trips was 0.4, which was a record high for the fourth quarter. Again, swordfish trips historically had CPUEs of 20 fish per thousand hooks.

Ito mentioned some recent developments in the first quarter of this year. There is a lot of variation in catch; bigeye prices are high; and a few boats from California are coming back due to new regulations.

When questioned where the main Hawaiian Islands bigeye catches occur, Ito responded that the bigeye catches by area have not yet been plotted.

In response to a question about their size composition, Ito said bigeye hasn't changed much over time. It's been about 70 pounds per fish.

Morioka asked Martin if his fleet had reported any interactions with private FADs (PFADs) in and around EEZ surrounding Hawaii.

Martin said he's heard hearsay about it, but none of the boats he works with have reported any problems with gear conflicts. There has been no reported loss of gear, other than the natural, occasional loss of gear.

Martin also said that, regarding the location of effort in the EEZ surrounding the main Hawaiian Islands, it was throughout the entire EEZ. A lot of fishing activity took place outside of the closed area to the south, which is typical. There was some quite good fishing north of Maui, probably up right around the edge of the EEZ.

Dalzell provided the report for American Samoa. The number of boats operating in 2003 was somewhat less than in 2002, particularly, in the first quarter. Then for the second, third and fourth quarters, it is just below the previous year's numbers.

The number of sets was markedly down in the first quarter versus 2002, a little bit down the second, exceeded 2002 in the third, and was equal in the fourth quarter. However, the number of hooks set in each quarter equaled or exceeded number of hooks deployed in 2002.

Total catch for all species combined was less in all quarters than in 2002, particularly in the third and fourth quarters, reaching almost a half or quarter below the 2002 figure.

In terms of what the trends mean for this fishery, Dalzell said the American Samoa fishery is almost a single-species longline fishery targeting albacore for the canneries in Pago Pago. The CPUE for albacore was markedly reduced, i.e., half in the first and second quarters, about two-thirds in the third quarter and about the same in the fourth quarter. The same poor catch rates were experienced right across the South Pacific by longline fisheries

and that it had quite a serious impact on the longline fisheries in neighboring Samoa, where a large number of vessels were tied up to the dock and repossessed by the bank.

Dalzell showed the bigeye tuna catch and noted that there is no real marketing opportunities for bigeye, other than the local domestic market.

Skipjack tuna catch was high in the first and second quarter. Much lower in the third and fourth quarter, lower than the long-term average.

Yellowfin tuna CPUE, the first and second quarter in 2002, actually it had been lower than the long-term average, but was higher than in 2003 in the first and second quarter. In the third and fourth quarter it was higher than in 2002.

Mahimahi catch rate was low. The CPUE for wahoo, by comparison, was very high in the first quarter of the year, higher than the long-term average and higher than the previous year's first quarter; about equal, but a little higher in the second quarter, a bit lower than the long-term average; and a little bit lower than the long-term average in the third quarter.

The majority of the billfish caught was identified as blue marlin, although there may be some species identification problems. The billfish CPUE was quite high for the early years of this fishery, so we still see high CPUE in the first quarter of the year. There is a generally declining trend on average across the four quarters, but the CPUE for the first and the third quarters for both in 2003 were lower than the long-term average. The same is true for the fourth quarter in 2003, but it is getting up there to the average of 2002.

The catch rates for the sharks in this fishery were higher in all quarters of the year in both 2002 and 2003.

Dalzell explained that this fishery has changed quite a bit, with two phases of expansion. In 1995, the alia fleet increased in size in response to the expanse of the fishery in neighboring Samoa. Then after 2000, the larger commercial monohull longline vessels arrived, some of these boats were coming in from Hawaii, and others were being acquired and owned by businesses in American Samoa. So now there is a bimodal fleet in American Samoa, consisting of a small-scale alia fleet and a large monohull longline fleet. There is a management measure for some allocation of resources to the alia fleet through a 50 nautical miles closed areas around the islands of the American Samoa Archipelago for vessels that are less than 50 feet. The statistics have evolved over time. They're still presented in aggregated format. However, the annual reports produced for the Council are now broken into different sized vessels.

2. Southern albacore CPUE in 2003

Dalzell summarized the annual change in albacore CPUE. It is lower in 2003 than the previous year, 2002. The high in 2001 occurred when there were high albacore prices, which tempted people to enter the fishery, particularly the larger vessels. But these lower catch rates have occurred before in 1999 when there was a predominantly alia fishery.

Because of their simplicity, they were able to easily re-rig to go bottomfish fishing or trolling.

Dalzell showed a slide from the South Pacific Commission, Oceanic Fisheries Program. It's from a study they had done looking at the albacore CPUE and trying to model that with various parameters. It shows the changes in CPUE as observed from the logbook data and then fitted this with two models, one that has gone through the years' variable and one that includes month, sea surface temperature, chlorophyll and altimetry, to try to explain the variations in CPUE. Dalzell showed a slide of a similar exercise, observed and predicted, for the albacore longline CPUE in the Fiji fishery. He said it seemed that catch rate in the longline fishery in the South Pacific seems to be strongly influenced by environmental parameters. The stock assessment that was done in 2003 on 2002 data shows that the stock is still being fished below the MSY level.

Morioka asked Dalzell if he could change the color or the shading in the charts, because when it is printed it comes out all black.

Dalzell said he could do it in colors.

Morioka remarked that canned wahoo is showing up on store shelves in Hawaii. He asked the American Samoan contingency if wahoo is now becoming an important catch on the longline fleet.

McCoy said, historically, wahoo has always been an important catch for the American Samoa fleet for home-consumption. Wahoo has been canned in American Samoa for over 50 years but never in any quantity that was profitable to be exported. So, in answer to Morioka's question, no, there has not been any change of fishing mode to particularly attack the wahoo.

Tulafono added that the price of wahoo is cheap compared to the other tuna species. So wahoo is not really a target species.

McCoy says wahoo sells at the cannery docks for a low of \$200 a ton and a high of \$400. So it's an incidental catch for the foreign longliners that are fishing outside in other waters, and it is considered to be party money for them. The cannery accumulates the fish to have enough tonnage to make a profitable pack. It's not packed everyday. It's one of those quarterly things or however they may schedule it so that it becomes worthwhile.

Morioka asked whether the setting on FADs created this aberration, that they were catching more wahoo and as a result, there was this bump in the canneries where they had a lot of wahoo to export.

Dalzell said he didn't think the longliners are setting on FADs.

Morioka said, not the longliners, but the purse seiners that are catching a lot of the juvenile tunas.

Moving on, Morioka said it would be good at least one meeting in the year to see an all-fisheries analysis as well as the quarterly report.

Dalzell said he didn't have a problem getting the data for the longline fisheries. He asked the State whether they could provide a similar analysis for the other fisheries.

Simonds said she thought all the data from the State and territories go into WPacFIN.

Tulafono asked Katekaru about the status of the American Samoa limited entry program.

Katekaru said Amendment 11, i.e., the American Samoa limited entry FMP amendment, had been received from the Council staff and a Secretarial review was initiated in January. Before the review process can formally start, the preamble of the Federal Register Notice and the regulations have to be completed, and NMFS is working with Council staff to refine and finish those details. If everything runs smoothly, the program should start by the latter part of this year. In response to a question, Katekaru said the clock starts as soon as the preamble is completed, which includes the regulations and the Federal Register Notice.

Simonds said that is then 90 to 120 days after that.

McCoy noted that the American Samoa constituency has been inquiring about the catch rates leveling off. They're starting to wonder if it is due to environmental factors, overloading, overcapacity, etc.

Simonds noted that the Council voted on the amendment in June 2002 and then had a special Council meeting for the second vote in 2002. So it's a problem.

McCoy said expediting the amendment would be appreciated.

McCoy said before proceeding to the next agenda item, the Council should address Item 11.A.1 and A.4, two correspondences to the Council. One is from Jim Anderson, an American citizen and fishing captain who resides in American Samoa. His complaint is about the Council's inactivity to correct the situation of the employment of foreign captains on US flagged boats.

Mathers said there is a requirement for US masters on US fishing vessels. American Samoan citizens are allowed to be masters on US vessels down there. For a pelagic fishery there is not a requirement for the crew on the vessels to be US citizens. When the USCG has a cutter in American Samoa or when the USCG Marine Safety Detachment is down there, there is a certain amount of checking that can be done to confirm whether or not the vessels have US masters. Mathers said the Marine Safety Detachment in American Samoa would be alerted to look for signs or indications that there are non-U.S. masters in charge of vessels, and a USCG cutter is expected to be down there in the near future. He said this is an issue for the 14th USCG District now only in America Samoa but also in Hawaii. It

has published an instruction matrix to determine who is in charge of the vessel and also who has been signing the fishing logs.

In response to questions for further clarification, Mathers said the problem comes with who is actually in charge of that vessel. If the fishing master is not a US citizen but is directing the navigation of the vessel and effectively in charge of the vessel, then that is not legal. Mathers said he thought that some vessels may have onboard a US citizen that is the so-called master and that is why the USCG boarding officers are trained to ask a series of questions when they go onboard those vessels to try to determine who is actually in control of the vessel. To have “fishing master” or “fishing captain” onboard who has the fishing expertise and can advise the master on where to go is probably reasonable. But the problem occurs if that person is directing and navigating the vessel.

In response to a request for further clarification, Mathers said the USCG considers a master and a captain synonymous, i.e., the person who is charged by the owner to be in charge of that vessel. By comparison, a “fishing master” or “fishing advisor” is someone who advises the master on fishing methods or where to go, etc. But the captain—the one in charge of that vessel, who navigates the vessel, who signs the fishing logs each day—is the person who has to be a US citizen.

Lau said, since the Council has received letters of complaint from both sides, would it be appropriate from the Council to task the USCG to research and investigate these complaints and report back to the Council in writing.

Mathers said the USCG could do a certain amount, but the problem lies with having to actually board the vessel underway. At the dock, anyone could be the master. The USCG would have to be on the vessel while it is in the act of fishing to catch it in the act of having a non-US master. Nevertheless, Mathers said, the Marine Safety Detachment down there could see what it could do from dockside, and as the cutter goes through the area in the near future, they can keep a lookout, and the USCG could report back to the Council the results.

Responding to a comment from Morioka, Mathers said a letter from the Council to the USCG requesting an investigation or analysis of the situation and a report back at a later time would be useful.

Simonds said the Council should also respond to the persons who wrote the letters. She also noted that the Council has a coordinator in American Samoa, Fini Aitaoto, who could possibly also report on the situation as he works in the community and speaks Samoan.

Morioka said he trusted Simonds, as executive director, could coin some language to that effect for Council direction.

Duenas noted that, in Guam, fishermen have a good working relationship with the Marine Safety Office because they are not enforcement. He questioned Mathers about how an investigation by the safety office in American Samoa might affect its relationship with the Samoan community.

Mathers said the USCG is limited in American Samoa to its Marine Safety Detachment. They are inspectors. They fulfill a bit of a different role than the enforcement. He said, if the cutter that goes through there and is not able to determine anything, others may need to be sent down there to investigate.

B. Turtle Management

1. Council's regulatory amendment and Draft Supplemental Environmental Impact Statement (DSEIS)

Dalzell began by reviewing the management measures for the longline fishery. In August last year, the current BiOp under which the fishery was operating was vacated. The Council had an emergency meeting in September and developed an emergency package. There was a Council meeting in October where the Council reaffirmed its commitment to the emergency package. At that time, a letter from Bill Hogarth asked the Council and NMFS to work together on developing a long-term package for implementation by April 1, which was the deadline set by the judge for all the persons involved in the litigation to come up with long-term measures for the fishery. In November, a preferred alternative for the fishery was developed, which would allow half of the previous annual average level of swordfish sets between 1994 and 1999. Over that period a little over 4,000 swordfish sets were made annually by the Hawaii fishery, so under the long-term measure this has been reduced to a cap of 2,120. But most importantly, the fishery is to use technology developed in the Atlantic, specifically circle hooks and mackerel bait, that has been found to have a major reduction in the interactions with loggerhead and leatherback turtles. The southern closure as there is now for April and May would then be removed. A unique feature with this measure is to recognize that there may still be some residual of the effects of the impacts on turtles and to deal with these by doing proactive conservation measures on nesting beaches and foraging grounds around the Pacific Rim where loggerheads and leatherbacks nest and feed. The regulatory amendment and Draft Environmental Impact Statement (DEIS) were sent to NMFS on January 9. A biological assessment was also developed to assist with the development of a BiOp by the NMFS Office of Protected Resources. The proposed rules for the regulatory amendment were published on January 28. The BiOp was completed on February 23 and had a no-jeopardy determination. The process is on track with the final rule expected by April 1, 2004.

The BiOp made use of information that had been discussed at a post-hooking workshop in mid January this year in response to the dissatisfaction with the current post-hooking release mortality protocols.

3. Post-hooking Mortality Workshop

Boggs provided a report on the post-hooking workshop organized by the Office of Protected Resources, which included people with experience on what happens to turtles after they are caught in longline gear, i.e., people who do research on captive turtles and those who track turtles. He noted that the jeopardy determination is largely based on how many turtles get killed. That number is estimated based on the number that are caught.

NMFS made a policy determination how to do this several years ago based on an analysis of limited data on turtles with satellite tags and turtles that had been kept in captivity and subsequently died.

The workshop participants looked to see if they could contribute to a new policy, a new set of ratios for estimating how many turtles die after being hooked and released. There hadn't been a whole lot of new data that were useful. There hadn't been much more work with captive turtles, even though the group included a lot of veterinarians who had worked with turtles. There had been a reanalysis of all the electronic tags in the past by Milani Chaloupka. He told the group that the prior analysis on which the earlier policy was based had about a third of turtles dying. That's about the number that died in captivity, that's about the number whose tags stopped reporting after weeks and months. In that analysis, the tag reporting had thrown out the data on any turtles tagged which never reported at all. That reanalysis pointed out that really, some of those might have been not just bad tags, those might have been turtles that died right away. So your previous work is an under-estimate. But it was also pointed out that a lot of these apparent mortalities are due to the tags stopping. So the estimate could be high or it could be low, and the numbers that have been used are probably overall about right.

There been an improvement in tag technology, but there hasn't been an improvement in the analysis or the collection of enough new data for this new technology to come up with better numbers.

So the workshop participants were basically faced with information from its experts saying the general level of around a third is right, as best we can guess, but information about the turtle's condition should be taken into account when determining estimated mortality.

The old policy had three rates of post-release mortality. The only way a turtle would rate as not being expected to die at all is if it wasn't hooked at all, i.e., it was entangled only and it was disentangled from the gear and swam away free. The old policy assigned that a zero rate of mortality. Then there was a rate of 27 percent for turtles that were hooked outside of the mouth or just on the edge of the lip where there is no soft tissue or they were released with some line still tangled on them but not hooked. The third rate was 42 percent if the turtle was hooked in the lower-jaw or the mouth or deeply hooked.

The meeting participants provided new ratios that ranged from as low as 1 percent, but not as far down as zero. Everyone seemed to think if a turtle is caught, something affects it. On the high end, the mortality rate reached as high as 80 percent. But overall, a lot of them were around a third.

The decision was to give credit for activities that should reduce the amount of mortality, which is primarily how much gear is removed from the turtle before it is released. The new rate for a turtle released with more than half a carapace length of line still trailing behind it is higher than the rate for turtles released with less than that much line trailing behind a turtle. The line length was based on the observations of veterinarians who

worked with entangled turtles. They have seen a turtle tangle itself again on line that is much longer than that, but pretty much be able to ignore line that is shorter than that.

The best category is when not only all of the line is removed, but the hook is removed as well.

So the new categories—which have not actually been finalized and issued as a formal policy, but are used in this BiOp—reflect the fact that turtles have less and less risk of mortality after release with more and more gear removed. However, removing a hook that a turtle has swallowed down into its esophagus is not allowed except under certain exception. Likewise, a comatose and resuscitated turtle should not be released with line on it as most of the line off and probably the hook, unless it was down in the esophagus, could have been removed.

The other feature of the new analysis is to have a lower rate for hard-shelled turtles and a higher rate for leatherback turtles. The veterinarians were emphatic that leatherbacks are more delicate. They have less anaerobic capacity so they can't go without air as long as the other species and they have softer skeletons and skin.

So now estimating post-released mortality is more complicated with lots more focus on the condition of the turtles as it's brought aboard the boat and released, or brought alongside the boat and released.

Using these new numbers to recalculate the rates for the tuna fishery resulted in very little difference. The mortality rate is still around 40 percent. The big change is the estimated number of post-released mortality for shallow-type gear. It drops to about half of what it was before, not so much because of all these new definitions, but because of the new gear. The circle hooks and mackerel bait reduce the type of injury that a turtle experiences when it takes a hook.

These new values give credit for line removal and gear removal, which is something the fishery should be encouraged to do. But the real benefit in this management measure is the new gear will hook turtles less in the mouth and more externally than before.

In response to a question, Boggs clarified that a turtle that had been comatose and resuscitated implies it's been on deck and that means a long piece of line could have been removed. However, a turtle that had been comatose and resuscitated could have more than a half-carapace length of line on it when released if it had swallowed the hook. The hook can't be removed even when the turtle is on deck, so there is a separate category for that situation.

Boggs also pointed out the values are for hooked with or without entanglement. These other considerations are given more importance than entanglement. Questions have been raised whether that's sensible. However, the analysis is already complicated, and an increment for whether a turtle is just hooked or hooked and entangled would make it even more complicated. Also, all of these rates are based on people's opinions as opposed to measured information.

Morioka acknowledged the last statement, but noted that the analysis is now a little more science-based.

Boggs said the additional science is based on measuring and reporting about what happens to the turtle and how it is released. So that information at least is making a difference even if the exact mathematical relationships for the differences are still unknown. A logical model is being used to incorporate those factors in the estimates. The old model had much less of it because it had only these three categories, and now there are some 20-odd categories.

Duenas noted that, coming from the Pacific Islands, he has observed that it is extremely difficult to kill a turtle in order to consume it. The only ways he has witnessed are to suffocate it or drown it and then mash its head, and even then its heart still beats. Hence he wondered what a 2-inch hook would do.

Boggs said that was a fair question. The only evidence used for the mortality rates is a study that was done with captive turtles. If you take 100 turtles caught on longline gear and put them in captivity, and a third of those will die.

Duenas noted that he is a farmer by heart and recently he captured two wildlife water buffalo. One died of a broken heart because all she wanted to do is break that rope so she could get free again. She stopped eating. She didn't want to drink water. The other one survived. He wondered how better numbers could be obtained. He said what bothered him was all the hoopla. When CPUE is up for fish, the stocks are good. When CPUE is up for turtles, the stocks are down. I don't know.

Boggs said the analogy with the water buffalo was appropriate as the main criticism of the scientific underpinning of the work is the fact that there is a difference between captive and wild animals. In conclusion, he said it's a compromise based on points of view more than it is of a summary of real knowledge.

4. Risk assessment seminar

On behalf of Pooley, who was unavailable, Dalzell gave a brief presentation on the risk assessment seminar given by Craig Johnson from the Office of Protected Resources. He focused his presentation on demonstrating the kind of exercises the Office of Protected Resources goes through to generate a BiOp. Dalzell said the seminar was given in response to a lot of concern and misunderstanding over how BiOps are generated.

Dalzell showed a schematic demonstrating the way that the Office of Protected Resources develops a BiOp, looking at basically the risks to an animal during its life cycle and the different stages of its life history. Once they identify an action, they establish a baseline and then conduct analysis of the exposure of the animal or the risk to the animal from that action. The baseline is essentially what is the life cycle of the animal and what part of the stages of the life cycle could the action have an impact on.

As an example, there are leatherbacks that are hatched in Indonesia, migrate as adults to the West Coast of Mexico and the United States and then swim back to their

general originating area to nest. Some nest in Papua New Guinea and go south. There are also eastern leatherbacks that nest along the coast of South and Central America, and they also do southerly migrations. During all stages of their life cycle they are exposed to various impacts. Fishery impacts include longline fishing and coastal gillnets and trawls, as well as direct harvest in areas like Papua New Guinea. There are also impacts to nesting beach environment and nesting habitat. For example, a major nesting beach aggregations over in Malaysia has been more or less eliminated.

The Office of Protected Resources staff then set up what a quasi-extinction model using this paper by Dennis et al. They run these models to look at time to extinction from the baseline depending on the various different impacts. They also use another metapopulation model and also matrix projection models.

Dalzell noted that the SSC was pleased to see the degree of transparency in the development of the 2004 BiOp, but they also felt that to further clarify the conduct of the analysis in its risk assessment for the non-jeopardy determination for the fishery, the SSC would like to see a worked example of the analysis using turtle data. The SSC would like to see some actual runs of the model and some regressions to see how this model is run and what the curves look like as well as a table of data, a tabulation of the regression coefficients and their confidence intervals and a graph of the data being regressed, etc. They would also like to see a statistical test of the degree to which the turtle data conforms to model assumptions, as specified in the paper by Dennis et al., and they would like to see the model predictions shown with and without the impacts of the Hawaii longline fishery. So to see not having the fishery there or having the fishery there, how much of an impact that would actually make.

Boggs said he liked the SSC's comment and thought they would be satisfied with that and they'd learn a lot about how it's done.

Morioka said he had participated in the proceedings, and it was apparent that there was not an apples-to-apples comparison being made but an apples-to-oranges kind of analyses, in that they were using previous histories with birds, etc. in the development of their analyses.

Severance said, to understand the basis behind the SSC recommendations, one should read the Dennis et al. paper carefully.

5. New biological opinion on pelagic fisheries

Dalzell said the Council's actions to reopen the swordfish fishery, the post-hooking workshop and the risk assessment seminar led ultimately to the BiOp for the entire Pelagics FMP. The determination under the BiOp was non-jeopardy. But there is still a take statement, and there are still reasonable and prudent measures (RPMs) to make sure that the non-jeopardy determination is maintained. He explained that reasonable and prudent alternatives are to get an action below jeopardy and RPMs are to make sure that the action stays there.

A feature of the Council's management action is to recognize that the longline fishery has two segments: the shallow-set swordfish segment and the segment that fishes deep and catches tuna. In the past management has addressed the fishery as a whole, so previous BiOps have also looked at the fishery as a whole. In this new BiOp, the swordfish fishery is split from the tuna fishery and separate take statements are given for the shallow-set swordfish longline fishery and for the deep-set tuna fishery. The hard caps on the swordfish longline fishery are 16 and 17, so that if more than 16 leatherbacks or 17 loggerheads are taken by that fishery it would shut down.

There is also a take statement for the remaining fisheries in the Western Pacific. It is a simple aggregate total that includes the longline fishery in American Samoa, the aku boat fleet in Hawaii and all the troll and handline fisheries. That is 6 hard-shelled turtles captured and 1 killed, and 1 leatherback but with no mortality. So that is for the entire rest of the pelagic fisheries in the Western Pacific Region.

Dalzell reviewed the five RPMs were developed for the Western Pacific Pelagics FMP.

- Collect data on captured, injury and mortality to turtles in longline fisheries.
- Collect information on turtle bycatch in troll and handline fisheries and also to assign these interactions into the categories developed through the February 2004 post-hooking mortality guidelines.
- Minimize injuries from turtles that have been captured alive and can be released from fishing gear from entanglement or hooking.
- How comatose turtles should be handled, brought onboard and resuscitated.
- Dispose of dead sea turtles in the water.

The terms and conditions to implement the first RPM include having NMFS continue the observer program aboard the Hawaii-based limited entry longline vessels to collect data on the take of marine mammals and protected species. Also, no vessel using shallow-set gear in the Hawaii-based fishery shall be permitted to fish without observer coverage. So 100 percent observer coverage on the swordfish vessels, and coverage in the deep-set fishery is to still be maintained at 20 percent. The implementation of an observer program aboard longline vessels in American Samoa where feasible. The purpose of the observer program is to provide NOAA Fisheries information to determine if these fisheries interact with these species and what level of impact the fishery may have on these species.

Dalzell said, if you add together the three trips that were done by the Pacific Islands Region Office observers on American Samoan vessels, together with information from observers deployed by the Secretariat of the Pacific Community (SPC) in neighboring Samoa on alias and on monohull longliners, no protected species interactions of any kind were found in 93 sets total. That means neither birds, marine mammals and no turtles were observed interacting with longlines.

The observer program shall collect information regarding catch and injury and mortality of sea turtles. NOAA Fisheries shall also collect life history information on sea turtle captured by longline fisheries; including species identification, measurements, direct measure or visual estimates of tail length, condition, skin biopsy samples, estimated length of gear left on the turtle at release. To the extent practicable, these data should allow NOAA Fisheries to assign these interactions into the mortality categories developed through the workshop. Observers shall record the presence or absence of tags on all sea turtles captured by longline fisheries. Data collected by observers shall be made available on a quarterly basis.

The second RPM refers really to getting information from nonlongline fisheries. NOAA Fisheries shall coordinate with the Forum Fisheries Agency (FFA) to collect life history on information on sea turtles, such as species identification, measurements, condition, biopsies, etc., tags, application of flipper tags in none are present. NOAA Fisheries is also to collaborate with the Council to develop a system to collect basic listed species bycatch associated with nonlongline pelagic fishing vessels with hook and line within the Western Pacific Region, e.g., the troll and handline fisheries.

The third RPM is about caring for hooked or tangled turtles. NOAA Fisheries is to continue the protected species workshops for skippers of vessels registered for use with longline fishing permits and to facilitate proficiency on mitigation, handling and release techniques as outlined in the Code of Federal Regulations. NOAA Fisheries is to include information on sea turtle biology and ways to avoid and minimize sea turtle impacts to promote sea turtle protection and conservation. NOAA Fisheries is to continue observer training of sea turtle resuscitation techniques and biological information. All sea turtles shall be removed from fishing gear or brought on deck prior to continuing with gear retrieval. Personnel aboard a vessel registered for use with a longline permit issued under the FMP must remove the hook from a turtle, if feasible, as quickly and carefully as possible to avoid injury or mortality. If the hook can't be removed or is deeply ingested, each vessel must carry a line clipper to cut the line as close to the hook as practicable and remove as much line as possible prior to releasing the turtle. Each longline vessel shall carry a sea turtle dip net to hoist a sea turtle onto the deck, if practicable, to facilitate removal of the hook. If the vessel is too small to carry a dip net, it can pull the animal to the side of the boat and deal with it there and then. In the event of an interaction with a sea turtle, an operator of a vessel using hooks, handline or troll fishing gear to target pelagic management unit species (PMUS) must handle the turtle in a manner to minimize injury and promote post-hooking survival.

The fourth RPM is about resuscitation. An operator must resuscitate a comatose turtle following the procedures in the Code of Federal Regulations. If there's an observer onboard, then he shall perform the resuscitation techniques. Similarly, in the event of interaction with a turtle, an operator of a vessel using handline or troll gear, the animal must be handled in a manner to minimize injury and promote post-hooking survival as outline in the Code of Federal Regulations.

The fifth RPM is that dead sea turtles may not be consumed, sold, landed, offloaded, transshipped or kept below deck, but must be returned to the ocean after identification unless NOAA Fisheries requests to have the turtle be kept for further study.

Besides the RPMs, there is a range of non-discretionary conservation measures. One of them is NOAA Fisheries should continue and expand on existing efforts to implement measures and management actions that protect nesting sea turtles in their ocean environments and increase hatchling production at nesting beaches in the Eastern and Western Pacific.

Dalzell concluded by summarizing the SSC recommendations on the BiOp. First, the SSC recommends NOAA Fisheries coordinate their effort for collection of data and educational outreach on turtle mitigation and handling procedures to operators of non-longline pelagic fishing vessels with the State of Hawaii and the Council. Second, the SSC is concerned about the grouping of all pelagic fisheries other than the Hawaii longline fishery in an aggregate incidental take statement. The SSC recommends that separate take statements be developed for troll, palu-ahi, ika shibi, aku boats, American Samoa longline fishery and potentially developing longline fisheries in Guam and CNMI.

Morioka stated, for the record, the he shared the SSC's concern expressed in the second recommendation. As is, if a hard-shelled turtle dies in any of the Council's non-longline pelagic fisheries, then it impacts all of these fisheries. Morioka said these are distinct fisheries and he strongly believed that they ought to be treated separately. He asked the Council to support the SSC's recommendation because it is important that each of these fisheries be given a take statement peculiar and unique to it.

Katekaru said Morioka's point was well taken, and NOAA Fisheries would endeavor to follow up on that. He also pointed out that, one, the figures in the incidental take statement Dalzell presentation are annual figures, and two, NOAA Fisheries takes very seriously the terms and conditions for which it is responsible because if they are not implemented the take statements become void.

Dalzell said the BiOp anticipates that these things will be done and that's part of the basis for the no-jeopardy determination.

Morioka said, for the record, he'd like to state what happened in the Standing Committee with regard to now including the other fisheries in the BiOp. Morioka said he believes there needs to be a methodology for recreational, subsistence and a certain amount of artisanal fishermen to group together to better represent itself in the development of BiOps, whether it be through a class action suit or some other vehicle. He wanted the other Council members to be sensitive to the fact that when one fishery is regulated, other fisheries are having regulations imposed upon them without a voice in the process.

Ebisui asked Katekaru if NOAA Fisheries had taken a position on whether or not the ika shibi, the troll and aku boat fishers are applicants.

Katekaru answered, no, it's something that will have to be addressed based on the decision rendered by the court in the HLA case.

Feder said there's been no court ruling on that question and NOAA still has to decide internally how to deal with the HLA ruling with respect to other regulated persons and other permitted fishermen around the country. That has big national implications. One way to read the HLA ruling, of course, is that it covers anyone who is regulated, not just permit holders. Another way to read it is to cover all permitted fishermen. And yet another way is to limit the application to only the HLA.

Martin pointed out that the Council has consistently asked to be included as an applicant, which would have afforded the opportunity for various groups to be involved in BiOps. Inclusion of the various Regional Councils as applicants is something that has been explored. The answer might be for the Council to continue to push for applicant status.

2. Additional measures to conserve sea turtles (action item)

Hamilton said the additional measures to conserve sea turtles largely arrive out of the BiOp RPMs. The way the BiOp reads, the Council has a year to get these in place. There are three outstanding issues that must be addressed:

The first is a requirement for general longline permit-holders to attend a Protected Species Workshops. The bulk of the general longline permit-holders are in American Samoa and they have been attending these workshops. But, because of the way the court rulings work, that regulation may be vacated on April 1, so the Council needs to reimplement this requirement to stay in compliance with the new BiOp.

The second issue focuses on the need to require general longline permit-holders to carry and use dip nets, line clippers and bolt cutters. Hamilton clarified that when American Samoa gets its limited entry program they will be called American Samoa limited entry longline permits and these rules will apply to them as well.

The third issue in the BiOp is the requirement to remove trailing gear. There's a requirement for longline boats to do this, but there is not a requirement for nonlongline boats using hooks to remove trailing gear. Along with this requirement are two other paragraphs about the resuscitation and the release of sea turtles. It talks about how to treat them and how to release them when bringing them aboard is feasible. On small boats, it's unlikely that this will ever be feasible, but the BiOp requires that if it is, that you follow these certain procedures.

One new issue not required in the BiOp addresses shallow-setting north of the equator by general longline permit-holders. The Council has severely restricted the number of sets the Hawaii-based longline fishery can do and the gear and bait to be used. But it did not address whether the general longline permit-holders would they be allowed to fish north of the equator. The prohibition on it that's in place right now will expire on April 1.

Hamilton reviewed options for each one of these issues for the Council to consider.

Issue 1: Protected Species Workshop for general longline permit-holders:

- Option 1: No action. The current requirement will expire on April 1. Operators in American Samoa will no longer be required to attend, only the Hawaii-based operators and owners.
- Option 2: Reinstate the requirement for American Samoa vessel operators only to attend the workshop.
- Option 3: Require both operators and owners to attend the workshop as is required for the Hawaii-based longline fishery.

The BiOp requires at least Option 2..

Issue 2: Mitigation gear.

- Option 1: No action. The existing requirement will be vacated on April 1.
- Option 2: Reinstate current plan with its exemption on the longline boats with a freeboard of 3 feet or less from having to use long-handled line clippers and nets.
- Option 3: Reinstate the gear requirements and not have an exemption for the smaller vessels. Everyone has got to carry the long-handled one.

The BiOp requires at least Option 2.

Issue 3: Trailing gear

- Option 1: No action.
- Option 2: Require nonlongline vessels; albacore, handline, jigboats, using hooks to target pelagic species to remove the trailing gear in the EEZ waters.
- Option 3: Required the removal of trailing gear and the following of resuscitation and release guidelines for all.

Issue 4: General longline permit-holders shallow-setting above the equator.

- Option 1: No action. The vessels could shallow set to the best of their ability.
- Option 2: Require circle hooks with mackerel type bait, and the other measures required of the Hawaii-based longline fishery, e.g., use of dehookers.
- Option 3: No shallow-setting north of the equator by general longline permit-holders.

Hamilton showed a slide portraying the activity of general longline permit-holders based in American Samoa. In 1998, they operated well below the equator. In 1999 and 2000, they came a bit closer. In 2001, they moved down again. Although they haven't measured north of the equator yet, Hamilton said the legal situation should be examined to

see if there are loopholes whereby they could fish out of California or Hawaii, but land somewhere else.

Hamilton noted that the Standing Committee suggested that outstanding issues from the BiOp be handled in one action because they need to move fairly quickly. This general longline setting north of the equator could be handled in a separate action because it may take more research.

Hamilton reviewed the three BiOp issues and their options. For issue one, the Standing Committee recommended the third option. She noted there was concern about owners who lived overseas and questions about a mechanism whereby they could attend this workshop remotely (e.g., via a videotape) as opposed to having physically travel to either Hawaii or American Samoa to attend these workshops once a year.

Hamilton pointed out that this was the Council's first meeting on this issue. The staff was looking for the Council's input, e.g., would they like to see other options, further research, etc.

For issue 2, mitigation gear, the Standing Committee recommended Option 2, to provide the exemption for the small boats.

For issue 3, the Standing Committee noted that the EEZ doesn't include waters 0 to 3 miles from shore and that jigboats do fish on the high seas. So they went for Option 3, require removing trailing gear and resuscitation and release guidelines of small boats for wherever they fish.

For issue 4, the Standing Committee asked that the Council staff do more research.

Morioka asked if there was an alternative for issue 4 to keep the process going forward, such as to select an option and continue to investigate these other potential loopholes to see if there is any significant impact. Something like Option 2 would protect the resource. But then, the other issues could be addressed during the process rather than holding up the process.

Mathers said the paper indicates that Option 3 would be reimplement the current regulation. He asked whether doing that for now while investigations continue would satisfy the requirement.

Hamilton said that would be a lot of paperwork to put something in to last a few months. She said the BiOp doesn't require any of these, so there is no time line for this one. On April 1, the prohibition on shallow-setting above the equator will expire. The BiOp is okay with that. No general permit-holder has ever fished above the equator. As far as Morioka's comment, Hamilton said she thought the Council could select a preliminarily preferred alternative and ask for more research on the pros and cons of it so it could be refined at the next Council meeting.

In response to a question, Hamilton said the restriction would apply straight across the board to Japan..

Duenas noted the inconsistency in asking for a BiOp for every location, on the one hand, and then asking for a regulation across the board on the other. Duenas noted that Guam does not have a longline industry but, if it were to participate in any mitigation program, its option would be Option 2, using circle hooks and mackerel bait. In response to a question by Hamilton, Duenas clarified that Option 3 disregards discussions on the regional differences in ocean resources and their impacts. He said he is leaning toward no action and let the Council staff look at more information, maybe do some exploratory with the Co-op's longline project, e.g., do a couple experimental shallow-sets to see if there is an interaction.

In response to a query, Hamilton said an individual could hold both a Hawaii limited entry permit and a general longline permit at the same time. She agreed that, once the fishermen who are fishing south travel north, they can set above 0° with their Hawaii longline permit but only if they were allocated some of those 2,120 sets to which the fishery is restricted.

In response to the impact on the squid fishery, Hamilton said she didn't believe squid was a PMUS and her understanding was the regulations apply to PMUS.

Martin expressed his concern about making assumptions based on scientific data from the West Coast and the Hawaii region and applying it all the way out to Guam.

Duenas said the Fishermen's Co-op and its longline project promised to follow IFF2 to develop the most eco-safe type, as possible, harvesting method with longline, and that's why he is more comfortable using Option 2. But having the staff provide other options may at least give them the latitude to develop and not restrict them before they even start. When asked for examples, Duenas suggested a line of demarcation where the regulations would apply to one zone and another BiOp would apply for the other zone. When asked for more specifics, he suggested available information on how far east the Hawaii longline fleet goes might be a good point of reference.

6. Progress on turtle conservation projects

Irene Kinan provided an update on the Council's turtle conservation program. It has several components, most of which have been implemented. The hawksbill simulation model is almost done. A regional tagging database project with the South Pacific Regional Environmental Programme (SPREP) is underway and moving along nicely. The sea turtle workshop will convene in May. The emphasis will be on the Western Pacific leatherback and the hawksbill simulation model. The Council has implemented three leatherback projects. The only component that has not yet been implemented is in Japan because the nesting season there is during the summertime.

At the leatherback nesting beach project at War-mon Beach, Papua, the remote field crew has been established and are working. In November, there were 250 nests, but unfortunately the monsoon came through and wiped out the entire beach. They expect dynamic nesting in February.

In the Kei Islands of Papua, where the incidental harvest of leatherbacks has been estimated at about 100 a year based on anecdotal information and a project in 1996, we're determining the harvest baseline. The project will include a mortality harvest parameter study and then community education and outreach. The cultural take of leatherbacks is well engrained in their society. In the future, we hope to implement some alternative means of livelihood so they have options to eating leatherback. At this point right now we have got villages hired to do the monitoring. They documented 17 leatherbacks takes so far and they're beginning to identify the harvest parameters, e.g., why are people harvesting, when do they harvest and under what conditions.

At the 11-kilometer leatherback-nesting beach in Kamiali, Papua New Guinea, management is in place and 62 leatherbacks have been tagged. There was also a successful meeting in October where the entire community declared a harvest moratorium. They have implemented a fine, and so far nobody has yet to be fined. The fine is K100, which is about US\$50, which is a lot of money. Also, the community had a leatherback community workshop in January.

Aerial surveys are being conducted by Scott Benson and Lari Sarti. Peter Dutton has wanted these aerial surveys for a while now, and it was a recommendation that came out of the sea turtle workshop. They've identified many, many more areas of leatherback nesting. There seems to be some year-round nesting going on in Papua New Guinea.

Kinan should a video of the halibut fishery in Baja, Mexico. There have been preliminary meetings with the co-ops, and a more formal workshop with the fishermen is scheduled for next week. Anecdotal, preliminary investigations indicate a mortality of about 2,000 juvenile loggerheads a year due to this gillnet fishery. These are the same turtles that are swimming past Hawaii. The goal is to partner with this community. Some ideas are possible fishery buyout, maybe switching fishing styles (e.g., from gillnet to bottom-set longlines) or maybe reducing the size of the gillnets.

Regarding the regional tagging database, the second meeting was held in Australia. All the agencies involved are apparently happy with the prototype that's been developed. We are looking for a contractor to help write a database manual.

The SPREP and SPC and Southeast Asian Fisheries Development Center (SEAFDEC) database I on track. The prototype will be tested. We hope to have this version ready by May, but, because we don't have a database manual, it may be a little bit later.

Kinan then showed a video in Spanish with English subtitles, showing the Wildcoast crew, Jay Nichols and Hoyt Pecham, whose PhDs involved working with the turtles in this region. The video showed the pelagic red crabs that the loggerheads and halibut eat. She said the Council would be working with these guys in Baja.

Duenas noted that he spoke with an Australian who worked in Papua New Guinea on some successful projects that allowed the villagers to take one in five nesting sea turtles. The problem they have in Papua New Guinea is normally the nesting period is during their dry season, so the food on the land wasn't available for the villagers. So the project brought

in groceries to assist the villagers, at least promoting a couple years of conservation measures.

D. Squid and Seabird SEIS

Marilyn Luipold, the NEPA coordinator for the Pacific Islands Regional Office, introduced to contractor George Krasnick of The Environmental Company and provided some background on the public scoping undertaken by him.

Krasnick provided a brief presentation on the combined scoping process for the turtle Supplemental EIS and the seabird and squid NEPA process. The scoping was actually for the entire FMP. So it covered more than one NEPA document.

Krasnick noted that scoping is the process of seeking input from stakeholders about current problems, potential solutions and possible outcomes related to proposed actions. Scoping can take a number of forms, but most commonly involves holding meetings for public input in the affected areas. In the Pacific Island Region, this usually involves meetings in each of the island areas of the region, and that's what was done in this case.

The scoping process began with the Fishermen's Forum held at Fisherman's Wharf in conjunction with the Council's October 2003 meeting. Six major topics were presented and comments about them and other issues in the pelagic fisheries in the region were elicited. The largest participation occurred at the Fishermen's Forum. Attendance throughout the remainder of the Hawaiian Islands was sparse, with relatively large numbers shown for Hilo consisting mostly of college students who received extra credit in their marine science class. Attendance outside of Hawaii was somewhat better, especially in Guam.

Each meeting began with brief presentations about the known issues, including turtles and seabird interactions with the Hawaii-based longline fishery, the virgin squid fishery, blue marlin stock condition feedback and the inadequacy of noncommercial catch and effort data. Following the presentations, discussions were encouraged on an issue-by-issue basis. Then the floor was opened to any other issues that attendees wanted to discuss. A number of other issues were raised.

The first new issue, interactions with marine mammals with the longline fishery, actually arose from news reports about current litigation attempting to force reclassification of the fishery under the Marine Mammal Protection Act rather than from comments received at the meetings. But scoping can provide a variety of input sources.

The bigeye stock condition issue arose in discussion of PFADs and FADs, in general, especially their propensity to hold and facilitate capture of juvenile fish. This issue was also raised because of the conflicting recent year-to-year stock assessment conclusions of the Standing Committee on Tuna and Billfish (SCTB) regarding whether bigeye stocks are being overfished or not.

Four other issues arose included the potential to develop a longline fishery based in Guam, definition of the commercial fishery, sales of bycatch by foreign vessels in American Samoa and Guam, and poaching inside the EEZ by foreign vessels.

While scoping considered the FMP in its entirety, two or even more separate NEPA are the result. Furthermore, some of the additional issues identified in scoping may also require a NEPA document. That may result in further bifurcations depending on the urgency of action.

One of the tasks included in the federal scope was determination of the appropriate level of NEPA documentation for seabird litigation. Using Council on Environmental Quality (CEQ) and NOAA guidelines, it was concluded that an EIS rather than an EA was appropriate. Whether there should be another Supplemental EIS like the present turtle document or a completely new document is still under discussion.

After scoping, a report was produced summarizing the process and results of that process. Also included in that report are recommendations for the appropriate level and NEPA analysis for the seabird–squid document and what to do about the remaining issues identified in the scoping process. In analyzing these issues, two questions were asked. First, is this an issue that can be addressed through an amendment of the Pelagics FMP. Second, how urgent is the issue. In answer to the first question we concluded that potential management actions addressing the issues of marine mammal interactions, PFADs, blue marlin and bigeye tuna stock condition and noncommercial data requirements are right for decision-making and NEPA assessment should be initiated.

Several issues were either not right for decision-making or could not be remedied through the Pelagics FMP. The Guam longline issue was considered not right for decision-making at this time. There is no fishery yet. When it begins operations it will be regulated under the general permit process. It seemed premature to consider imposing additional restrictions or requirements. The definition for commercial fishermen established by the USCG for purposes of safety equipment and operations and by local government agencies for data reporting cannot be resolved by the Pelagics FMP. The issue of sales and foreign bycatch in American Samoa and Guam is entirely a local government issue, not something that could be remedied through the Pelagics FMP. The foreign poaching issue, likewise, cannot be remedied through a Pelagics FMP. You cannot establish a level of funding or enforcement priorities for the Department of Homeland Security.

The second consideration was the urgency of the needed action. Interaction with protected species can potentially close the fishery and are the most common sources of litigation against the fishery. Re-establishment of swordfish fishing as planned by the Council elevates the seabird interaction issue, as there is a new Section 7 ESA Consultation underway and the incidental take statement for the short-tailed albatross should be available in a couple of weeks. The marine mammal issue is already in litigation and consideration of the management alternatives seems timely. For these two issues it may be appropriate that they are separated from the other issues and the NEPA process for them expedited. The other less urgent issues could proceed on a longer timeline. Council and Pacific Islands Regional Office staffs are reviewing our scoping report and will soon decide on the best

course and schedule for NEPA action for all these issues. This issue may be revisited tomorrow under the Program Planning agenda item.

C. Seabird Conservation

1. New measures to mitigate seabird interaction (action item)

Before presenting the range of alternative measures to mitigate seabird bycatch mitigation in the Hawaii pelagic longline fisheries, Dalzell reviewed the history of the current measures. He reminded the Council that about four or five years ago it put into place measures to minimize interactions between longlines and seabirds, primarily albatrosses. Initially, the Council had a range of options for fishermen to select measures. Ultimately, because the BiOp was generated through USFWS for short-tails, the measures became nondiscretionary, and, because the swordfish fishery was closed down, no seabird mitigation measures were put in place for vessels using shallow-set fishing. At the time the measures were put into place, there was a fair amount of research looking at promising measures for mitigating seabird interactions with pelagic longliners. Those included some kind of towed deterrent, either tori line or a buoy on a length of rope; weights on hooks; blue-dyed bait, an idea that came out of the Atlantic; and setting at night. Over the last couple of years, Blue Ocean Institute and HLA with support from the Council and USFWS have conducted additional seabird mitigation research, including underwater setting chutes (a method of delivering the bait into the water so it was out of sight of the seabirds) and the capsule (a cup device that delivers the bait and hook into the water). In the course of doing the first round of these experiments on the underwater setting chute they discovered that side setting might also have some mitigation properties. This was investigated more formally in 2003. The end result was that side setting with some additional measures, such as a small curtain, was found to be extremely effective.

Dalzell showed a table on the effectiveness of different seabird measures. He noted that all of the measures are pretty effective at minimizing interactions with seabirds, ranging from 70 percent to 100 percent effective.

Dalzell described the regime the fishery operates under currently. Any vessel fishing north of 23°N must use blue-dyed thawed bait, have a minimum of two kinds of blue dye onboard north of 23°N and must discharge offal and spend bait on the opposite side when setting or hauling north of 23°N.

Dalzell reviewed the protocols that were laid out in a November 2000 BiOp about what to do if you do actually catch a bird and the specific measures to fish north of 23°N using deepsets for tuna or shallow sets for swordfish.

The alternatives were then presented.

Alternative A: No action; keep things as they are.

Alternative B: Give the fishermen the option of complying with the old regulations or to side set. When side setting, they would have to employ swivels within a meter of the

hook and use a curtain. Dalzell showed the design for the bird curtain that was used in the experiments.

Alternative C: Employ a setting chute with a minimum of 2.9 meters of which is under water or use the current regulations.

Alternative D: Use the tori line or other towed device, e.g., bird-scaring line or lines, or follow the current regulations. Side setting would be nondiscretionary. You would have to side set with the swivels and the curtain, plus you'd also have to use blue-dyed bait and offal discards and also night setting for those boats targeting swordfish, and all of the remaining requirements would remain in effect.

The SSC recommendation was to give the fishermen a broad range of alternatives.

The Standing Committee recommendation was to flesh out these alternatives to present at the next Council meeting.

Before moving forward, McCoy directed the Council to document 11.D.1(c), a letter from longline fishermen John LaGrange in regards to the use of 60-gram swivels versus 45-gram swivels.

Martin said there is a safety issue with leaded swivel, which relates most often to shark fishing. The shark would bite the hook off when it was on the surface, and the lead would come back. Several people have been actually hit with the lead when it comes back. There are stories of lost vision in one eye. There are a couple different kinds of lead that you can use that meet the requirements that may mitigate that problem. One of the solutions to the problem is to change the way gear is retrieved. But leaded swivels are a hazard. Most boats use them and have used them whether they were required or not. Some people have gone as far as wearing fencing masks to protect their face. Swivels are one of the hazards of the industry.

Dalzell noted that part of the analysis using the National Standards considers safety at sea.

McCoy said this is a serious concern, not just from the injury itself, but also regarding liability.

In response to a question, Dalzell said there was not yet an option for side setting only but it could be easily included for purpose of analysis.

E. Marlin Management

Dalzell explained, that two or three years ago, one of the big unknowns about the Western Pacific marlin fishery was the very large recreational fishery in Hawaii. A post-doc program operated by Dave Holtz at the Southwest Fisheries Science Center provided the only information on recreational catch rates at that time.

Now the results from the Hawaii Marine Recreational Fisheries Statistical Survey (HMRFSS) have provided more information on this fishery.

Dalzell showed a slide of blue marlin catches by island area, which highlighted the importance of the Hawaii catch compared to the other areas. The next largest volume of blue marlin caught is in American Samoa because of the longline fishery. Guam has quite a bycatch of blue marlin, too, and there is a small amount in CNMI.

Blue marlin catch by different fisheries in Hawaii totals about 2.7 million pounds. The troll fishery catches just shy of a quarter of a million pounds. The charter vessel catch is below 200,000 pounds. A small amount is caught in the handline fishery. Longline fishery takes just shy of 600,000 pounds. This figure used to be about a million pounds when there was swordfish fishing. But the largest catch of all is in the so-called unsold or recreational troll catch. The figure derived from one year of the MRFSS one year is about 7,000 individual fish.

Dalzell then showed a time series of CPUE for the flagline (i.e., longline) fishery since the mid 1980s. Two datasets were reasonably complementary in that the showed a decline, then rise and then another decline. In the recreational fishery there was a rising trend of almost 20 years before it declined during the 1990s. The handline catch showed the same decline in the 1990s that was apparent in the longline and the troll fishery.

In the American Samoa troll fishery, there was a big increase in the blue marlin CPUE and then a big decline in the CPUE.

As for Guam, data generated from creel surveys conducted by the Guam Fishery and Wildlife, shows the charter vessel fishery, which targets blue marlin, has a higher catch rate than the commercial trollers. In the CNMI, trip ticket data shows a declining trend in the mid 1990s to the present.

Dalzell noted that there is not very much information on striped marlin. It tends to be basically a fish that is caught around Hawaii. But a little bit is being picked up now in American Samoa because they're fishing deeper. It's a small component of the unsold recreational fishery, according to MRFSS. The handline fishery takes a little bit of the fish. In the longline fishery, there's been this long-term declining trend in striped marlin. Whereas the American Samoa longline CPUE shows an increasing trend in striped marlin over the relatively short life of this fishery. Data shows a 20- to 35-year increase in the CPUE of the recreational troll fishery and somewhat similar trend in the commercial troll fishery with just a declining trend towards the end there. An old analysis of CPUE data suggests there may be an inverse correlation between troll CPUE and longline CPUE, at least for striped marlin.

Dalzell said the SSC was concerned about blue marlin CPUE trends and requests that the Pelagic Plan Team prepare an analysis of the factors affecting these trends, primarily in the longline fishery. Dalzell said a Pacific-wide stock assessment for striped marlin is needed. He also said the SSC recommends that NOAA Fisheries should evaluate the impact of catch-and-release practices on CPUE trends. The recreational fishermen and

charter vessel fishermen catch-and-release fish may not be showing up on the catch data forms used to generate CPUEs for the charter vessel fishery and it may have a negative bias on the CPUE trends.

Responding to a concern about the CPUE charts, Dalzell noted that the longline data is plotted in numbers per trip and troll is given in pounds per trip.

F. Private FADs

Eric Kingma reviewed a survey flight for PFADs in Hawaii that took place on January 12 of this year. The flight objective was to locate and describe PFADs in the area east, northeast of Hilo. Active search time was approximately three hours. About six transects, five miles apart, of the search area were done. Weather conditions were excellent with pretty much unlimited visibility and southwest winds.

A cluster of orange PFADs with streamer lines was spotted roughly 12 miles off the coast of Hilo. A buoy-type of FAD with a vessel trolling nearby was also found about 35 nautical miles offshore.

Kingma showed an image of a PFAD taken off of Hilo. He pointed out its low height on the water. This was a tank-type FAD that was removed by the USCG about a year and a half ago. He then showed an image of the C-130 USCG plane that was used for the survey. He showed a minute-long video showing the cramped cockpit. The plane flew at about 200 knots, at about 500 feet. Kingma showed an image of the buoy-type PFAD that was located with the fishing vessel trolling fairly near there, and one of a State FAD that was apparently free-drifting.

The results. We did pick up a cluster, as I mentioned, and visually confirmed by Coast Guard observations, it was an orange buoy-type with streamer lines.

Prior to the flight, information suggested there could be upwards of 100 PFADs in a location. Ultimately, not too many FADs were located. Kingma said maybe there are not that many FADs in the area or maybe their construction makes it difficult for them to be detected by a USCG C-130.

He said there is at least 15 commercial vessels that fish off PFADs. About three fishing vessels were spotted that day out in the search area.

Kingma recognized Cmdr. Fred Tucker, the USCG legal counsel, in the audience, who was available to answer questions regarding USCG legal authority over PFADs.

Responding to questions, Kingma reiterated that they found a cluster of FADs believed to have numbered about five initially, about 12 miles off the Coast of Hilo, and another FAD 35 miles offshore. So roughly six FADs were located. He said the buoys in the cluster were within 100 yards of each other

Ebisui asked about the Maui PFAD that was removed. He wanted to know what led to the decision to cut the anchor line just below the plastic-coated chain and then remove the FAD, as opposed to, say, trying to tow it and breaking the line off deeper.

Mathers said he believed the FAD was removed because it was considered a hazard to navigation. The buoy tenders here are equipped with dive teams. They probably went to a level they thought was safe to cut it and remove it, which was easier to do than drag it until the line parts. But why exactly they cut it there, he couldn't say.

Ebisui said he understood it was cut at 10,000 feet of water, so there's about 2 miles of line suspended vertically, not to mention the scope.

Mathers said he thought the weight of that line would probably cause it to potentially overcome that floating.

When asked if the State retrieves the free-floating FAD that belongs to it, Kingma said he believed they try to retrieve those with the aid of the USCG.

Mathers said the State could ask the USCG, but it doesn't get too involved.

Kingma said it was fairly common for the State to lose FADs after periods of weather.

In response to a question about submerged PFADs, he said it is not yet possible to get a count on them, but they do exist.

Seman said it would seem reasonable that more of the PFADs are submerged, as they would be harder to find and utilized by others.

Kingma said it's hard to tell at this point with the limited information and lack of participation from the PFAD fishery.

Duenas said the Philippines have been using this type of technology for hundreds of years. The SPC has developed a manual on how to configure and deploy these type of FADs, and a major purse seine industry material supplier started developing the technology about five years ago. So there may be more and more FADs as all this information gets available.

In response to a question concerning legal issues surrounding PFADs, Tucker addressed the USCG's legal position with respect to PFADs. He said the USCG is the primary federal agency responsible for administering the Aids to Navigation system in this country. Except for the Department of Defense, no other federal agency has the responsibility to establish Aids to Navigation. Questions have come up as to whether a PFAD or a FAD is an Aid to Navigation and what's the Coast Guard doing about it.

Tucker provided the federal legal definition of an Aid to Navigation as something that's intended to assist a navigator to determine position or safe course or to warn of dangerous or obstructions to navigation. Given that definition, a FAD is not necessarily an

Aid to Navigation. The Aids to Navigation is the sound signal, the light, the whistle or this marking that the USCG requires to be put on that object. It is not necessarily the buoy that goes out there. So if a FAD is not an Aids to Navigation, it's one of probably three things: a hazard to navigation, an obstruction to navigation, or a structure. These terms are defined by USCG and Army Corp of Engineer regulations.

The USCG's legal position is a person who establishes a PFAD or a FAD should submit a private aids to navigation permit to the Coast Guard's Aids to Navigation Office asking whether the buoy is an obstruction to navigation or a hazard to navigation and whether it requires a marking, an Aids to Navigation permit, a marking on a chart, a light, a sound signal, etc. Currently, some people are submitting applications to mark their PFADs. Others are not.

The Rivers and Harbors Act, which is administrated by the Army Corp of Engineers makes it a misdemeanor to create any obstruction to navigation. An obstruction to navigation is something that endangers safe navigation, and that is a determination based upon where this thing is located where there is a navigable channel, the traffic density, etc. If there's any question, persons deploying PFADs should be requesting an Army Corp of Engineers' permit to have that evaluated. They should be putting in a Coast Guard application permit to see if they've got to put a light on it. The Army Corp of Engineers requires that structures on the Intercontinental Shelf be permitted. So if a buoy is attached to the seafloor beyond 3 nautical miles, a permit to place that structure may be required.

The person who creates a PFAD does not go to the federal authorities or the State program manager to ensure that they have the required permits as needed takes a liability on himself if somebody runs into it and either damages his ship, injures himself, etc.

By permitting a PFAD, the USCG is not in any way giving the individual who is operating the PFAD exclusive rights to that particular site to harvest fish. The USCG cannot convey authority it does not have. We simply have authority to maintain the system of private Aids to Navigation in the United States and waters subject to the jurisdiction of the United States. We can convey no proprietary interest in any living marine resources that might be attracted to that particular PFAD or that Aids to Navigation.

Responding to a question, Tucker further explained that a number of things could happen if a FAD is in navigable waters of the United States and the Army Corp of Engineers determines it is an obstruction or hazard to navigation. It has the legal authority to take that FAD and remove it. The USCG has separate authority to respond to hazards to navigation and to tow those things in. Information on the USCG decision-making process can be found in the Code of Federal Regulations, 33 Part 64. The Army Corp has its own regulations in the 300 series.

In response to a question, Tucker said not all obstructions have to be marked with a private aid. There are obstructions out there that the USCG does not mark. There are obstructions that the Army Corp of Engineers doesn't require to be permitted. The reason is, they don't affect navigable waterways and they don't present a danger to navigation. It's

a case-by-case determination. There's going to have to be an evaluation of the impact on the particular waterway that the FAD is located in.

Martin asked if there some kind of marking requirements to identify who deployed the FAD or who the owner of it is.

Tucker said there is a private aid file maintained, which is public record, where one can find if a permitted FAD is in a particular location or why hasn't it been permitted. The public may not be given the individual's address or something like that because that would be privacy matter. However, Tucker did not know if there would be any requirement for the FAD itself to be identified as to who deployed it or who maintains it.

Morioka asked if there were any standards or requirements with regard to deploying PFADs in the Humpback Whale Sanctuary.

Tucker said there were no direct regulations. But the Marine Mammal Protection Act prohibits certain levels of what is called harassment of marine mammals. If the PFAD was determined to be an obstruction placed in a whale sanctuary and someone made the case that it was foreseeable a whale could be entangled, that could be a problem for the person who put it out there.

Sablan asked for more about liability. If the USCG or the Army of Corp of Engineers licensed a PFAD would the registered owner be liable on the damages that occurred on the vessels?

Tucker said if the PFAD didn't have USCG permission and was not marked on the chart and somebody was hurt because of it, he would personally be concerned. When questioned further, Tucker said the injured party should see a private lawyer rather than go to the USCG or Army Corps of Engineers. He said it comes down to what the injured party should have known, what was on the chart, etc. He said a lot of these cases come up.

In response to a question, Tucker said he understands that a permitted FAD is likely to be announced in the Notice to Mariners until it's put out in the next issuance of the chart or a chart correction. He said private aids don't go on NOAA charts.

When questioned, he said he did not know if there have been any applicants for PFADs. He said it would be good if the Council staff called him about that.

Sablan asked whether a government FAD (GFAD), such as a State FAD, required an application.

Tucker said the State is a private party for the purposes of the administration of these navigation permits, unless they have an approved State Aids to Navigation Program.

Mathers said he was pretty sure the State has applied for the permits.

Lau said he believed the State went through the whole process to get the proper permits and put the FADs in.

Ikehara said the State FAD program goes through all the procedures and processes necessary. It goes through the USCG, has consultations with the Navy, has an Army Corp of Engineers permit, gets reviewed by NMFS, etc. and renews the permits as required.

When asked, Tucker said not all parts of the open ocean are navigable water. The regulations in Part 64 include a checklist that the USCG uses to decide whether a particular object or structure is an obstruction or a hazard to navigation. Determining points include the traffic density, the location of the navigable channel, things like that, because sometimes mariners are responsible for keeping a lookout. The USCG requires marks to be put on these things when there are restricted waterways, high traffic density, shoal waters, things like that. It's a case-by-case determination.

In response to a question regarding drifting or floating PFADs that could reasonably float into areas of higher density traffic, channels, etc., Tucker said there's a pretty compelling argument to bring those objects in and the USCG and the Army Corp of Engineers have the authority to do that.

Farm noted that a 16-foot boat is required to have lights after dark, but something drifting aimlessly is not required to have lights.

Tucker said they are not allowing this, if nobody tells the USCG they are putting it out there. When the USCG has knowledge of something that is a potential obstruction or hazard, then it's subject to coming in from either the USCG or the Army of Corp of Engineers. He reiterated that there is a risk out there and people, to some extent, are responsible for operating at a safe speed and keeping a sharp lookout.

Tucker concluded by emphasizing that the USCG has no authority over the FADs as a harvest resource. The USCG does not permit the activity to which these folks are engaged. That would have to fall under Magnuson or some other authority.

Dalzell presented some preliminary analysis of Hilo-based handline and troll fisheries data. He said a group of vessels that fish around private FADs has been identified from the Hawaii Division of Aquatic Resources (HDAR) database. He said they tend to troll and handline for tuna, but they trap, longline, and net as well. These vessels catch about a quarter of a million pounds a year, and, according to the catch composition from the database, half is yellowfin, a third bigeye, and the rest is mahimahi, albacore, ono, etc. The tuna handline catch is over 200,000 pounds a year and far outweighs the troll catch. The troll catch is 30 percent yellowfin and bigeye, 30 percent mahi, hardly any albacore, and a large component of ono and other species. The handline catch is 60 percent yellowfin and 35 percent bigeye, but there's always been this problem with species identification and particularly underreporting. In reality, these figures could be reversed, 60 percent bigeye and 35 percent yellowfin. Certainly, the bulk of the catch combined is about 90 percent yellowfin and bigeye, with a small amount of mahi and ono.

Dalzell showed a multiple-year time series of these vessels and their performance, in terms of the total volume of catch, handline catch, total effort and CPUE. It showed the handline catch to be quite variable, but declining a fair amount after 2000 and then,

interestingly, in the last few years, increasing in CPUE. Dalzell said, if these private FADs are acting as suggested, then a greater increase in the catch rates from the handline vessels would be expected.

Dalzell showed a slide portraying the troll CPUE from the vessels that are known to fish on PFADs. He pointed out how the catch and CPUE have increased markedly.

Dalzell presented a few more slides, including one showing the distribution of handline fishing effort around the coast, which showed a hot spot off Hilo. He also discussed handline fishing at the Cross Seamount and troll effort by trip, which showed a heavy concentration around Hilo. He concluded by noting again the increase in the handline CPUE and the troll CPUE, which would be expected if the FADs were as productive as they appear to be.

In response to questions on the data, Ikehara said the source is the daily commercial catch reports and the State is reasonably confident but not completely confident in its completeness and accuracy. He said there is more crosschecking at the landing docks on Oahu than on the Big Island, where most of the PFAD fish is landed.

G. Shark Management

Tony Beeching presented a discussion on shark management based on observer data. He said that mako and thresher comprise the two major landed species sold at auction. He said virtually all of what was landed is sold. The price per pound was inversely proportional to the poundage landed. Annual landings have increased, while the average price per pound has dropped, with mako having a higher value than thresher.

He noted that a number of questions that have been raised regarding non-blue sharks, the seasonality of the fishery, etc. He said the observer data is very rich and includes data by shark species, condition at point of capture and disposition, whether it's alive, dead, kept, finned or unknown. It describes length and sex of the sharks by species, the bait type used, the terminal gear type and the use of strategic offal discard to distract birds.

Species that stand out include oceanic white-tip, bigeye thresher, silky and the short-fin mako. A large proportion of the sharks at the point of capture were alive. For tuna sets, the bigeye thresher and oceanic white-tip stand out. In the swordfish fishery, there is a much lower number of observed sharks, about 700, because there's been a longer period of observation on the tuna fishery than there has been on the swordfish fishery. The short-fin mako and oceanic white-tip stand out. A large portion of the observed blue shark are disposed live, almost all survive hooking.

Beeching discussed some of the analysis that could be done with the data, e.g., compare observed shark hooking rates with bait types, compare shark rates with terminal gear type, examine observed shark catches against release of fish offal to distract birds, distinguish between pre and post anti-finning legislation, etc. He presented a slide showing the observed catch rates of bigeye thresher and oceanic white-tip per 100,000 hooks from 1998 to 2000, noting that the change for the 1999 to 2000 period occurred when there was

a change in the fishery. He presented data showing that a relatively small portion of sharks are dead. He showed total disposition in the swordfish fishery, noting that hardly any oceanic white-tip are discarded dead.

Beeching concluded by outlining plans to further analyze the available data, including considering the probable implications of opening up the swordfishery.

Morioka suggested that information to help the Council to better understand the range of sharks that occur in the region's fishery and their vulnerability to fishing would be useful.

Beeching said, certainly, and noted that the point has been made in the past that blue sharks are rather fecund.

H. Marine Mammal Management

Dalzell said marine mammal interactions with the Hawaii longline fishery are quite rare events. Implementation of the 50- to 75-nautical mile area closure around the Hawaiian Archipelago effectively eliminated all interactions with endemic Hawaiian monk seals, but a few interactions each year occur with cetaceans, whales and dolphins. He presented tables showing the annual average from 1995 to 1999 when there was just under 5 percent observer coverage; in 2000, with about 12 percent coverage; in 2001, with about 23 percent coverage; and in 2002, with about 25 percent coverage. The fishery interacts with a range of different cetaceans: bottlenose dolphin, Risso's dolphin, spinner and spotted dolphin, false killer whale, sperm whale, humpback whale, short-fin pilot whale, beaked whale and some unidentified cetaceans. False killer whale interactions averaged of nine between 1995 and 1999, eight in 2000 and 2001, and 12 in 2002. These are expansions from observer data. They're not just number observed.

Dalzell then presented a slide showing the actual observed interactions with all the different cetaceans by the Hawaii longline fishery. Some occurs inside the Hawaii EEZ, with a cluster south of the EEZ. There's a cluster inside the EEZ around Palmyra. There's a whole bunch along the subtropical convergence zone, where the swordfish fishery used to fish. Inside the Hawaii EEZ, there were two interactions and one on the border of that. Then remaining include one on the border near Johnston, one south, a cluster inside Palmyra, one off to the east and then one off to the north.

The Marine Mammal Protection Act says it that it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring during the course of commercial fishing operations be reduced to insignificant levels approaching to zero mortality and serious injury within seven years after the date of enactment of this section. Dalzell said the seven years was up on April 30, 2001.

The Code of Federal Regulations states that the purpose of the regulations are to reduce the incidental mortality or serious injury of marine mammals occurring in the during the course of commercial fishing operations to insignificant levels approaching zero mortality rate by the statutory deadline of April 30, 2001.

The SSC was concerned about the uncertainty surrounding the population estimates of cetaceans in the Hawaii EEZ. The surveys that were conducted by the Southwest Fisheries Science Center observed only two specimens in all of its transects through the Hawaii EEZ. But Council members refer to sightings of much larger numbers of false killer whales around the main Hawaiian Islands, so there seems to be some disparity between what was observed EEZ-wise versus what has been seen close to shore here. The SSC, therefore, recommends that the Council and NMFS take immediate steps to reduce the uncertainty of population estimates of the cetaceans for the Hawaii EEZ. Beginning with a survey in 2004, the research designs of future surveys should focus on better estimates of false killer whales for Hawaii and a clearer definition of stock structure.

The SSC was also concerned that there may be a seasonal aspect to the abundance of false killer whales, which was perhaps not detected by the research survey.

As for mitigation, apparently no specific work has been done yet in the Atlantic for marine mammals. The line cutters and dehookers that have been used to release turtles have also been used to release marine mammals. Circle hooks may also reduce foul hookings in marine mammals compared to J hooks. There also has been a reduction in shark bycatch with mackerel bait versus squid bait.

In Alaska, killer whales can be a problem taking fish from demersal longlines being hauled to the surface. As in Hawaii, one simple solution is simply to move away from the whales. Another solution that has been tried is to deploy sections of hooks without bait to make gaps in the line of captured fish. One Russian scientist and engineer has been looking at masking the sounds of gear being deployed to prevent alerting killer whales to longline operations and taking black cod and halibut from longlines on the haulback. One Alaskan fisherman came up with a deterrent method based on finning preferences for killer whales. He affixed metal thorns to each branchline in order to make all the captured fish appear spiny. He reports it was not a success and it was very labor intensive for the crew.

In the Western Pacific, the most effective method of avoid interaction seems to be to move away from areas of depredation, i.e., where whales and dolphins take fish off the longline.

Depredation of pelagic longlines in the Australian fishery is extremely high, averaging 20 to 30 percent in some areas and as high as 80 percent in the Coral Sea. The Queensland DPI Northern Fisheries Center is looking at depredation by toothed whales, such as false killers and pilot whales. One researcher is experimenting with acoustic tracking arrays to locate marine mammals around fishing gear. There is a pinger device in the 20 to 100 kHz range may have the potential to interfere with the echolocation by these whales and reduce interactions. They're also considering an emitting device to deter toothed whales.

Morioka said the Standing Committee was very concerned with the Southwest Fishery Science Center recent assessment cruise in and around the Hawaiian Islands during the survey period of August through December 2002, which saw two false killer whales in our EEZ. By comparison, there are photos on the Web showing a pod of false killer whales off

of the Waianae coast on the 40-fathom line. The experience of fishermen is these animals travel in pods and not individually. Material on the Web indicates that these animals travel in groups of 10 to 300. There have been beachings of up to 1,000 of these animals. Morioka said the Southwest Fishery Science Center data might not be the best available data available to scientists to determine the population of false killer whales in the Hawaiian EEZ.

In response to a question regarding the location of takes by the Hawaii fishery, Dalzell said there are 10 confirmed interactions and six unconfirmed interactions. Of the 10, three (i.e., 30 percent) were inside the Hawaii EEZ. Dalzell added that the two animals that were seen by the Southwest Fishery Science Center were expanded to represent the population as existing mostly inside the EEZ and to calculate the potential biological removal (PBR), i.e., the safe amount that can be removed from the population without harming its survival.

Morioka said he attended the SSC meeting and spoke with Dr. Barlow who did the analysis. Morioka said he asked Barlow whether or not these animals were migratory and followed the yellowfin tuna school, because Morioka's personal experience and anecdotal evidence indicate that these animals show up with ahi and otherwise are rarely seen. Barlow said he wasn't aware that these animals were migratory or followed schools. Morioka suggested this be investigated.

Dalzell noted that there were three further recommendations from the SSC. First, the SSC encourages research for marine mammal mitigation measures, noting that the fishing industry itself has a strong interest in minimizing the depredation of tuna catch by marine mammals. Second, the SSC noted that PBR comparisons with marine mammals and interactions assume 100 percent mortality of hooked animals, and it recommended scientific and veterinary advice be sought in the likelihood of post-hooking mortality and that the NOAA Fisheries assumption of 100 percent mortality be re-evaluated in the light of that advice. Third, the SSC recommends that the Council form a working group to recommend measures to minimize the interactions between marine mammals and pelagic longlines.

Feder noted that the Marine Mammal Protection Act Section 118 regulations asks NMFS to look at a comparison of mortality and serious injury. He asked whether the SSC took that into account when they made their recommendation.

Severance said he didn't think that distinction was made in the discussion.

Jim Cook, behalf of the members and the Board of Directors of the HLA, thanked all of the many people who have worked so hard to bring the fishery back and to extend to the members of HLA the opportunity to go out and prove that the swordfish segment of our fishery can be cleaned up. He said they are very committed to doing that.

Morioka said the Council has learned a lot in the process and are now better prepared to move forward as fishery managers.

Simonds asked whether the HLA is going to be reimbursed for their costs by the federal government. She reminded Cook of a promise to use that money for turtle nesting beach work.

Cook said HLA has petitioned the court for costs. He said certain parts of the litigation are under appeal by NMFS. As long as that appeal is out there, the turtle money would not be forthcoming.

Simonds said half the money had been promised to all sorts of international turtle organization and the poor people in Africa.

Cook said it would be a kind-hearted gesture and a sign of a new era if they would drop their appeal.

A. International Meetings

1. Bellagio Conference: Conservation and Sustainable Multilateral Management of Sea Turtles in the Pacific Ocean

Simonds said about a year and a half ago Peter Dutton and Dale Squires of the Southwest Fisheries Science Center developed a proposal to the Rockefeller Foundation to look at saving leatherbacks, in particular. The proposal was approved, and 25 economists, biologist, fishermen, modelers, fishery managers were invited to attend the meeting to determine the most important things to save sea turtles. The Bellagio Blueprint gives a list of the 10 principal leatherback nesting beaches remaining in the Pacific. NMFS and the Council are funding work on five of the leatherback nesting beaches.

The Blueprint also outlines the international organizations and groups working on this issue and their mandates. Everyone was encouraged to go back and discuss the turtle issue and to see if organizations needed to expand their management or wanted to develop an MOU between turtle organizations. In the Pacific Ocean, the Council has a project with SPREP to develop a turtle-tagging database we hope will be accepted by many countries. The principals are George Balazs of NMFS, Colin Limpus, Kinan from the Council staff, SEAFDEC and SPC.

Members of the Bellagio conference promote the Bellagio Blueprint at whatever meetings they go to. For example, when the Council and NMFS hosted the APEC Fisheries Marine Debris Conference here in Honolulu, the Bellagio Blueprint was distributed.

The major points are protect all nesting beaches starting with the Pacific leatherbacks, reduce the turtle take in at-sea and coastal fisheries, establish Pan-Pacific policy actions, and encourage sustainability and traditional use.

Gibbons-Fly added that Bellagio Blueprint provides a very strong foundation for future work and its promotion in a range of fora is useful and valuable. He said three of the four principal areas that were identified (i.e., protecting nesting beaches, mitigating fisheries bycatch, coordinating policies across the Pacific and encouraging sustainability of traditional takes) are recipes that have proven successful in restoring sea turtle populations

elsewhere, particularly the Kemp's ridley sea turtle in the Gulf of Mexico, which not so long ago was considered to be on the brink of extinction. Coordinating policy across the Pacific, would be very valuable. The Bellagio Blueprint identifies four of the organizations that are already in place to play a key role; the Inter-American Sea Turtle Convention in the Western Hemisphere, the Indian Ocean Sea Turtle MOU, the IATTC and the Western and Central Pacific Fisheries Commission (WCPFS). The participants in Bellagio did a very good job of putting together a roadmap and a suite of options and menu for moving forward and trying to address this issue.

2. 4th ISC Meeting

Keith Bigelow reported on the fourth meeting of the Interim Scientific Committee (ISC) on Tuna and Tuna-like Species of the North Pacific Ocean. Participants included delegations from six member countries, Canada, United States, Mexico, Japan, Korea and Taiwan, and also the IATTC, which has observer status. Bigelow provided summary statements for three species that have been recently assessed and reported on the progress from the plenary session.

One of the species is the Pacific bluefin tuna. It's a minor catch component in the various Council fisheries, but an important commodity in places like Japan and Taiwan and Mexico. There were fairly vigorous assessments for the first time on this particular species, some age structure assessments. However, the data is still less than optimal. There is some estimate of underreporting in Taiwan. Also the purse seine fishery catches 70 percent of the Pacific bluefin, and the CPUE statistics for this fishery are not really informative as to the relative abundance. Recent fishing mortalities are relatively high, which has economic and also biological implications, especially the fishing mortality on age zero to two. Since the purse seine fishery targets about 20 to 30 centimeter fish, they're taking a lot of small fish and putting them into fishponds in Japan. The fish mortality at intermediate ages is relatively low. But they increase in they increase with the older fish in the longline fisheries in Japan and Taiwan. So sustainability is a concern.

The second species is the North Pacific swordfish. The workshop reviewed a variety of abundance indices and standardization affecting the North Pacific stocks of swordfish. There is also a stock assessment done by Pierre Kleiber at the Honolulu Laboratory and a colleague from Japan. It suggests that CPUE statistics have declined over the past five years, but not substantially and that the status of the stock is pretty moderate, with the biomass still above 50 percent of the level of which would occur in the absence of fishing. So the Council-approved reference points would suggest that overfishing is not occurring because the current fishing mortality is well below the fishing mortality at MSY.

The last species is the North Pacific albacore. This wasn't assessed at the ISC, but it was assessed about 18 months ago at the albacore workshop. The conclusion is there is a fairly decent biomass in the 1990s due in large part to good recruitment. However, recent fishing mortality rates are relatively high, the spawning biomass is projected to decline in the near future and the current fishing mortality is in excess of many of the biological reference points. So this could be a concern in the near future.

The North Pacific Albacore Group has been meeting for about two decades or so, and a bycatch working group has been established. Japan suggested establishing a High Seas Secretary, but there wasn't too much progress on this issue. Japan agreed to work inter-sessionally on goals to look into funding and staffing and the location of a potential secretariat. The ISC is meeting a little more frequently, and all of the final reports are completed and available on the Web. The next meeting will probably be in February of next year somewhere in Japan.

In response to a question, he said the plan team, which he chairs, is meeting at the end of April. Bigeye is on the agenda, and the annual assessments will be reviewed in August of this year by the SCTB.

Morioka asked about the need for collaborative Pacific-wide assessment of the striped marlin

Bigelow said the striped marlin assessment would have been presented at this ISC as a collaborative work between IATTC, Pacific Islands Fishery Science Center and colleagues in Japan. However, there are some data-sharing problems and some other issues. Hopefully it would be on track for later this year or early next year, but it wasn't done as desired in February. He said he'd keep the Council updated on this issue.

Morioka directed Council members to document 11.I.3(a) - (c), page 2. He noted that the IATTC's resolutions on bycatch have been successful in reducing turtle mortality. But the mortality caused by entanglement of sea turtles in the webbing that fishers frequently attach under FADs to increase its attractiveness and/or visibility remains to be addressed.

Gibbons-Fly congratulated Bigelow and the other members of the meeting planning team for putting on an excellent ISC meeting. He said everybody at the Lab deserved a great deal of credit. He then expanded on the discussion that took place at the ISC regarding the potential relationship between the ISC and the WCPFC, in particular the Northern Committee. Prior to the meeting, there had been some discussion as to whether or not the best future for the ISC would be to simply incorporate itself as a subsidiary body of the WCPFC, in particular, with respect to providing scientific advice to the members of the Northern Committee with respect to the stocks under the jurisdiction of that committee. The position of the US delegation was that that might not be the best approach, for a couple of reasons. One is that there are members of the ISC who have made valuable contributions to the work of the committee that are not parties to the WCPFC, for example, Mexico. What their future would be if the ISC became a subsidiary body of the WCPFC was uncertain. But more importantly, the ISC has a mandate for looking at scientific issues for the range of these stocks across the North Pacific, all the way from the coast of North America over to the coast of Asia. Incorporating the ISC into an organization that is only looking at one-half of that area didn't seem to the US delegation to be the best approach. So what it proposed that the ISC maintain itself as an independent organization that would perhaps provide scientific advice both to the Northern Committee of the WCPFC and to the IATTC. The stocks that are in that northern area (the swordfish, the albacore, and the Northern Pacific bluefin) range across the entire range of the North Pacific Ocean and will

be managed by both the IATTC and the WCPFC. In fact, both Conventions contain provisions that strongly encourage the two organizations to coordinate among themselves to ensure that the management of those stocks is consistent across the range of those stocks. The other members of the ISC agreed.

3. IATTC 4th Bycatch Working Group

Charles Karnella reported that the IATTC working group on bycatch met in Kobe, Japan, on January 14-16. Karnella said all the papers associated with the meeting are posted on the IATTC web site.

The meeting started out with presentations of information about the status and distribution and efforts of turtle conservation. Then there was a review of the incidental takes or interactions in the Eastern Tropical Pacific. Dr. Martin Hall made the two presentations. Following them, there were lengthy discussions revolving around two actions. One was to modify and consolidate a resolution on bycatch that included issues that involved turtles, as well as other bycatch, including reducing the catch of small tuna. The second was a proposal to develop a three-year conservation plan for sea turtles to be adopted by the IATTC. A number of recommendations were made by the working group to be put in front of IATTC at their next meeting, which would be in Korea this June.

The things to do with sea turtles basically involved the handling of turtles that are caught, information about sea turtles, information that would help fishers accurately identify species of turtles that are involved with their fishery, the collection of data so that as much data as possible can be made available to the decision-makers. There was discussion on use of dehooking devices and research to prevent the takes of sea turtles.

The delegation from Japan proposed requiring the use of C hooks on all the longline sets made shallower than 120 meters. That was accompanied by another requirement, to not allow squid bait on shallow-set hooks. The group discussed those two items extensively, but no consensus was reached.

Morioka asked if the IATTC discuss subsistence fishermen and recreational fishermen in their deliberations.

Karnella said not specifically.

Gibbons-Fly said the conservation and management measures that are adopted have not to this point applied to subsistence and recreational fishermen. He noted that a resolution adopted in October for yellowfin and bigeye that applies to the purse seine fishery and the longline fishery specifically excludes sport fishing vessels and pole-and-line vessels. Some of the smaller-scale vessels are explicitly excluded from the prohibitions, closures and closed seasons in the resolution.

The IATTC has not, up to this point, been engaged in the issue of allocating catches among either different fishing groups or fishing gear or countries. In the past, they simply adopted quotas on yellowfin and bigeye. More recently, they have switched to a combination of closed areas and closed seasons that apply across the board to purse seine

fisheries or longline fisheries. But up to this point there's been no regulation in the IATTC of either subsistence or recreational fishermen.

Simonds asked Karnella about the Japanese proposal to use circle hooks and mackerel type bait.

Karnella said the circle hooks and the nonsquid bait would be for all longline fisheries operating in the Eastern Tropical Pacific within the area of common sea of the IATTC, which is the Pacific east of 150°. The depth that the Japanese proposed was 120 meters. They informally said they would have no problem with a change to 100 meters.

Simonds said that maybe the US would go to their meeting to suggest it would be 100 meters.

Karnella said there was a fairly stringent opposition to those two particular things by Spain and the European Union.

Simonds said it should probably be discussed sometime before the meeting.

Gibbons-Fly agreed. He said they are looking at ways to go back to some of these delegations prior to the June meeting to see if there might be some reconsideration on their part with respect to some or all of the recommendations with respect to measures that can be put in place now to mitigate sea turtle bycatch in longline fisheries. He said not all of the IATTC members were at the recent meeting, but most of the countries that have significant longline fisheries were there. The countries that were not there were Venezuela and most of the Central American countries, Nicaragua, El Salvador, Honduras, Guatemala, etc. Panama does have a longline fishery and was not there. But the countries that are most active in the longline fishery were there, including some of the nonmembers of the IATTC that have active longline fisheries. Gibbons-Fly said they do not consider this issue closed and want to revisit it when some of these other delegations are present.

4. Asia Region Seabird Bycatch Working Group

Dalzell delivered Eric Gillman's presentation on the Asia Region Seabird Bycatch Working Group, noting that Gillman apologized for his not being able to be present. In mid January, Birdlife International and the Wild Bird Federation in Taiwan and the Taiwan Deepsea Tuna Boatowners and Exporters Association convened a regional workshop on seabird bycatch mitigation. There was good attendance at the meeting by representatives from the Taiwan longline industry, academia, government and NGOs. There was one representative from Japan's National Research Institute of Far Seas Fisheries and a representative from the Seoul National University. Otherwise the workshop had little representation from outside of Taiwan. The presentations raised awareness on best practice in seabird bycatch mitigation methods, the status of the management of Taiwan's longline fisheries and discussions about completing a national plan of action for Taiwan. The meeting resulted in discussions of possible future collaborations between government, industry and the Wild Bird Federation of Taiwan.

5. 24th Sea Turtle Symposium

Kinan said the 24th Annual Sea Turtle Symposium convened in Costa Rica a month ago. The theme of the meeting was the Pacific leatherback, which has quite low nesting population numbers in the East Pacific, Mexico and Costa Rica. More than 70 countries and 1,000 individuals participated in the meeting.

Kinan said she gave a presentation on the turtle program in the modeling session. Utilizing modeling work done by Chris Boggs and Don Kobayashi with the Generalized Additive Models (GAM), she presented two aspects of fishery management, one using just traditional fisheries styles (e.g., time/area closure, circle hooks) and the other using non-traditional methods, such as conservation measures. There was a lot of positive feedback from that.

Scott Benson gave a really great presentation on the satellite transmitters being utilized in Papua New Guinea and Indonesia. From their work, it looks as if the leatherbacks from the Western Pacific traverse through the coastal fisheries of Indonesia, Philippines, Japan and Korea into the high seas and EEZs of China, Micronesia, Japan, Korea, Marshall Islands and the United States. So these are areas in which efforts could be coordinated at IFF3.

6. Indian Ocean South East Asia Sea Turtle Conference

Simonds said the Indian Ocean South East Asia Sea Turtle Conference is an MOU under the auspices of the Convention on Migratory Species, better known as the Bonn Convention. This MOU is on conservation and management of marine sea turtles and their habitats of the Indian Ocean and Southeast Asia.

Attending their second meeting were some of the countries with whom the Council has projects. They had discussion about expanding their geographic scope to include China and Japan because the turtles that migrate through the Indian Ocean in Southeast Asia also migrate through those other two country's waters. They also wanted to expand and include the Federated States of Micronesia as well the territories of American Samoa, Guam and CNMI. The body decided to include Japan and China, but not to include the states or territories at this time.

Another important point is that they were all developing their national plans. Some of the small countries weren't prepared to do that. I helped the gentleman from Papua New Guinea develop this plan by giving him a copy of our conservation program which includes the NMFS and Council projects in the Papua New Guinea.

Colin Limpus made a presentation on one of the Council's other projects, the tagging database project. It is our intention to transport this database to other countries, small and large, as soon as we think it's ready. This is a project that Colin Limpus, George Balazs, SPC and SEAFDEC are developing, and for which Kinan, is the Council's coordinator.

Gibbons-Fly noted that the focus at a number of these international meetings has been sea turtle bycatch, e.g., the Bellagio Conference, the ISC meeting (where one of the outcomes was the creation of a bycatch working group to look at sea turtle, sharks and

seabirds) and the IATTC (which has a very active bycatch working group that is now beginning to look seriously at sea turtle bycatch in longlines). Both the Indian Ocean Sea Turtle MOU and the Inter-American Convention, which will meet in August, are also looking at broader issues related to habitat conservation, protection of nesting beaches, etc.

Gibbons-Fly pointed out that these meetings are not happening in isolation. The common theme is a result of the coordinated effort on the part of the Administration, State Department, NOAA Fisheries and the Council's executive director, who are implementing a comprehensive strategy to carry a common message and a common set of themes to as many of these meetings as we can. In particular, with respect to the issue of sea turtle bycatch in longline fisheries, there are four key areas. The first is to get more data and information on the nature and extent and geographic and temporal distribution of sea turtle bycatch. The second element is research into the new gear and technology that both the Council and NOAA have done so much work on with respect to the circle hooks, different types of bait and different gear modifications to try to find the best menu of the gear fixes to help mitigate sea turtle bycatch. The third is the identification of interim management measures that can be put in place in the short term, such as the use of the circle hooks and others, to help begin right now to mitigate sea turtle bycatch in some of these fisheries. The fourth element is providing technical assistance and outreach to foreign nations to help them begin to implement this new technology and getting some agreements among the fishing fleets. This has been done in cooperation with the World Wildlife Fund, which has an active program in Ecuador to help distribute some of this new gear technology. Another part of this strategy has been working closely with the Government of Japan. This strategy will carry forward through a series of meetings that will take place in the future.

In addition to the work in the regional fisheries management organizations, the UN Food and Agriculture Organization has taken a global approach. There will be a technical consultation held later this year to look at a number of these issues. The way the process has normally worked is that the FAO comes up with a suite of measures that we can carry to the regional organizations to agree on.

Gibbons-Fly said they are trying to do all those strategies at the same time, i.e., they are not waiting for the FAO to conclude its work before they go to the IATTC, for example. They're trying to push this on as many different fronts as possible.

Simonds added that there was an expert consultation at FAO two weeks ago, and the other one Gibbons-Fly mentioned is to occur the first week of December as a followup. Simonds said the recommendations aren't out yet, but Milani Chaloupka, Peter Dutton and others whom the Council knows were part of this group that met at FAO and the Council is following it closely.

J. SSC Recommendations

Severance began with the quarterly reports. He said the SSC recommends that the quarterly NOAA Pacific Island Fisheries Science Center reports on the Hawaii longline fishery report include time series of CPUE trends of the commercially important species.

Responding to a question on whether that would include machong (opah), he said he did not know but it did include ono, mahimahi and all of the billfish.

Dalzell said he thought it was not just the range of species, it was the annual trends of the species that were to be presented and that collection includes tunas, billfish, blue shark, mahimahi and wahoo (ono).

Severance said the SSC did hear a report on the sociological research being conducted on compositions of both ethnic and cultural crews in the Hawaii longline fleet. The SSC recommended that the ongoing social science research on the sociological baseline of the Hawaii longline fishery be continued.

With respect to the risk assessment seminar that Dalzell summarized for you today, the SSC is encouraged at the greater degree of transparency in the NOAA Fisheries Office of Protected Resources development of the 2004 BiOp. To further clarify the conduct of the analysis in its risk assessment for the nonjeopardy determination for the Hawaii longline fishery, the SSC would like to see a worked example of the analysis using turtle data. This would include a table of data, a tabulation of the regression coefficients and their confidence intervals and graphs with the data being regressed, etc. The SSC would also like to see a statistical test of the degree to which the turtle data conform to model assumptions, as specified in the paper by Dennis et al. Furthermore, the mode predictions should be shown with and without the impacts of the Hawaii longline fishery.

As for the new BiOp, the SSC has two recommendations: First, the SSC recommends NOAA Fisheries coordinate their efforts for collection of data and educational outreach on turtle mitigation and handling procedures to operators of nonlongline pelagic fishing vessels with the State of Hawaii and the Council. Secondly, and more importantly perhaps, the SSC was concerned about the grouping of all pelagic fisheries other than the Hawaii longline fishery in an aggregate incidental take statement. The SSC recommends that separate take statements be developed for troll, palu ahi, ika shibi, aku boats, American Samoan longline fishery and potentially developing longline fisheries in Guam and CNMI.

Regarding observer data analysis, the SSC recommends that the current level and quality of observer data continue to be collected for the Hawaii longline fishery and encourages NOAA Fisheries to implement an observer program as soon as possible for the American Samoa longline fishery.

With respect to seabird conservation, the SSC recommends that a Pelagic FMP amendment alternative for seabird mitigation be developed that offers the choice to longline fishermen of either the use of side setting or use of an underwater setting chute.

Regarding marlin management, the SSC reiterates its concerns about blue marlin CPUE trends and requests that the Pelagic Plan Team prepare an analysis of the factors affecting these trends and recommends that a Pacific-wide stock assessment be conducted on striped marlin. Further, NOAA Fisheries should evaluate the impact of catch and release practices on CPUE trends.

The SSC had no recommendation regarding PFADs.

Regarding protected species, the SSC heard a presentation by Jay Barlow from NMFS La Jolla on marine mammal surveys that have been conducted in the Hawaii EEZ during 2003. The SSC recommends that the Council urge NMFS to take immediate steps to reduce the uncertainty in population estimates of cetaceans for the Hawaii EEZ beginning with a survey in 2004. The research design of future surveys would focus on better estimates of false killer whales for Hawaii and a clearer definition of stock structure. The SSC encouraged research on marine mammal mitigation measures and noted that the fishing industry itself has a strong interest in minimizing depredation of tuna catches by marine mammals. The SSC also noted that potential biological removal comparisons with marine mammal interactions assume 100 percent mortality of hooked animals. The SSC recommends scientific veterinary advice be sought on the likelihood of post-hooking mortality and that the NOAA Fisheries assumption of 100 percent mortality be re-evaluated in the light of that advice. The SSC recommends the Council convene a working group to recommend measures to minimize interactions between marine mammals and pelagic longlines.

K. Standing Committee Recommendations

McCoy said the Standing Committee heard Dalzell's presentation on the development of long-term management for the Hawaii-based longline. It reviewed the RPMs in the BiOp and their operational details. The Committee also heard Hamilton's brief on the additional measures to save sea turtles and Dalzell's summary on seabird conservation with side setting as a mitigation option. The Committee discussed private FADS, following the presentation by Kingma on the recent survey during a USCG flyby. Pooley gave a brief summary of the issues surrounding recent litigation concerning the categorization of the Hawaii longline fishery under the Marine Mammal Protection Act and takes by the fishery of false killer whales. Beeching presented an update to the Pelagics Standing Committee on the Hawaii longline shark observer data..

McCoy then presented the Standing Committee recommendations.

1. The Pelagics Standing Committee recommends the following alternatives be adopted in the regulatory amendment, additional measures to save sea turtles.
 - a. Require annual attendance at NMFS Protected Species Workshop by general longline vessel operators and owners.
 - b. Require general longline vessels to carry and use dip nets, line clippers, bolt cutters, with an exemption from carrying a dip net for small longline vessels with freeboard of 3 feet or under.
 - c. Require nonlongline pelagic vessels with hooks to remove trailing gear from incidentally-caught turtles wherever they fish.
2. The Pelagics Standing Committee recommends not adopting a preferred alternative at this time for prohibiting or restricting shallow sets by general longline vessels fishing north of the equator and asks Council staff to develop a broader range of alternatives

that would account for the potential for at-sea transshipment and landings at non-US ports.

3. The Pelagics Standing Committee recommended that Council staff continue to develop the range of alternatives for seabird mitigation for the Hawaii longline fishery.
4. The Pelagic Standing Committee recommended deferring action on the SSC recommendations, as they would be better addressed by the Council as a whole.

L. Public Hearing

Morioka opened the floor to public comments with regard to the two action items.

Linda Paul had a few words about the recommendations regarding the sea turtle bycatch mitigation. She said, the mitigation measures for the swordfish fishery held out great hope for reducing bycatch, but nothing sufficient has been done to mitigate the catch from the tuna fishery. She said much has been said about the relatively low entanglement rate, for example, only six leatherbacks caught per 140,000 hooks set by longline vessels. But, she added, there's an estimated 1.4 billion hooks set, which raises the number of leatherbacks entangled to about 60,000. With 20 percent mortality that is 6,000 leatherbacks dead of which maybe a third would be taken in the Pacific.

Paul noted that it is frequently said that we're protecting nesting beaches. But, she added, it is most important to protect mature females and the longline fisheries take far more mature females than ever returned to nesting beaches.

She noted Gibbons-Fly's comments on how olive ridleys, for example, have made a comeback. Paul said one of the reasons for the comeback was the CITES regulation of the trade on tortoise shell.

Paul recommended that the Council consider extending the circle hook/mackerel bait measure to the tuna fishery as an interim precautionary measure. She also suggested that the State Department negotiate a closed area to include the equatorial migration route. In the meantime, she suggested the United States could set a good example by stepping to the forefront of this issue and recommending, like Japan has done at the IATTC, that we require circle hooks and mackerel-type bait for the region's tuna fishery.

M. Discussion and Action

Dalzell read the recommendations.

- 1. The Council recommends that the quarterly NOAA Pacific Fisheries Science Center reports on the Hawaii longline fishery include time series of CPUE trends of the commercially important species.**

Farm made a motion, which McCoy seconded.

Pooley began the discussion by asking Dalzell to explain the intent of the recommendation.

Dalzell said that the SSC members would like to see the annual trends in the time series.

Pooley said this information is in the annual report, which is on the Web. He asked how much information the SSC wanted to look at.

Morioka said the annual report sometimes comes out a year or two later, which is not timely.

Pooley said the numbers/tables from the annual report are on the Web at the end of the first quarter and could easily be downloaded.

The Council voted unanimously on the motion.

2. The Council recommends that the ongoing social science research on the sociological baseline on the Hawaiian longline fishery be continued.

Tulafono made a motion, which McCoy seconded.

Pooley asked to whom is it a recommendation.

Dalzell said to NMFS.

Pooley said the Pelagic Fisheries Research Program (PFRP) funds the research at the moment.

The Council voted unanimously in favor of the motion.

3. The Council would like to see a worked example of an analysis using turtle data for the SSC to review. This would include a table of data, tabulation of the regression coefficients and their confidence intervals and graph of the data being regressed. The Council notes that the SSC requests to see a statistical test of the degrees to which the turtle data conform to the model assumption as specified in the paper on Dennis et al. Furthermore, the model predictions should be shown with and without the impacts of the Hawaii longline fishery.

Martin made a motion, which Lau seconded.

Pooley said he would abstain because he doesn't want to lean on another part of the agency. But he had no problem with it.

Simonds said she thought this information was supposed to be provided in the appendix of the BiOp.

In response to a query, Morioka said the objective of the recommendation is to see how the data were derived using real data.

Pooley said he wanted to make sure the SSC looked at the appendix to see if it met their objections. He said there are numbers and equations, and the data used is leatherback data.

Severance said the SSC members who did a careful review and had been involved in assessing the previous BiOps were the ones who generated this recommendation.

The Council voted unanimously for the motion, with the NMFS Pacific Islands Regional Office representative Pooley abstaining.

- 4. The Council recommends NOAA Fisheries coordinate their efforts for the collection of data and educational outreach on turtle mitigation and handling procedures to operators of nonlongline pelagic fishery vessels with the State of Hawaii and the Council.**

McCoy made a motion, which Sablan seconded.

There was no discussion. The motion carried unanimously.

- 5. The Council shares the SSC's concern about the grouping of all pelagic fisheries other than the Hawaii longline fishery in an aggregate incidental take statement. The Council recommends that separate take statements be developed for troll, palu ahi, ika shibi, aku boats, American Samoa longline fishery and potentially developing longline fisheries in Guam and CNMI.**

Morioka asked if jig boats needed to be included.

Hamilton said, not at the moment. With respect to the take statement in all these fisheries combined, jig boats are not mentioned. So “other pelagics” does not include jig boats. A new BiOp would be needed to get a take statement for jig boats.

Hamilton also clarified that pole fisheries / pole-and-line fisheries means “troll fisheries” managed under the Pelagics FMP.

Responding to a query about whether trollers are included, Pooley said it depends on what the FMP covers. For example, it does not cover the North Pacific albacore troll fishery.

Tulafono made a motion, which Duenas seconded.

The motion passed unanimously with Pooley abstaining.

- 6. The Council recommends that the current level and quality of observer data continue to be collected for the Hawaii longline fishery and**

encourage NOAA Fisheries to implement an observer program as soon as possible for the American Samoa longline fishery.

Tulafono made a motion, which Cruz seconded. There was no discussion. The motion passed unanimously.

- 7. The Council recommends that the Pelagics FMP amendment alternative for seabird mitigation be developed that offers the choice to longline fishermen of either the use of side setting or the use of underwater setting chutes.**

Cruz made a motion. Sablan seconded.

There was a discussion on the intent of the SSC's motion. It was decided to reword the recommendation so it begins: **"The Council directs that Council staff"**

The motion passed unanimously.

- 8. The Council reiterates its concern about the Pacific blue marlin CPUE trends and requests that the Pelagics Plan Team prepare an analysis of the factors affecting these trends and recommends that the Pacific-wide stock assessment be conducted on striped marlin. Further, NOAA Fisheries should evaluate the impact of catch and release practices on CPUE trends.**

Farm made a motion, which Cruz seconded. There was no discussion. The motion passed unanimously.

- 9. The Council urges NMFS to take immediate steps to reduce the uncertainty in population estimates of cetaceans for the Hawaii EEZ beginning with a survey in 2004. The research design of future surveys should focus on better estimates of false killer whales for Hawaii and a clearer definition of stock structure.**

Farm made a motion, which Tulafono seconded.

Simonds asked why limit it to the Hawaii EEZ when these observed takes are on the high seas as well.

Feder said observed takes also occur in the EEZ around Palmyra.

Simonds suggested letting the scientists design some kind of survey that captures the information as best they can.

Pooley said there would be an interest in that around Palmyra and the rest of the Pacific Remote Island Areas (PRIAs) and potentially in American Samoa. But he characterized the interest in the population outside of the EEZ as academic because the categorization issue relates entirely to within the EEZ. He said additional information

concerning the range of the species could be used in that categorization, and so certainly there is good reason to do that.

He said doing a better estimate within the area surveyed before, such as the Hawaii EEZ, is good in that it reduces uncertainty. He said if surveys were conducted in Palmyra and other areas that they should be done with a sufficient level of precision so that they did not have a level of uncertainty in terms of the duration of the survey, seasonality and other issues.

Pooley also said NMFS might not be the only one involved in these surveys. He said National Ocean Service (NOS) has a large whale program called SPLASH and might be asked to assist.

Pooley added that other cetaceans besides false killer whales could be included and that this would not occur in 2004.

Morioka asked how interactions outside the EEZ would affect categorization.

Feder said categorization has been approached different ways in different parts of the country. The way NMFS approached the categorization of the Hawaii longline fishery was to look at the population abundance, PBR and serious injury and mortality within the EEZ only, and then focus only on the EEZ around Hawaii.

In response to a question, Feder acknowledged that there is no PBR for any other Western Pacific EEZ and there's a big gaping hole in the data.

Simonds suggested using wording that said to get better population estimates of cetaceans in the Central and Western Pacific or the jurisdiction of the Council, but in particular, reducing the uncertainty about the Hawaii EEZ.

Pooley suggested changing NMFS to NOAA, and deleting, beginning with, the survey in 2004.

There was additional discussion leading to the decision to include the terminology "stock structure and migratory behavior."

Farm, who made the motion, agreed to the amendment. The motion passed unanimously.

- 10. The Council encourages research on marine mammal mitigation measures and noted that the fishing industry itself has a strong interest in minimizing depredation of tuna catch by marine mammals. The Council also noted that PBR comparisons with marine mammal interactions assume 100 percent mortality of hooked animals.**

After some discussion on the wording of the recommendation, it was decided to reword it as follows: **"The Council encourages NOAA Fisheries research on marine**

mammal mitigation measures and notes that the fishing industry itself has a strong interest in minimizing depredation of tuna catch from marine mammals.”

Cruz made a motion, which Tulafono seconded. There was no response to a request for discussion. The motion passed unanimously.

- 11. The Council recommends scientific, slash, veterinary advice be sought on the likelihood of post-hooking mortality and that the NOAA Fisheries' assumption on 100 percent mortality be re-evaluated in the light of that advice.**

Farm made a motion, which Seman seconded. There was no response to a request for discussion. The motion passed unanimously.

- 12. The Council recommends the following alternatives be adopted in the regulatory amendment containing additional measures to conserve sea turtles:**

- 1) Require annual attendance at NMFS Protected Resources Workshop by operators and owners of general longline vessels (vessels registered to general longline permits and those that are in the future will be registered to the American Samoa limited access longline permits) with consideration of mechanisms for remote attendance by owners who are not located in the U.S.**
- 2) Require general longline vessels to carry and use dip nets, line clippers and bolt cutters with an exemption for carrying a dip net or long-handled line clipper for small longline vessels with freeboard equal to or less than three feet.**
- 3) Require longline pelagic vessels targeting PMUS, pelagic management unit species with hooks to remove trailing gear from accidentally-caught turtles and to follow turtle resuscitation and release guidelines wherever they fish.**
- 4) Require longline vessels registered to general longline permits to use circle hooks and mackerel-type bait and dehookers when shallow setting north of the equator. (Note, due to the one-year time line for the implementation measures one to three, this measure may be covered in a separate amendment if outstanding questions relating to transshipments, observers and other issues cannot be resolved in a timely manner.)**

McCoy made a motion, which Sablan seconded.

Martin questioned the wording of 12.1, which specifies owners located outside of the United States.

There was discussion whether the wording should be “US mainland” or “out of the State of Hawaii.” There was indication that some owners live in foreign countries.

Hamilton pointed out that the recommendation concerned the general longline vessels and wouldn't apply to Hawaii-based longliners but only to the general registered vessels.

When the question was raised whether NOAA Fisheries could do these sessions on the mainland, Pooley said video conferencing isn't cheap. A CD and teleconference would be more economical and efficient.

There was discussion on whether VCR tapes have been or would be acceptable.

Hamilton said she thought that individuals who enter the fishery in between workshop cycles could watch a video and receive a temporary pass until the next workshop, which must be attended in person. Hamilton said there was uncertainty about what was acceptable for owners and if something is acceptable for people with a general permit then what about for people registered with Hawaii permits.

Pooley suggested ending the sentence at “remote attendance.”

Why don't you just put a period after remote attendance, leave the last phrase off.

There was a discussion of an online alternative. It was determined that there is a suite of options and that ending the sentence at “remote attendance” puts the onus on NMFS and NOAA Fisheries to help determine the acceptable mechanism for remote attendance.

McCoy, who made the motion, agreed to the revision. Sablan seconded the revision.

Feder expressed concern that the existing proposed and final rule doesn't require the holders of general longline permits to comply with the existing sea turtle safe handling and resuscitation requirements. He suggested the Council consider including that other paragraph, too.

Upon being queried, Feder said that part of the measure is going away on April 1 and it will be reinstated in the current rulemaking for the Hawaii longline fishery, but not for the other hook fisheries, including the general longline fishery. He suggested it be added to the general longline fisheries as well as to the other hook fisheries.

Morioka read the revised recommendation: “**To require general longline vessels to carry and use dip nets, line clippers and bolt cutters and follow turtle resuscitation and release guidelines. (Note with an exemption from carrying a dip net or long-handled line clipper for small longline vessels with a freeboard of three feet or less).**”

Those who made and seconded the recommendation accepted the amendments.

Hearing no further discussion, a vote was taken. The motion passed unanimously.

- 13. The Council requests the US Coast Guard provide an analysis of the complaint received by Jim Anderson about the use of foreign nationals to be captains and crew on American Samoa longline vessels, and for the Council's island coordinator to assist in this analysis.**

McCoy made a motion, which Farm seconded.

Mathers said he was not sure if “an analysis of the complaint” is accurate. He said they would certainly investigate to the best of their ability.

There was a discussion on the wording. It was decided to amend the recommendation as follows: **“The Council requests the US Coast Guard investigate the allegations in the complaint received from Jim Anderson about the use of foreign nationals as masters/captains, on American Samoa longline vessels and report to the Council. The Council's American Samoa island coordinator will assist with this investigation.”**

The persons who made and seconded the motion accepted the amendments. Hearing no further discussion, the chair asked for a vote and the motion passed unanimously.

It was determined that SSC recommendation 12, for the Council to convene a working group concerning marine mammal interactions, had unintentionally been removed. Pooley proposed the following motion:

- 14. The Council convene a multi-party and expert working group to recommend measures to minimize the interactions between marine mammals and pelagic longlines.**

Cruz and Sablan seconded. There was no response to the call for discussion. The vote was taken and the motion passed unanimously.

Lau proposed another motion regarding a ban on shark tours, i.e., shark viewing and feeding activities in the State of Hawaii EEZ. He suggested that the Council consider directing its staff to consult with the DAR, DLNR, State of Hawaii and NOAA General Counsel on the feasibility to amend the Pelagics FMP and/or Coral Reef Ecosystem FMP to prohibit shark feeding and viewing tours in the Hawaii EEZ consistent with Hawaii State law.

Ebisui seconded the motion.

While wording of the motion was being typed up, Pooley informed the Council on the outcome of the hearing that morning on the EarthJustice motion to require NMFS to categorize the Hawaii longline fishery as Category 1 under the Marine Mammal Protection Act based on its interactions with false killer whales. He said the parties to the Hui Malama versus NMFS met in Judge Sam King's court. David Hankin of EarthJustice represented

Hui Malama and the Center for Biological Diversity; the Department of Justice represented NMFS; and Stoel and Rives represented HLA. NMFS had two arguments. First, the issue would be moot since we are due on March 31 to file the 2004 list of fisheries under the Marine Mammal Protection Act and therefore the 2003 one, which was the one that was being argued, would no longer be relevant. Second, the data available for doing the 2003 categorization was based on surveys within 25 nautical miles of the main Hawaiian Islands and did not cover the extent of the EEZ. Stoel and Rives pointed out that that area was closed to fishing to the Hawaii longline fishery and we had already taken protective measures. EarthJustice's argument was basically that the numbers that had been included in the 2003 stock assessment review for false killer whales when worked numerically and consistent with the NMFS' own regulations gave the agency no leeway but to categorize the fishery as Category 1. Judge King said he would report back later.

Council members engaged in some speculation as to what might ensue.

Morioka asked Lau to present the motion as written, which he did.

15. The Council direct the staff to consult with the Hawaii Department of Land and Natural Resources and NOAA General Counsel on the feasibility to amend the Pelagics FMP and/or Coral Reef Ecosystem FMP to prohibit shark viewing and feeding tours in the EEZ around Hawaii consistent with Hawaii state law.

Ebisui, who had seconded the motion, approved the amendment.

Hearing no further discussion, Morioka called for a vote. The motion passed unanimously.

Morioka adjourned the meeting for the day.

XII. ECOSYSTEMS AND HABITAT

Morioka called the meeting back to order Thursday morning and then turned the meeting over to Seman, chair of the Ecosystems and Habitat Committee.

A. Report on the Coral Reef Fish Stock Assessment Workshop

Dalzell reported that the Coral Reef Ecosystem FMP, like all fishery management plans, has to conform to the 10 national standards, including national standard 1, the overfishing MSY control rule.

Because of the lack of information on stock assessments of coral reef fish, the Council convened a four-day Coral Reef Fish Stock Assessment Workshop, in mid February, to generate recommendations from experts in the field to the Council about how to proceed with its stock assessment of the coral reef fish under its jurisdiction. The attendees included Jerry Ault from University of Miami, Gavin Begg from the Great

Barrier Reef, Neil Gribble with the Queensland Northern Fisheries Center, Michel Kulbicki from New Caledonia, Bruce Mapstone from the Great Barrier Reef, and Paul Medley who has studied Zanzibar and the Caribbean. Dr. John Monroe who has studied Jamaica and the Caribbean was unable to attend due to illness.

The morning agenda included a summary from the Bottomfish Workshop that preceded the Coral Reef Workshop in late January; an overview by the expert panelists of work in their regions, a review of the Western Pacific coral reef fish fisheries including both a collection of fishery dependent data, like the West Pac FIN program and creel surveys and the work of DAR with its C3 catch forms and its database; and a review of fishery independent programs. The afternoon breakout sessions looked at two topics: sources of existing data and a model development and data collection discussion. The entire group reconvened Friday morning to hear the reports from both groups and to hold a synthesis discussion. The team was left alone for a day to write the reports for submittal the last afternoon of the meeting.

Dalzell reviewed the prioritized list recommendations from the workshop and provided comments on them. The recommendations included the following:

- Immediate action to articulate appropriate short-, medium- and long-term operational objectives for coral reef fisheries in the Western Pacific states and territories, as defining the management approach would condition what data would need to be collected.
- Appropriately qualified personnel appointed to collate, analyze available and existing data relevant to coral reef fisheries in the Western Pacific Region and design rigorous fishery sampling and monitoring programs.
- Following the collations and preliminary analyses of existing data, an appropriately qualified expert in stock assessment contracted to review formally the available data and recommend future options and data needs for reef fish stock assessments.
- Formal review and analysis of existing fishery independent and fishery dependent data relevant to the coral reef fisheries.
- A comprehensive review of the extent and quality of the existing biological and ecological data, and subsequent compilation and integration of these data for those species that are part of the fishery.
- Prior to the collection of information on each species, limit sampling resources and ensure that high-quality, adequate data are gathered for at least some of the most important harvested species.
- Design of fishery dependent and independent monitoring programs so they're coordinated and consistent across the Western Pacific States and Territories and coherent among different sampling strategies; creel surveys, underwater surveys, logbooks programs, etc.

- Best possible methods for obtaining reliable estimates of catch and effort for each sector (e.g., commercial, subsistence and recreational) of the coral reef fish fisheries.
- Efforts be directed towards gaining fundamental information on age, length, weight, maturity, natural mortality and sex ratios of the priority species that would best enable the calculation of the National Standard 1 reference points.
- Explore the use of a wide variety of stock assessment models where there are appropriate data sources and try new approaches where possible.
- Data collected under different monitoring programs should share sufficient common information in consistent formats to allow straightforward links to be established among datasets.
- Structured, managed databases developed hand-in-glove with the review of existing data and the development of future sampling strategies.
- Clear articulation of the expected management units for the fishery and data requirements of monitoring and sampling strategies.
- Data collected for bottomfish and coral reef fish common harvest species should be combined within management units for assessment purposes.
- Age and growth information begin to be collected via a structured sampling program for some of the priority species.
- Establish a local base of aging expertise and build up capacity in this area for research and long-term monitoring.
- Develop a formal training program for the preferred sampling methods and supply it to all staff expected to collect data for coral reef fishery assessments.
- Apply surrogates for those species and regions where data is not available, either based on existing data from the Hawaiian Islands and territories or other coral reef ecosystems.
- Obtain auxiliary information to improve understanding of priority species and ecosystem processes.
- Coordinate the assessment of standard strategies for coral reef fisheries in the US Western Pacific to similar activities by neighboring states.

Duenas asked if there was any work being done on habitat assessment.

Dalzell said, yes, by the Honolulu Lab and locally in Guam, CNMI and American Samoa by different agencies. However, he noted that stock assessment refers to fish population and its abundance.

Duenas commented on a variety of related topics. He noted that a speaker at a symposium he recently attended stated that when habitat is lost due to pollution, 70 percent of the fish stocks are automatically lost. He also said that most of the reef fish in the Pacific Islands are for subsistence use and not necessarily for market use. So that is always going to be a missing factor in any data collection, because a lot of people have access to shoreline, where the data collectors don't. Duenas suggested that fisher experience and inexperience be considered when looking at CPUE in order to get an accurate figure as to effort. If fishermen used different type of gear during a single trip, that needs to be considered also, he added.

Responding to a question about the sampling technique applied in Australia, Dalzell said the most basic technique is to take otoliths out of a fish, put them in a black dish and use a light microscope to see the rings. If the fish are older, it might be harder and sectioning would be required. Dalzell said the lab has been aging fish from a more difficult technique that looks micro-increments, which is the daily structure within the otolith. Dalzell said that apparently a person has to look at about 5,000 samples before s/he becomes proficient at finding and interpreting the rings.

There was some discussion on whether the Honolulu Lab was capable of doing this type of reading. No one from the Lab was available to address the question.

B. NWHI Sanctuary Alternatives: Criteria and Rationale

Tom discussed the designation process for the Northwestern Hawaiian Islands as a National Marine Sanctuary. He said the process is arduous, and the plan is that by early 2006 a decision will be made whether or not to place the NWHI in the National Marine Sanctuary Program. He outlined the desired timeline.

- Currently (March 2004), there is a request for proposals out.
- From April to June 2004, the working groups would continue to meet. They include the Goals and Objectives Working Group, the Fishery Working Group, and the Reserve Operating Plan (ROP), which is the Draft Management Plan Working Group. The latter group will consider which portions of the Reserve Operating Plan, which will be made available to the public soon, would fit into the new management plan for the sanctuary program. The Western Pacific Regional Fishery Council staff has been participating in these working groups.
- By June 2004, recommendations in terms of the fishing regime for the Northwestern Hawaiian Islands may be completed. They would be presented to the Reserve Advisory Council (RAC) for comment.

- By August 2004, the recommendations regarding fishing would be presented to the Western Pacific Fishery Management Council. At that time the 120-day clock will begin to tick and the Fishery Council would get back to the sanctuary program with its options.
- Spring of 2005, a DEIS would be available for public review, public hearings and public comment.
- Somewhere between spring and fall, the State of Hawaii and USFWS would decide whether or not waters 0 to 3 nautical miles from shore would be a part of the Sanctuary.
- Fall 2005, the Final EIS would be released.
- Early 2006, designation would occur.

Tom introduced Sanctuary staff; Susan Beuacua, who handles GIS; Aulani Wilhelm, Deputy Reserve Manager; and Moana Pai, who is in charge of the Reserve Advisory Council.

Tom said the first contractor, Bruce Wilcox of Sustainable Resources Group (SRG), helped the Sanctuary hold at least 15 working group meetings. SRG has produced a draft report, which includes the disclaimer that the views of the SRG do not represent the views of NOAA.

A request for proposals for a new contractor to work on the next phase of the project closes at the end of this month. A copy can be obtained from the NOAA Western Administrative Support Center in Seattle.

Tom announced that the next RAC meeting is April 29, 2004, in Honolulu, and the ROP/Draft Management Plan Committee is April 5 and 12 also in Honolulu.

Tom then displayed the drafts of some maps that are being developed. They were based on nautical charts and had layer added to them, e.g., the Reserve boundary as stated by the Executive Order; the range of the red-footed booby (USFWS data); location of green sea turtle nesting sites (NMFS data); benthic habitat (to be worked on with Dr. Chris Kelley and Dr. Greta Abey); monk seal foraging area (under development with NMFS). Tom then showed a close up French Frigate Shoals showing the benthic habitat, including foraging areas of monk seals (work in progress with Bud Antonelis) and bottomfish high value areas (State of Hawaii data).

Tom showed an overlay over the various jurisdictions (e.g., State, USFWS, Executive Order), noting that the maps are a work in progress. He spoke about developing some alternative boundaries, e.g., total hands-off access, some kind of limited entry, etc.

Feder asked to what extent has the Sanctuary worked with the Office of NOAA Law Enforcement to get their input about things like straight-line boundaries.

Tom said Ted Buhler, NOS lawyer, is heavily engaged in the discussions.

Feder suggested that the Sanctuary consider coordinating with General Counsel for Enforcement and Litigation (GCEL).

Morioka said, at a recent meeting of commercial, recreational and subsistence fishermen, a comment was made that fishing done by indigenous people will be considered a cultural practice and fishing by all others would be considered fishing, and that fishing would probably not be allowed. Morioka asked Tom to comment on that.

Tom said, in the Sanctuaries Act, there is some kind of indigenous take, but he thought it was premature at this point to make a comment on regulating or banning fishing. That would be a recommendation from the fishing committee.

Wilhelm said the discussion was over definitions, the difference between sustenance, subsistence or traditional and cultural practices. The context was definitions, not about use or what would or wouldn't be allowed.

Morioka said the fishermen at the meeting understood that there are differences and there are past experiences where indigenous people are afforded some latitude. He said the concern is fishing is fishing and to define fishing and for one group of people as a cultural practice and for the rest of the people as fishing creates a burr. Morioka also noted that the Western Pacific Fishery Management Council has been waiting to deliberate on and take action upon fishing regulations that will be developed by the RAC. He asked for an explanation for the delay. He also asked if, given the sanctuary process deadline in 2005, would the Fishery Council still be allowed the interval it was promised to sufficiently analyze and develop fishing regulations for submission.

Tom said the delay was created because of the working group meetings, which were held so as to provide the Fishery Council with the wide range analyses that it had asked for. He said 2005 was a glass ceiling, but if Congress was provided a good justification for the delay, this should not be a problem. He said he was sure that the process would still involve the Western Pacific Fishery Management Council developing some kind of fishing regime or recommendations for the Sanctuary.

In response to a series of questions from Lau, Tom said the Sanctuary does not have a position. The SRG report would be looked at in view of all other information during the next phase. NOAA neither endorses nor refutes the report. The original objective of the report was to look at various fishing regimes. Actually, the SRG contract originally was to help write the DEIS, and then it was modified to have SRG look at various fishing alternatives that could possibly exist for the marine sanctuary. Tom said the Sanctuary was trying to meet the schedule for the DEIS release to the public. His staff is working overtime to get the Fishery Council something in August. The contract to prepare the DEIS is open to a nationwide search and the SRG could apply.

Lau asked how much was spent on the SRG report.

Wilcox answered \$200,000.

Simonds disagreed with Tom's remarks that the delays were due to the Fishery Council's request for a full review. She said that she thought the contract was originally to develop alternatives. She said the scope of the contract was obviously changed. She said she thought the delay was due to a combination of things, not the Fishery Council asking for a full breadth of alternatives, because that was the original intent. She noted that the Fishery Council and NMFS had provided information about fishing and the Northwestern Hawaiian Islands. Simonds said she thought what took time was the discussions needed to make the Sanctuary people feel comfortable about making some kind of recommendation. She said now what is happening is the Sanctuary is advertising for a new contract to develop those alternatives that the Fishery Council thought was going to happen before.

Duenas asked where the Sanctuary advertised for contract.

Toms said he believed the notification goes out to all the people on the General Services Administration (GSA) schedule.

Simonds said she thought all of the government's request for proposals are usually published in the *Commerce Daily News*.

Morioka asked Feder, inasmuch as the Fishery Council is afforded 120 days to help develop fishing regulations once that information is given to it, how does that play with the Magnuson-Stevens Act (MSA) and the requirements for the Council to meet with the fishers to get their input.

Feder said the short answer is there is no responsibility under the Sanctuary's Act to get public input. But he expected the Council would, as a matter of course, ask for the public to give input into the Council in a public meeting. He said the Council doesn't have to conduct a separate meeting to engage in scoping or other outside hearings, unless it chooses to. When questioned if he were sure, Feder reiterated that it is not a Magnuson process, it's a process under the Sanctuary Act.

Morioka noted that the Council might be criticized if public comment was not included.

When questioned, Tom said the 120 days is a hard and fast rule. He said the Council could go ahead and do whatever it wanted at this point. It doesn't have to wait for the Sanctuary.

Simonds said the Council is waiting to do get something from the Sanctuary so a full discussion could occur as to who should have jurisdiction over fishing. Simonds asked if somebody would give a report on the March 17th meeting that was held by the fisheries subcommittee.

Wilhelm said the chair of that subcommittee is Bill Gilmartin. A written summary of the meeting hasn't been produced yet.

Simonds said she understood that the committee voted on some of the different management schemes for the fishers. She said how they voted would be of interest to the Fishery Council.

Wilhelm said no official votes were taken of the subcommittee. They had discussion and did some consensus about directions, and what they're going to circulate is kind of a summary of those recommendations, have that go back through the subcommittee and go to the next subcommittee before they actually will do that. But no kind of subcommittee votes on the actual recommendations that they'll carry to the RAC has happened yet. When questioned further whether or not votes were taken, Wilhelm reiterated that there were discussions, but they're not recommendations from the subcommittee yet. At the next subcommittee meeting they are going to confirm whether or not those are the recommendations they want to take to the RAC. They haven't yet done that.

Simonds and Wilhelm engaged in a discussion to the point where it was agreed that preliminary recommendations were made.

Simonds said she understood that, for the fisheries that were discussed, the status quo was not the recommendation. She said the Fishery Council should review how these were discussed and what information was provided so the Council can be prepared when this discussion is presented at the next meeting.

Morioka said he heard from fishermen also that there was a vote taken. He said he thought some clarification and some kind of information needs to be provided to the public.

Paul introduced herself as the vice-chair of the RAC and a member of the fishing subcommittee. She said she understands that the Fishery Council is quite eager to know how the subcommittee will ultimately make a decision. But, she said, it was inappropriate for Wilhelm to make a report to the Fishery Council about the subcommittee recommendations when they have not yet made that report and recommendations to the RAC itself. She said the Fishery Council would have to wait until the RAC hears them first.

Morioka said they would just like some clarification whether there was a vote taken and what is going to happen.

Paul reiterated, that as soon as the RAC itself hears that report, the Fishery Council would receive that report. Since the RAC itself has not received that report, and that information has not yet been put in a form where it is available for them to make a decision or being released to public, it's too premature, she said.

Morioka repeated the public concern and confusion about what occurred.

Paul spoke about the makeup of the subcommittee and its voting and nonvoting members and attendees. She concluded by saying that, ultimately, the only vote that counts is what the RAC's.

C. Review of the Council MPA Policy (draft)

Beeching said Council members should have received copies of the draft of the MPA policy document in advance. He explained how the document was organized and provided some background on the Council's MPA working group, chaired by Alan Friedlander and with representatives from academia, NMFS, the Council, etc. He pointed out that the working group reached consensus in drafting the document.

Beeching discussed the need for a Council policy in lieu of the Council merely following the national trend. He said this is due in part because the island communities in the Western Pacific Region are quite different from fishing communities in the US mainland. Also, an MPA policy elsewhere might not be entirely appropriate here.

Beeching focused discussion on two issues. First, widening the application of the Council's policy beyond the Council's jurisdiction, and, second, the National MPA Center/Advisory Committee. Regarding the first issue, he noted that turtle mitigation and protection efforts are going to be focused in parts of the world outside of the US waters, e.g., Indonesia. He also noted Admiral Lautenbacher's matrix of management processes and approaching different groups to develop synergy. He mentioned the potential for an Archipelagic FMP to include CNMI and Guam. He noted that American Samoa has developed a network of MPAs, largely following a model based in Independent Samoa. As the two countries are very close, it makes sense for them to work together to develop some sort of archipelagic theme.

Beeching reviewed the official definition of MPAs from the Executive Order, that it provides lasting protection for all of the natural and cultural resources within them. He noted that MPAs are different from MMAs, marine managed areas. He noted that if an area is restricted for reasons other than conservation, it is not an MPA. He also said that, if the intent is for it to be a conservation area but it is poached and fished and a mess, then it isn't truly an MPA in anything but name, even if the reasons for establishing it were conservation based. He said the information is taken from the MPA Center website. He noted that an MPA has to have a minimum of four years year-round protection, so the one year open and one year closed area in Waikiki isn't an MPA. However, to be an MMA, an area has to have habitat protection for two years duration. So the Waikiki area would qualify as an MMA.

Beeching expressed concern about not knowing the way in which the definitions were derived, i.e., whether they included a public process or were decided upon by the MPA Center.

Beeching speculated on potential funding for MPAs versus MMAs. He said that a lot of communities in the past thought they were creating MPAs, especially in the islands. But now they have been told they haven't been because the objectives didn't qualify. The "MPAs" that were created are not about conservation alone but about conservation and production, about best utilization of the resource.

Beeching noted that another implication of the new MPA definition is the so-called 20 percent protection that should be given to coral reefs. If some areas are no longer considered MPAs, then additional areas will need to be designated to make that 20 percent. For example, in Hawaii certainly there are a lot of areas put aside for Homeland Security since terrorism became an issue here. Those large areas are protected under a threat of death, imprisonment, confiscation of equipment. This is a serious MPA protection and it squeezes fishermen. They can't go to those locations now. If they have additional MPA burdens as well, they do feel they are really being cramped, which brings up the earlier question regarding whether the MPA definitions included a public process.

Beeching said that the MPA policy that the working group created and has submitted to the Council for adoption is a long term, durable document that addresses Council ethics. The second document that the working group would develop would look at objectives and criteria for establishing, monitoring and evaluating MPAs. That document would be more dynamic, using the best scientific information available.

Beeching said he would be attending an MPA conference the following week with Craig Severance and Charles Ka'ai'ai. Also, Joe Uravitch, Dan Basta and Jamie Hawkins should be presenting at the Council's Executive's meeting a couple weeks later on national policies on these issues and how they are moving forward. Beeching reiterated concerns about the processes in place.

Morioka asked whether areas that have been deemed not to be MPAs could in parallel designate the areas as MPAs. When asked for a specific example, he noted an area closed as a security zone and inaccessible because of national security issues. Could the State of Hawaii say there is not going to be any fishing there, i.e., can there be parallel jurisdiction to say, yes, it is a security zone but also the State of Hawaii has designated it as an MPA?

Feder said it depends where the area is, for one thing, e.g., are they State waters. When given the State waters right off the reef runway, Feder said that obviously the State has jurisdiction to declare a security zone, but, under the Magnuson Act, the Council doesn't have jurisdiction and can't. If we are talking beyond state waters, the State has continuing jurisdiction to regulate to the extent that the regulations aren't inconsistent with the Magnuson Act regulations.

Beeching, Feder and Morioka discussed further the potential for parallel designation of the area off the reef runway as both a security zone by Homeland Securities and an MPA by the State of Hawaii.

Feder noted that it is a definitional issue. There might not be any actual significance except that it would put that same area within this definition. So it seems like a political game more than a game that actually affects people.

Morioka said it would affect people if we are to reserve 20 percent of the environment as MPAs.

Feder said he supposed it would also involve whoever establishes this definition, how they interpret it because they could make life more complicated by saying that what they meant here was the area has to be closed originally because of conservation reasons.

Palawski said he has been to a few MPA meetings and his practical take on this would be that, if studies were done that would show that by having the MPA there would be a net conservation benefit in addition to the security zone, then it could be labeled an MPA, because the definition of an MPA is a net conservation benefit.

Morioka asked Feder if he could look into the issue.

Feder asked Beeching whether the definition was final.

Beeching said that it is not called draft on the website. He said he'd find out more in the coming weeks.

Palawski said he thought it just came out in the Federal Register Notice and is still open. He thought that the public had submitted comments and it was still in that process.

Feder suggested that there might be an opportunity for the Council to give input in the formulation of this definition.

Ikehara noted that, if the State does designate those areas in parallel as MPAs for the purposes of protecting those resources within them, then the purpose would fit the National MPA definition and then the Council would consider them as MPAs.

Beeching said the Hawaii Division of Aquatic Resources has been developing their criteria for establishing MPAs and these criteria would have to be met in the future once they have been established.

Morioka said his concern is, as this Council moves towards an ecosystem-based process, it needs to be cognizant of what happens on the land, shore, nearshore and offshore. For example, when mullidae come to shore they become a State issue, but, while they're on the high seas, they're the Council's issue.

D. National Bycatch Implementation Plan

(This item was discussed immediately prior to agenda item VII.)

E. SSC Recommendations

Severance directed Council to document 12.E.1 in their briefing books. He noted that he would read the first item, archipelagic management on an archipelagic basis, but action on this item would be deferred until Program Planning this afternoon.

- **The SSC is supportive of incorporating ecosystem-based principles of management on an archipelagic scale and recommends that the Council give full and serious consideration to this initiative.**

- **The SSC notes that stock assessment and simulation models that can be used for ecosystem-based management are still in development and relatively primitive. Therefore, the SSC recommends development of alternative conceptual models for ecosystem-based management.**
- **The SSC encourages cooperation with other groups working on similar ecosystem management issues, and the SSC strongly recommends that additional funds be made available for these purposes.**

Severance moved on to the draft report on the Coral Reef Stock Assessment Workshop.

- **SSC members noted the list of urgent and priority recommendations identified by the expert panel are significant in terms of time and resources and that funding is a real issue. Therefore, the SSC supports the recommendation from the Coral Reef Stock Assessment Workshop expert panel.**
- **The SSC is concerned about the costs and encourages the Council to pursue fundings for the recommendations identified as urgent and critical. This can be done in part by requesting the Pacific Islands Fishery Center to re-establish its Insular Fisheries Program or establish an Insular Fisheries Program similar to the Pelagics Fishery Research Program at the University of Hawaii.**

Moving on, Severance said SSC had a number of concerns about the SRG discussion process of the NWHI Sanctuary alternatives, both the criteria and rationale.

Some SSC members raised a number of concerns regarding the discussion group process. Members of the SSC noted that the mission, principles, goals and objectives of the Proposed Sanctuary provided to the discussion group participants appeared to be presented as givens. When in fact the mission, principles, goals and objectives for the proposed sanctuary have not yet been finalized. The SSC expressed concern over the objectives, make-up, structure, content, organization, selection and representativeness of discussion group process, especially given the strength of the conclusions based in part on the discussion group process.

SSC members are concerned about the arbitrary nature of the measures used to evaluate the acceptability or unacceptability of fishing on ecosystem integrity and note that adaptive management efforts could in fact benefit from an appropriately scaled fishery because monitoring could provide feedback from resulting ecosystem conditions. While the burden of proof rationale may be viewed as a precautionary approach, it also suggests that fishing is guilty until proven innocent. Some SSC members also questioned defining ecosystems as not including human populations in consideration of values and uses in their evaluation. In fact, the term is referred to as a natural ecosystem and most other definitions of ecosystems used in the context of ecosystem-based management include humans and their actions as ecosystem components. SRG's conclusion that a management alternative that includes commercial fishing could not have been considered reasonable, and therefore not even considered in an EIS, is not scientifically supportable. Future commercial fishing

need not necessarily follow past and current practices. Most National Marine Sanctuaries make provisions for allowing fishing activities under their congressional mandate for multiple use.

There was also concern that closing the Northwestern Hawaiian Islands to commercial fishing could export effort and impacts elsewhere, and there was some concern about SRG's repeated references to the effects of the lobster fishery on monk seals. While these references are always careful to say that research is not definitive, they're nonetheless used as the main reason to prohibit lobster fishing, at least in the presentation that the SRG gave to the SSC.

Severance then presented the SSC recommendations.

- **The SSC recommends that the proposed NWHI Sanctuary management alternatives contain a range of fishing regimes to allow the public and decision-makers to have a clear understanding of the possible effects of fishing and to evaluate the risks to ecological integrity.**
- **The SSC recommends that the National Marine Sanctuary Program use as a basis for planning a definition of ecosystem that includes human uses and values. The SSC recommends that consideration be given to cost and impacts of sanctuary policy alternatives, including the risks to other ecosystems, should fishing be displaced by closure or restrictions in the sanctuary.**
- **The SSC recommends that National Marine Sanctuary Program clarify and define the principle of burden of proof as it relates to fishing relative to the sanctuary designation process.**
- **The SSC recommends that a full set of all fishing discussion group notes and transcripts where available and record of the process be available, including any opposing views or minority reports.**
- **The SSC is not convinced that SRG's conclusions were supported by the information presented. The SSC recommends that the Council consider this presentation report as one perspective on sanctuary planning, not as an objective framework that could be used to develop and evaluate a reasonable range of management alternatives.**

Severance noted that there were other items for which there were not recommendations.

Cruz asked for comments from the Council. Hearing none, he asked for comments from the public.

Krasnick said he'd like to clarify something about Tom's presentation. The *Commerce Business Daily* has been superseded by *Fed Biz Ops*, a daily publication of the Department of Commerce where any request for proposal over a certain threshold amount,

perhaps \$25,000, is advertised for a fair and open competition nationally. One way to avoid a fair and open process is to use a GSA contract. The GSA schedule is something that almost any qualified company can obtain and perhaps some unqualified companies. What this allows you to do is to avoid publishing your RFP nationally. The sponsor of the action of the RFP simply identifies pre-qualified three or more companies they want to send their RFP to. No one else is permitted to bid on it, to submit a proposal. Krasnick said this happened on the first contract, where several companies he was aware of were effectively stonewalled from competing on a level playing field. The same thing is happening on this opportunity. He said they have been stonewalled for weeks now from Tom's office and from Melvin Fondue at WASC in Seattle. They simply refuse to return phone calls, e-mails or faxes, so no information about the contract can be obtained. Krasnick said his suspicion is that it's a done deal. They know whom they want to hire. They don't want to go through a fair and open process.

Simonds said they all knew what happened about that first contract, but she didn't realize that the same thing was happening to the second contract. She suggested, because of the importance of the EIS and the fact it didn't get produced in the first contract when it should have, that maybe the Council should write to someone to ensure the contract goes out for bid.

Lau asked whether the GSA process as an alternative to going through Fed Biz Ops is a legally allowable process.

Krasnick said, it is. It's usually done when there is a short time frame and perhaps the most qualified firm is known. He said he thought the request had to be submitted to a minimum of three bidders.

Lau said that, at the State level, all the firms that were considered during that alternative process have to be posted on the web. He asked whether, on the federal level, do they also have to post the firms that are considered the top three firms?

Krasnick said he didn't believe so, but he imaged the information could be found through a FOIA request.

F. Standing Committee Recommendations

Cruz said the Standing Committee adopted the SSC recommendations.

G. Public Comment

Tom said he had missed the discussion regarding the solicitation for the contract as he was out of the room. He said the Sanctuary Program is following protocol set up by NOAA. If a person didn't get the RFP, they can call the Administrative Support Center and get it from them or from the Commerce web page.

Simonds said the discussion was that there are two ways that the government awards contracts, and one is the GSA route that he spoke of; and the other one is through the *Commerce Daily*, which apparently has changed to *Fed Biz Ops* and is published

every day. The previous contract went the route where it wasn't published in *Fed Biz Ops*.

Simonds, Tom and Krasnick discussed whether the solicitation went through *Fed Biz Ops*.

Tom reiterated the option of phoning WASC.

Krasnick repeated how WASC and Fondue have not returned phone calls and how he has been stonewalled for months.

Tom said he gave the Council a copy that they can make available.

Tom, Krasnick and Simonds discussed the openness versus the closeness of the process.

In response to a request by Simonds, Tom said he would check out what route the contract is going through.

Morioka asked for further public comment. There was none.

H. Council Discussion and Action

Morioka said the Council would take action on the Standing Committee recommendation that has adopted the SSC recommendations. He asked the chair of the Standing Committee whether he had made this motion.

Cruz said, yes, it is a motion.

Duenas seconded the motion.

Morioka read the recommendations:

- **The Council directs staff to begin scoping for ways to incorporate management on an archipelagic scale in the bottomfish versus Coral, Crustacean and Coral Reef Ecosystem FMPS. The Council notes that stock assessment and simulation models that can be used for ecosystem-based management are still in development and relatively primitive and, therefore, directs staff to research or construct alternative conceptual models for ecosystem-based management. The Council will cooperate with other groups, FEP, WG, that are working on similar ecosystem management issues and intends to secure funding for these purposes.**

Morioka asked for discussion.

Sablan said that constituents in Saipan, CNMI, have discussed this issue and have concerns on jurisdictional issues and probably political issues. As those concerns are not mentioned, Sablan said he would not be voting for this.

Morioka asked for further discussion. Hearing none, he asked for a vote. The motioned carried with all ayes except the one nay from Sablan.

Morioka read the second recommendation.

- **The Council directs staff to pursue funding for the recommendations identified by the Coral Reef Fish Stock Assessment Expert Panel as urgent and critical. Staff shall communicate the Council's suggestion that the Pacific Islands Fishery Center to re-establish its Insular Fisheries Program or establish an Insular Fisheries Research Program similar to the Pelagic Fisheries Research Program at the University of Hawaii.**

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka read the third recommendation.

- **The Council recommends the proposed Northwestern Hawaiian Islands Sanctuary management alternatives contain a range of fishing regimes to allow the public and decision-makers to have a clear understanding of the possible effects of fishing and to evaluate the risk to, quote, ecological integrity, end quote.**

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka read the fourth recommendation.

- **The Council recommends that the National Marine Sanctuary Program use as a basis for planning a definition of ecosystem that includes human uses and values.**

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka read the next recommendation.

- **The Council recommends that the National Marine Sanctuary Program consider the cost and impacts of the sanctuary policy alternatives, including the risks to other ecosystems should fishing be displaced by closure or restrictions in the sanctuary.**

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka read the next recommendation.

- **The Council recommends that the National Marine Sanctuary Program clarify and define the principle, quote, of burden of proof, end quote, used in assessing fishing impacts during the sanctuary designation process.**

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka read the next recommendation.

- **The Council recommends that a full set of all Sustainable Resources Group fishing discussion groups notes (and transcripts where available) and record of the process be made available to the participants and the public, including any opposing views or minority reports.**

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka read the next recommendation.

- **The Council is not convinced that SRG's conclusions were supported by information presented, considers the Sustainable Resources Group's report as one perspective on sanctuary planning and not as an objective framework that could be used to develop and evaluate a reasonable range of management alternatives.**

Morioka asked for discussion.

Farm asked what the recommendation does.

Morioka said the Council would note and extend to the Reserve Council its comments.

Cruz said he wanted to add another amendment.

Morioka said to let him take action on this one first. He asked for further discussion. Hearing none, he asked for the vote. The motion carried unanimously. Morioka then called on Cruz.

Cruz put forth the following recommendation:

- **The Council adopts the Marine Protected Area Policy developed by the Council's MPA working group and staff. Council further directs staff to forward the policy to Bill Hogarth, Assistant Administrator for Fisheries, and Rick Spinrad, Assistant Administrator of Ocean Services, for their information.**

Duenas seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously. He called for a 10-minute break.

(Brief break taken)

XIII. BOTTOMFISH FISHEIRES

Morioka called the meeting back to order. He began by congratulating Richard Seman's joining the Council as an official state representative and his appointment as Acting Secretary of the CNMI Department of Land and Natural Resources.

Sablan added his congratulations.

Seman thanked Morioka and Sablan.

Morioka passed the chair Ebisui, chair of the Bottomfish Standing Committee.

A. International Deep-Slope Fishery Workshop

Ikehara referred the Council to the workshop report in their binders and to the revised report that was prepared by the organizers of the workshop. He noted that in the back of the document there is the agenda for the workshop. The workshop was one of several pre-conferences to the Deep-Sea 2003 Conference, which was held the week following in New Zealand. Other pre-conferences addressed shark biology and management of deepwater species.

The Deep-Slope Fishery Workshop was held in Dunedin, New Zealand, on South Island at the University of Otago. There were 25 participants, including representatives from Malta, the Azores, Peru, the Pacific and Northwestern Australia. Reports were given from 13 different fisheries. Bob Moffitt, Mark Mitsuyasu and Ikehara attended on behalf of the Council and their respective agencies, with support from the Council, the FAO, NMFS and HDAR.

Ikehara reviewed the issues that were identified by the workshop participants.

- Information on data collection, about disaggregating data to show a finer geographic scale of fisheries.
- Confidentiality of data, both from the agency's viewpoint and from the fisherman's viewpoint. There was a recommendation for generic logbooks and other data recording and collection materials and processes for the fisheries on different islands.
- Resource assessment and estimation of resource abundance. The need for a lot of knowledge on stock structure and accurate population biology parameters available for stock assessment.

- Use of CPUE as abundance indicator. How to evaluate restricted fishing areas, closed areas, for management.
- Gear effects on measures on CPUE and how we account for gear technology changes and changes on CPUE and looking at the rapid methods for estimating stock biomass.
- Provision of harvesting advice. The Hawaii group talked about the use of SPR as an indicator.
- Managing complexes as multi-species aggregations. On a fishing trip, more than one species will be caught, so focusing on one species ignores impacts on related species.
- Governance concerns, e.g., cost of management, timely management, planning.
- Rights-based management practices, including indigenous, cultural and traditional rights.
- Restricted areas and marine managed areas.

Ikehara said a series of desirable actions were then defined.

- Adequately document exploratory fishing and commercial fishing activities, particularly in the early stages of fisheries.
- Aid to develop generic logbooks and other data-recording aids.
- Adequate resources, funding and training to setup data collection programs.
- Managers must convey to fishermen the expectation that these data must be provided, using either incentives or penalties to try to ensure compliance.
- Managers should consider the option of rotational harvesting where the small-scale nature of the fishery may prevent other means of profitably exploiting the fishery, e.g., by rotating seasonally or maybe area closures.
- Establishment of adequate management protocols, as fishers may be catching different stocks. Not to ignore the potential effects on other species in the complex.
- Attention given to current fashionable management approaches and those that are appropriate to be adopted. Effective consultation with those directly affected is recommended to maximize the chances of industry support.

Ikehara said the workshop heard about the management schemes in the Main Hawaiian Islands and Northwestern Hawaiian Islands and some other areas. Their overwhelming conclusion is, well, you guys have a really complex and expensive system.

What they're looking for are simpler management schemes that will work in their areas, that will scale well to their regions and their particular needs. A lot of those fisheries in the Pacific and even in the Atlantic are in the developmental phase. They're very interested in the results of Hawaii's recently concluded Bottomfish Stock Assessment Workshop. Ikehara suggested the Council send copies of the report to all these attendees of the New Zealand workshop. Ikehara said a lot of the other countries, especially in the Pacific, look to Hawaii for seafood marketing expertise and leadership and for management advice.

Ikehara concluded by saying it was a very interesting and successful workshop that may lead to other collaborative efforts in the future for bottomfish management.

B. Seamount Groundfish Moratorium (expires 8/04)

Mitsuyasu noted that the Council at its previous meeting had discussed the armorhead fishery that has been closed for some 20-odd years. Basically, ever since the establishment of the FMP, the Council has put in six-year moratoriums to keep the fishery closed. Only a small fraction of the fishery is within the EEZ. Most of it is in international waters above Hawaii, and international fleets heavily overexploited the fishery. The moratorium that is currently in place will expire in August. The Council voted at its last meeting to prepare an amendment to close the fishery more permanently and also require some type of monitoring.

Mitsuyasu said that, due to the timing of how long it takes to process an amendment and also the expiration date coming up in August, Council staff is suggesting that the Council go through the rulemaking process to put in another six-year closure and then pursue a more permanent measure through an amendment.

Duenas noted that, even if the Council puts in a fishing closure, reportedly other nations are still fishing and may have crossed the line in some cases.

Mitsuyasu said that apparently when there has been a spike in recruitment, the stock gets fished down real quickly.

Duenas asked if there was a management regime that covers these other nations.

Mitsuyasu said, no. Before the last closure six years ago, the Council asked the Japanese and Russians to come and sit down and talk about it, but they were not interested in talking.

Duenas asked whether effort could be continued, e.g., a VMS system for their vessels.

Mathers said the USCG has patrols that go up in that area to look to keep an eye on that. He said the VMS part of it would be a State Department initiative, working on international issues.

Morioka asked whether some of the gear that is recovered in the Northwestern Hawaiian Islands could it be trawl gear that is coming off that seamount/

Mitsuyasu said they were using trawl gear for that fishery, so it's possible.

In the absence of the presenter for Item C, the chair moved to agenda item D.

D. Bottomfish Stock Assessment Workshop Recommendations

Bob Moffitt reported that a Bottomfish Stock Assessment Workshop was held in January. It included three or four days of intensive data presentation and a panel of international experts. For the first day and a half or so the different kinds of data from the Western Pacific Region were presented. After that period, the experts went into closed session to develop short term, medium term and long-term recommendations. Among them were the following.

- Review and standardize and improve data collection. There is a lot of data, particularly for Hawaii, but in many cases it hasn't been minded sufficiently. Look into standardizing, particularly for things like increase of fishing power due to technological advances over time. Catch data is incomplete. For Hawaii data is commercial data only. Try to incorporate recreational fisheries into the data collection as best as possible.
- Collect biological data on key species, including length, weight, sex, maturity and age.
- Include estimates of recreational catch in the models. These would probably be estimates in that for Hawaii there has not been any good collection of this type of information for bottomfish. In some of the other areas, bottomfish trips tend to be rare events. So on creel surveys, they may be underrepresented or overrepresented due to the rareness of the event.
- Establish changes in fishing power due to technical advances. Bring in a panel of long-term fishermen and get their ideas on how various things have changed related to fishing (e.g., hydraulic gear, echo-sounders of various qualities, etc.) and have them put some kind of a number on the ease of their fishing, how their fishing has improved over the years.
- Fit a multi-species surplus production model on the data. This has been done in the past. Current estimates of MSY are based on a surplus production model in the mid 1990s. It is time to revisit it.

For the medium term:

- Complete multi-beam mapping for bottomfish habitats in the Main Hawaiian Islands and then continue on with the Northwestern Hawaiian Islands and then to any of the other fishing areas, e.g., Guam, American Samoa and the remote areas.

- Update the life history parameters of key species. This would probably be somewhat time-consuming. It would involve aging the fish, looking at growth, that type of thing.
- Implement a tagging program to determine extent of movements within and between banks. This would be expanding the State's tagging program with opakapaka to other areas and other species. That would be more for the long term.

For the short term:

- Put in acoustic tags and watch the fish over a period of a few days or a few weeks and see what kinds of movements they do. This is going to be really critical, especially with the MPAs that seem to be the management tool of choice.
- Initiate a routine fishery independent review.
- Create an operational model for the fishery, i.e., a simulation-type model to predict what would happen with change in management, e.g., how a closed area would affect the stocks.

For mid term:

- Evaluate the hydro-acoustics survey methods used elsewhere.

For the long-term:

- Look at the meta-population structure and how the bottomfish stocks relate to areas on different banks, which places are sources of recruitment, which ones are sinks, larval transport, etc. There may be some components of the population that are more important than others. So fishing one area versus another can affect the fishery differently.
- Investigate the presence of spawning aggregations, with the idea of protecting these spawning aggregations. Particularly for groupers, in many areas they do have spawning aggregations where they are particularly susceptible to fishing.

Morioka asked about ongoing investigation on larval distribution.

Moffitt said there is none at present. Perhaps the most active would be investigating the oceanographic conditions, e.g., current movements, that kind of thing. But they are not going out and actually catching larvae of the bottomfish.

Morioka said the Council needs a better understanding of the larval distribution of not only bottomfish but crustaceans as well.

Duenas asked if there was any study being done on habitat enhancement programs, like artificial reefs, that would benefit these larval dispersals.

Moffitt said no, not currently. In the past, some artificial reefs were placed in the deeper waters to bring in opakapaka, in particular, at young stages. It didn't work. Instead, it was discovered that the nursery grounds for opakapaka were in areas devoid of structure. So they seem to avoid artificial reefs in their younger periods. After they get past a certain size, they start looking for structure. On further questioning, Moffitt indicated that at the larval and the juvenile stage, they are looking for areas that don't have structure rather than areas that do.

Duenas said, by comparison, 20 years ago when Guam's used to have staghorn corals and everything inside the reef, when the fish would spawn, a lot of the eggs would get trapped inside the lagoon or inside the inner reef. Today, the fringing reef is practically gone. So when there's a tidal change, they all disappear, as opposed to being trapped somewhere inside the reef.

Moffitt said, for different species, those types of things should be looked at. For the deep bottomfish, that apparently it is not important. For the reef fish, probably more structure would be good.

C. HURL Bottomfish Research Project.

Chris Kelley discussed two projects that were funded by the Council. The Kahoolawe benchmark study was paid for completely by the Council. The habitat mapping money was provided to DLNR and passed up. Kelley showed a short list of the people who have helped out in the project.

He began with the Kahoolawe study. The work was done to find a location in the Hawaiian Islands that could serve as a benchmark for evaluating the various studies that were ongoing on bottomfish habitat and populations and numbers. The attempt was to find an area that presented essentially a relatively pristine or relatively unexploited area. The Kahoolawe Island Reserve was chosen because it's been closed completely to bottomfishing for eight years. Before that, when the military was using the island as a bombing target, it was mostly closed to bottomfishing except for occasional openings.

Kelley reviewed the methods that were used. HURL has three types of equipment on its ship. The SeaBeam sonar mapping system is an ancient system that provides some idea of what the bottom topography looks like. The submersible PISCES IV was put in the water for eight-hour dives. After the submersible was recovered in the evening, the ROV was put down until mapping later on in the morning.

Kelley then reviewed the objectives. The main objective was to define some type of a benchmark, to get some counts and estimates of sizes of bottomfish species in a relatively unexploited area. But the equipment was also used to do some other tasks. The mapping was used to determine the extent of the Kahoolawe bottomfish essential fish

habitat, particularly for the deep species, the 100- to 400-meter contours. An ROV was used to survey resources around Kahoolawe to look for black coral, specifically to see whether or not there were any black coral stands that could possibly be providing recruits to the big coral beds further up toward Maui.

As for mapping, prior to this study, the USGS multi-beam mapping set that caught a little bit of the northern boundary was about all there was in and around the reserve. Kelley thought it was in 2001 when he was able to do about a week's worth of mapping in the Alenuihaha Channel. During those dives they were able to fill in the eastern and most of the southern boundary. The mapping this past November, which was subsidized by the Council, filled in some of this area. There is a gap in the southern boundary because the team did not have permission to go into the Reserve.

Kelley pointed out that the data shows that the whole southern coast is composed of a series of terrace promontories. These are five drowned reef terraces along the coast. In between these are some canyon head features. Both, drowned reef terraces as well as canyon heads, are optimal habitat for many bottomfish species. So literally the entire southern coast of Kahoolawe is very good habitat. The tops of these terraces are right around 200 meters, which is also optimal for onaga. So it's a very rich area for bottomfish.

Kelley showed the tracking data for both the ROV study and the submersible study. Three dives were conducted on each of these two promontory features. As for the ROV dives, Kelley recalled that only one single black coral tree was located. Instead, very extensive beds of *Halimeda* algae were found everywhere. There were some problems in that the captain was unwilling to go too close to shore. In some places in Kahoolawe, it's very sheer and perhaps in those areas more black coral trees could have been found. But at least along the northern boundary area and part of the eastern boundary, is primarily extensive *Halimeda* algae beds hour after hour.

Kelley moved on to discuss the submersible bottomfish benchmark study. Two techniques were used from the submersible. One of them is transects, involving two observers and the pilot. The two observers are asked to make counts during 30-minute time periods of every single animal they see. That is not only bottomfish species, but also corals, starfish, crab, urchins, everything. On the bottomfish species, they're asked to make estimates of sizes. Four transects for each dive were conducted at different depths, typically, right in the optimal depth range, from about 350 meters up to 200 meters (i.e., around 100 fathoms to 200 fathoms). The other technique was bait stations where the sub goes down to the bottom and pretends it's a rock (in most cases, the lights are turned out), and the CTD camera is used to videotape in ambient light. In Kahoolawe, in many places the sediment was so high light flashing type of photography had to be used. The sub sits down for 30 minutes, and it records the fish that are attracted to about 10 pounds of bait that is deployed in front of the sub. The objective is to get additional counts on bottomfish species to support what is observed during transects, as well as get more reference of size estimates of the animals that are down on the sites.

Two different sites were studied in the Kahoolawe Island Reserve. Three dives were conducted per site, four transects per dive, for a total of 12 transects. Then two bait stations were conducted per dive, three dives per site, to get a total of six bait stations. That is the protocol that was used.

Kelley briefly reviewed the typical data collected on bottomfish species. Two types of fish counts are obtained: observer counts during transects and maximum counts during bait stations, i.e., the most number of fish on a given video frame. Two types of size estimates are obtained: observer estimates during transects, which can be less accurate, and reference size measurements during bait stations, which tend to be more accurate.

Kelley reviewed the types of benchmarks they tried to identify: the highest number of bigger fish, i.e., the highest mean maximum counts per transect per bait station, highest mean maximum counts per dive, highest means maximum counts per site.

Kelley provided additional discussion on the transects, the size data, etc. He gave the counts on seven species of bottomfish in Kahoolawe: ehu, gindae, kale, onaga, paka, lehi and hapupu. Of them, opakapaka, kale, gindae and ehu produced the highest mean counts in comparison to other sites looked at. He said Kahoolawe had pretty good onaga counts as well, e.g., 156 being the maximum per transect. The one thing that Kahoolawe was not very good at was hapupu grouper, which are poorly represented in that area in comparison to say the Northwestern Hawaiian Islands.

Kelley then provided estimates for how many individual unique fish exist at Kahoolawe Site 1 and Kahoolawe Site 2. For example, there is somewhere between 79 to 180 ehu on that site, a little smaller on this site. Site 2 had a good school of kalekale on it. Site 1 had a better school of onaga.

The bait station counts pretty much mirrored the transects with a few slight differences. The ehu, gindae, again pakas had the higher counts than any comparative areas looked at, which shows that, at least with respect to counts, these numbers are a good start at defining the benchmark as to defining what does a relatively unexploited or unexploited population look like.

Kelley discussed the saturation problem related to the use of bait stations. Only so many fish can be captured in one single video image, depending on the field of view. The fish behind or in front are going to get masked. As a general figure, around 30 to 35 fish are the most that can be viewed. Even if there were 150 fish out there, the maximum count would be 30 or 35 using this method. Kalekale is a bit higher. They're a bit smaller so more can fit within the video range.

As far as sizes go, Kahoolawe did not do very well, and it does not look like it is that good of a model. Only two of the species of these six study sites had the highest values with respect to sizes.

Kelley discussed analyzing the data. He noted that one issue with the count data is that fish are not randomly distributed in space. They tend to aggregate around rocky

outcrops or promontories and other features. So the variance at each site is going to be higher than the mean. To address this issue, Kelley used a method that uses a negative binomial distribution, which provides two measures: an average or mean value and what they call a coefficient K, i.e., an indication of dispersion, how clumped the animals are together, how dispersed they are. The schooling species, such as onaga and opakas, tend to have much more clumped values, or K values. Ehu tend to be more spread out over the bottom and will have much less clump value. This method was developed in 2002, so it's relatively recent.

Kelley showed a table that pointed out how some statistical differences can be derived, e.g., onaga from the Raita site in the Northwestern Hawaiian Islands compared to the Kahoolawe site, etc.

Kelley showed a list of the fish species that we recorded in Kahoolawe Island Reserve. He then explained how this data could be used, for example to get depth distributions. From this, the optimal depth for the different species can be determined. Interactions between different species can be determined.

Kelley pointed out that, at Kahoolawe, surprisingly *Corallium secundum*, the precious pink coral, is found at bottomfish depths. These corals are extremely brittle and definitely vulnerable to anchor and fishing damage. By being closed to bottomfishing, these corals are protected.

To finish up, Kelley said that for a number of years now one of the goals of the bottomfish project that DLNR is funding is to map the essential fish habitat in the Main Hawaiian Islands. Just this past November pretty much all of the Maui Nui area was completed. The Council support helped fill in a very big portion of this. Kelley provided an overview of the types of features, types of habitats that have been identified using these maps.

He explained how this data is helping DLNR with the re-siting of the restricted fishing areas (RFAs).

Kelley concluded by displaying slides showing the 100- and 400-meter boundaries of essential fish habitat for the fishery. He said he has been trying to work on getting better and better images of the backscatter and bathymetry. In the final slide, he noted that there are only a few areas that have been ground-truthed through fishing surveys. He said he hoped to use the new camera system that NMFS is developing to ground-truth and thereby have a completely nonlethal means of identifying habitat.

Morioka noted that, according to his limited experience as a bottomfish fisherman on the Big Island of Hawaii, a certain size fish occurred at certain places. One-pound size onaga could be found in one place; honers in another. Morioka wondered if Kahoolawe might be one of those kind of places where a certain size of bottomfish were attracted to that particular type of habitat.

Kelley said he wouldn't be surprised. Other explanations are the larger ones hang up further in the water column and didn't come down to the bait or the adults move on

and to some other location outside of the Reserve. The third possibility is that they may have missed the locations where adults occur.

When asked about next steps, Kelley said there is an active hatchery program for opakapaka to revive the DLNR tagging issue. This year, 165 juvenile opakapaka were produced from eggs in the hatchery, and the eggs were produced by breeders as well as from the eggs. They anticipate being able to produce a thousand this year. The point is, in seven years the DLNR was able to tag about 4,000 paka juveniles. But if by mass producing these animals in a hatchery, the number of tags could be doubled, tripled, quadrupled, in a single year. For example, Oceanic Institute is cranking out 250,000 of moi per year using cages. Once the technology is developed, 250,000 opakapaka juveniles could be produced in one season, as well.

The egg production is phenomenal in these fish. Their spawning has been monitored every year for the last three years. Each female is estimated to produce 31 spawns, which is about the frequency of reef fish.

Morioka said he had visited the research facility, and it was noted that the initial growth spurt was pretty significant.

Kelley agreed that it was before they start putting resources into reproduction. Kelley also mentioned a request for funding additional multi-beam mapping to finish mapping Oahu, as well as Niihau and Lehua Rock this year. That would leave only the Big Island. Already half of the Big Island has been done in multi-beam. If planning and the funding is continued, virtually the entire Main Hawaiian Islands could be mapped by the next two years.

Morioka asked Ikehara whether, given the information that has been collected already, the State is starting to look at area closures, etc., as part of the efforts to manage bottomfish stocks.

Ikehara said he has been prompting Kelley to get his information together to present to the working group to evaluate.

Kelley said he is working fulltime to complete this. He hoped to have materials for the whole Maui County area in the next week or so. He said part of the problem is he started this in Arcview 3.1 and didn't make the leap to the later versions of ARC-GIS. Now he is getting much better results. But he has to relearn how to do everything in ARC-GIS, and that's what is holding some things up.

Ikehara said the State was supposed to evaluate its RFAs last year, but it has been waiting on this data to come in so the working group can work on it. Ikehara said the other thing is new data keep coming in. For example, the Maui Nui stuff is very new, like within the last six months or so.

Morioka asked Kelley if he could advise the Council, perhaps at its next meeting, as to what is needed to help him ensure that the eggs not only get hatched, but also make it through the first critical period.

Kelley said he is working with Randy Cates at Cates International to put a cage down on his site that has brood stock opakapaka in there, off of Ewa. They already have a permit already to do that. He said they are interested in solving problems with egg collection out of the submerged cage, as well as seeing whether it might be appropriate for holding onaga because it will be down at about 130 feet, which isn't near their depth, but it is certainly better than the surface. As far as figuring out the feeding requirements, they just hired a copepod expert from the Waikiki Aquarium. They have very high hopes for this year because the area they need to work on is copepods for the initial feeding of these larvae. They've identified copepod species that they will feed on, but the ones they'll feed on, we haven't been able to produce in quantities to keep all the larvae alive that they'd like. Kelley discussed some other initiatives. He said they're making progress and he would not be surprised if they would be set to do their first releases next year. In fact, they're going to try to get some of those 165 out and tagged this year as a pilot to see how well they take the tags, etc.

Duenas said, in Guam, normally when fishermen are fishing deep, the larger size fish get caught first because they're the most aggressive. The opakapaka, when they are cleaned, show signs of baby and juvenile onaga in their system. Onaga landed appear to be mainly lobster and shrimp eaters. Then the juvenile, under 5-pound category, are only found in certain areas. They're never found in the other areas where the larger adults migrate or congregate.

Kelley said they found on the submersible dives that the juveniles of the onaga, gindae and ehu will settle out at least in the 4- to 5-inch size. They will be present on adult habitats in the rocky areas. The opakapaka seem to be the really strange ones because the juveniles, as NMFS demonstrated over a number of years, are found in wastelands for some unknown reason. But the onaga do look like they have discreet sort of nursery areas, very close to the adult areas, and Moffitt identified an area on his project off of Oahu that is clearly a nursery area.

Ebisui asked whether the size distribution and lack of large fish was uniform across the management unit species or was this specific to onaga or specific to only certain species. For example, was there a lack of large hapupu, large paka, large onaga?

Kelley said sizes on the ehu in Kahoolawe were as big or bigger as any of the other sites. The onaga were clearly smaller in Kahoolawe. There were only a few hapupu at Kahoolawe. There were plenty of rocks and some ledges. In the Northwestern Hawaiian Islands dives, the hapupu don't appear at first. Then they'll come in and they are just these huge fish.

Ebisui said he asked because it's been his experience that when you fish an area that hasn't been fished for a while, you are going to take the big animals first. They seem to be more aggressive, especially the onaga. I mean, if you can separate them from the ehu, which will remain close to the bottom, you can fish onaga higher up and take out the large onagas first. Then they get progressively smaller. So there could be fishing going on.

Kelley said that is possible. One of the reasons the two study sites were chosen was because they appeared to be areas where there would be minimal poaching. There is fishing gear down there, but it all looked old.

Ikehara said more fishing gear was found on the north and west site above Kahoolawe. He also responded to Duenas's observations about baby onaga were being eaten by opakapaka. In the Northwestern Hawaiian surveys, millions of small pink fish were observed that might appear to be baby onaga. They occur in the main Hawaiian Islands in abundance also. Some of the baby onaga that were collected from the opakapaka or some other fish were identified as weke, which doesn't get large. The probability is it's probably that. Fishermen have commonly mentioned about other fish eating these baby onaga, but it's more likely this small fish.

E. Preliminary CNMI Bottomfish Management Options

Jack Ogomuro presented the CNMI bottomfish management options. He began by describing the CNMI as 14 islands or actually 13 when it is high tide. The islands form a chain stretching from north to south direction with Rota, at the southern end of the chain. The distance from Rota to Uracas is about 375 miles, and the islands north of Saipan are called the Northern Islands. The total land area of CNMI is about 181 square miles. Most of the 69,000 people reside on the Island of Saipan, Tinian and Rota, and a population of people sparsely distributed on the Islands of Pagan and Alamagan. The EEZ around the CNMI is about 300,000 square miles. There are about 36 banks and seamounts, the majority of which are probably located within 20 to 30 miles from land.

There is a growing interest to regulate the federal waters around CNMI. The concern driving this interest is the passage of the Guam amendment, which prohibits vessels over 50 feet long to fish within 50 nautical miles from the Island of Guam. There are currently vessels in the CNMI that are over 50 feet, and these together with whatever vessels that might be displaced to the CNMI could result in increased bottomfish activity in the waters around CNMI.

The CNMI bottomfish fishery occurs primarily around the banks on Rota. They involve small vessels, less than 30 feet. They go out for a single day or overnight before they come to port. They target shallow and deepwater species. Most of the fishermen are subsistence, recreational and small-scale commercial and mainly fish around the populated islands of Saipan, Tinian and Rota.

There are three primary concerns regarding the current CNMI bottomfish fishery. There has been no stock assessment done, although between 1982 and 1985 there was a study done by RAIOMA. There are also gaps in the data collection program. The creel surveys for vessels over 50 feet are no longer being done. Both the creel survey and the sales ticket receipt program are voluntary.

The fishermen on Saipan, Tinian and Rota want to participate in this fishery.

The objectives for the Bottomfish Management FMP are to ensure adequate information is routinely collected on the bottomfish fishery in the EEZ waters around

CNMI; maintain opportunities for small-scale commercial, recreational and subsistence bottomfish fishermen; provide for sustained community participation in the CNMI bottomfish fishery; and encourage consistent availability of fresh deepwater bottomfish products to the CNMI consumers. Initially the options considered included logbooks, sales reporting, trip catch limits, vessel size limits, gear restrictions, closed areas, limited access, VMS, and so on. The initial options that have been developed are as follows:

- Option 1: no action. There would be no federal requirement through the Bottomfish FMP. The local agency would be relied on to modify the fishery information system to capture the necessary information.
- Option 2: federal permits and reporting. Federal reporting for all vessels targeting bottomfish in CNMI would be required, with hopes that it would improve the catch and effort information for all fishing sectors.
- Option 3: mandatory reporting of fish sales. Like the earlier option, it would improve the quality of data from the commercial bottomfish fishery. Subsistence or recreational catch information would not be collected through this program.
- Option 4: vessel monitoring system. All vessels would be required to be a equipped with a VMS system. This requirement would be helpful if there were a closed area for the CNMI.
- Option 5: vessel size limit. Limiting vessel size could present fishing opportunities for traditional small-scale vessels. However, vessel size limits would impact the range of the fleet by indirectly controlling fuel and ice capacity, thus focusing fishing effort near the populated southern islands.
- Option 6: fishing gear limits. Limits on fishing gear, reels, number of hooks and similar intent would directly impact fishing power and may discourage participation of large vessels in the fishery. Limits on gear could hinder the potential for growth of fishing capacity in the fishery as a whole.
- Option 7: area closure. Closing areas for large vessels is similar to the Guam program. CNMI now has six large vessels over 50 feet. There is the possibility that more will be coming in this year that are operating in the Northern Islands for several years now. If closed areas cannot be used, consideration must be given to the historical participation and fishing grounds history.
- Options 8: limited access. This option would limit access, cap harvest capacity, fishing effort and fishermen participation. Access to the fishery could be granted based on historical participation and other criteria, but there is no long-term accurate record of past participation in the CNMI bottomfish fishery.

In June of last year the Council voted on the Guam amendment and at the same time recommended that scoping occur in CNMI. In September of last year, scoping meetings were held on Saipan, Tinian and Rota. Sablan chaired the meetings, and he and

Seman conducted the meetings. In October of the same year, the Council reviewed comments. Today, March of this year, we reveal the preliminary options. Where are we going to go from here?

Alohalani Boido asked whether the six large vessels are longline vessels.

Ogomuro answered that question and others. He said three of them are. One is licensed for longline but has not been doing any longline fishing yet. CNMI citizen and a combination of joint ventures own the vessels. The crew is local. By comparison, locals own most of the identified smaller vessels. There are about 15 bottomfish vessels that are small, and six that are larger than 50 feet. He said the total number of fishermen involved on these boats is probably about four or five.

Sablan said the next action would be for he, Seman and the Advisory Panel from CNMI, including Tinian and Rota, to come together to act some more on these options and suggestions and then hopefully report back to the Council in June.

Ebisui said his understanding is that the Council chair will take that up at the end of the action items on the bottomfish committee report.

F. SSC Recommendations

Severance said the SSC has a comment and two recommendations.

- The SSC appreciated the final report summary on the HURL bottomfish survey on the Kahoolawe Island Reserve. In addition to using resulting species and size composition benchmarks for comparing against the State of Hawaii Bottomfish RFAs, the SSC suggested that these benchmarks would be useful also in the context of ecosystem analysis.
- The SSC encourages HDAR to examine the opakapaka tagging data using available tag and release-recapture analytical procedures and recommends that HDAR continue advertising the program and provide rewards for return of tagged opakapaka. (Severance noted that HDAR has recovered one tag from an approximately 10-year-old fish in the last year, even though they stopped tagging some time ago. There may be a few more out there and that could be useful information.)
- The SSC concurs with the report of the Bottomfish Stock Assessment Workshop and its recommendations and strongly encourages the Council and NOAA Fisheries to provide support to achieve the objectives of the workshop. The SSC suggests that a research program modeled after the Pelagic Fisheries Research Program be established to support both bottomfish and coral reef fisheries research. Combining deep-slope and coral reef research in an insular fisheries research program could facilitate understanding of ecosystem linkages.

G, H & I Standing Committee Recommendations, Public Comment and Council Discussion and Action

Ebisui reported that the Standing Committee met on Monday, March 22. The committee received the reports on the Seamount Groundfish Moratorium, the Bottomfish Stock Assessment Workshop and the preliminary CNMI bottomfish management options. The committee also received and considered the SSC report and recommendations.

The first recommendation from the Standing Committee is from the SSC's recommendation which the committee endorses and is requesting the Council to adopt, and that is that **“the Council encourages HDAR to examine the opakapaka tagging data using available tag and release-recapture analytical procedures and recommends that HDAR continue advertising the program and providing rewards for return of tagged opakapaka.”** Ebisui said that's so moved.

Farm seconded the motion.

Morioka asked discussion and then for public comment. Hearing none, he asked for the vote. The Council carried the motion unanimously.

Ebisui said the second recommendation is from the SSC recommendation, and in this regard the Council expresses its appreciation with respect to the final HURL report summary. **In addition to using the resulting species and size composition benchmark for comparing against the State of Hawaii's Bottomfish RFAs, it suggests that these benchmarks would be useful also in the context of ecosystem analysis.** Ebisui so move.

Seman seconded the motion.

Morioka asked discussion and then for public comment. Hearing none, he asked for the vote. The Council carried the motion unanimously.

Ebisui said the third recommendation is from the standing committee report. **The Council expresses concurrence with the report of the Bottomfish Stock Assessment Workshop and its recommendations and strongly encourages NOAA Fisheries to provide the support to achieve the objectives of the workshop. The Council suggests that a research program modeled after the Pelagics Fisheries Research Program be established to support both bottomfish and coral reef fisheries research. Combining deep-slope and coral reef research in an insular fisheries research program could facilitate understanding of ecosystem linkages.** Ebisui so moved.

Morioka asked Ebisui to take the whole thing.

Ebisui agreed and said that **the Council direct staff to provide fishermen adequate assurances that their data will remain confidential and establish confidentiality criteria for dissemination for fishery data collected. The Council also directs staff to estimate costs to complete recommendations as proposed by the stock assessment workshop expert panel.** Ebisui so moved.

Lau seconded the motion.

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Ebisui moved that **the Council requests that NMFS extend the Hancock Seamount Groundfish Moratorium for another six years while staff continues to develop an amendment to put in place more permanent management action.**

Farm seconded the motion.

Morioka asked for discussion.

Feder pointed out that this will require proposed and final rulemaking NMFS, to extend the moratorium for another six years.

Simonds said there is time for that, there's just not time for the amendment.

Feder said this is not really simple; it's going to go on for several months.

Morioka asked for further discussion. Hearing none, he called for the vote. The motion carried unanimously.

Sablan put forward the motion for **the Council to direct staff to analyze the following range of management alternatives for the CNMI bottomfish fishery, this includes a) evaluation of impacts of different sized area closures, including 25 and 50 miles; b) evaluation of impacts of area closures around Saipan, Rota, Tinian versus closures in the Northern Islands; c) evaluation of the impacts of vessel size limits from 30 to 50 feet, including no vessel size limits; d) evaluation of the present creel survey for collecting CNMI bottomfish data versus the implementation of a federal logbook program for all bottomfish fishing in the Mariana Islands; e) evaluation of implementation of mandatory bottomfish sales transactions, reporting by bottomfish dealers. At present, condition of the bottomfish sales form is conducted on a voluntary basis; f) evaluation of implementation of a VMS program onboard bottomfish vessels operating in the CNMI; g) evaluation of the implementation of a limit on fishing gear; example, reels, hooks, on bottomfish vessel operating in the CNMI; and h) evaluation of the implementation of a limited access program for bottomfish vessels operating in the CNMI.**

Seman seconded the motion.

Morioka asked for discussion.

There was a question whether item d), federal logbook program for all bottomfishing in the Marianas Islands, included Guam or was just specifically addressing the CNMI.

Sablan said CNMI.

Morioka asked that the correction be made. He asked for further discussion? Hearing none, he opened the floor for public comments.

Morioka called on Congressman Arnold Palacios.

Palacios commended the Council for its effort to put some management plan in for the Northern Mariana Islands. He believed that given the people wanted to see the resources managed. He said he believed this is the first fishery plan that the Council has attempted to put on the books. He commended Sablan and Seman for taking the scoping meetings to the people. He heard they were very successful and well attended. He said that, as the evaluation process begins to what type of management regime to put in place, he wanted to offer his assistance and that of his office, in the effort when the series of meetings begin.

Morioka thanked the Congressman for his many years of support and participation in the Council's efforts. Morioka also applauded the Council members from the CNMI on their efforts and contributions.

Morioka then asked for the vote. The motion was carried unanimously.

Morioka then called for a lunch break.

(Lunch break taken)

IV. PROGRAM PLANNING

A. Regulatory Streamlining

Katekaru briefly reviewed the Regulatory Streamlining project of NOAA Fisheries, noting that he had introduced the project to the Council at the 118th Council meeting. The project is not unique to the Western Pacific Region. A couple of years ago Congress told NOAA Fisheries to address the problems it was having implementing FMPs and regulations on time, etc. So in April of 2002 NMFS reported to Congress that he was coming up with this program called regulatory streamlining. The whole intent was to improve the quality of fisheries regulations and timeliness, so they're able to withstand legal challenge and improve the confidence in the fishery management process. The agency came up with seven projects, basically. Most of them have been implemented. Katekaru said he would go through them quickly.

The first one was to hire NEPA coordinator for each region. The second was to emphasize frontloading related to the NEPA process. Because it turns out that NEPA is being treated as the umbrella of the fishery management action process. The third was to revise our operational guidelines. It is a document that has been used since the Magnuson Act days and is outdated. These guidelines are being updated. Katekaru said there are a couple other things he is not too familiar with, status of national training program with NEPA and addressing science issues. He said those are probably being done at

Headquarters. There is something about the delegation of authority to region. The regional administrators have been delegated authority in terms of BiOps and not before too long the regional administrator will have the delegatory authority to clear NEPA documents. So as part of the regulatory project, these were the kinds of projects NOAA Fisheries had indicated to Congress that it would be undertaking. This is in a report sent to Congress in 2002.

One of these projects has to do with revising the operational guidelines. We have been working on it since last year. At our last meeting in February of this year we had a chance to look at it again and come up with what we call a Final Strawman. Headquarters held orientation meetings with the staffs of all the Regional Councils, at which time they got a first chance to look at the Strawman.

Hamilton reviewed the Strawman Operational Guidelines. She said she, Carla Gore and Kingma recently went to Seattle for a meeting with Jack Dunnigan, from Headquarters, Sustainable Fisheries, some of his staff and folks from the three Pacific Coast councils to talk about the ideas in the document and what it would mean and what the implications are.

Marcia said she would start off with the idea about the NEPA umbrella. She said it is not entirely clear what is meant by the term, but one reason it is being used is the NEPA timelines are longer than any other timelines. So actions have to be extended to fit within the NEPA timelines.

There is no specific timetable for implementation of these operational guidelines, but there is pressure to move things along. The next decision point will be at the Council and Simond's meeting in April on Kauai. Dunnigan will be there to review these topics and get input from the Council Chairs and Executive Directors. Dunnigan said that following that meeting there will be kind of a decision point. They could implement these guidelines, they could start over or they could do something in between. He mentioned that we are still lacking in the financial and human resources to carry it out effectively. Dunnigan also highlighted that this is just a Strawman. It's not a final version that has been reviewed by Headquarters. It's kind of a talking paper.

The goal of regulatory streamlining is to move things more quickly, that all the issues have been discussed and resolved before things are transmitted to headquarters. One important point, the document does state that if Council chooses not to follow these procedures they can still move their actions and documents along. They can still be transmitted to Headquarters. It's just that they may not be implemented in an expedited fashion that would be more achievable if they had gone through this process.

The highlight of the processes is three regulatory critical control points (RCCP). The idea is that NMFS and Headquarters and the attorneys don't need to see this thing everyday. They just want to see it periodically before certain actions take place. Most of these actions are related to Council decisions. The first RCCP is when a preferred alternative is selected. The second is when that alternative is revised. The third is when the Council takes final action. What this document would have the Council do is before

each of those steps, it would need to get an advisory statement signed by the regional attorney and the RA. The process would be that to send the documents prior to Council meeting, they would review them and say that they are legally sufficient, i.e., is there adequate information for decision-making, are there issues that need to be discussed in more detail, other viewpoints that haven't been discussed, underlying issues that haven't been brought out. So at these three points, the regional attorney and the RA could sign off and say, yes, Council, these documents are legally sufficient, you may go forward. The Council could go forward either way, but when the document got to Headquarters with unresolved issues, processing may be slowed down.

Another issue is that under these guidelines, at the beginning of each Council action, an action plan would be prepared by Council staff, NMFS and perhaps someone from Headquarters. This action plan would outline who would do what and in what time frame between beginning action and implementing that action, so the parties would work together and would have a clear understanding of each others roles and responsibility. For example, it would contain details on getting the advisory statement signed, e.g., how many days prior would Feder need to read the documents so that he can have enough time to review it and sign it before the Council meeting.

Hamilton added that these action plans might be a good way to work with the Pacific Islands Regional Office on the SEIS that Krasnick discussed yesterday, where he did scoping and they looked at a number of different issues, ranging from seabirds to squid, to PFADs, and try to figure out what issues do we want analyzed in that document. The last timeline we saw for that document, it would be completed in 2006. Does that mean we meet the Council's needs, for example, to take action on seabird mitigation, marine mammal measures to reduce marine mammal interactions. So one possibility is that we could work with the Pacific Islands Regional Office to put together an action plan, not to be confused with a process plan, to map out how that would work, what would be done before each Council meeting and when would the Council be able to take final action.

B. Ecosystem-based Management on an Archipelagic Basis

Jarad Makaiau briefly described the archipelagic ecosystem-based fishery management plan and the conceptual framework being considered to implement ecosystem-based management principles into the Western Pacific Region's fisheries.

As background, Makaiau mentioned that NMFS had established an Ecosystem Principles Advisory Panel to develop ecosystem goals and policies for US fisheries. They recommended that Councils incorporate the goals and objectives they came up with by developing what is known as fishery ecosystem plans. The Council, in response to this initiative that started well before 1999, incorporated these principles into the Coral Reef Fishery Ecosystem FMP for the Western Pacific Region, which is being implemented today. While the Council was developing that plan, it couldn't put forward all of those recommendations, recognizing that this Coral Reef Ecosystem FMP would be the first step in how the Council intended to move forward. Basically the Coral Reef Ecosystem FMP is a document that provides comprehensive information on not just the biological

characteristics of an ecosystem, but also may be able to provide social, economics, cultural, political characteristics of an area so that management decision-makers can have a full breadth of information available to them on how such a plan may effect the total environment. Man is included in our definition of ecosystem.

What the Council is proposing to do is for each archipelagic ecosystem in its Region to combine all the existing single-species management plans (Bottomfish, Coral Reef, Crustaceans, Precious Corals) into one FMP. This would facilitate further implementation of the ecosystem-based approaches and also provide an opportunity for bringing more collaboration and partnerships with other agencies because it recognizes that an ecosystem is not just the marine environment but also includes the terrestrial effects. So this might be an opportunity to bring regulatory agencies that have jurisdiction over terrestrial resources into the development of the ecosystem-based plan.

Concerns have been raised because the Magnuson provides the Council with the authority to manage federal waters. The states and territories have jurisdiction over their waters and, again, other agencies have jurisdiction over terrestrial activities. To be an ecosystem-based plan, much more collaboration is needed from these various agencies.

Makaiau provided a conceptual illustration for consideration. One Archipelago FMP could be made for the whole entire Main Hawaiian Islands, including Johnston Atoll, where there is biological information of mixing of both coral reef species and crustacean species and bottomfish species. The Council might consider managing this area as an archipelago or region-based plan. American Samoa may want to try to collaborate with the government of neighboring Samoa for an ecosystem-based plan in the entire area. The third area is Northern Marianas and Guam, which is the Marianas Archipelago. Lastly, the remote island areas are each a unique biological, geophysical region. So for the purposes of making a fishery ecosystem plan we might want to just consider a Pacific Remote Island Areas FMP.

Cruz asked for comments and/or questions from the Council members and from the public. None were heard.

C. Programmatic EIS

Kingma reviewed the programmatic EIS for ecosystem-based fishery management in the Western Pacific Region. He said NEPA requires an EIS for every major federal action that may significantly affect the quality of the human environment. Kingma said he referred to CEQ regulations and NOAA guidance. Probably the most significant advantage of conducting a Programmatic EIS is the concept of tiering, which is an option when it is likely more than one NEPA document will be needed to implement the programmatic plan. The objective of that is to avoid duplication and streamlining the process.

Kingma reviewed some disadvantages of Programmatic EIS, including timing issues (a Programmatic EIS are not good for fast-tracking issues or for issues that are need to be dealt with quickly due to litigation); potential costs; and the lack of details in

CEQ regulations regarding this type of EIS (alternatives and scope are not described, and it's often left up to the courts' discretion to provide the guidance on what should or should have been analyzed in the Programmatic EIS if it is taken to that level). In addition, scoping could be deferred or lost when conducting a Programmatic EIS because it might not be right for being analyzed. Also, there are concerns over longevity and validity.

Kingma concluded by saying that his initial research indicates that Programmatic EIS is adequate and appropriate for the Council's ecosystem-based archipelagic initiative. The concept of tiering would be particularly beneficial.

Potential next steps would include more discussion and planning and direction from the Council, preparation of a preliminary action or process plan, acquire funding, RFP for a contractor, and develop a process schedule.

Morioka told Kingma that it would be beneficial for the Council if he would provide an understanding of timelines of a Programmatic EIS route versus the other options. He urged Kingma to continue and also to address efficiency and cost effectiveness.

Hamilton said Morioka comments are similar to what was discussed earlier about the Pacific Island Regional Office EIS, i.e., thinking ahead about timelines.

Simonds asked Hamilton whether the Council should set up a meeting with the appropriate people from the different agencies to review the first EIS that Krasnick has been working on first and then do the same thing with the Programmatic EIS.

Hamilton said that would be productive before committing to any certain plan of action.

D. Legislation

Simonds began with HR 2673, which is the 2004 appropriations. She said one of the problems with 2004 appropriations is Congress changed the way they have been budgeting, perhaps because Adm. Lautenbacher has made changes in the way he's doing business over at NOAA and presented to the Congress his vision of something called matrix management. Under this matrix management, coral reef and MPAs were assigned to NOS and ecosystems was assigned to NMFS. So Congress took the money that in previous years that was divided for coral reef between NMFS and NOS and put all of the money, \$23 million, into the NOS budget and there's no money in the NMFS budget for coral reefs.

There is money in the 2004 budget for ecosystem planning, but only for the Atlantic. There's no money in the 2004 budget for ecosystem planning for the Pacific Ocean. So at the Council Chairman's meeting, which is going to take place during the Congressional recess, there will be a discussion on this. Congressman Gilchrest is going to be there, as well as Sen. Inouye and members of the staff of both House and Senate.

Simonds said there are other pieces of legislation, but the only other one she would bring to the Council's attention is the one having to do with turtles. There was a bill introduced by Sen. Jeffords of Vermont last year to assist in the conservation of marine turtles and the nesting habitat for marine turtles in foreign countries. One problem is that all of these monies, whatever they turn out to be, would go to the Department of Interior. Simonds thought that there should be some sharing since most of the work, at least the nesting beach work that deals with fishing, has really been done by Commerce. Both departments should be involved in receiving some funds. This is an authorizing bill. It isn't an appropriations bill yet. It has to be authorized first.

Simonds said there were a couple pieces of Hawaii legislation, which she believed had been reviewed, including the NWHI bill.

E. Pacific Island Region Strategic Planning

Simonds said Pacific Island Regional Office, the Council and the Pacific Island Fishery Science Center developed the strategic plan. The document is open for comments until May 1. The plan is to finalize the large document by June 1.

Pooley encouraged everyone to provide comments on the plan.

G. Council Chair's and Executive Directors' Meeting

Morioka said the Council Chair and Executive Directors meeting will be held on Kauai, April 13-15. The chair, executive director and the vice chairs from the respective island areas would represent this Council.

Morioka said he'd appreciate all Council members support of this endeavor and the Council's hosting of a reception for these individuals. He said the Council members should have received a copy of the agenda in their mailboxes and would receive a comprehensive report.

Simonds noted that many people are coming to this Council Chair's meeting from the Mainland. She said the Council put some provocative items on the agenda items, especially ecosystems and MPAs in keeping with the Admiral's matrix management, so a lot of NOS people are coming. The draw happens to be the Congressman and the Senator, as well. In conjunction with this, Senators Stevens and Inouye will be taking over the Commerce Committee on January 1 because Sen. Hollings is retiring and Stevens is giving up appropriations. So it should be a very exciting time for us, and all the Councils have been asked by the two senators to provide them with whatever it is we think the Councils need to manage the fishery in the future.

Mathers pointed out that Rear Adm. Beltz, the Assistant Commandant for Operations, will be coming out, as well as Cmdr. John Davis, the Chief of Fisheries Enforcement for the Coast Guard, and possibly others.

F. Programmatic Grants Report

Simonds referred the Council to two documents in their briefing books. These two documents review all of our program activities for the different cooperative agreements that the Council has. In addition to the Council's administrative agreement, it also has ones for coral reefs, for turtles, for NEPA, for EIS, for some West Pac FIN activities and for indigenous-related program.

H. Status of Hawaii \$5 Million Disaster Funds for Federal Fisheries

Lau briefly noted that \$5 million was given to the state government for economic assistance for fisheries affected by federal closures or fishery restrictions. The Fishery Assistance Program received \$1.6 million. This will include some direct assistance, i.e., relief to Hawaii permit holders, purchase of permits from fishermen who have been required to or who intend to leave a fishery permanently as a result of the federal closures and fishing restrictions. The Fishery Grant Program was allocated \$2.5 million for cooperative research and development projects (\$1.5 million) and industry-sponsored projects (\$1 million). The third category is DLNR Fisheries Assistance Project. This is to the department, \$570,000. We are also planning to hire three staff people to staff the administration of this program, that's \$230,000. He said they would keep in mind to look at the lobster tagging and recapture program up in the Northwestern Hawaiian Islands.

Morioka asked if there were a mechanism to involve the Council and most importantly the fishermen in the advancement of these programs.

Lau said consultation of the industry, the Council and the fishermen themselves is an integral part.

Ikehara said the parts of the program, primarily B and C, would involve an advisory committee called a Proposal Plan Committee composed of people from the Council, the Fishery Center, the industry and other appropriate persons to help the State make sure that, number one, the guidelines set for the fund are met and are actually benefiting the industry and fulfilling the guidelines established in that proposal. So there is an attempt to definitely involve industry and Council and all affected parties.

Ikehara provided a brief overview of the three positions. The coordinator position is the only exempt position. The other two are temporary positions. He discussed the procedures for advertising the positions, etc.

In response to a question from Morioka, Ikehara said the targeted implementation date is to have some people on board by the beginning of the year. But there had been the usual delays in trying to get approval. They are hoping to have at least the coordinator position filled probably within the next month or so.

When asked by Simonds, Ikehara said that a first committee meeting could take place in early summer.

The intent was for this to a two-year project. There was a late start on that. They hope to get a no-cost extension at the end of that period.

I. Annual Reports

Simonds said that some of the FMPS require that the Council produce annual reports of the fisheries at the end of the six months following the year. The Council has had problems over the last several years in producing these reports on time. Sometimes it is a year or so later. So the Council produced a timeline for all the agencies, at least for the pelagic and bottomfish reports. A similar one will be done for coral reefs. The heads of all the agencies that produce reports or modules for the annual reports are asked to complete their part by these particular dates, so that this annual report can get out. We have the scientists and the advisors review it before they make recommendations to the Council. So it really is very important report and we should use it the way it should be used.

J. Federal Fishery Data Collection

Makaiau summarized the activities, initiatives and updates on the Federal Fishery Data Collection. He reminded the Council that at its 115th meeting, it had reviewed the data collection programs that are being used in the Western Pacific Region. Out of that, the Council identified gaps in the programs that are needed to adequately assess the status and condition of the fish stocks in each island area. Through that review the Council recommended that data programs, data collection programs, be tailored specifically to meet the needs of each island area. So for carrying on with that information, for filling the information gaps, the Bottomfish Stock Assessment Workshop and the Coral Reef Stock Assessment Workshop were held and various recommendations by the Council came out of that.

Also, we heard about the Guam Voluntary Data Collection Program. The Council took action on that with regards to bottomfish fisheries. So we're trying to develop these programs that would fill information gaps. The independent review by the Bottomfish and Coral Reef Stock Assessment Workshop outlined sort of specific activities that we need to do. So various recommendations were already made by the Council, specifically bottomfish and also coral reef ecosystems.

Another addition in terms of new initiatives is the implementation of the Coral Reef Ecosystem FMP and its permit and reporting requirements. The information that came out of the Fisheries Forum and what we need to do to get the information out to fishermen that there is a new fishery management plan, in terms of possibly developing a compliance guideline. Although, federal fishing for coral reef management unit species (MUS) is very minimal at this time, we still should get that information to potential fishermen through a compliance guideline.

K. WPacFIN

Dave Hamm provided a quick update on a few of the WPacFin activities. Last December we had the DS Workshop Number 2, document imaging and archival system

workshop from December 1-5 in our office. All the islanders came out and were able to participate. Then in January we had a DS3 workshop what was geared towards the administrative staffs of the Pacific Fisheries Science Center, the Council and the Pacific Islands Regional Office for their archiving purposes.

Hamm said the WPacFIN website has a new look and quite a bit more information. Automated systems are in place that update to the most current data quickly. Some interesting new features include an aerial tour of Guam and a drive around the island of Tutuila. There is a lot of fishery statistics as well.

He said Headquarters has determined that all of the Science Centers are going to have one or two websites. So the address for the WPacFIN website will be changing. It's going to come under the Pacific Islands Fishery Science Center website. That will be sometime in the next few months.

Hamm reviewed some of the biggest design and programming jobs that we have underway. There will be a meeting next week to try to resolve the problem with the protocols and new algorithms for processing Hawaii State data. They changed the forms in October 2002 so that most of the forms no longer collect sales information in the State of Hawaii. This creates problems for producing some of the basic fishery statistics that we have to produce by fishery. The good news is we have the dealer reporting system that was implemented in the late 1990s that now has grown up to provide very good statistics. Although data from all dealers are not coming in, it already has more fish being sold than the fishermen reporting system has being caught. So we have this problem of how do you sell more than you catch that needs to be resolved because we do have to come up with the best available statistics. When dealers buy fish, that information is in there for the species ID, the pounds, number of pieces, value of the stuff. What is not in there, except in Guam, is how the fish were caught, what method was used, what fishery was used. We are required to put out fishery-specific statistics. So to integrate the fishermen forms and the dealer data, we need to decide what algorithms need to be developed and how we are going to do that.

Another of the big designing programming systems we have going on is modifying the almost finished modifying the HDAR fishermen reporting to integrate with their new online Internet-based licensing system. That took some significant reprogramming of their existing systems. We are working on having some good progress in the outer island areas and are planning to, for HDAR, automating the plan team reporting process. So that the amount of work that it takes to produce these annual modules will reduce from weeks to minutes in producing the document. Then scientists just have to look at the document, look at the new graphs and tables and interpret and be able to possibly produce a document in a day or so, instead of the previous time. Then the biggest delay will be getting the data in on time and improving data quality on some issues.

Another major automation of reporting process, WPacFIN and our other division that I am currently acting chief of (the Fishery Monitoring and Socioeconomics Division) produce fisheries of the United States, Our Living Ocean, Our Living Economic Ocean,

the SCTB report, for that standing committee, and our own fishery statistics for the Western Pacific, plus lots of other ad hoc and things for the Council. We're trying to codify, once we resolve all the issues around the State of Hawaii processing, we are going to be automating those reporting processes, as well. So producing those reports will be far less cumbersome than they have been in the past.

We've made support trips to American Samoa and to Guam in February and March. We will be going back to American Samoa in a couple of weeks to try to finish up some work there. Two of the major new design issues that we have going on in the islands are dealing with implementing or reimplementing inshore creel surveys both in American Samoa and CNMI. Guam has one already. There are some funds available, but we will be helping both of those agencies with their new programs, and that will be primarily in support of the Coral Reef Ecosystem FMP.

Hamm concluded by discussing the budget. This year has not been the slickest that NOAA ever did, as far as getting its budget resolved and out. WPacFIN still does not know what the total budget is. We think as of about a month ago what it should be. We have not had a meeting of the FDCC. We had to as quickly and easily as possible, via emails and faxes, tried to resolve a shortage and make our allocations. I have been working with the PIRO office, Scott Bloom, the FPO, Federal Program Officers, and with each of the offices to try to resolve that.

Not knowing how much money we had promised, we were mandated to go to multi-year agreements this year. Significant rewriting of the proposals has taken some extra work.

L. SSC Recommendations

Severance said the SSC recommendations we're covered under Ecosystems and Habitat.

M. Standing Committee Recommendations

Cruz said there was no discussion. Members were encouraged to read all the documents and be ready for detailed discussion later.

There was one Standing Committee recommendation. **The committee recommends to the Council, directs Council staff to begin the process of developing alternatives to commence the drafting of an archipelagic fishery management plan.** Cruz so moved.

McCoy seconded the motion.

Morioka asked for discussion from Council members. Hearing none, he called for the question. The motion passed unanimously.

N. Public Comment

Linda Paul of the Hawaii Audubon made a couple of comments. For the record, she noted a correction was in order on document 14.D.1, about the fourth page of the Hawaii State legislature report. She said it characterized House Bill 2056, which is the Community-based Marine Comanagement Bill, as mandating that all fishing be banned and severely limiting public participation. This bill did the exact opposite. It encouraged public participation, and it did not ban fishing throughout the Hawaiian Island where it specifically says that all fishing was not banned. It didn't mandate much of anything. It encouraged the DLRN to support community-based management initiatives where appropriate. Paul said she would hope that this Council in the future would be as supportive of community-based management initiatives in Hawaii as they have been elsewhere in the Pacific. These initiatives have been very successful in Fiji and the Cook Islands.

The other comment she made had to do with Morioka's supplemental testimony to the House regarding the NWHI Bill. Basically, he made the point of saying that fishing vessels don't contribute or do not pose much of a threat to the Northwestern Hawaiian Islands because they don't carry ballast water. Eighty percent of invasive species that are established in marine ecosystems by vessels are there because they came from hull-fouling practices. And fishing vessels, as well as any other fishing vessel, has the capacity to pass hull-fouling organisms around the state.

The State currently has over 350 invasive marine aquatic organisms. They are being passed around in the main Hawaiian Islands right now by interisland barge traffic. They are in every harbor. Every fishing vessel or every government vessel that goes up into the Northwestern Hawaiian Islands probably has some of these critters attached to their hull in every crack and crevice available. So it is a real threat to the ecosystems of the Northwestern Hawaiian Islands. Paul said she hoped the Council would recognize that threat in its management actions in the future.

Simonds said if the Council staff had mischaracterized the bill, they apologize, and she will speak to the writer of the report.

O. Council Discussion and Action

Morioka directed the Council's attention to the Program Planning Draft Action Memorandum.

Simonds said that McCoy at several meetings had talked about printing the logbook forms for the American Samoa-based longline fleet using Samoan fish names. The Council had never taken action on that so it thought we should clean up the record and include this at this point. With regards to the others, we just talked about them earlier, on the kinds of things we should be doing with the regulatory streamlining project and the EIS, including the Programmatic EIS. So these all support those items that you all discussed earlier, and had discussion about.

Morioka asked if there was a motion to approve this draft action memorandum.

The motion was moved and seconded. Morioka asked for discussion.

Pooley said he would abstain on sub-item 3 since we are evidently complaining against our own agency.

Morioka noted that the PIRO Acting Director would abstain from Number 3 in this list of seven items. He asked for further discussion and then for the vote. The motion passed unanimously with the abstention on Item 3 for the PIRO Acting Director.

XV. ADMINISTRATIVE MATTERS

A and B. Financial and Administrative Reports

Simonds referred Council members to two briefing book documents that go together. They are confidential financial reports summarizing the total budget request, the total expenditures and what the current balance is to date. Most of these coincide with the cooperative agreements that discussed during Agenda Item 14. In terms of the '04 budget that we have received, \$100,000 of that budget is for strategic planning expenses having to do with the strategic plan you see before you, and these are for expenses, some of them last year and some of them this year. The other thing is we didn't get our total allocation because Congress didn't complete the budget and we needed to have some of our money to start January 1. So we still have to make a request for another \$51,000, which is our allocation of the total \$15 million dollars that was allocated to the Councils, of which NMFS took a small cut this year.

Pooley noted that the regional office did not.

Simonds added that the Council had not received its monies on time. That has been a big problem for many reasons, from the bottom to all the way to the top. So we are going to be discussing this dilemma at the Council Chairman's meeting to see how we can get support to get the monies out as quickly as possible after the Congress has acted. So we will be talking to the Congress, as well as to the agencies, about that problem.

C. Meetings and Workshops

Simonds added a few things that weren't included in the briefing document. On Tuesday, March 30, there would be a press conference on the Council's new management regime. Bill Hogarth will be signing the final rule at the press conference. We have also invited John Watson, who is the gear technologist who worked on the new gear that we are using in our regime. We've invited a member of the international organization, the IATTC, who has been working on exporting some of these technologies. The Council had a turtle advisory committee made up of environmentalists and fishermen. So the Blue Ocean representative, Eric Gilman, will be there as well to support the management regime. We are hopeful there might be a joint release from Blue Ocean and WWF on the new management regime. The conferences is from 10 to 12 noon.

The Marine Protected Area Social Science Research Workshop is going to be held on the Big Island next week. We are sending three people to represent the Council: Severance, Beeching and Kaaiai.

In July of this year, the very same week of the Ecosystem-based Fishery Management Workshop that we are holding in our office, NOAA is holding an administrative workshop on grants and budget. So we are going to try to cover it through video conferencing in our office.

In response to a question by Mathers, Simonds confirmed the dates of the 123rd Council meeting as the week of June 21. The SSC would be held on the dates listed.

Morioka said Council staff will be asked to correct this document and correct Council Member Ebisui's name spelling.

D-G. Advisory Group Changes, Standing Committee Recommendations, Public Comment, Council Discussion & Action

Morioka said the Standing Committee heard requests for changes for the Advisory Panel, SSC, Plan Team, etc., and also discussed the Advisory Review Board appointments. There was no other business, no public comments.

He called Council members' attention to Council booklet Item 15.E.1, Section G.1 regarding the approval of Carla Gore to the Crustacean, Bottomfish and Precious Coral Plan Teams, and Tom Graham to the Pelagics and Coral Reef Ecosystem Plan Team, and directs staff to inform the PIRO Administrator of such.

There was a motion and a second.

Lau said that he thought Andy Burnell from HDAR was also being added.

Morioka noted the listing on this document. He asked if the maker of the motion was comfortable with the amendment?

McCoy so moved.

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka noted the next item.

Tulafono so moved.

Lau seconded.

Morioka asked if everyone had a copy of the request from Tulafono with regard to the advisory panel member. He called for the question. The motion carried unanimously.

Morioka moved to the recommendation to **direct staff to send a letter to the NOAA Administrator bringing to his attention the following problems: 1) days in reviewing and approving the Council's cooperative agreement and grant awards; 2) problematic constraints placed on coral reef funds; and 3) the overall lack of funds to fully address the Council's administrative and program responsibilities.**

Tulafono so moved.

Haleck seconded.

Morioka asked for discussion.

Pooley said he would abstain. He also noted that they have a new grants officer, Scott Blume, who has a lot of experience in the Central Pacific, in Hawaii in particular. He will make sure that all the reviewing, and so forth, that is done within the regional office is done on a timely basis. He'll even get an assistant. MR. MORIOKA: Welcome aboard, Scott.

Morioka moved to item three, the Standing Committee approved the travel of Ebisui to Prep Con 4 in Bali pending approval by the State Department.

There was a motion and a second.

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Simonds said the Council has asked for a review of the Bottomfish Review Board and the Pelagics Review Board, to see whether or not you need to continue those boards because they haven't met. They were there when the Council had just implemented a limited entry program. She said the Council could, as it has done over the last several years, form an ad hoc advisory committee when it needs a group to review and make recommendations. By recommendation the Council can disband these review boards. She said, whatever the Council decision is, she would work with the lawyer to decide the best way to do this in whatever legal sense is necessary.

Sablan so moved.

McCoy seconded.

Morioka asked for further discussion. He said the motion would be for the Council staff will work with Southwest GC to ensure that correct process is adhered to. Morioka called for the question. The motion passed unanimously.

Morioka moving to Item 5, **direct staff to request that those budget line items that were terminated in the Department of Commerce, NOAA, fiscal year 2005 budget that will impact the Regional Councils be re-appropriated.**

There was a motion and a second.

Morioka asked for discussion.

Pooley said he would abstain.

Duenas asked if the SK funding could be included in that request, because SK has been deleted.

Morioka said he thought it was all inclusive.

Simonds clarified that the FY '05 budget was distributed to Council members several weeks ago. Just earlier today the staff copied for the Council all the projects and programs that were terminated for '05 by the administration. It is pretty devastating, actually, to all of us, including the region, because it just zeros out money for the region, period. So that is why we would like you to consider doing this, and if you want to add, such as SK, or whatever, that's fine. It zeros out our Pelagics Research Program, zeros everything that pertains to us. That's for next year.

Farm said all of those are already included. If they follow the report that we had this morning, it indicated.

Duenas said SK is not listed specifically.

Simonds recommended including SK.

Morioka asked the maker of the motion if he accepted the amendment.

Seman and the second accepted.

Morioka called for further discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka moved to item six, approves **appointment of Steve Vaiau as the American Samoa Advisor on the Subsistence Advisory Panel. Vaiau, an AP alternate, will replace Louie DeNolfo who relocated to Honolulu. The Council will also direct staff to inform these advisors of this change.**

Tulafono so moved.

McCoy seconded.

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka moved to item seven, **approves appointment of Dr. Kate Moots, CNMI DFW biologist, to the Coral Reef Ecosystem Plan Team. Dr. Moots will be replaced by Mr. Michael Tenorio as a CNMI DFW representative on the Bottomfish Plan Team and directs staff to so inform the CNMI DFW Director.**

Seman moved.

McCoy seconded.

Morioka asked for discussion. Hearing none, he called for the question. The motion carried unanimously.

Morioka requested a motion to consider the Council's recommendation that **examination of the Hawaii Marine Recreational Statistics Survey (HMRFS) data for catch and effort of purely recreational anglers be conducted.**

Pooley asked who would do this.

Dalzell said it was the first time he had heard about this.

Morioka asked if there was a motion to that effect.

Duenas so moved.

McCoy seconded.

Morioka asked for discussion.

Hamilton said she and Dalzell could not visualize Council staff doing it.

Morioka said he was thinking you would examine it and request the agency that does this to break that out the purely recreational data.

Dalzell said that would be NMFS.

Morioka said we'll just give it to you to go to have it done.

Dalzell okayed.

Morioka asked if the maker of the motion would accept the modification. He did. Morioka called for the question. The motion carried unanimously.

XVI. OTHER BUSINESS

Simonds had a few new business items. She said the staff distributed to the Council members the makeup of the Western Pacific Fishery Management Council, which assigns a sector to each of the members. She said she's bothered because individuals who are not commercial are identified as if they were. She said she would like to get this corrected.

Pooley said he would correct this shortly. He said it would be useful if each Council member would indicate what sector they thought they represented. He said these decisions are made when appointment to the Council is made. So for example, one Council member indicated that he had a commercial fishing license, therefore he was

identified as commercial. However he had fished commercially like once in 10 years. So a better process would be for the Council members to identify amongst themselves. Pooley asked Simonds if she could have Council staff contact all the Council members to sort out their categorizations.

Simonds said the next item was to tell the Council that the State of Hawaii did send in their nominations, and you will see a list coming down in the next week or so for the next year. There are three nominations: Ed Ebisui, Richard Shiroma and Craig Severance. She didn't believe that any of the other places sent in nominations.

The next item is work with SPC on their strategic plan for fishery management. The list provided is the number of projects considered necessary. The State of Hawaii represented the Council at this workshop. The Council will be looking at some of these projects to see where it can assist with its expertise and collaborate with its ongoing projects.

Simonds moved to an email that was sent by Cindy Huber and Mark Heckman about the seafood watch card for Hawaii. At some point Mitsuyasu and a whole bunch of people were involved with this. So what is interesting to see is that the State of Hawaii has advised against the release of this seafood watch card in its current form and that it will only add to the confusion of the users, it will be damaging to its long-term acceptance. Simonds asked the Council members to read the document. She said it's interesting and good that the State of Hawaii came to this conclusion.

Pooley said he had been involved earlier in it, and people from the Lab are as well, because it really is important because in many ways consumer alerts are not an inappropriate way to deal with some issues. But like most of these things, we would like them to be science-based and objective. There are real questions about how this was rolling out, and I think it's interesting that almost all the parties that we worked with on an agency basis came to the same conclusion on this. We didn't have an official position ourselves, but in fact, one of the reasons I dropped out of paying attention was it was too frustrating.

Simonds said the last item is a copy of a letter to the HLA telling them they are applicants in terms of the seabird consultation.

Pooley said, as he recalled, at the last teleconference on the litigation, it was offered that the Council could act as if it were an applicant in the sense of participating in conversations, and he thinks that remains the fact. This is the transcript where Doy quite accurately transcribed and the minutes to the meeting didn't quite reflect what Pooley was concurring with, which is the issue he raised about the minutes. Pooley said he was concurring that the Council could act as if it were an applicant. He was not concurring that NOAA was negligent about responding to Morioka or Simonds.

Hearing no further business, Morioka adjourned the meeting.

Meeting adjourned at 4:00 pm.