



**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

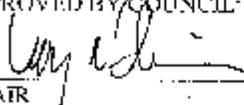
MINUTES OF THE 123<sup>RD</sup> COUNCIL MEETING of the  
WESTERN PACIFIC REGIONAL  
FISHERY MANAGEMENT COUNCIL

June 21-24, 2004

Ala Moana Hotel  
410 Atkinson Dr.  
Honolulu, HI 96814

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

APPROVED BY COUNCIL: \_\_\_\_\_

  
\_\_\_\_\_  
CHAIR

Western Pacific Regional Fishery Management Council



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# **Minutes of the 123<sup>rd</sup> Council Meeting**

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Roy Morioka, chair, formally opened the 123<sup>rd</sup> meeting of the Western Pacific Regional Fishery Management Council (WPRFMC, or Council) on June 22, 2004. Morioka began by asking for a moment of silence for Richard Shiroma, then introduced Dr. William Hogarth, Assistant Administrator for NOAA Fisheries.

(The following is verbatim with only minor edits)

Hogarth: “Thank you, Mr. Chairman. It really is great to be here today to introduce you to the Western Pacific Regional Management Council and the team that will be responsible for managing the Pacific Islands Region (PIR) in the future. This is a day we have all been looking forward to. We started this process about a year ago, but in the great way that the American bureaucracy works, it takes a long time to get people in place. We're still waiting for one, but we feel that everyone knows who that one person will be.

When you talk about the Western Pacific Council and the Pacific Ocean, it is really one of our greatest resources. Ex-vessel value just for Hawaii alone is about \$50 million. The fisheries in Hawaii are valued at around \$100 million. The tuna fishery throughout the Pacific is probably over a \$1 billion dollar industry. We as a country don't think we have put the resources into the Pacific that we need to, and I hope that as the region is created and we move forward, we'll be able to get the Hill's attention to this. We have the Hill's attention from a couple of people. One of them is Senator Inouye, who is playing an important role in getting this new region put together. He told me when we talked that the status of the PIR marks a significant milestone for developing a strong NOAA presence in Hawaii. We have come so far in creating the federal infrastructure for successful management of our marine resources, but the presence of NOAA in Hawaii extends far beyond fisheries. Therefore, I'm committed to providing NOAA with the resources necessary to fulfill its broad mission of science and management in the Pacific and in Hawaii.

We look forward to seeing the new building built here, and can use the Pacific Islands as an example of how a region should be put together and how NOAA's presence should be. I'm hoping that we'll make this work so the public will have a focal point to come to get information, to discuss living marine resources and the weather and other issues that NOAA is involved in. I've looked at several of the sites that are being considered for the new building, and hope to get back and get this bureaucracy moving.

I would like to thank Sam Pooley and Jeff Polovina. Sam stepped into this process when we created the region and saw us through the dry patches. He said we've got to get the Hawaii longline issues straight, the turtle issues straight. Sam did a great job and Jeff did a great job filling in behind him. The Council and all here should be congratulated on getting the swordfish fishery open and getting that issue resolved. I was sitting at the office one day and got a call from Jim Cook, who said it's been six years but as of today we have no lawsuits. So after six years we do not have any lawsuits with that

fishery. We do have an issue with Category I versus Category II, but I think we'll resolve that very satisfactorily in the near future.

We're looking at the status of stocks that we just submitted to Congress, and we've made great progress over the last year. Ten stocks were moved off the overfished list, six off the overfishing, four stocks are totally rebuilt. This region has no overfished stocks, but overfishing is taking place in bigeye tuna. That's an issue we have to address both in the Atlantic and the Pacific with bigeye, but I think we are making progress. I'm hoping that this agency has opened up and is more transparent. I hope we are talking to people more. That's how we looked at the new team that we put together. We wanted people that would go out and talk to people, explain what we are trying to do and get input. So without further ado, I will introduce the Regional Administrator and let him introduce his team.

Bill Robinson comes to the Western Pacific from the Northwest Region. Bill and I have worked together for a number of years. Bill has had to deal with the Endangered Species Act quite extensively when he had to deal with salmon, and has had a lot of fishery management issues in groundfish. He comes with a great background for this region and I can assure you that he will be open and out talking to people as we move toward.”

Robinson thanked Hogarth and said he was happy to become a member of the island community and also a member of the Council ohana. He thanked Sam Pooley, then introduced Mike Tosatto, Deputy Regional Administrator; Alvin Katekaru, Assistant Regional Administrator for Sustainable Fisheries; Tamara Faris, Assistant Regional Administrator for Protected Resources; Jerry Davis (not present), Assistant Regional Administrator for the Habitat Conservation Division, and Charles Karnella, **International group**.

Hogarth then introduced Sam Pooley as Acting Science Center Director, and said he hoped that the title would become permanent in the near future.

Pooley thanked Hogarth and then thanked Jeff Polovina for acting as the first Science Center Director. Pooley introduced Michael Seki, Deputy Science Center Director, and the 5 division heads: Christofer Boggs, Fish Biology and Fish Assessment; Jeff Polovina, Ecosystems and Oceanography; David Hamm, Fishery Monitoring and Fishery Economics; Bud Antonelis, Protected Species; Rusty Brainard, Coral Reef Ecosystem Division. He mentioned there was a change in the organization and Jerry Wetherall has taken over the Scientific Information Systems Services Group and Bob Skillman will be focusing on international fisheries issues.

Hogarth then introduced Judy Fogarty, **head of Enforcement for the Region**.

Hogarth said he could not discuss the status of the General Counsel, but for now Judson Feder would be continuing dual duty between the Southwest Region and the PIR. He indicated that he hoped that would be corrected soon, and whether it is Feder or not

there is a need to get staff to the PIR. He mentioned there have been changes made in working with General Counsel, and everything basically will be done in the region. The General Counsel will review things in the region and it will not get a double review when it gets to Headquarters. Any concerns will be handled during the preliminary stages.

Hogarth said Section 7 consultations, etc., will be delegated to the region. The region will be responsible for it, and the councils, to get things done. He mentioned he holds conference calls before the Council meetings to go over the issues so there are no surprises. In the end he is still responsible for what's done, so it is necessary to figure out a mechanism that keeps him informed. The PIR is a sixth region, so when a Leadership Council occurs Robinson and Pooley will be the two people representing the region. There are conference calls each week and they will be expected to discuss what's going on and to keep Hogarth informed. Now they need to direct the resources necessary to address some of the important issues. Hogarth mentioned there will be 10 to 15 positions for the Science Center and the Region, maybe a few more. He will need to make sure that they have money for the long term, some of the money is not in the base budget. They have to look forward to the Multilateral Conference to get money to keep that going, and the South Pacific Treaty and all of the international work. He said the PIR has the Number 1 port, they just can't publicize it because of confidentiality.

Hogarth mentioned John Oliver, Deputy for Administration, was in attendance and had spent the last few days working with the management teams in both the Region and the Science Center to make sure they understood what they have to do for grants, hiring, how to spend money, etc. He then introduced Jennifer Cox (phonetic) who works with the Habitat Group in Headquarters but for the last year has been downtown working on the Admiral's staff. As of November she'll be on detail for a year to Senator Inouye's office.

Hogarth then talked about the strategic plan for recreational fishing, and introduced Michael Kelly, Recreational Coordinator.

Hogarth closed by saying as long as he is in his job he will do everything he can to see that the PIR gets resources and what it takes to get the job done. He thanked everyone for what they had done.

Morioka thanked Hogarth, Robinson, Pooley and the PIR staff on the establishment of the Pacific Islands Regional Office (PIRO) and the Pacific Islands Fishery Science Center (PIFSC). He commented that the Council and the Region must unify their strategic plans to ensure that the same outcomes are shared, commit their resources to their shared goals and objectives to optimize scarce monies and human resources, keep an open door and open mind policy to facilitate momentum and progress to overcome the embedded bureaucratic inertia, and foster key building that creates an environment that creates collaboration and a can-do spirit.

Morioka called on Yvonne Izu, Deputy Director representing Peter Young.

Izu conveyed Young's apologies for not attending and mentioned the State has had a good working relationship with the federal agencies in the past and looks forward to more opportunities.

Morioka called on Ray Tulafono, Director, American Samoa Department of Marine and Wildlife Resources.

Tulafono thanked Hogarth on behalf of the island community, and said it was a milestone to have their own region. He said tofa mamao ma le utaga loloto, which translates into thanks for the wisdom, the foresight, and the mission that happened today.

Morioka introduced Jim Cook representing the fishing industry.

Cook said the Hawaii Longline Association is thrilled with the new region and looking forward to working closely with Hogarth. He congratulated Kitty Simonds, Western Pacific Council executive director, on her hard work in bringing the new region to Hawaii.

Morioka introduced Eric Gilman representing Blue Ocean Institute.

Gilman commented that the new region will bring needed technical and financial resources to the U.S. Pacific Island Region for marine research and fisheries management. As an environmental NGO representative he is excited to see more attention being paid to the wise management of marine resources.

Morioka asked Hogarth if he had any closing remarks.

Hogarth said in the future as staff is increased, they need to move out to American Samoa and the Marianas and Guam and put people in the territories. He stressed that what they are trying to do is to become one NOAA, and looks forward to the expansion and cooperation with the other offices in NOAA. He also commented on the need to combine research efforts with to promote wise use of funds.

## **I. INTRODUCTIONS**

Morioka welcomed all the participants and asked each member of the Council to introduce him/herself. Members in attendance were Samuel Pooley, National Marine Fisheries Service (NMFS) Pacific Islands Fisheries Science Center; Beth Flint (representing Jerry Leinecke), Pacific Island Remote Refuge Complex, US Fish and Wildlife (USFWS); Judson Feder, Southwest Regional Counsel, National Oceanic and Atmospheric Administration (NOAA); Cmdr. Dwight Mathers (representing Rear Adm. Charles Wuster), US Coast Guard (USCG) 14<sup>th</sup> District; Stephen Haleck, American Samoa; Ray Tulafono, American Samoa; Manuel Cruz, Guam; Manuel Duenas, Guam; Roy Morioka, Chair, Hawaii; Frank Farm, Hawaii; Frank McCoy, American Samoa; Benigno Sablan, Commonwealth of the Northern Marianas Islands (CNMI); Richard Seman, CNMI; Yvonne Izu (representing Peter Young), Hawaii Department of Land and

Natural Resources (DLNR); Sean Martin, Hawaii; Edwin Ebisui, Hawaii; Bill Robinson, Regional Administrator, Pacific Islands Regional Office (PIRO); Craig Severance, Scientific and Statistical Committee (SSC); Kitty Simonds, Executive Director.

## **II. APPROVAL OF AGENDA**

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

## **III. APPROVAL OF 122<sup>nd</sup> MEETING MINUTES**

Morioka asked for a motion to approve the 122<sup>nd</sup> meeting minutes. The motion was moved, seconded and approved.

## **IV. ISLAND REPORTS**

### **A. American Samoa**

Tulafono reported the small longline vessels are catching few albacore, and the larger boats are catching them but they are fishing more than 100 miles offshore. Some of the longliners that previously fished in American Samoa then moved to Hawaii are now returning. Because of the problems with the low catch of the albacore, the two canneries interrupted their operation, one closed down for one week.

Two boats are fishing for bottomfish, although one of the boats occasionally trolls also.

The offshore creel survey samples four days a week instead of five, and the fifth day is spent at the office. There are two shifts - the morning shift runs from 5:30 in the morning until 2 o'clock in the afternoon, and the night shift starts at 4 o'clock and runs until 12:30am. Data collectors are beginning to collect biological data on bottomfish species in order to look at growth parameters. The data collectors are using scientific names, and DMWR plans to have a workshop by the end of July to further improve the fish identification.

Enforcement is looking into regulating the use of gillnets in American Samoa, especially for commercial use.

Regarding marine protected areas (MPAs), there are no-take zones in MPAs in American Samoa, including the National Marine Sanctuary and also the National Parks. Subsistence fishing is allowed in those MPAs. DMWR is looking into setting up no-take MPA zones.

As previously reported to the Council, three of the FADs were destroyed by Hurricane Heta. DMWR is in the process of ordering materials to deploy five FADs.

An international fishing tournament occurred in American Samoa and one of the Council advisory panel members, Michael Loftenes, won the grand prize.

Morioka asked the other American Samoa delegates if they had anything further to add to the report.

McCoy added that fishing started to pick up a couple weeks prior to the meeting, but there is a worldwide problem with a shortage of bait and five vessels in American Samoa were still unable to fish.

Morioka asked if Pacific Ocean Producers (POP) responded?

Martin replied they did, but were unable to assist as it is a worldwide problem.

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 reported that the mahi season was in full swing through March and April, with fishermen averaging about 100 pounds per trip. Wahoo catches were extremely good, but yellowfin and skipjack catches were poor during the same months. In May and June the mahimahi season wound down, and the skipjack tuna catches picked up.

Fishermen reported a lot of shark interactions around the seamounts, ranging from tiger sharks to oceanic white-tips.

Creel surveys are to begin at Ylig Bay during the summer months when the fishermen can access the eastern side of the island. Pelagic fishing dominated offshore because of rough seas, and there was not much inshore information.

Monica Guerrero from the Bureau of Statistics and Plans reported data entry of tuna transshipments through March 2004 is complete. The document archive project is continuing, and they are now working on May 1999.

The number of transshipment forms collected for April 2004 was unusually high. When asked why, they said they discovered discrepancies. Somehow the Port Authority of Guam had access to these documents, but they had been holding back, and all of a sudden sent it out at one time. Staff also discovered an increase in discrepancies in the weight and number of fish species. This is covering the fleet that is home-ported on Guam.

The HMS Species public hearing to propose new regulations was facilitated by David Hamm and was warmly welcomed on Guam. There was controversy with the agents, as they feel that this additional workload will be cumbersome for them, so they're asking NMFS to review the new regulations and determine if they apply to Guam.

Regarding bottomfish, there were poor fishing conditions during March and April but fishing picked up in early May and June. Fishermen reported more interactions with black-tip and white-tip sharks.

The Division of Aquatic and Wildlife Resources (DAWR) continued to monitor the inshore fisheries with the creel, participation and aerial surveys. NOAA updated the species code file for the inshore and offshore database program to fix any discrepancies with species names and code numbers.

The Coral Reef Ecosystem Plan Team met in April 2004 and decided on reporting requirements for the annual report. They are landings of individual gear types, major taxa and other tropic levels.

Regarding enforcement, the Guam Fishermen's Cooperative Association (GFCA) did a weight ratio of the shark carcasses to look more closely at the shark finning issue. They conducted an experiment on three sharks: a black-tip, a black-tip reef shark and a white-tip reef shark. The average yielded at nine, seven and ten percent, roughly. The average ratio was over eight percent, so the federal standard of five percent would not fit. Duenas commented that the shark fin on display in the Ala Moana Hotel was cut on the fin way down on the joint of the bone, which is where most of the Asians cut their shark fins. In the Atlantic they normally cut about an inch above that joint, and the five percent ratio came from the Atlantic, which is the reason for the major discrepancy.

The proposal for more conservation officers for enforcement was submitted to the legislature and is waiting to be addressed. Currently five conservation officers enforce the marine preserves and other fishing laws in Guam. A citation system is being developed similar to one in place in CNMI. From February to May nine individuals were arrested for illegally fishing within the marine preserves.

DAWR continues to conduct fish assessment surveys in two of Guam's five marine preserves and appropriate control sites. They hope to utilize underwater video cameras for substrate cover surveys and recording changes in fish density and diversity which will be used for mapping purposes. They are also exploring the possibility of conducting acoustic telemetry studies of fishes within the marine preserves.

Regarding ecosystem and habitat, DAWR is waiting for Federal Emergency Management Agency (FEMA) funds to replace the inshore fishing platforms that were damaged by Typhoon Pongsona. The GFCA members disagree with DAWR and do not want the platforms to be replaced. The platforms were placed on the eastern side of the island and access to that side of the island is only available for two or three months a

year, so it's a natural marine preserve. The fishermen want it left alone so they can use it in the future.

Fourteen fish aggregating devices (FADs) were placed on the west side of the island, one buoy still remains offline. Thirteen buoys are awaiting GSA approval. Fifteen FADs, including a NOAA weather buoy, were deployed on the eastern side of the island. Shallow-water moorings will be deployed by the Guam Marine Awareness Foundation.

Reports of military exercises being conducted on the Southern Seamounts have raised concerns of possible effects on fish population. These reefs are only about 40 feet below the surface, and shooting live fire onto this reef area may damage the environment and ecosystem.

Trina Leberer, Randy Sablan and Adriene Loerzel attended the All Islands Coastal Zone Management Strategic Planning Workshop May 5 - 7 in Honolulu. Participants agreed on three top priorities: increase public and political commitment; increase federal, regional and local coordination; and increase technical staff capacity and training.

On May 6, 2004 Governor Camacho signed Public Law 27-87 to create a marine preserve eco-permitting system.

Regarding fishing communities, fishermen continue to seek the definition of community-based fisheries in order to perpetuate and protect coastal fishing communities.

The Guam/Marinas International fishing derby is set for August 7 - 8. The GFCA started its 100-day fishing derby for its members, and DAWR has scheduled its Annual Kids Derby for July 24<sup>th</sup>.

A small vessel landed on the shores of a wildlife refuge in Northern Guam and minor injuries were reported. The vessel was eventually removed with the assistance of one of the charter boats, Masao Tenbata, the owner Tim Hanley and GFCA staff.

The Annual Cocos Swim was held between Guam and Cocos Island, with GFCA members volunteering their time and services to act as safety vessels and provide ice and bottled water to participants.

Regarding new initiatives, a request was made with the Environmental Working Group for the funding of a collection site for used marine lubricants with GFCA being the responsible party. The Office of the Governor recently created a working group to explore funding sources to rebuild the Greg D. Perez Marina. The marina was devastated by the past two typhoons and is not in workable shape.

The National Safe Boat Week was successfully completed. Logistical support was assigned to GFCA for coordination of the Blessing of the Fleet Ceremony.

The DAWR Marine Preserve and WPRFMC Advisory Panel (AP) scoping meeting was held on June 8th at the GFCA facility. Approximately 70 people attended the event.

Regarding marine education, the name the fish contest was held in conjunction with Earth Week 2004. The Pago Bay Briefer, the University of Guam Marine Lab Newsletter, resumed publication after a four-year hiatus, which provides information on all activities of the UOG Marine Lab.

The Commercial Fish Book Program currently has three vendors supplying DAWR with data. These vendors are GFCA, Guihan Guam and Lobster & Fish.

Morioka called for questions or comments

Cruz added that for the whole month of April and May they worked on the Governor's response to the Ocean Commission Report. A lot of their concerns regarding the report have been shared with some of the islanders.

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

### **C. Hawaii**

Izu said that Walter Ikehara 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.

- Through the efforts of the DLNR bottomfish project they have been collecting a lot of information on bottomfish distribution in the Main Hawaiian Islands (MHI) over the last five years, including bottomfish mapping and surveys, and have started to put all of the information together into a MHI Bottomfish GIS. They have side-scan sonar information, fishing surveys, and submersible dives which allow them to do habitat characterization of the bottom, provide information on the ecological characteristics of the habitats and provide information on prey assemblages. Once complete it will allow them to define bottomfish habitat in terms of essential fish habitat in the MHI more precisely than before. This may lead to a more accurate stock assessments, as they could closely associate actual bottom type and area with the bottomfish themselves.
- It was a very good recruitment year for reef fishes in general.
- The State was awarded a grant to investigate the current status of the MHI black coral fishery using the human historical perspectives with NMFS and the Hawaii Undersea Research Laboratory (HURL) beginning this fall.

- DLNR is developing a new framework of criteria for a statewide system of MPAs.
- Public hearings are scheduled for the NWHI Marine Refuge.
- DLNR is continuing to evaluate the size limits that were instituted in December 2002. The next phase may incorporate bag limits and seasonal closures for other species, and public comments will be solicited.
- DLNR has five cruises scheduled to replace missing FADS and for other maintenance and recovery efforts.
- DLNR is continuing the artificial reef program.
- DLNR has done surveys in different parts of Oahu, the Kona Coast, parts of Maui, and will continue on the rest of the marine life conservation districts.
- DLNR is continuing with the Marine Gap Analysis project to incorporate data into a GIS database for coral reefs in Hawaii.
- DLNR is continuing to develop local action strategies in conjunction with the U.S. Coral Reef Task Force (USCRTF).
- The land-based pollution threats to coral has been finalized, and funding has been obtained.
- The coral reef fishery is in the process of being finalized. They are seeking funding to start a recreational overuse local action strategy.
- DLNR launched a Living Reef Program that was done in conjunction with the Governor's office.
- From January 2004 to April 2004 the Hawaii Marine Recreational Fisheries Statistical Survey (HMRFSS) completed over 1000 angler intercepts. Shoreline fishers accounted for 418, charter boat fishers accounted for 207, and 386 were from private boat fishers.
- The ulua tagging project is continuing, in total, 12,000 fish have been tagged and over 1,800 have been recovered.
- DLNR has an internal working group which is working on developing public outreach materials for the newspaper.
- DLNR has the internet commercial marine license up and running, and hopes to have the public version up soon where people can renew or buy new licenses online by late summer.

- Two bills in the legislature were notable: House Bill 2498, which gave the HDAR the authority to establish emergency rules to immediately protect endangered species from extirpation or extinction and would temporarily bypass the normal rulemaking process; and Senate Bill 2968 which authorizes the DLNR to establish an internal administrative process to handle violations.
- HDAR is continuing with the stock enhancement program, and tagged and released over 9,000 large moi from December of 2003 through May 2004. They also are trying to get kumu, goatfish, and ulua broodstock. They have an experimental limu hatchery, which is being set up to study the reproductive characteristics of various introduced and alien invasive species, of which algae is one of the major problems.
- The 2004 legislature granted \$4 million to the Hawaii Invasive Species Council to deal with terrestrial and aquatic invasive species. Invasive species is one of the priority items for HDAR in 2004. The Committee itself is comprised of a large number of state departments, including the councils as well as the neighbor islands.

Morioka called for questions.

Martin asked about the Fishery Disaster Relief funding.

Ikehara apologized it was not included in the report and said in early 2003 Congress made an appropriation of \$5 million to Hawaii for Fisheries Disaster Relief. Since August they have been in the process of setting up that program within the Division. It has taken time to get approvals to even establish the project. They have now hired a part-time information specialist, and have received applications for the program coordinator. They are also hoping to get another half-time person. It will be run like a grant administration program. A Fisheries Assistance Program will provide direct assistance to the fishing industry. A cooperative research and development program will include government and fish industry cooperative research, as well as industry-sponsored research and development. They will be soliciting for proposals and fund them as they meet the stipulations of the appropriation. The intent is to set a proposal review committee, which should include scientists and agency persons, as well as people from the Council and fishermen to help review the proposals that come in. They hope to be doing RFPs by the fall, and award grants and contracts before the end of the year.

Morioka asked the Hawaii delegates if they had any further comments.

Martin said the swordfish fishery is now open, the allocation effort has been made, and asked if any vessels had actually started fishing.

Morioka asked Alvin Katekaru to comment.

Katekaru replied they had a call the previous week, and there was possibly a trip that started the previous weekend but he did not know the status.

Martin replied that was not a surprise given the time of year, typically the third and fourth quarter are better quarters, and because of the limit fishermen will concentrate their efforts where they have the highest potential for sets.

Morioka asked if anyone was proceeding with a daytime set strategy?

Martin said not that he was aware of.

Ebisui mentioned that the North Shore Hanapa'a Tournament was about to start, and generally about 50 to 60 boats participate. The first day of fishing in the Ahi Fever Tournament was slow.

Martin then provided a brief update on the fishing village. He reported the auction facility was about three weeks away from being completed, therefore, the fishing village and the new auction facility will be up and operating by the end of July at the latest.

Farm commented that a lot of the fishermen had a good run of mahimahi in February and March so he thought this year would be better for yellowfin, but it had not happened.

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.

In line with the Council's effort, the Department of Land and Natural Resources, Division of Fish and Wildlife (DLNR DFW) staff had been working towards amending the law which created DFW. This will require mandatory reporting for commercial fishers and vendors, and participation in the ongoing creel survey. When these changes are enacted into law the government will be in a better position to collect fishery data that also can be used to supplement their efforts in managing fishery resources in the CNMI.

Regarding enforcement, the Cooperative Marine Law Enforcement Agreement with NMFS was signed by both NMFS and the CNMI Government. The signed document now creates a way for developing the Joint Enforcement Agreement (JEA), the next phase of a two-way process for the CNMI to receive federal, financial and technical support for its fishery enforcement needs. Aside from the signed agreement, the conservation officers continue to make progress in enforcing the fishing regulations. From March to June 2004 they made 27 arrests, which involved fishing in the MPAs, use of castnets without a license, and use of illegal nets and illegal harvest of seaweed.

Regarding ecosystem and habitat, with financial assistance from the Council, the surveying team arrived in Saipan on June 4th to build bathymetry and habitat mapping of bottomfish and coral reef ecosystems and essential fish habitat at the Farallon de Mendenilla (FDM). The scheduled ten-day fieldwork for this project was not met due to unforeseen problems, and only four hours of mapping around the island occurred. Given this unfortunate event, CNMI hopes for continued support in completing this project involving the second largest reef in the Council's jurisdiction.

Regarding noncommercial fisheries, a fishing tournament of Saipan's Fishermen's Association, in collaboration with DLNR, will have its 20th Annual Fishing Tournament August 28 - 29. The event is expected to have more participants and prizes than last year. The first boat to break the 624 pound record is expected to receive \$20,000 cash.

The CNMI House of Representatives had appropriated an additional \$500,308 in June to fully fund the post-construction project of the Garapan Public Market, which would accommodate the sale of fresh fish, local fresh produce and locally-packaged food. If signed into law, a total of \$900,000 will be available for this project and is expected to generate millions in annual sales.

Regarding other issues, **Paul Hamilton** was recently appointed as the Director of the Division of Fish and Wildlife. Seman reported he assumed the role of Secretary with the Department of Land and Natural Resources.

Morioka asked Sablan for further additions to the report, and there were none. 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**

Robinson mentioned he did not introduce one person on the new management team earlier, the new administrative officer Laura Robinson who will be coming over from the Northeast Region.

The final sea turtle conservation rule for the regulatory amendment that the Council developed to re-open the swordfish fishery became effective on April 2nd. In accordance with that rule, the office sent notices to all 164 Hawaii longline limited entry participants regarding the shallow-set certificate program. They received responses from

120 permit holders and subsequently distributed 17 certificates to each interested applicant for a total of 2,040 certificates.

Robinson reported they are also working on transitioning the issuance of High Seas Fisheries Compliance Act permits from the Southwest Region to the PIR, and hope to be issuing permits from their office by the end of the year.

PIRO prepared a regulatory amendment package which was transmitted to Headquarters for approval that extends the fishing moratorium on the harvest of groundfish resources for another six years at the Hancock Seamount in the NWHI.

PIRO staff members are serving on the newly created fishery management action teams, so that overall the regulatory actions go through more smoothly and quickly and are more defensible in litigation.

PIRO prepared contributions to the 2003 report to Congress on the status of U.S. fisheries.

Regarding NEPA, they are working with Council staff and a contractor to finalize the draft Bottomfish EIS, and with Council staff and a contractor will do a NEPA analysis for the pelagic squid fishery and seabirds in the pelagic fisheries. Under the tentative schedule, a draft EIS (DEIS) will be made available to the public sometime in August or September 2004. A final EIS will be made available in January or February 2005.

Robinson reported they are nearing completion of an Environmental Assessment (EA) for the third extension of the South Pacific Tuna Treaty, and are also working on complying with NEPA on the grants.

Regarding protected resources, PIRO is consulting with USFWS on the impacts of the new longline rules on short-tailed albatross and expect a biological opinion and incidental take statement to be completed by mid July. The next round of Protected Species Workshops for the Hawaii-based longline fleet will be held on August 27th, September 3rd, 10th and 17th. They worked with a local contractor to produce a video on proper techniques for dehooking sea turtles. The English version was completed and Korean, Japanese and Tagalog versions are in the works.

PIRO staff trained about 17 observers and crews of ten longline vessels on dehooking techniques. Training classes continue to be held for all interested captains and observers by appointment. They also prepared informational posters describing dehooking techniques which will be translated to other languages.

Regarding habitat, they have been working with the Navy on a mitigation plan for some dredging projects around Apra Harbor in Guam and working with the U.S. Army on its weapons testing systems.

Regarding pelagics, Robinson reported they began secretarial review of Amendment 11 to the Pelagics Fishery Management Plan (FMP), limited entry for the exclusive economic zone (EEZ) of American Samoa. The clock on secretarial review began the previous Wednesday, a Notice of Availability is expected to be published in the Federal Register (FR) for public comment Wednesday June 23<sup>rd</sup>, and a final decision is due in mid to late September.

Morioka called for questions, hearing none, called on Sam Pooley to give the PIFSC report.

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

Pooley reported that the previous day he had met with Bill Hogarth and John Oliver to talk about what PIFSC would be doing in the near future. Hogarth expressed his desire to expand their reach to American Samoa, Guam, CNMI and also other islands in the Hawaiian archipelago where their presence has been limited. Since they still don't have the resources to do that kind of work adequately, part of their approach will be to team up with other organizations that do, such as the University of Guam, Hawaii Institute of Marine Biology, and other partners within NOAA, such as NOS.

He reported the R/V *OSCAR ELTON SETTE* had recently returned from a longline cruise in the MHI area where they fished off the Cross Seamount and the Kona coast, primarily putting satellite tags on pelagic species. The research was aimed at understanding the movement of pelagic species and is important for understanding the handline and the troll fisheries in the MHI.

The annual NWHI lobster stock assessment cruise that conducts research on the status of the stocks at Necker Island and Maro Reef had left the previous weekend. Later in the year a tagging charter to better understand the movement and natural mortality of lobsters in the area will be held. Pooley said it is important to develop an understanding of the ecosystem over the last 10 or 15 years, particularly since the lobster fishery has gone up and down.

The marine debris charter also left the previous weekend to collect marine debris in the NWHI. In many cases the marine debris reappears soon after it is collected, so they are also working on trying to figure out how to stop it in the first place.

Pooley mentioned two symposiums PIFSC staff attended: 1) a symposium on quantitative ecosystem indicators in Paris which will be important for the future of ecosystem management plans and 2) the annual Lake Arrowhead Tuna Conference, which emphasized movement and tagging.

Morioka called for questions.

Simonds asked if Pooley had reviewed Senator Inouye's marine debris legislation, and how he thought it would help. She indicated the important thing is for the marine

debris not to get there, and thought that there was a program in the Northwest trying to make that happen.

Pooley replied the funding to do modeling of marine debris movement was not as robust as they had hoped for in the past, but there were some collaborators on the mainland looking at modeling oceanographic processes. He thought the Senator's bill was something they would support, but the organizational manner in which that is carried out was a subject for the Administration to deal with. In terms of direction, if they can find a way to intercept it or prevent it from happening in the first place, so much the better.

Simonds said as everyone has discussed, the two major impacts to the NWHI are marine debris and storms.

Morioka called for further questions, hearing none, moved to Item 5.2.A, National Marine Sanctuary Program.

## **2. National Marine Sanctuary Program**

### **a. Pacific National Marine Sanctuaries Update**

Allen Tom, the Pacific Regional Coordinator for the National Marine Sanctuary Program (NMSP), began by congratulating his colleagues at NMFS on their new region, and said he is looking forward to collaboration between the agencies.

He mentioned that the Pacific Services Center recently announced their grants for this year, and several grants have to do with the marine environment. They include a whole host of organizations, ranging from Molokai High School to the National Audubon Society. The FR Notice will be coming out in early fall for this coming year.

A NOAA ship commissioning will be held in Honolulu on Friday, September 3rd, 2004, and Senator Daniel Inouye will be the guest speaker.

The MPA program of NOS will be meeting on Maui, and he said the Council has been invited to speak.

He reminded people that the Pacific Region has the smallest sanctuary, Fagatele Bay in American Samoa, and the largest, the NWHI Coral Reef Ecosystem Reserve.

Tom announced that Fagatele Bay was accepting applications for a science coordinator, and said if anyone was interested in applying they should contact Nancy Daschbach directly. A new manager will be chosen for this site as Nancy Daschbach will be leaving American Samoa to work in Hawaii with Tom.

He said they will be doing their management plan review of the sanctuary next year, and will discuss with the territory if they will hire a consulting agency to help write it.

Regarding the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS), he announced Naomi McIntosh, the manager, and David Mattila, the science coordinator, were in Washington, D.C. giving a presentation on the Structure of Population Levels and Abundance and Status of Humpback Whales (SPLASH). They did a very good briefing on the Hill, and there was a lot of interest from the Congressional staff. He offered to have Dave Matilla provide a more detailed explanation of SPLASH at the next Council meeting.

Tom announced HIHWNMS will be opening an office in Kona at 10 a.m. on July 28th, and guest speakers include Peter Young from the State of Hawaii, partners in the HIHWNMS management, and Congressman Ed Case.

At 9:30 a.m. on August 18<sup>th</sup>, the Maui sanctuary office will be having a groundbreaking for their new conference/education building in Kihei, Maui, and Senator Inouye will be the guest speaker.

Regarding the NWHI Coral Reef Ecosystem Reserve, Tom reminded everyone that it is from three nautical miles out to fifty nautical miles, not zero to three nautical miles. He said the reserve is based on the Executive Order, and is being managed by the National Ocean Service under the guise of the National Marine Sanctuary Program. They have completed a Reserve Operating Plan and are going through the designation process. The sanctuary will build on the reserve foundation that was laid out in the Reserve Operating Plan. The designation continues to update how the reserve operations are progressing. They had a public comment period in 2002, and had workshops on all the MHI as well as in Washington, D.C. They also had informational workshops in 2003. There is currently a Reserve Operating Plan (ROP) strategy to how to turn the ROP into the draft EIS (DEIS). Staff writers and the Reserve Advisory Council (RAC) have various working groups, of which part of the Council staff has been participating. In May 2004, a DEIS contract second phase was awarded to **Tecra Tech (phonetic)** and they have begun working on the DEIS. The Reserve has held various working group meetings from April to July, and will be presenting some of this at the next RAC meeting in July.

In September 2004 they hope to provide the Council the draft fishing regulations as stated in 304(a)(5), a consultation where they have 120 days to review it. He said he hoped it will be completed in August and go to Washington, D.C. for review and then to the Council to be taken up at their October meeting. In the spring of 2005, if all goes as planned on their time line, the DEIS will be finished and released for the public then there will be public hearings. In the Fall of 2005 the FEIS will be released. They will have another round of public hearings then, and hopefully in early 2006 they will have a designation decision.

Tom said the NWHI RAC meeting will be held in Honolulu July 7 - 8; a NWHI enforcement meeting to discuss a variety of different kinds of enforcement opportunities and possible proposals for the NWHI will be held July 20 - 22 in Waikiki; and various subcommittee meetings will be held as they progress with developing the fishing alternatives and missions and goals.

Morioka called for questions.

Simonds asked if the DEIS is for all activities, or if it is just talking about Fisheries.

Tom asked if she meant for the complete EIS, or what they are going to provide in September.

Simonds said just the EIS that they are working on now, that they have hired **Tetra tech** to write. She asked if it also includes all the alternatives for the whole sanctuary.

Tom clarified it was for all activities.

Duenas asked if anyone found out what happened to the two whales that were found on shore, the sperm whale and the humpback whale?

Tom asked if the sperm whale was towed?

Mathers replied it was towed offshore and then it came back in.

Tom replied he did not know what happened to the humpback whale.

Simonds asked if they were dead or alive?

Mathers replied the sperm whale had been dead for a couple of weeks but he was unsure about the humpback.

Tom said that depending on how badly decomposed the carcass is, they call it safety hazards and try to take samples and find out what happened, but there is a public safety issue if there are sharks in the water.

Ebisui clarified the carcass drifted off somewhere off of Kaena Point, and they found it off of Haleiwa after they towed it off from Kaawa, the second tow out.

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

### 3. NOAA General Counsel

Feder noted that his report was 5.A.3.A in the Council's briefing book. He said he would report on several cases that the Council might be interested in. He began by saying that litigation in the Western Pacific Region was not as active as it had been in the last couple of years.

Regarding the Hawaii Longline Association (HLA) versus NMFS case about the now superseded biological opinion on sea turtle take in the Hawaii longline fishery, Feder reported it was basically decided last August. They are now negotiating with HLA about the amount of fees and costs that NOAA needs to reimburse HLA for.

In the Hui Malama I Kohola case, which involves the classification of the Hawaii longline fishery under Section 118 of the Marine Mammal Protection Act (MMPA), NMFS won the case at the District Court level. On April 13th the District Court found that NMFS had properly categorized the Hawaii longline fishery as a Category III fishery beginning in about 1998 or so. He said part of that decision was based on the representations made by NOAA to the court that the categorization decision was being reconsidered and being remade. NMFS intends to come out with a new decision on the categorization of that fishery in July or August. NMFS has proposed recategorizing the Hawaii longline fishery as a Category I fishery under the MMPA. The environmental plaintiffs that lost the first round of the case on April 13th have already appealed that decision to the Ninth Circuit Court of Appeals in San Francisco. That appeal was filed on May 17th. The government will oppose the appeal.

The Earth Island Institute case is a case that does not directly involve the Council but is of peripheral interest. It involves the standard used for the labels placed on yellowfin tuna harvested by the purse seine in the Eastern Tropical Pacific Ocean. This is a fishery that is managed by NMFS under the Tuna Conventions Act and is managed through recommendations of the Inter-American Tropical Tuna Commission. The Secretary of Commerce made a finding on the last day of 2002 that the international purse seine fishery in the Eastern Tropical Pacific Ocean is not having a significant adverse impact on depleted stocks of dolphins in the region. The U.S. District Court for the Northern District of California in San Francisco temporarily enjoined that finding, which had an effect, which changed the standard for the use of the dolphin-safe label. He reported they are engaged in cross-motions for summary judgement to finally decide that case. Oral argument was heard on May 24<sup>th</sup>, and they are waiting for a decision of the court. The case has relevance to this Council only to the extent that some of the same purse seine boats that are operating under the jurisdiction of this Council and in the South Pacific here are also operating in that fishery in the Eastern Tropical Pacific Ocean. The outcome of this decision could impact the continuing management of that fishery under the Inter-American Tropical Tuna Commission.

A fourth case that is of interest to this Council that doesn't directly involve the business of this Council is the Delta Commercial Fisheries Association versus Gulf of Mexico Fishery Management Council case in Louisiana. In that case plaintiffs

challenged the composition of the council under the Magnuson Act. The Secretary of Commerce is to appoint members of each fishery management council so that there is a fair apportionment of council members between the recreational and commercial sectors. Plaintiffs in that case allege that the Secretary of Commerce have allowed too many recreational fishermen to be on the council relative to commercial fishermen. The District Court threw out that case altogether and found that the plaintiffs had failed to demonstrate any concrete harm from the composition of the council. The court also found that the United States had not waived its sovereign immunity. In other words, the judicial relief provisions of the Magnuson Act could not be used by private plaintiffs to challenge the Secretary's decision about who to appoint to fishery management councils.

A fifth case that is of interest to some council members is the CNMI versus the United States, in which the CNMI Government sued the United States to quiet title to submerged lands around the CNMI. The United States government won at the District Court level. The CMI government has appealed to the Ninth Circuit. Feder said they are now briefing summary judgment motions back and forth, equivalent of the appeal phase, motions back and forth to resolve that case. There is no hearing set, but that case is ongoing at the appellate court level.

Morioka called for questions or comments, hearing none, moved to the next agenda item.

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

Flint began by congratulating NMFS on the birth of their new region, and said it will only enhance collaboration and help with coordination on all the issues they share.

Flint reported the seawall restoration at Tern Island at French Frigate Shoals is complete for now. Reconstruction of the shore protection in the form of rock revetment and sheet pile began in late March and was just finished, at least as far it could be with the available funding. Approximately 35 percent of the wall was replaced, focusing on the most damaged and vulnerable sections. They also built a new small boat dock and ramp and a davit, and will continue to work on the outstanding contaminants issues at French Frigate Shoals with the USCG. They will be seeking continuing funding to finish the rest of the project.

They are initiating the final phase of the cleanup of metal debris from the Taiwanese longliner which hit Rose Atoll in 1993. This work involves removal of the last metal debris from the reef, including some of the very large pieces that continue to disrupt the algal ecology of the atoll. The metal removal is scheduled to be completed in June 2005, then they will continue to monitor the recovery of the reef for the next ten years. This work is being funded by the Oil Spill Liability Trust Fund.

USFWS is in Section 7 Consultation with NMFS on short-tailed albatrosses and the reopening of the swordfish fishery. HLA and the Council staff have been working very closely with USFWS on this issue. A final biological opinion is due on July 6th.

The Short-tailed Albatross Recovery Team had its second meeting in Japan at the end of May. The highest priority recovery task from the meeting is working toward the establishment of a new colony in the nearby islands to reduce some of the risks that the birds face from active volcanoes and political uncertainty at their other two breeding sites.

Regarding Palmyra, the Gordon and Betty Moore Foundation agreed to build a research station on Nature Conservancy land. A consortium of eight institutions, including the University of Hawaii (UH) and NOAA, will operate this station and do marine, terrestrial and atmospheric research.

Regarding Midway, they have funding to keep the airfield open through the end of September, then will wait and see if it will be continued next year. There are a number of projects of mutual interest going on this summer, primarily on monk seals.

Duenas asked if USFWS is in charge of the refuge on Guam.

Flint replied she was very interested in his earlier comment and had not heard about the vessel grounding.

Duenas mentioned he just wanted cooperation in allowing the fishermen or the boater to recover his vessel. He understood at Rose Atoll people are paid for the recovery, but the fishermen do not mind paying. As a matter of fact, they paid for the fuel and the time of the captain and crew to go out and help since they don't have a commercial recovery vessel on Guam.

Flint promised to find out and get back to him.

Duenas said the very next morning they dispatched the man to go back to his vessel and gave him oil pads in case there was a spill, but luckily there was no damage to the reef. The boat did overturn because they couldn't secure it and were chased out by 4 p.m., therefore there was more damage to the boat than necessary. They could have recovered it the same day.

Morioka asked if the contaminants at French Frigate Shoals were PCBs?

Flint said yes.

Morioka asked if the USFWS has done any further studies as to the ecological impacts of that spill?

Flint replied they have been doing ongoing monitoring and studies.

Morioka asked for an update if there was anything new to report.

Flint said absolutely.

Morioka said he was not sure about political uncertainty at Torishima.

Flint replied that in the southern end of their breeding range, Torishima and the islands, there are a couple of islands where there are known to be nesting birds. Those islands are claimed by Japan and Taiwan and China, so it's difficult to get access to the colonies to count the birds and difficult to even go visit. They are just guessing about the population growth and the health of those populations most of the time.

Morioka called for further questions or comments, hearing none, proceeded to the next agenda item.

### **C. Department of State**

Paul Dalzell, Council staff, read the State Department report in Bill Gibbons-Fly's absence. He reported the new Western Pacific Fishery Convention came into force on Saturday, June 19, 2004. He noted the first part of the State Department report, Document 5.C.1. in the Council binder, focused on the last meeting of the Sixth Preparatory Conference in Bali. Twenty-nine delegations participated along with observers from several inter-governmental and non-governmental organizations. At PrepCon6 there was consensus on nearly all the major outstanding issues for the future functioning of the new Western and Central Pacific Fisheries Commission, which looks like it will be based in Pohnpei. There will be a final PrepCon meeting this December. At the same time, they will hold the first inaugural meeting of the new West and Central Pacific Fishery Commission. They have agreed upon various items, including scheme of contributions to the budget, the structure of the Commission, Secretariat staffing levels, draft financial regulations and indicative budget for the first year of operations, and the process for the appointments of the first Executive Director.

The conference also welcomed an initiative by Japan to host a workshop in July to address the recent rapid increase in fishing capacity in the region. Increase in fishing capacity and effort in the Central and Western Pacific is a great concern to the U.S., as there are concerns about the sustainability of both bigeye and yellowfin tuna populations and the economic viability of the fishery. The stock assessments for yellowfin and bigeye tuna will be one of the main items discussed at the Standing Committee on Tuna and Billfish (SCTB), which will be held in the Marshall Islands this August. It will be the last SCTB, which will then discontinue its function because the new Western and Central Pacific Fishery Management Commission will have its scientific committee.

The Inter-American Tropical Tuna Commission (IATTC) held its 72nd meeting in Lima, Peru. The IATTC resolutions apply because the WPRFMC manages longline vessels that fish to the east of the 170<sup>0</sup> W. There are resolutions about maintaining catch

levels at the 2001 totals. Although most WP vessels fish to the west of the 150<sup>0</sup>, there is some fishing to the east.

FAO will be holding a technical consultation on fishing capacity and illegal, unreported and unregulated fishing, which is the latest in the series from FAO on the international plans of action. The U.S. has national plans for seabirds and sharks, and Dalzell noted there will likely be one for sea turtles. The meetings will be held in Bangkok.

The Japanese Workshop on Compliance with the Resolutions on Capacity will be held in Sapporo in mid-July. There is great concern about the rapid increase in fishing capacity, and Japan has been particularly critical of Taiwan for the increase in its purse seine capacity. There have been two resolutions urging restraint in the expansion of the fishing fleets in 1999 and 2002. Some states have complied with these and some have not. Japan has offered to pay for representatives from developing states to attend.

Morioka called the council members attention to Section 9.G of the Pelagic report regarding the discussion about Taiwan's growing fishing capacity through the use of flags of convenience. He said they would be surprised to see their expansion into the Marshalls and Kiribati. The Spanish are launching two new purse seiners 115 meters in length, 3,500 metric ton capacity. The biggest purse seiners to date were 2,500 metric tons. The Spanish fished out the Atlantic and the Indian Ocean, so now they are coming into the Pacific.

Morioka called for questions or comments, hearing none, moved to the Ocean Commission report.

#### **D. Ocean Commission Report**

Severance directed the Council members to document 5.B.3 in the briefing book, and read the Scientific and Statistical Committee (SSC) recommendations:

- With respect to Recommendation 19-1, the SSC suggests that the Council hold an external review of the membership composition, function and effectiveness of its science advisory bodies, in particular, the SSC and the Plan Teams. Prior to this review, as part of the agenda at its next meeting the SSC would like to review and comment on those sections of the SOPP and any other documents which relate to the SSC composition and function. The SSC felt an external review of what it does is positive. The SSC strongly believed that the implementation of the conflict of interest clause, as envisaged in the Ocean Commission recommendation 19-1, would hamper the effectiveness of the SSC for exactly those reasons described in the Council staff comments. While they understand the Ocean Commission's concern about potential conflicts of interest, the conflict of interest clause as written would prevent membership of scientists from the Western Pacific who would be valuable to SSC deliberations. Furthermore, the SSC believes that there are many potential conflicts of interest, not just those

related to the fisheries industry sector. For example, agency scientists, NGO scientists, industry scientists, private consultants and academics all have potential conflicts of interest. Because the Western Pacific community of fisheries scientists is relatively small and stable over time, the SSC members are well aware of potential conflict of interest among colleagues. Professional integrity and peer influence have been successful in dealing with conflicts of interest when they arise during SSC deliberations. With respect to Ocean Commission recommendation 19-1, the SSC does not support compensation to members and believe that the money can be better spent elsewhere. For example, hiring interns to assist during SSC meetings or equipment and travel for SSC members.

- The SSC supports the Ocean Commission recommendation 19-8 regarding the implementation of saltwater recreational fishing permits, while at the same time the SSC has concerns regarding the source, magnitude and stability of resources necessary to implement such a permitting system in the Western Pacific Region.
- With respect to Ocean Commission recommendation 19-11, given the importance of pelagics to both the Western Pacific and Pacific Councils and that some fishermen fish in both jurisdictions, the SSC recommends that there should be more formalized and continuous exchange between the two Councils and their committees and subsidiary bodies regarding the conduct of issues relating to pelagic fisheries. Furthermore, with respect to Highly Migratory Stocks, there might be binding conditions imposed under international management regimes.
- With respect to Ocean Commission recommendation 19-2, 19-3, 19-4, 19-5 and 19-6, the SSC was concerned that the focus on Allowable Biological Catches indicates that the Commission's primary interest is in quota management. Having only quota management would unnecessarily limit the range of measures available to the Council to effectively manage the resource. Furthermore, with respect to Highly Migratory Stocks, there may be binding management measures other than Allowable Biological Catches imposed under international management regimes. With respect to Ocean Commission recommendation 19-6, the SSC felt that the mandatory suspension of fishing in the absence of an approved FMP is particularly draconian and would have enormous negative social, cultural and economic impacts on Pacific Island communities. In the SSC's experience, delays in FMP implementation have seldom been the result of Council's failure to complete an FMP or an FMP amendment in a timely manner.
- With respect to Ocean Commission recommendation 19-23 and 19-24, the SSC fully supports these recommendations, and furthermore, encourages the Commission to recommend to Congress that it ratify the Convention for the Western Central Pacific Fishery Management Commission and provide Congressional funding support.

Severance then noted that from his perspective, Chapter 19 of the Ocean Commission's Report seems to focus on two councils, even though it mentions the

WPRFMC as managing their resource well. It focuses on the New England Council as having some problems and the North Pacific Council as being a success, which may be the reason why they focus upon quota management as the main style of management. Severance noted it seems like a one-size-fits-all recommendation.

Morioka called for comments or questions.

Duenas said more than one public hearing should have been held in the Western Pacific Region, as it is the largest EEZ.

Morioka asked the Council if the issue should be forwarded to the Executive Committee to address, and they agreed.

#### **E. Report from Non-Governmental Organizations**

Hamilton noted that the idea was to begin asking a different NGO to come to each Council meeting and give a report, but they were not able to secure anybody to come to this Council meeting.

Morioka called for a break.

### **VI. ENFORCEMENT/VMS**

#### **A. USCG Activities**

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

Tulafono gave the chair to CMDR Mathers.

Mathers directed the Councils attention to written report 6.A.1, which covered Coast Guard fisheries enforcement from March 1, 2004 to May 28, 2004.

- Four foreign fishing vessels were suspected of encroaching in the Kingman Reef and Palmyra Atoll EEZ, but the USCG was unable to respond at the time due to unavailability of resources. Those suspected EEZ encroachments were based on intelligence sources.
- Surface and aerial patrols were conducted in the EEZ surrounding the MHI, Kingman Reef, Palmyra Atoll, Jarvis Island, Howland Island, Baker Island, Guam and CNMI, no foreign fishery vessel incursions were detected.
- Both the USCG cutters *Walnut* and the *Kukui* conducted fisheries enforcement during this period. In March the *Walnut* was deployed to the southern portion of the 14th Coast Guard District area of responsibility and patrolled the Kingman Reef and Palmyra Atoll, as well as Jarvis Island, Howland Island, Baker Island and the American Samoa EEZ, with no sign of illegal activity. They also

patrolled the American Samoa large vessel closed area and no violations were detected.

- In May the USCG cutters *Kukui* and *Washington* conducted a joint patrol of the Kingman Reef, Palmyra Atoll and Jarvis Island EEZ, in addition to boarding some of the domestic longliners working south of the MHI during their patrol. Neither cutter detected any significant domestic fisheries violations or foreign fishing vessel incursions into the U.S. EEZ.
- USCG cutter *Walnut* recently completed a patrol south of the MHI monitoring and conducting boardings of between 15 – 20 domestic longline vessels. No significant fisheries violations were detected. They did have two fishing vessels that were found to have non-U.S. masters.
- On May 26th the *Washington*, along with the NOAA Fisheries Enforcement Special Agent, responded to a report of assault of a NOAA Fisheries observer on one of the domestic longliners out of Hawaii. The *Washington* boarded the vessel at sea and removed the person who allegedly assaulted the observer. NOAA Fisheries Enforcement has this case for action and is investigating.
- Dedicated surface and aerial patrols of the HIHWNMS were conducted with NMFS enforcement officers. Those were done through the end of May with no significant violations noted for this season.
- In April they provided C130 transportation for four NOAA personnel to Lanai to aid in the recovery of a beached female orca. In May they also transported some NOAA personnel to the Molokai to aid in the disentanglement of Hawaiian monk seals. During this period they had two requests to assist with removal of dead whales. The first instance involved a humpback that had washed up on Waimanalo Beach, the second involved a sperm whale that had washed up on the outer reef at Kaneohe Bay. They were unable to assist in those cases due to where the whales were located. Mathers said he believed the State was able contract with a salvaging company to remove them.

Tulafono called for questions.

Morioka asked if the orca was a killer whale or pseudo orca.

Mathers said he believed it was a real orca.

Duenas commented on the offloading activities of the foreign longline fleet on Guam. He said he was in receipt of a letter from **Frank Shacker (phonetic)** which stated that Guam has one large docking facility where the cargo ships normally offload, and another facility where the cruise ships offload. Under Homeland Security, the captain of the Coast Guard in Guam mandated that offloading will occur only within the port compound. That being the case, the longline fleet has to wait two to three days with their

fish onboard to offload when a cruise ship is in port because they have the same offloading area. He asked Mathers to look into the matter and allow the cruise ships to offload on the other pier.

Mathers said he would look into it.

Tulafono called for additional questions or comments.

## **B. NMFS Activities**

Tulafono called on Judy Fogarty for NMFS enforcement activities. Fogarty introduced **Mark Kline (phonetic)** as the Deputy Special Agent in Charge (SAC) and reported he was most recently posted in Astoria, Oregon, but has been part of the Pacific Island culture for quite some time. She said she would be calling on the Assistant Special Agent in Charge, John Reghi, to read the case-specific report.

- Enforcement responsibilities in the HIIHWNMS finished in April, which takes an extensive amount of manpower out of the regional office.
- They participated in the PrepCon 6 meeting in Bali, which will bring additional responsibilities to their office.
- Regarding investigative program areas, an increasing amount of their resources are devoted to issues involving the observer program and the marine mammal and endangered species program. Besides the fisheries, they have other responsibilities which are increasing.
- They are looking forward to getting the JEA off the ground with CNMI.

Simonds asked how many people she would be recruiting for this year?

Fogarty replied in what she has obligated from Headquarters for this division she is at full staffing levels right now. She has one additional agent reporting in July. The Deputy SAC positions are new. Regarding their resource allocations, some of the things they do take them out of enforcement, for instance, they devote one agent to the Coral Reef Ecosystem Reserve to help them with their enforcement issues, and they have an agent assigned to the Solomon Islands supporting the Forum Fisheries Agency (FFA). They have a limited number of special agents and enforcement officers, and these two do the majority of their work outside of the realm of enforcement.

One agent, Al Samuels, is in Guam. One agent, Martina \_\_\_\_\_, is in American Samoa. **Kevin Painer (phonetic)** is in the Solomon Islands. She would like to have additional agents in each of those offices because the work is increasing.

Simonds said she supported enforcement getting new agents, and she was sure they could talk to Bill Hogarth about it. She envisions enforcement will have many more fishery management actions over the next two years.

Duenas agreed that they need more enforcement officers on Guam. He asked if the four vessels that were suspected of being in their zone were FFA vessels.

Mathers replied they could not make the correlation between those vessels and FFA vessels. He noted they stay in close communication with Michael Faris, their surveillance operations officer. He's doing everything he can through the FFA with their confidentiality and data restrictions to share as much information as he can with enforcement.

Seman thanked Fogarty for her assistance with getting the cooperative enforcement agreement signed off. As a result of that, he is hoping they will have more dialogue on the initial approach they should be taking.

Reghi directed the Council's attention to the enforcement report, 6.B.1 in the Council briefing book. He began by giving a brief overview of some of the cases that they have been involved with, although most are still open and under investigation.

- During this reporting period, they have investigated: harassment of humpback whales; dolphins out of Oahu and the Big Island; various violations of the targeted depth regulations by the longliners; strategic offal discards; sea turtle poaching complaints; failure to obtain observer clearance; logbook discrepancies; alleged monk seal takes at French Frigate Shoals and Rabbit Island; minor gear marking violations; and various importation issues, ranging from hawksbill turtles to exotic medicinals.
- The swordfish fishery is underway and the certificates have been issued. In the middle of May they received information that two longliners were retrofitting their gear to participate. Reghi dispatched one uniformed enforcement officer to go dockside and conduct public education to make sure they were in compliance with regulations. He was aware of only two vessels engaged in the swordfish fishery, one departed the middle of June from Oahu and the other one is in route from California.
- Approximately 60 complaints were received regarding the HIHWNMS, similar to the previous year. The largest group they are still working on educating is the kayakers regarding humpback whales.
- They are working on a docent program, and hope to mirror the Southwest Region's successful program.
- They support PIRO's observer program by providing special agents to give

briefings to observers on what is expected of them at sea. They also work with PIRO to address minor violations they see on an ongoing basis, such as the failure to discard offal strategically and blue dyed bait.

- Joint patrols are conducted with the Hawaii Department of Conservation and Resource Enforcement regarding harassment of Hawaiian monk seals and spinner dolphins.
- In American Samoa they conducted aerial patrols, and the webcam is almost in place which will monitor the Fagatele Bay National Marine Sanctuary.
- Regarding the FFA, a resident agent there still provides support through enforcement workshops and assisting the United States concerning its flag state responsibilities over members of the fleet.
- In Guam there were four individual arrested and prosecuted by the resident agent for taking threatened and endangered sea turtles. All four were sentenced to probationary terms and community service.
- Two Shark Fin Prohibition Act investigations occurred during the reporting period. One vessel appeared to be out of compliance and have insufficient carcasses to the shark fin ratio, but the agent examined what was onboard and the vessel was found to be in compliance. In the second situation there was a deficiency detected in the amount of carcasses that were available, as well as a beaked whale onboard.
- VMS in Hawaii continues to be an important asset for them.

Tulafono called for questions.

Duenas commend their office for the work that's done on Guam, and said their relationship has improved over the last few months with the fishermen. He asked how much money is available for the cooperative enforcement?

Reghi replied they have various funds available, but did not have the status sheet in front of him.

Duenas said Guam is handicapped by the funding it received, and it needs a better vessel to do patrols than the 25-foot catamaran type hull.

Reghi agreed, and said he met with **Frank Rands (phonetic)** while he was in Guam, and they are working out a solution to that.

Tulafono called for further comments or questions, hearing none, moved to 6.C.

### **C. Enforcement Activities of Local Agencies**

There were no additional enforcement activities reported.

### **D. Status of Violations**

Feder referred the Council members to document 6.D.1., and said that Paul Ortiz is the Regional Enforcement Attorney for the Southwest and for the Pacific Islands but was unable to attend. Feder read his report.

- Two Magnuson Act cases have been settled. One involves fishing with longline gear inside the MHI longline prohibited area. The case was charged \$10,000 and settled for \$7,000.
- The second case involved retaining shark fins that were not proportionate to the quantity of shark carcasses onboard the vessel. NOAA assessed a penalty of \$20,000, but settled for \$500 based on review of the limited financial gain to the respondent.

Tulafono called for comments or questions.

Duenas clarified that it was the offloading agent that was fined in the case with the beaked whale, not the fishermen.

Ebisui asked Feder to explain how the case regarding the shark fins was settled for \$500 instead of \$20,000.

Feder said he was not familiar with the specifics of this case, but that under the Magnuson Act, there is a consideration given when assessing a penalty and settling.

Duenas clarified that the agent in possession of the fins was basically the baggage carrier, they just offload the boat and take the fish to the containers and then ship it out.

Ebisui asked if the fins were landed by a foreign vessel.

Duenas said yes. He said he agreed with the lower fine, and if NMFS wants to enforce the shark finning ratio they should have an agent sitting there with their own scale. The agents spend their company time and money to offload the fins and carcasses and even weigh it for the NMFS agent.

Tulafono called for further comments or questions. Hearing none, he moved to agenda item 6.E and reminded the Council members it is an action item.

### **E. Electronic Logbooks Amendment (Action Item)**

Kingma began by explaining that the Draft Regulatory Amendment would amend

the reporting and recordkeeping regulations under the Western Pacific FMPs. The need was identified through a pilot program conducted by the Science Center. It was determined that electronic logbooks (e-logs) have the potential to save fishery participants a significant amount of time and reduce the paperwork burden on them. It can also significantly improve data accuracy and will save NMFS time and money. He stated that the fishermen in the Hawaii-based pelagic longline fishery save an average of 30 minutes a day. The Science Center can potentially save four days per year for each vessel that used e-logs.

The 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: maintain the status quo, with the optional use of e-log forms submitted on nonpaper media (CDs, flash cards, DVDs, etc.)

Alternative 3: maintain the status quo, in addition to the optional use of logbook forms, nonpaper media, and also transmission through e-mail or satellite systems.

Alternative 4 and 5: mandatory use of the e-log forms, and submit nonpaper media only.

Alternative 5: mandatory use of e-log forms and mandatory transmittal via e-mail or satellite. Kingma noted this is potentially costly for fishery participants.

Kingma then reviewed the list of advantages and disadvantage for each alternative, which he said were described in greater detail at the 122nd Council meeting.

- Alternative 1: the current system is working, everyone is aware of the regulations and there are not too many violations.
- Alternative 2: there would be another option for fishery participants, it would improve data accuracy and reduce the paperwork burden. However there is a cost for purchasing the equipment, potential corruption of the e-logs themselves, potential loss of data due to corruption, and the time spent training.
- Alternative 3: would take more advantage of efficient data transmission methods (e-mail) and would increase flexibility. However, there is a potential data confidentiality issue during electronic transfer.
- Alternative 4: would increase efficiency for the Science Center, but is more restrictive.
- Alternative 5: would also be increasing efficiency for the Science

Center through submission of transmission through e-mail, however, satellite transmissions can be expensive.

Kingma noted issues were raised and the action was tabled at the last Council meeting. Since then, a meeting was conducted on May 12<sup>th</sup>, and some of the items that were discussed were fishermen liability and submission of corrupted files. It was articulated that the onus is always on the fishery participants to comply with the regulations. If his/her equipment is not working, they are subject to enforcement action. It also was articulated that if a disk was found to be corrupted, the Science Center will just ask for another, and if that was repeated, then there could be enforcement action taken.

Kingma said the meeting participants agreed that the development of performance standards and protocols needed to be established. Examples of the standards would be data entry, security and auditing. General Counsel thought it was important for them to be able to go back and see all of the inputs that were historically created. Also, format requirements would be laid out in electronic signatures. He then read from the Government Paperwork Elimination Act, which he interpreted as saying that electronic signatures should carry the same weight as a handwritten signature in the court of law.

There would also need to be performance standards and protocols for the submission and transmission of the e-logs.

Kingma noted that what is needed is a new alternative, perhaps a two-step action that would include development of performance standards and protocols. He said it could be useful to select a contractor to develop performance standards and protocols, if it was left up to NMFS it could take several years. Nationally, a group in NMFS is gathering information from the regions on what is happening regarding electronic reporting, and will eventually create a national policy. However, it will take time, so Kingma suggested they could put a regional policy in place that would provide fishery participants some options and satisfy the recordkeeping requirements

Tulafono called for questions.

Morioka stated he is concerned that many other fisheries are already utilizing electronic logbooks, and used the VMS example to highlight how the Council successfully develops regional policies without waiting for NMFS to develop national policies.

Simonds agreed with Morioka, and said NMFS still does not have a national VMS policy after 10 years, although they are working on one this year. The Council also developed a national VMS policy and sent it to NMFS.

Robinson said he can understand the frustration and the point of view of not wanting to wait for standards to be developed at a national level, however, the standards and protocols the Council develops will have to meet the needs of the NMFS

Enforcement and General Counsel. He commented that if the Council wishes to proceed with developing standards and protocols, they include the Office of Law Enforcement, General Counsel and the Science Center in the discussions.

Tulafono called for further comments, hearing none, moved to item 6.F.

#### **F. Advisory Panel Recommendations**

James Borja read the AP recommendations regarding Enforcement and VMS.

- Regarding electronic logbooks, the AP supports the amendments to provide fishermen the option of using electronic logbooks.
- Regarding observers for the American Samoa longline fishery, the AP was concerned about the delay of an implementation of an observer program on the American Samoa longline fishery and requested that the NMFS Regional Office implement the program as soon as possible.
- Regarding the enforcement in American Samoa, the AP recommends that the Council request that the U.S. Coast Guard place a vessel in Pago Pago to enforce area-based longline fishery regulations, which may also help with the Homeland Security issues.

USCG CMDR Wilson commented that about 1 year ago they pursued trying to put a vessel there but it was denied. He said he would look back in his files and then revisit the issue.

Robinson said he will look into the question about the observer program, but he does know that the current funding level of the program is not adequate. It is an issue that is high on their priority list.

#### **G. Standing Committee Recommendations**

The Standing Committee heard reports from the USCG and the Office of Law Enforcement. Council staff presented an overview of the Electronic Logbook Draft Regulatory Amendment. The discussions centered on the ability to set performance standards and protocols. There were concerns raised by the committee regarding development of protocols separate from ongoing national initiatives. Council staff expressed that the Council could make a recommendation that allows optional use of electronic logbooks, pending the development of performance standards and protocols. This recommendation was moved and seconded in the committee. However, during the discussion it was amended because in the process of developing performance standards and protocols, some items may need to be codified in the regulation. Examples of what may need codifying include approved nonpaper media.

- The Committee recommended that the Council staff continue to work with PIFSC, NOAA Office of Law Enforcement, NOAA General Counsel, USCG, industry, and NMFS to develop performance standards and protocols for the implementation of electronic reporting. The committee also recommended that the Council take final action on this regulatory amendment at its 124th Council meeting in October of 2004.

#### **H. Public Hearing**

There was no public comment.

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

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

Morioka invited comments.

Robinson stated it was his understanding that the use of electronic logbooks was supposed to be voluntary or optional, and wondered if the wording should be modified to include this language.

This was seconded by Cruz.

Morioka asked Feder if he had any comments, and Feder said it looked fine. Morioka asked for discussion and questions. There were none. He called for the vote. The motion was carried unanimously.

Morioka moved the Council approve the two recommendations from the Advisory Panel.

The motion was seconded.

Morioka called for questions or comments, hearing none, called for the vote. Both recommendations passed unanimously.

### **VII. OBSERVER PROGRAMS**

#### **A. / C. Report on the NWHI Bottomfish Observer Program / Report on the Hawaii Longline Observer Program**

Kevin Busscher, Operations Coordinator for the observer program, provided a report on the NWHI bottomfish observer program. The staff includes one operations

coordinator, one training coordinator, seven debriefers, and they are in the process of hiring an additional debriefer. They also have a database manager.

- 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 \$3.8 million for the Fiscal Year 2004, excluding swordfishing funds.
- Training. A longline training class was completed in February, with 20 observers. In June there was a class for 11 observers, including five Alu Like trainees. Training for observers of the bottomfish fishery occurred in October, with seven participants. Another class is tentatively scheduled for July 12<sup>th</sup>. One observer remains from the training class in October 2003.
- Longline coverage: 23.8 percent through June 12<sup>th</sup> 2004 (i.e., 139 of 583 departures had observers). Swordfish coverage was 100% through June 12<sup>th</sup> 2004 (1 of 1 departure had an observer). They have 34 observers for both the longline and the swordfish fishery.
- Bottomfish coverage: 18.8 percent through June 12<sup>th</sup> 2004 (i.e., 6 of 32 departures had observers).
- Protected Species: The longline fishery through June 12<sup>th</sup> 2004 interacted with two leatherbacks (injured); four olive ridleys and one green sea turtle (dead); three false killer whales and one Risso's dolphin (injured); humpback whale (entangled); short-finned pilot whale (entangled); two Laysan albatross, four black-footed albatross and two shearwaters (dead). The bottomfish fishery through June 12<sup>th</sup> 2004 interacted with one black-footed albatross (entangled) and when the bottomfish vessels were trolling there were two interactions with boobies and one Laysan albatross.
- Longline research project. Collection has occurred for one marine mammal DNA sample, four lobster phyllosoma, six DNA samples from incidentally-caught sea turtles, five DNA samples from various sharks, four albatross specimens for UH and USFWS, 24 juvenile swordfish, fish specimen for outreach programs at PIFSC and the PIR staff, and 53 tuna stomach samples for the Pelagic Fisheries Research Project (PFRP).
- Bottomfish research project. Collected fish samples for fatty acid analysis to help determine the components of the monk seal diet.
- American Samoa longline observer program: There is an office space in American Samoa. Observer deployment was pushed back to January of 2005 as the regulations should be in place by then.

Martin asked what issues the observers are working on relating to enforcement.

Busscher replied harassment cases or interference with sample collecting. Also floatline length, etc. since their office was sued regarding the swordfish fishery. It is a matter of education, they give the fishermen a chance to correct it before turning it over to enforcement.

Martin asked why there is a change in the contractor for the observer program in Hawaii.

Busscher replied it was not due to poor performance, it was a technicality in the contract, and the new contract with Northwest Observers will be in place July 1<sup>st</sup> 2004.

Martin asked if there will be a whole new group of observers?

Busscher replied quite a lot of the current observers switched to the new contractor.

Simonds asked Robinson if he was familiar with the new contractor.

Robinson replied the change of contractors is a result of the current contractor having concerns about their fiscal liability based on some federal policies.

Tulafono asked how many of the observers are Samoan?

Busscher replied some Samoans were certified, then a lot of those did one trip and then went back to American Samoa. Any of those that were trained would now have to be retrained if they want to go with the program.

Tulafono expressed his concern that there are quite a few captains and crew members that have a language barrier.

Busscher replied that to get the program going, they will send observers down to American Samoa to at least keep the coverage up and then will get another training class shortly after January or possibly before that.

Simonds said in preparation for the observer program, won't he want to start advertising in American Samoa now. She asked if he could conduct training in American Samoa?

Busscher replied it would depend on the cost. A lot of other people participate.

Simonds asked if people from American Samoa would have to pay their own way to Oahu for training.

Busscher said it would have to be worked out between the contractor, or Alu Like.

Simonds asked if this is for people who are interested in being trained and not yet hired?

Busscher said he did not know what kind of deal Alu Like worked out. He knows they came up before and were trained, as far as starting early, that is what they did before, then they were delayed, delayed and delayed and now they have to retrain the observers again.

Simonds said maybe the staff can get together and talk about this and see how they might make it efficient as well as afforded the opportunity for American Samoans to do training for the observers. She also asked what happened to the video observing pilot project on the bottomfish boats?

Busscher said he though funding had a lot to do with it, but he did not know.

Morioka asked how they arrange for observer coverage on the longline vessel departing California that may go swordfishing before it comes to Hawaii.

Busscher replied they would fly the observer over there and instruct him/her on how to do their own placement meeting, check for safety equipment, just like they would here. Also, they would instruct the captain and crew on the dehooking techniques.

## **B. Report on the Native Observer Program.**

Eddie Agae from Alu Like provided an update on the Native Observer Program. He reported Alu Like is still very supportive and strong with pushing the preparatory observer program forward. They still have the same partners and funding. They believe they have finally reached a point where it is somewhat stabilized. When the program first started he does not think anybody was really aware of the depth of Hawaii's longline industry - the geographical expanse, the various cultures, the non English-speaking crews. Alu Like is trying to put together a core of observers as diverse as the Polynesian triangle it will be covering.

He said although their funding provides monies for anyone who is interested, they have given strict focus on the island natives that are interested in the program. They have been working with the University of Hawaii's Marine Options Program and have a curriculum that is strong. In the two weeks the students are hit with a barrage of items and topics, and it is difficult. Therefore they expose the students to the species they will be dealing with at the fish auction, the Aquarium, Hawaii Institute of Marine Biology, and Sea Life Park. They get firsthand experience with the seabirds in the rehabilitation center at Sea Life Park. He also exposes them to what longline fishermen deal with and boater/ maritime safety. They incorporate a day at sea into the training where they get to exercise some of the observer tasks and skills. After excursions they come back and cross-reference with classroom materials. A successful feature of the training is the mandatory study hall at six a.m. and 7:30p.m.

In the last class, they had a group of eight but unfortunately, only five met the minimum requirement to move on to the NMFS certification class.

They would like to enhance their program and develop a separate safety at sea curriculum and tie that into a first-responder training.

Morioka called for questions.

Tulafono asked if there were any Samoans in the recent two classes?

Agae replied no, and they did not do any recruiting in the South Pacific Trust Territory.

Tulafono said the observers who went through the program and became certified keep calling his office asking if they need to be recertified, and he wanted to know what to tell them.

Agae replied there were six American Samoan students 1 – 2 years ago, and all were certified. One went on a trip but the rest opted to return to American Samoa. They would need to return to attend some type of lengthy refresher course and then get recertified.

Tulafono said he was concerned because they had a hard time encouraging people to get involved, then when they were certified they were happy and really looking forward to joining the program. Then they got so frustrated, he is not sure if they will be willing to be recertified.

McCoy asked if the program houses observers in that are non Samoans in American Samoa when they are not at sea.

Busscher replied he is not sure what the new contractor has set up, but with the present contractor, in between trips, all the observers have places to stay.

McCoy asked if it was specified in the contract.

Busscher said no, they do not specify that, but in the statement of work they can include housing for the observers. That is something extra that the contractor provides.

Agae said Alu Like was being proactive when they recruited from American Samoa in preparation for the American Samoa observer program. After the training, the following year the program just never materialized. They considered recruiting there again, but decided to wait as there was no evidence that there was any move taking place with PIRO or NMFS to actually put a program together down there.

Haleck asked for a list of requirements that one has to meet to get through the program.

Agae said he would do so and also provide a video, "A Day in the Life of an Observer".

Duenas said when Guam has the longline vessel in place they will need to participate in the observer program, and will need their help. He asked if they expect to increase their coverage to more than 28% or 20%?

Busscher clarified it is 23.8%, and they are required to provide 20%. They have more observers on hand due to the swordfish fishery. If they get numerous calls for observers on swordfish vessels it will not hurt the tuna coverage.

Duenas asked if their budget decreased when the swordfish fishery was shut down?

Busscher said no.

Duenas asked if they kept the same number of observers?

Busscher said prior to being sued, when the swordfish fishery was in operation, they averaged 4.2% annual coverage, about 40 trips per year. Then, after being sued, they increased the coverage to 20%, or about 250 trips per year.

Duenas asked if there is any cost to the boat owners, the operators, or the fishermen?

Busscher said no, they reimburse them \$20 a day for the observers.

Duenas said the report mentions observers will be doing some enforcement. He said it will not help the fishery at all if the observers are pissing off the fishermen. He referred to the case where a fisherman assaulted an observer and was removed by the U.S. Coast Guard.

Busscher said it is rare that there is a harassment charge, and it is a very serious charge. There is an enforcement liaison that is a debriefer, who handles the enforcement cases. Enforcement cases go from harassment to interference. They are required to let the observer see everything that is caught, they have to let the observer do their job. If they are not letting him/her write down positions, that's interference. The other area is the regulations. If the fishermen are not following the regulations, they need to hand that over to Enforcement.

Duenas asked if they have anything that would address the language barriers or cultural differences among the different fishing fleets?

Busscher replied the new contractor has handouts which explain what the observer's and captain's responsibilities are. They are in the process of translating these into Vietnamese, Korean and Tagalog.

Duenas said he is more concerned with the observer not understanding the language used on the vessel, and asked if there was a provision in the contract discussing this.

Busscher said he did not know, but they address that during the placement meeting.

Duenas asked again if it was addressed in the contract.

Busscher said no, not to his knowledge

Duenas said Busscher should wean Pacific Islanders into spending long lengths of time at sea, they are not the major seafarers they once were and are now adjusted to going to sea for only a few days at a time then coming home.

Busscher said it is difficult to tell the boat vessel captain to adjust the length of their trip to accommodate the observer. Also, he mentioned that the vessels that go out for three or four weeks are bigger and their accommodations are better.

Busscher also clarified that the American Samoans that were previously trained would need to go through a three-week training class again.

Morioka asked Busscher for a copy of his slide presentation, and asked the Council for questions or comments on Agae's presentation.

Martin said, with the exception of the recent issue regarding observer harassment, the Hawaii commercial fishing industry has a very good relationship with the observers and contractor. He commended Alu Like and others on integrating the observer program into and minimizing the impact on the commercial fishing operations. He explained that most of the captains he communicates with train the observers in how they are expected to conduct themselves onboard the boat.

Busscher said the observer training addresses how to handle inter-personal conflicts that happen on the boats.

Morioka introduced Jessie Mangat, the manager for NWO Incorporated, the new observer contractor.

Mr. Mangat introduced himself and said he was there to address any questions from the Council. He began by reading the U.S. Attorney's response to their injunction. "In conclusion, the U.S. Attorney, Mr. McKay, in Seattle said, it is in the public's interest to ensure that observers earn appropriate wages and are compensated adequately for their

overtime. The accuracy of the data collection should not be jeopardized because the observers are not always available or are not compensated fairly for the work on the vessels. The public interest will be served in a timely transition of observer services to NWO.”

In terms of questions about language translations, when they submitted their proposal on 6/1/2003 they already had translations for Tagalog, Vietnamese, Korean and English. Those discuss observer responsibilities and also captain responsibilities.

They brought only six observers from the mainland to train, and have over 44 people signed up. He stated a lot of observers are coming out of the woodwork on finding out that they will be compensated fairly. They are looking to work with a base of at least 80 percent priors.

They have provisions for a coordinator in American Samoa and housing. They also planned on deploying some of the already certified observers residing in American Samoa at their own expense to kick-start the fishery. They have that already input into their budget. He reported he has been working with Steven **Burke (phonetic)** who was involved in American Samoa in the past, and they should be able to get that started very soon, especially since they have people who are in American Samoa and are certified and are willing to work. They addressed on 6/1/03 the problems with gear. They have four staff to do the job, and also one future person slated for swordfish, if that opens up.

The good part is that observers are very willing to come back. A lot of people they trained in the past are also coming out, trying to get back into work because the pay scale has gone up quite a bit.

They have two condos secured at the Royal Aloha for the observers where they can be housed and stationed so they're not running around in hotels with their gear, and also have purchased vans.

Tulafono expressed how happy he was that the proposal discusses support in American Samoa, and asked if the salary will be the same in the different islands.

Mangat said the salary is the same across the board, which is \$12.34 an hour for up to 40 hours then 30 hours overtime at that rate. Anything over 70 hours is time and a half. An observer with 300 observer days earns approximately \$6600 a month. A lot of very high quality people will be observing year-round because they will be afforded interim housing.

Tulafono offered his help in American Samoa getting in touch with the people who have been certified.

McCoy asked if the observers would be employees from Hawaii?

Mangat replied for all work they do on land they're considered Hawaii employees. They are an Oregon-based company, which means they would go under their corporation, but will have a Hawaii license that ensures health insurance and other state benefits are given to observers.

McCoy asked if they will be paying taxes to the State of Hawaii?

Mangat said yes, they will be paying taxes because almost all taxes on employment are based on location, not on which state they're from.

#### **D. Public Comment**

Morioka asked for public comment. There was none.

#### **E. Council Discussion and Action**

Tulafono asked the Council to investigate past observer participants from American Samoa interested in re-entering the Native Observer program and work with NMFS and Alu Like to formalize a recertification program if the interest exists.

Morioka suggested including working regarding considering another recruitment effort.

The motion was moved and seconded.

Morioka called for discussion.

Duenas suggested modifying the recommendation to have the recertification program include anyone who has been through the training program.

The amendment was accepted.

The Council voted unanimously in favor of the recommendation.

### **VIII. PRECIOUS CORALS FISHERIES**

#### **A. Current Precious Coral Research**

Farm called on Tony Montgomery from the State of Hawaii to present in place of Frank Parrish who could not attend.

Montgomery thanked the Council for inviting him and said he would be discussing the collaboration that will be occurring this fall regarding black coral research.

- Sam Kangh and Dr. Rick Grigg will continue their University of Hawaii HURL dives looking at *Carijoa riisei*. They're tentatively planned for the first week of

September to be diving in the Au'Au Channel. They may also get to do some dives around Kauai, but that is uncertain.

- The Division of Aquatic Resources will be conducting black coral research statewide through a Conservation Program grant, mostly concentrating in the Au'Au Channel. Their focus will be to extend assessments and continue what Grigg did in 1976 and 1998 using age frequency distribution and density.
- Genetic studies will be conducted on Maui, Kauai and the Big Island.
- The State and NMFS are collaborating on a research cruise on the *Oscar Elton Sette* September 8 – 13 to conduct black coral surveys.

## **B. Update on Annual Report Development**

DeMello directed the Council members to the outline in their binders, and said the report is going ahead as proposed, including the parts of the status of the stock report that will be handled by PIFSC. The outline was finalized and the report should be out by the end of the year.

## **C. 2004 Plan Team Report and Recommendations**

Grigg began by reminding the Council about precious corals in Hawaii. He showed a map of all the precious coral beds that are defined. The value of the fishery before the deepwater fishery became dormant about two years ago was \$603,000 of raw coral for pink, red and gold coral. The whole industry is worth about \$60 million, 100 times more than the value of the raw coral.

The main black coral bed is in the Au'Au Channel between Maui and Lanai. There is also a bed off South Point around to the Southwestern Coast of Kauai. The only activity in the fishery is in the Au'Au Channel where there are approximately 6 divers who continue to harvest black coral. There's a recommendation to go to the 48-inch size limit, and to do away with the 36 inch size limit and the three-quarter inch diameter. The State has gone along with that, however, they also have a long-term comprehensive program that includes other things like limited entry.

He reviewed the age structure of black coral in the Au'Au bed. He said there was a bit of variability, but not too great until 1998 when all the big colonies disappeared due to fishing. The black coral reproduce at age 12 or 13, which gives them about 1 - 2 years to reproduce before they are 36 inches. There is an indication that recruitment might be lessening or decreasing, and associated with that was a discovery made two years ago that the coral bed, at least at depths between 80 and 110 meters, was being overgrown by *Carijoa riisei*. Not only are the black coral colonies almost 100 percent infested, but the bottom is also being overgrown or overtaken by *Carijoa*.

Grigg then reviewed how *Carijoa* was introduced into Hawaii, and said it has shown up on all the high islands, although Kauai has just the beginning of colonies. He said it is plausible that this diminution and recruitment is a result of *Carijoa* growing over the deep portion of the bed, which creates larvae. If that is true, there is a decrease in the larger colonies due to fishing, and a decrease in the smaller colonies due to reduction and recruitment.

Grigg reviewed Governor Lingle's plan to protect coral reefs, and said along with that he has suggested the black coral bed off Lahaina be set aside as an MLC. Bill Devick reviewed the plan and the fishermen have approved it, since the area has been fished down to about 36 inches it is no longer a producing area.

Grigg mentioned it could be an ecotourism spot where a two-person submersible, which holds one paying passenger and one guide, could tour the area as it is one of the most beautiful areas in the world.

He mentioned Hawaii has only 10 MLCs which account for less than one percent of the shoreline. This MLC will be the first in the State of Hawaii that is not on a shore.

He said the main problem with coral reefs in Hawaii is overfishing. The stocks are down about 90 percent of what they were in 1900. He talked about a study he did of the reef just outside the Ala Wai Canal and said there is no impact from the canal on a reef that is just 400 meters offshore. He said the State has been unable to do a whole lot about overfishing due to the lack of funds for enforcement, etc. They need to re-educate the public at large.

Farm called for questions.

Ikehara said it was the first time that he had heard Grigg talking about the Lahaina MLC proposal. His understanding was they asked him for a proposal, and that was as far as it had gone. They had not conducted any investigation or had any further contacts with the public.

Grigg said he met with Tim Johns and Bill Devick two years ago, and they were all in favor of it, but it didn't seem to move forward. But now with the Governor's backing for coral reef preservation, Tony Montgomery informed him that this proposal has received renewed interest.

#### **D. SSC Recommendations**

Severance directed the Council to item 8.D in their briefing books.

- The SSC concurs with the precious coral plan team and recommends the council remove the exemption allowing harvest of black corals with a minimum base diameter of a three-quarters of an inch or a minimum height of 36 inches by

- The SSC further recommends that the Council adopt a 48-inch height minimum requirement for black coral colonies and eliminate any minimum base diameter requirement.
- The SSC strongly recommends that the Council work with the State of Hawaii, NMFS, University of Hawaii scientists and fishermen to develop a long-term comprehensive research plan and management plan that considers other options in addition to the 48-inch minimum size for black coral.
- The SSC endorses current research studies on black corals and other precious corals and recommends that the council and NMFS pursue funding to support MSA requirements for ecosystem-based management.

Regarding the last recommendation, Severance noted the new infestation of *Carijoa riisei*, which is affecting the deeper black corals, is reducing the kind of safety margin the SSC had been looking at before since the deeper black corals are beyond the reach of conventional scuba. This is what is behind raising the height limit and getting rid of the base diameter, something that the SSC recommended in the past and did not happen in the past.

**E. Advisory Panel Recommendations**

There were no AP recommendations.

**F. Public Comment**

There were no comments from the public.

**G. Council Discussion and Action**

Farm, as chair of the precious coral fisheries, recommended that the Council adopt the recommendations from the SSC as one.

Ebisui seconded.

Morioka called for discussion.

Ikehara said they have no objection to the Council taking this action at this time, given that these are federal waters and they view that most of the fishing is actually taking place in State waters. He reiterated they are in the process of starting up an effort to look at a more comprehensive plan to manage precious corals, black coral fisheries, in particular, so they will come back with a fully developed plan that they will do in conjunction with future surveys and WPRFMC.

Farm said he fully supports going to the minimum size, as there are only a few individuals who are either grandfathered in or actively harvesting coral. The Plan Team recommendations suggest adopting the 48 inch requirement for black coral colonies in accordance with industry's recent buying policy, however, that should not be a concern because the Council should not make policy based on what industry's purchasing of goods in the marketplace might be. This recommendation is purely for the resource itself.

He suggested the Council think about the inventory that the few harvesters have that may fall below the 48 inch requirement that might be forthcoming.

Morioka asked Montgomery if there is about two years of stockpile?

Montgomery said since that time they have sold some of it, it has been reduced by at least a third, if not half.

McCoy agreed it is a concern.

Morioka said the inventory did come from State waters, so it will still be compliant with current regulations.

Ikehara said the current inventory was all harvested legally under the existing regulations at that time, and the buyers should be encouraged to use up that inventory rather than let it go to waste.

Farm said the restriction is tied to the harvest, not the sale.

Robinson asked how you enforce the selling of coral trees that are less than 36 inches that are sold from inventory, and know they were not taken after the rule was put in place?

Grigg said he would think the inventory could be stored somewhere in perpetuity until sold so that it is distinguished from future harvest.

Simonds suggested establishing a paper trail like for other species, such as blue marlin that goes to the Atlantic.

Montgomery said there is only one stockpile that he is aware of.

Farm said he has three black coral trees hanging in the garage, and what about individuals like himself.

Simonds said wasn't his concern about large commercial sales?

Farm said yes.

Robinson said his concern is about individuals, and he wouldn't want them busted for violating this law.

Ikehara suggested the Council direct the staff to work with HDAR to develop some sort of feasible and convenient method of certifying what is old stock and what is new stock, and then leave the details to be worked out.

Morioka said that was an excellent suggestion. He asked for a second.

Ebisui seconded it.

Morioka called for discussion.

Robinson said they should modify the wording to make it clear that it's a harvest prohibition, not possession or a sale.

Martin said they should specify commercial harvest instead of recreational.

Ebisui accepted the amendments.

Morioka called for discussion, hearing none, called for the question.

The Council voted unanimously in favor of the recommendation.

## **IX. PELAGICS/INTERNATIONAL FISHERIES**

### **A. American Samoa and Hawaii Longline Fisheries**

#### **1. Quarterly Reports**

Pelagics committee chair McCoy introduced the co-chair, Manny Duenas, and called on Paul Dalzell to provide the American Samoa quarterly report.

Dalzell directed the Council members to the written report in their Council binders, the completed data for the first quarter of 2004. He noted he had also received some second quarter information since the report was written. He prefaced by saying this has been a very poor year for the fishery, and the beginning of 2004 was depressed until the middle of the year.

- The value was down slightly from 2003, but above the long-term average.
- The number of sets was down somewhat from the previous year. Across the entire South Pacific, longline catches of albacore and the CPUE were down.
- The number of hooks set was about almost the same as 2003 in the first quarter.

- The total catch for all species by quarter was above the long-term average in the first quarter of 2004, but lower than 2003.
- The albacore catch was about average for the first quarter, then down in 2003.
- The first and second quarter CPUEs for 2004 were low, below the long-term average. In 2002 the fishery in total landed about 50 million pounds of fish. In 2003, the landings were 10 million pounds. The bulk of the fishery landings are albacore, so if the albacore CPUE is down, then the fishery production will be down. By contrast, the bigeye CPUE in both 2002 and 2003 was higher than the long-term averages. Skipjack CPUEs were about average in the first and second quarter of 2004. Yellowfin tuna CPUEs were just below the long-term average in the first quarter for 2004, somewhat down in the second quarter of 2003 and 2004. Mahi CPUEs were very depressed in the first and second quarter of the year. Wahoo CPUEs were just a little bit below average in the first quarter, a little bit below average in the second quarter. Billfish, primarily blue marlin CPUEs were very high in this fishery to begin with, in the small-scale alia catch, and have declined since then and were below average in the first and second quarters for the 2004. Shark CPUEs were much higher in 2004.
- The albacore CPUE is possibly linked to effects like El Nino, a recruitment signal.
- There was an increase in troll activity in 2003 in response to the poor CPUEs in the longline fishery.
- The bigeye and skipjack CPUEs have increased over time, but the yellowfin has been more variable. The mahimahi has been declining since 1996. There has been a decline in the billfish. The wahoo has tended to remain constant. The shark CPUE has an increasing trend.

McCoy asked if there has been a noticeable size decrease in poundage per fish?

Dalzell said he did not know.

Russell Ito said he would present the first quarter longline logbook report for 2004. He said they had done some reformatting to show time series and also included an annual chart of miscellaneous pelagics species, such as mahimahi, ono, moonfish and pomfrets.

Annual landings by the longline fishery: 17.5 million lbs in 2003. Tuna (bigeye, yellowfin, albacore) = 11 million lbs; marlins = 2.5 million lbs; miscellaneous (mahi, ono, moonfish) = 3 million lbs; swordfish = 300,000 lbs; sharks = 400,000 lbs.

Ex-vessel revenue: \$38.7 million in 2003, which is up by 1.2 million pounds. Tuna landings = \$32 million; marlin = \$2 million; miscellaneous catch = \$4.5 million; swordfish = \$700,000; sharks \$100,000.

Number of active longline vessels: 110 vessels in 2003, 99 vessels were active in the first quarter of 2004. Vessel activity is usually highest in the first and second quarter, and low in the third quarter when the vessels take time to do their annual maintenance, fishing is pretty slow and prices aren't the best. Then it picks up in the fourth quarter when the demand for tuna increases in the holiday season.

Number of trips by the Hawaii longline fishery: 1,215 trips in 2003.

Number of trips by quarter: 332 trips in the first quarter of 2004, all of them targeting tunas. The tuna trip activity is highest in the fourth and the first quarter of the year. The shallow-set segment of the fishery was highest in the first and second quarters of the year. That's due to the high abundance of swordfish in the first two quarters and bigeye catch rates increasing in the latter part, into the beginning part of the following year.

Number of hooks set by area: 30 million hooks set in 2003. High seas = 15 million hooks; Main Hawaiian Islands EEZ = 11 million hooks; Northwestern Hawaiian Islands = 3 million hooks; U.S. possessions = 1 million hooks.

Distribution of effort in 2003: high level of effort at Johnston Atoll; considerable effort in the Main Hawaiian Islands EEZ; a lot of effort above 25° N. They found some good concentrations of large bigeye that was really high quality in the third quarter of the year.

Catch in 2003: 105 thousand bigeye tuna; 28,000 yellowfin tuna; 20,000 albacore.

Bigeye tuna catches by area: high around Johnston Atoll; moderate to good around the Main Hawaiian Islands EEZ; low above 25° N.

Longline bigeye catch by quarter: 56,000 fish in the fourth quarter of 2003; 30,000 fish in the first quarter of 2004, (60% on the high seas).

Bigeye tuna CPUE: 4.3 fish per thousand hooks in the first quarter of this year, with slightly higher catch rates in the area of Kingman Reef and Palmyra Atoll, 6.9 fish per thousand hooks.

Albacore catches: 3,000 albacore in the first quarter of 2004, (70% on the high seas).

Albacore CPUE: .4 fish per thousand hooks in the first quarter of 2004.

Yellowfin tuna catch by quarter: 4,000 yellowfin tuna in the first quarter of 2004 (40% on the high seas).

Yellowfin tuna CPUE: .6 fish per thousand hooks in the first quarter of 2004, with a high catch per unit effort in the EEZ of Kingman Reef and Palmyra Atoll, 3.4.

Billfish catches by the Hawaii longline fishery: The dominant component of the billfish catch now is striped marlin with 26,000 fish caught (most coming from the Main Hawaiian Islands EEZ); 6,000 blue marlin catches last year (most of it was caught on the high seas). In the latter half of 2000, the swordfish fishery was closed, and it has been low ever since. Only 700 fish were caught in the first quarter of 2003 (60% on the high seas).

Swordfish CPUE by tuna-targeted trips: .1 fish per thousand hooks in the first quarter of 2004. Tuna-targeted swordfish catch rates are usually highest in the first and the second quarter, which coincides with the quarters which have high catches by the swordfish set area of the fishery when it was operating, though the catch rates for the swordfish-targeted fishery was about 20 times as high as what you see with the tuna-targeted CPUEs for swordfish.

Striped marlin catches: 6,500 fish caught in the first quarter of 2004, half of it in the Main Hawaiian Islands EEZ.

Striped marlin CPUE: .9 fish per thousand hooks in the first quarter of 2004, with slightly better catch rates in the Main Hawaiian Islands EEZ.

Blue marlin catches: 1,300 fish in the first quarter of 2004.

Longline blue marlin CPUEs: about two fish per thousand hooks in the first quarter of 2004.

Shark catches by the Hawaii longline fishery: 61,000 blue sharks in 2003; almost 3,500 threshers; about 3,000 other sharks and mako sharks (most of the shark catches are highest on the high seas)

Blue shark catch by quarter: 10,000 in the first quarter of 2004, (half of it on the high seas).

Blue shark CPUE by quarter: blue shark CPUEs by tuna-targeted trips are about 50 times lower than what you would see with swordfish targeted trips. Tuna trips are not available throughout the times series.

Catch of miscellaneous pelagic species: 55,000 mahimahi caught in 2003; 38,000 monchong; 19,000 wahoo; 12,000 moonfish.

Mahimahi catches by quarter: A lot of variation in mahimahi catches.

Mahimahi CPUE: .3 fish per thousand hooks, highest in the EEZ of Johnston Atoll and the high seas.

Morioka asked if Ito includes the management changes when he does the analyses.

Ito replied some regulatory impacts affect species differently, so there is a need to take it species by species when you look at the data and try to explain changes over time.

Morioka replied that would be of interest to the Council, to see regime shifts in regulatory actions and the impact to a fishery.

Ito agreed to put it in the next quarterly report if time allowed.

## **2. Options for Yellowfin and Bigeye Management in the Pacific**

Dalzell mentioned this topic was presented at PrepCon in Bali and was generated by concerns for yellowfin and bigeye tuna in the Pacific. He summarized recent stock assessments in the West Central Pacific done by the SPC Oceanic Fisheries Program.

The fishing mortality for yellowfin has increased over time, particularly in the 1990s, but it is still well below the overfishing mortality threshold. The biomass over time has decreased, increased and stabilized. It is higher than the overfishing point.

Fishing mortality for bigeye in 2002 and 2003 were both above the MSY points, but there was quite a difference in the two trajectories. In the 2002 assessment, the fishing mortality was well below the MSY point. In terms of the 2003 assessment, the conclusion would be overfishing of the stock is going on, although the fishing mortality declined. There are concerns for bigeye, particularly with the overfishing incident in the late 1990s and part of this decade.

Dalzell explained a slide which showed the biomass trajectory in the absence of fishing, the biomass as a result of fishing, and also where the greatest impacts were coming from in different fisheries. In the Eastern Pacific, there was a significant impact on the biomass on purse seining around floating objects. In the 1990s, due to the use of untethered FADs and deeper setting nets, there has been a major take of bigeye juveniles that previously were comprised principally of skipjack and yellowfin in the Western Pacific and yellowfin and skipjack in the Eastern Pacific,. When this is put into the stock assessment models, it has a significant effect on the biomass trajectory of bigeye. The conclusions of the 2004 bigeye tuna assessment is that since 1998 they have been below average. As a consequence, total biomass and spawning biomass will decrease in the future below the lowest levels observed during the period modeled.

The current status and future projections are considerably more pessimistic if a stock-recruitment relationship exists. So if there's a strong tie-in between the spawning

stock and the volume of recruitment, then this obviously is a pessimistic forecast. Under all scenarios considered, fishing mortality levels are greater than those corresponding to the average MSY. These conclusions are robust to the alternative model and data formulations considered.

For the yellowfin assessment, they started using the virgin biomass as their reference point. They use the long-term average for recruitment. They're below that line for the last part of the 1999, 2000 and the first part of this decade. The model shows the biomass trend on the unfished stock and then with fishing. Historically, the spawning biomass ratio of the yellowfin tuna in the Eastern Pacific has been below the level that will support the average MSY, but above that level for most of the last 19 years. Yet the increase in the spawning biomass ratio is attributed to a regime change in the productivity of the population. Two different productivity regimes may support two different MSY levels associated with spawning biomass ratios if the effort levels are estimated to be less than those that would support MSY based on the current distribution of effort among the different fisheries.

Due to the light number of recruits entering the fishery in 1998 and 2000, the catch levels are greater than the corresponding value at MSY. So basically, the fishery has been propped up by above-average recruitment. Because of the flat yield curve, the average yield at the current effort level is only slightly less than the MSY. Again, if a stock/recruitment relationship is assumed, the results are somewhat pessimistic and the current biomass is estimated to be below that that will support the average MSY for most of the model period except for the last two years, the end of 2002 and 2003.

The average MSY calculations indicate that the catches could be greatly increased with the fishing effort went directly towards longlining and purse seine sets on yellowfin associated with dolphins, less sets on untethered FADs. This would also increase the spawning biomass ratio levels.

In the Eastern Pacific there is a fairly gloomy prospect for yellowfin and bigeye, less pessimistic in the West and Central Pacific. Although the biomass was above those that generate MSY, overfishing has been taking place on the bigeye stock.

The following summarizes the current situation for yellowfin and bigeye and what is required: Longline catches are much less of an issue than is the case with bigeye tuna. Longline appears to have relatively low impact on the yellowfin tuna stock. The main sources of impact are the purse seine fishery and the Indonesian fishery, which is reporting very high yellowfin tuna catches with little data to characterize gear types, size, etc. In the far west of the yellowfin range, in Indonesia and the Philippines, you have these huge net fisheries on yellowfin. And also large handline fisheries in the Philippines, which catch spawning yellowfin and yet their information flow from those is poor, at best. The purse seine fishery will likely be subject to some sort of effort restriction, which is probably better than catch restrictions where inter-annual variability of the stocks of skipjack and yellowfin is fairly high. In the Palau arrangement, which was developed under FFA, the parties to which have taken some initiative on this, and it

is likely that the new West and Central Pacific Fishery Commission will be asked to consider expanding this style of management to the overall area. The arrangement was to try to limit the expansion of purse seine fisheries by the parties of the arrangement. But the parties of the arrangement covers 75 percent of the purse seine catch anyway. So that is the Pacific Islands, who are parties to the Palau arrangement, which covers a large area of the fishing grounds. The restrictions on FAD sets noted for bigeye would have some positive effects for the yellowfin tuna, also. Yellowfin tuna caught in school sets tend to be large or on average. There's also a yield per recruit type benefit increasing the average size of the catch. The real problem is management of catch in Indonesia and the Philippines. Together, they currently take nearly half of the regional yellowfin tuna catch. What little information they have suggests that the fish are mostly very small, convincing these countries to have management measures consistent with FSM will be a real challenge.

Basically for bigeye you need to look at the purse seine fishery when it comes to minimizing fishery impacts for the longline fishery, as a whole across the Pacific, the longline fisheries tend to be more important in terms of effort limitation.

Dalzell then read the SSC's recommendation:

- The SSC is extremely concerned about the condition of yellowfin and bigeye tuna stocks in the Pacific Ocean. The SSC recommends the Council express these concerns to the Department of State and ask them to propose some management measures to the new Commission to reduce fishing effort on these species.

Interesting possibilities include the terms of the 1999 resolution to limit fleet size and capacity at the 1999 levels and a registry of canneries and fish processors, buyers, brokers and agents, which need to cooperate with and support the goals of the new commission. For instance, vessels fishing in the Convention area would not be allowed to sell fish to canneries, buyers, brokers and agents which are not from an approved registry list.

Dalzell explained that the paper in the briefing books talks about input (fishing effort), and output (catch controls). It goes through various input and output controls and indicates where other tuna commissions have used them to manage tuna fisheries. Output controls could include fleet-wide quotas or total allowable catches (TAC). A TAC would have to be divided up by the parties in a particular Convention. Transferable ITQs or nontransferable ITQs are used by the Southern Bluefin Commission and also by ICCAT. There are also trip/vessel/country limits limiting catch to specific historical levels.

Input controls, capacity. Put restrictions on the number of participants, the vessel size, the power or fleet capacity, number and size. IATTC limits purse seine capacity of new vessels. ICCAT limits number and gross tonnage. IOTC limits the number of purse seiners.

One other possible measure is restriction on the amount of time fishing. This is being considered by some of these commissions, but not implemented.

Gear restrictions. You can have net size, mesh size, net depth, net depths which were considered but not implemented by IATTC.

The paper talks about certain time reductions, but there are no examples given.

FAD restrictions will be a hot issue for the New West Central Pacific Commission, and is a hot issue for IATTC.

Restrictions on the number of FADs, number of vessels using FADs, number of sets on FADs or FAD design, restrictions on tender vessels. Tender vessels are important where you have a large number of FADs. These have to be serviced, have to be deployed, pulled in and repaired and reset. If you limit the tender vessels, it also limits the number of FADs you can deploy.

ICCAT has a closed area and season for FADs. IATTC has imposed a blanket prohibition on all floating objects and use of tender vessels.

At-sea transshipment is prohibited by IATTC. It is prohibited under the terms and conditions of some of the arrangements that have been developed by FFA. This is likely to be something that will be limited or prohibited by the new West Central Pacific Ocean Fisheries Commission.

Time/area restrictions are implemented by the IATTC in the Eastern Tropical Pacific Ocean.

Minimum size is used by ICCAT.

Compulsory detection is instead of discarding it, you keep what you catch.

The paper doesn't give any options for managing bigeye and yellowfin in the Pacific Ocean. It simply goes through what options are being used by other fisheries management. This is something that is going to be high on the agenda for the new fishery management commission for the West Central Pacific which came into force on Saturday, the 19th of June.

Its last PrepCon meeting will be in December. At the same time they will hold the first meeting of the new commission.

Simonds asked if he discussed the capacity meeting.

Dalzell said it was mentioned that there is a concern about the expansion of fishing capacity in the Pacific, particularly purse seine capacity. The Japanese are hosting a meeting in July in Sapporo to look at the issue of fishing capacity in the region.

There is a paper by the Japanese that points the finger very strongly at the Taiwanese for the expansion of their purse seine capacity. So this is another aspect of the management issue.

### **3. New Paperwork Requirement for Imports and Exports**

Ray Clarke introduced himself and said he works for the international office in PIRO. He said he would be going through a proposed rule then providing information on the process.

The species referred to are bigeye tuna, swordfish and bluefin tuna. At some point in the future most tuna species, in some terms of trade, will probably be tracked in some capacity around the world.

Highly migratory species have been managed differently on the East Coast than on the West Coast. On the East Coast, NMFS has an office in Silver Springs and they're directly responsible for HMS management. As a result, it has an office that stretches from the Northeast, right down to the Gulf Coast. This particular issue has been delegated to the Northeast office. A committee within the agency has been formed that involves all the regional offices and some of the Science Centers. David Hamm participated in the development of the rule.

In short, this rule proposes an HMS international trade permit. It will be necessary for all dealers that import or export the covered species from any ocean area. In addition, there is a requirement for dealer reporting and will require tracking documents for import and export. There will also be ongoing reporting requirements, biweekly summary reports.

There are two major issues: the trade tracking program, which will involve the development of statistical documents and re-export certificates; and illegal, unregulated and under-reported fishing.

The whole idea is to enhance member nations of accountability on quotas. Whether it is today or five years from now, there will be quotas potentially delegated within this new commission. Then the question becomes how to track various members, how they both use, divvy up and trade these quotas and the products that come forth from these.

Illegal, unregulated and under-reported fishing and fishing activity has been prominent in other commissions, especially in the Atlantic. The Japanese have taken a look at this issue and are actively trying to thwart it. The two major reasons why the U.S. Government has to develop these regulations are as a result of obligations that come through on two international conventions or commissions: ICCAT, which is the implement act; and more recently a statistical document program for bigeye and swordfish that had a bluefin tuna program tracking bluefin from the Atlantic Ocean.

In 2001 and this year they had a resolution that said that the original bluefin program would be expanded to both the bigeye tuna and the swordfish. IATTC, which has a convention that was formulated in 1950 and has just been recently renegotiated, passed a recommendation in 2003 to implement a similar statistical document program for bigeye tuna.

It all fits together in terms of the ocean areas. This commission has just entered into force and really has not got up and running. Nonetheless, the Japanese have made it very clear that they have an interest in covering all ocean areas of the globe. They've already put on the table a proposed statistical document program for bigeye tuna. It is exactly the same language that was accepted by both the ICCAT and IATTC.

There is a need for consultation between ICCAT and IATTC and a need to track fish back and forth, as there is overlapping jurisdiction. Even though the U.S. is not a contracting party, there is the Convention for the Conservation of Southern Bluefin which also requires a tracking program.

Clarke then reviewed the proposed rule. He said it is going to require all dealers that import or export southern bluefin tuna, bigeye tuna or swordfish to have a permit and a statistical document or re-export certificates. An administrative fee will be associated with the permit. The statistical document would be required to accompany each shipment. For instance, in Guam, where there's quite a bit of movement of fish from foreign vessels, they would be required to provide some documentation if they re-export the fish out of Guam.

There are some questions in terms of Guam specifically, what's an import and what's an export, what's a re-export. Basically, there's a proposed form. A lot of the information is fairly standard: the product type, gear code and the net weight. This would accompany each shipment of fish. Then there would be some more information, such as the member state government validation which states that the information provided is correct.

The issue of reporting is one of the more arduous issues, especially for the dealers that are required to submit activity reports every two weeks. There would be an exemption for bigeye tuna that's destined primarily for canneries. Then some of the key issues discussed during the public meetings were validation auctions and the idea of delaying implementation for fresh bigeye tuna.

During the course of the proposed rule, Clarke discussed with others on the East Coast about how unique the situations are in Guam. Guam has been a vexing issue, because there is a significant transshipment by foreign, locally-based longliners. The question as to what status those fish are, whether they are moved through the Customs Territory or actually enter the Customs Territory. During the course of the development of the proposed rule they were able to get their colleagues to send out somebody from the Northeast that helped craft the rule. There were a series of public meetings that were

held throughout the nation, one of which was held in Honolulu. The other one was held in Guam. Prior to the meeting, the proposed rule was circulated to all local dealers in Hawaii. Clarke reported he worked with some of the local dealers to ensure that timing of the public meetings fit their schedule as they are the main target audience. Unfortunately, they were unable to convince their colleagues to go to American Samoa. Nonetheless, they forwarded information to the dealers there.

Both public meeting were well attended with good discussion. Dave Hamm attended the meeting in Guam. They have also received written comments from a variety of local wholesalers in Honolulu. The comment period on the proposed rule ended on May 10th. Now, he reported they are formulating the final rule. They continue to have a working group working within the agency that meets every two-weeks to address the various comments. He said he was optimistic that the main concerns will be addressed in the final rule. He said they are trying to get a final rule out in time for the November ICCAT meeting.

McCoy called for questions.

Duenas stated the Council should be involved in the process and should be given the first crack at working with these international organizations and creating a rule that will impact the fishery, the fishermen and the businesses. He said he wished the agency would give them that respect, that courtesy.

He then discussed the definition of dealer versus agent. The people offloading the vessels are just people that are baggage carriers, they charge for how many kilos they offload from the boats and provide full documentation of everything they offload to NMFS. The initial purpose of this regulation is to address the illegal, unreported, unregulated, which he does not believe exists anywhere in the United States, including Guam. Every fish that's offloaded, it's documented somehow, somewhere by somebody.

Certification on cost is another burden on the agents. In Guam, they used to have 500 longliners do port of calls a year, but are now down to about 70. There is not much profit in doing business on Guam. Basically, Duenas said, if you're going to send a fish to Japan that doesn't even belong to you, and you're going to pay \$50 to a guy to certify it and it may be worth only \$200.

Duenas asked who would enforce it. There would be some agents that comply and some that do not. That was the biggest concern with the agents on Guam, they are reporting. It's reported twice. These vessels are licensed lined from their countries. A lot of them are from Japan. So they have information and they are shipping the fish to Japan.

He said there is no reason to implement this program on Guam. There is no need in Hawaii either, they had a beautiful report on the Hawaii longline and how much was caught. The same with American Samoa. He reiterated again it should go through the Council process.

Clarke responded that the comments seem to parallel a number of comments they heard. He said he was guardedly optimistic that some of them could be addressed. Regarding the Council involvement, they were at the mercy of their colleagues and there is a different view on the east. He stated he and Hamm tried to be as vocal as possible about these involvements and the balancing of these various interests.

Duenas asked if there would there be a chance of it being recalled and given to the Council?

Clarke said it is not set in stone, but there will be a final rule. The public comment period has closed, although it is not unknown for a public comment period to be extended. Beyond that, he said he is not clear what will occur. He and Dave Hamm and others are working to try to address all of the comments, many of which are being closely looked at, especially those in terms of Guam. Dave Hamm has been extremely vocal on the need to minimize duplication of burden in terms of reporting, and they are aware that a lot of the information that currently is being asked for may be derived from other sources of information. One of the issues that they need to address is how they are going to get this information. They are not exactly clear if it will be PIFSC or PIRO collecting the information. He stated he was sure the Regional Administrator will include the Council in the development of all the programmatic activities.

McCoy asked when the process started?

Clarke said the meeting in Guam was early May, and the proposed rule had been out 45 days prior to that. The development of the proposed rule had been under development for almost 18 months prior to that.

Ikehara said his concern was that the State already requires mandatory dealer forms from the local dealers, and they are in the process of implementing a dealer permit as well at some time in the future.

Martin asked what the definition of import and export is and how it relates to U.S. documented vessel landing in U.S. ports.

Clarke said it is fairly clear-cut for a US vessel landing in a US port. The country of origin is the US, and if it gets exported to Japan, as a result there would a requirement for an export certificate in that situation.

Martin asked if it stayed within the US?

Clarke said there would be no requirement.

Martin commented that with the exclusions related fish that are filleted, it seems to open a door to a significant portion of imports being excluded because of that.

Clarke said the current exemption is for bigeye destined for a cannery, and asked if he was referring to product that is fresh or frozen?

Martin read the excerpt: "For example, frozen bigeye tuna, fresh or chilled bigeye tuna, excluding filet and other meat." Therefore it is excluding a significant portion of what is imported because more tuna is imported filleted than round. A significant portion of the data they hope to gather will not be addressed.

Clarke said one of the bigger issues and the one that is an immediate concern to both dealers here in Hawaii and dealers in Guam is product form, whether it is fresh or frozen. There's a lot of consideration going on in terms of eliminating fresh product as a product form and only concentrating on frozen supply at this point in time. He commented Duenas was correct when he stated there is very little indication of IUU fishing here, especially around the vicinity of Guam. However, apparently it has been a major problem in some of the Atlantic and some of the other ocean areas.

Duenas asked if there was an exception for purse seine?

Clarke said there is an exemption proposed for all fish destined for canning, whether that is pole-and-line caught fish in the Solomon Islands or purse seine caught fish that ends up in American Samoa.

Duenas said he has documented research that shows that purse seine catch juvenile bigeye. He asked why that wouldn't be just as important information as the adult bigeye?

Clarke said it's not a matter of whether the information is important or not, it's just the sources of the information.

Morioka said that presumes that IUU fishing does not occur in pole and line and purse seine, so then the finger starts to point back to the longline. Many of the unflagged ships that are participating in the IUU fishery are not only longliners, but also purse seiners. So this exemption is peculiar. He asked whether the agency asked IATTC why this exemption exists.

Clarke said he could not speak specifically to the process in which the US Delegation or the agency reacted to the proposal in the other international commissions, but for whatever reason the proposed rule has continued basically the same. There is a general belief that the IUU fishing is more severe with longlining than it is with purse seine. That is reflected both in the IATTC resolution and the Western Pacific Convention.

Duenas asked Robinson to send a letter asking the region to be more forthright, to let the Council work on this issue since they are sensitive to all the concerns of everyone. In Guam people feel it was just a formality. He said he felt they were nothing but pawns. They talk to people that are involved in the industry and give their comments, but no one ever listens.

Robinson said he could do better than a letter, he could raise the issue face-to-face with Rebecca Lent and the leadership in the agency and discuss Duenas' concerns. He said he would be happy to do so.

Duenas said he has a lot of respect and admiration for this process, it is the only federal process that allows stakeholder involvement, from the NGOs to the fishermen, to the dealers, etc.

Hamm said he wanted to remind those who have been around for a while that it was not the first time this issue has come up. Japan implemented the international agreement from ICCAT that they agreed to three years ago. The US has not implemented their international agreement that the State Department or whoever does the ICCAT business agreed to. It was about two years ago when shipments from Guam were first refused import into Japan because they did not have the proper certificates. They jumped through a whole bunch of hoops to get some certification system set up in Guam so that the shipments that were already out could be imported and acceptable to Guam. The landings from 2001 to 2003 have dropped by 40 percent. One of the comments from an agent in Guam stated they don't even deal with the Taiwanese fleet because the Japanese are requiring so much. If the fish comes from a Japanese boat then they are more likely to accept it even without certifications, because they know that their boats are reporting to them under their Japan Fishing Agencies requirements. So it is a problem that they inherited from the Atlantic and on the East Coast.

In his opinion, it hasn't been handled well. He has been reasonably vocal about the whole process. At least they agreed now to not include fresh bigeye tuna, which is going to eliminate about 98 percent of the problem.

Morioka said it is important for the Council to communicate each island area's concerns to the agency, and additionally that this Council be engaged by NOAA Fisheries whenever these type of issues come up early on. The bottoms-up approach is a critical element. He commented that they have always done things on an open basis, and would like to continue that.

Morioka motioned that the Council direct staff to communicate each island area's concerns to NMFS regarding the unnecessary administrative burden imposed by the proposed rule on recordkeeping and reporting for import/exports of tuna and swordfish published in the FR on March 29, 2004.

Duenas seconded it.

McCoy called for discussion. Hearing none, he called for the vote. It was passed unanimously.

Morioka read the second motion: additionally, the Council communicates its concerns that NMFS engage the Council in the process of developing regulations applicable to fisheries in this region.

Tulafono seconded the motion.

McCoy called for discussion.

Farm said perhaps it could be emphasized that it occur in a timely manner.

Morioka replied that Robinson's presence at the meeting facilitated that.

McCoy called for additional discussion.

Duenas thanked Robinson for discussing the issue with others in NMFS, and asked if they should specifically mention a section that deals with international agreements as it applies to this region.

Morioka said he wanted to keep it broad enough that it wasn't just limited to international but all issues that come before.

McCoy called for discussion. Hearing none, he called for the vote. It was passed unanimously.

#### **4. Hawaii Longline Blue Marlin CPUE**

Keith Bigelow introduced himself as being from PIFSC, Division of Fisheries Biology and Stock Assessments. He explained the recommendation to look at some of the declines in the species, particularly striped marlin and blue marlin, came from the Pelagic Plan Team.

Bigelow reported they declined for a variety of factors, such as the recent regulations on the demise of the swordfish fishery, the change in geographical spatial area of the fishery, and other factors. He explained he would just present the blue marlin component, which is a PFRP project largely conducted by Bill Walsh from PIFSC.

He showed the time series of blue marlin CPUE. From 1994 to 2002 the fishermen reported about 49,000 blue marlin on the logbooks. Tuna trips compose 70% of the total capture, or about 32,000 individuals. As scientists, they can theorize about the reasons for the decline in the last four years, from 1998 to 2002:

- Latitudinal change in the tuna fishing effort, such as more effort being expended into Palmyra, to the waters of the south. Perhaps those have lower catch rates than traditional grounds near Hawaii.

- Changes in gear configuration. With the demise of the swordfish longline fishery, perhaps there's a lower CPUE in the tuna sets.
- Misidentification problems. Juvenile blue marlin look much like a juvenile striped marlin and juvenile black marlin. There could be some time series trend in misidentification.
- Reduced availability to the Hawaii-based fishery based on some sort of oceanographic factors.
- Both catch competition or local depletion, whereby there is too much fishing effort in a small spatial area.
- A regional stock-wide decline.

He said he would address the first three hypotheses and just touch a little bit on 4 and 6.

There are a number of biases in the CPUE time series. In the stock assessment they try to remove these biases to get a better indication of the refined CPUE trend. Traditionally, they look at CPUE as a function of time, area, gear or the environment. They cannot use this approach for the blue marlin because of the misidentification problem. For this reason, Bill Walsh developed a model called a generalized additive model, which is based on the observed status. For various factors, they have ten different predictors: year, month, the beginning of the set time, differentiate the swordfish from the tuna, and some geographical variables.

They developed the model based on the observed sets to predict blue marlin catch. Then from those prediction estimates, Walsh applies that to the total logbook data to get the actual blue marlin catch from the entire fishery. NMFS has also compared another project to the commercial sales data, which has accurate estimations for blue marlin, striped marlin and black marlin.

About 49,000 blue marlin were recorded in the logbooks, in the model there were about 38,000, so there was a 29% over-estimation of blue marlin. In comparison with the auction records they noted that the auction was supposed to receive 11,000 blue marlin but actually saw about 2600. Therefore, most of the blue marlin was striped marlin and some of the smaller fraction was spearfish, and the black marlin mirror that. So there was an over-estimation of blue marlin and an under-estimation of striped marlin in the logbooks.

There are ten predictors for standardized CPUE. When they remove nine, they are just left with the year effect. This is the standardized CPUE, or a better representation of the actual abundance of the species. They have not explained the decline after 1997 in the blue marlin CPUE. Using the ten different variables, they have an explained decline where they have a better handle on the actual number of blue marlin caught in the fishery.

There is a longer time series of the Japan CPUE in a similar geographical area from 1975 to 2000. He showed the general increase from 1975 to 1995 in the Japanese fishery, and then a rapid decline thereafter, which mirrors the Hawaii-based fishery.

He stated it could be concluded that the decline is more availability and the immigration into the area has been reduced or a more regional stock-wide decline. It is probably an availability issue, something has changed in the oceanography which has not been addressed by the modeling efforts. The Hawaii-based fishery is setting the regional backdrop of the larger resource, and it might be a regional or stock-wide decline.

He stated they have applied it to blue marlin, and are going to use the same technique for striped marlin. They will also use this method to actually create a scientific database to get a better estimation of these species.

McCoy called for discussion.

Morioka asked if he heard correctly that the gear elements did not appear to be a factor in the decline, it is more a biological availability.

Bigelow said yes.

## **B. Seabird Measures**

### **1. USFWS Short-Tailed Albatross BiOp**

Robinson stated that NMFS reinitiated consultation with USFWS March 2nd on the effects of the Hawaii longline fishery on the short-tailed albatross. They are only consulting on the swordfish fishery, the regulatory amendment that was implemented in April. The general tuna fishery already has an existing biological opinion so this consultation is limited to the swordfish fishery. A biological assessment for the pelagics new technologies amendment was prepared by the Council and HLA and is being used as the information base for the consultation.

NMFS is the action agency, HLA is an applicant in the case. There were a number of meetings that HLA, the Council, NMFS and USFWS have participated in in leading up to the development and completion of the biological opinion, and everything has gone along well in that process. A final biological opinion with an incidental take statement should be completed by July 16<sup>th</sup> 2004.

Flint requested that Holly Freifeld address any questions.

Morioka asked if there are any potential issues that the Council ought to be cognizant of in this process?

Freifeld responded that Council staff has been participating throughout the consultation process, along with HLA, so the Council staff would bring to the table any concerns.

## **2. New Measures for Seabirds (Action Item)**

Dalzell mentioned the draft range of alternatives for seabird bycatch mitigation measures for the Hawaii pelagic longline tuna and swordfish fisheries that was sent to the Council members has subsequently been modified. He directed the Council to the updated version, 9.B.1(a).

He reported about three or four years ago the Council worked on a range of measures to minimize interactions between black-footed and Laysan albatrosses north of the Hawaiian Islands that interact with the longline fishery. Those were subsequently used in a BiOp for the short-tailed albatross and also included in the Pelagic FMP through an amendment to the FMP. When fishing above 23<sup>0</sup> N, tuna or swordfish vessels have to employ certain mitigation measures and strategies. There has been additional work on seabird/longline mitigation both in Hawaii and also in places like Australia and New Zealand.

Over the last few years, NMFS, HLA and Blue Ocean Institute have tried out two new seabird mitigation measures: the underwater setting chutes and side setting. The results of the work were used to generate the regulatory document.

At the last Council meeting a preliminary range of alternatives was presented to the Council. The Council's recommendation was to direct staff to prepare a Pelagics FMP amendment that examines a range of alternatives for seabird mitigation that includes either the use of side setting, use of an underwater setting chute or other acceptable measures.

Subsequently, the SSC recommended that all vessels in the Hawaii longline fishery adopted side setting with 60 gram weighted branchlines where possible, wherever they fish. If side setting is not technically feasible for some vessels, the SSC recommended that the vessels employ the currently required suite of mitigation measures, or any other more effective technologies as they become available. The SSC also recommended that the Council, fishing industry, NMFS, USFWS and NGOs continue research into the effective use of underwater setting chutes, side setting or other innovative seabird mitigation techniques.

Dalzell stressed it was important to recognize the process is a dynamic one, what people think of today as being a good measure may be superseded by something that's more efficient later.

He showed a slide of a bait-setting option that was developed in New Zealand and not considered yet in Hawaii.

He reported a major reduction in seabird takes in the absence of shallow-set longline fishing during the middle of the swordfish fishery closure. It was not only due to a closure of the swordfish fishery, but the fact that most of the tuna fishery occurred south of the Hawaiian Islands. Clearly there were a couple orders of magnitude reduction in seabird interactions and mortality, which is something they want to maintain for the future, even though a limited swordfish fishery was re-implemented.

One of the points that came up during the SSC was that the 23<sup>0</sup> point was used in the last BiOp because it is the southernmost point that short-tails have been observed in the Hawaiian Islands, and that it shouldn't affect where to implement seabird mitigation measures. He reported there is a north/south spatial aspect of seabird interactions. The confidential maps he viewed but which cannot be released until they are aggregated show there are ongoing seabird interactions even with the tuna fishery below 23<sup>0</sup> N. He said this was factored into the development of alternatives.

As part of the Regulatory Streamlining process for doing amendments, fishery management teams were developed. The team for this amendment is Dalzell, Marcia Hamilton, Eric Kingma, Holly Freifeld from USFWS and Tom Graham from PIRO.

A number of different alternatives for the longline fishery emerged. The basic principles they looked at when developing these mitigation measures were that, in general, most mitigation measures work. Some of them minimize contacts and captures up to 80 percent. The ideal technique for mitigation interactions with seabirds should minimize seabird capture, achieve a high compliance among the fishing fleet, should not be overly dependent on crew behavior, and should work consistently across a range of variables such as time, locations, seabird density, etc.

He showed a slide which summarized the mitigation measures used in Hawaii, and the combinations that have been used. He reported one of the big problems is that cross-comparison is difficult. For instance it is difficult to compare the performance of measures by studies conducted by the different agencies. The confidence intervals around some of these point estimates are very broad. They also have to look at the operational characteristics, i.e., what is going to achieve high compliance by the fleet.

The following information was shown to the Council in a table which compared the performance of the seabird mitigation measures relative to controls and also the operational aspects, cost, compliance and enforcement:

Underwater setting chute: In its first trial there were very high mitigation properties, but in the second set of trials the setting chute bent and broke and had to be mended. Operationally, this may not be a very good measure for the Hawaii fleet. They also tried a shorter chute, and the performance was not as good as the nine-meter chute before it broke. The cost is quite high at \$5,000. Unless an observer is on board, compliance and enforcement would be difficult.

Blue-dyed bait experiments: Tests showed that there were strong mitigation properties in one test, however, in a different test it did not work as well, possibly because different baits were used. He reported Freifeld received recent reports from New Zealand about observations from people who are now looking at blue-dyed bait. They've found its performance varies between different birds and also between the different types of fish baits used. Operationally, it's not that difficult and it is inexpensive, \$1400 a year. Unless an observer is on board compliance and enforcement might be difficult.

Streamer or tori line: It is generally not offered in the Hawaii fishery, but it was included in the table because it is used in the Alaskan demersal longline fishery. Other methods are more appropriate for the Hawaii fishery.

Towed buoy: A variance of the streamer or tori line with a float on the end. Both of them have worked reasonably well, but operationally they require a lot of maintenance. They are fairly expensive, \$3,000 to install and unless an observer is on board compliance and enforcement are difficult.

Strategic offal discards: Simple to use, the offal is stored below decks, and the next time they're setting they drop it and birds cluster around the offal. The boat steams and leaves the birds behind. Operationally it is not difficult except with tuna boats which do not generate as much offal as the swordfish boats. Some of the bycatch could be stored and used as discard material. The cost is practically zero but unless an observer is on board it is not a guarantee it will be used.

Night setting: Done particularly for swordfish. The current rules for the fishery above 23<sup>0</sup> N are that if a vessel is targeting swordfish, the lines must be set an hour after dusk and have the set complete an hour before dawn. Operationally it is not that difficult, it's the routine of the swordfish fishery. But there are some fishermen who want to set at dusk as they believe twilight is the best time to catch fish. Regarding enforcement, it may be possible to get an indication of whether someone is fishing and when they're setting from VMS. Direct observation is the only sure way of checking on compliance.

Additional 60 gram weights: This is very effective at avoiding contact with gear. Operationally it is not a big deal, 60 to 70 percent of the fleet uses those kind of weights on the gear. Cost is relatively small compared to a setting chute or a tori line. Regarding compliance and enforcement, many boats are using it so there is a good chance it will be used, but there are some fishermen who don't want to use such heavy weights on the gear.

Side setting: Several vessels in the fleet have already moved over to this method. They find it has operational benefits above and beyond the seabird mitigation. Conventionally with stern setting, the gear is set from the stern and retrieved from the side. Then the gear must be moved from midship to the stern prior to the next set. Side setting obviates the need to do that, so there are additional benefits which may be attractive incentives for the fishermen. The point with the compliance and enforcement is if somebody rigs to go side setting, then it is clear that they're not going to steam out of sight of land and then re-rig to do stern setting.

The team developed a range of 12 alternatives, using the current measures or a combination of one or more of the measures.

Alternative 1: No action.

Alternative 2: Use the current measures or use side setting. The alternative would either be for 23<sup>0</sup> N only or for all areas.

Alternative 3: Use the current measures or use an underwater setting chute. The alternative would either be for 23<sup>0</sup> N only or for all areas.

Alternative 4: Use the current measures or use a tori line.

Alternative 5: Use the current measures, side setting or underwater setting chute.

Alternative 6: Use the current measures, side setting, underwater setting chute or a tori line if fishing north of 23<sup>0</sup> N. This is the broadest choice in the alternatives.

Alternative 7: Use the choice of current measures, side setting or the tori line, fishing north of 23<sup>0</sup> N.

Alternative 7C: Use the current measures, side setting, a setting chute or a tori line in all areas. It would be guaranteeing that the fishermen would be using a line thrower and weighted hooks. The way it's written in the regulations, when tuna fishing there is a minimum sag of 100 meters in the line. To get that, the fishermen will have to use a line throwing machine and weighted hooks.

Alternative 8: Current measures plus side setting and a north/split above 23<sup>0</sup> N or all areas.

Alternative 9: No current measures, only the use of side setting, the choice to have it apply above 23<sup>0</sup> N or all areas.

Alternative 10: A bit more flexible option, with only side setting, but the recognition that there are some vessels in the fleet for which it may be technically infeasible to modify the side setting. In this case they would still have the choice of the current measures. There would have to be some indication or some criteria which would be used to judge whether a vessel was infeasible to use side setting.

Alternative 11: The mandatory use of side setting unless technically infeasible, in which case use a setting chute or a tori line or current measures without blue bait or strategic offal discards. Shallow-setting vessels set at night and deep-setting vessels use line shooters and weighted branchlines. This one would do away with the blue-dyed bait and the offal.

Alternative 12: It looks for voluntarily compliance to look for side setting or night setting or underwater setting chute or a tori line or a line shooter with weighted branchlines below 23<sup>0</sup> N.

Dalzell mentioned that it is initial action, so it is for the Council to decide if it wants to select a preferred alternative, or suggest other alternatives.

Martin said it is one thing to sit in a room and discuss what is and isn't practical onboard a vessel. Some aspects of the alternatives are less practical than others, for instance, he voiced concerns relating to the use of a word in a recommendation such as feasible. What is feasible for one may not be for another. Also, he expressed that he was troubled by the alternatives that talk about all areas versus 23<sup>0</sup> N. There was an initial effort by industry for something like 25<sup>0</sup>, and those who were implementing the rules and making suggestions wanted the entire area. Now there is a suggestion that the mitigation methods that the fishery has been using have not done enough so they must be used everywhere, even though operationally, in the case of the tuna fishery, there is significantly less interaction than the shallow-set fishery. It is well documented that a very high majority of the interactions take place above 23<sup>0</sup> N.

Freifeld said from the USFWS standpoint, and not being aware of other contextual details, 23<sup>0</sup> N is something that isn't necessarily very relevant when there have been takes of seabirds south and north of 23<sup>0</sup>, and throughout the area of the fishery.

Morioka asked a select committee of Council members to further narrow down the alternatives, and announced the Council would adjourn for lunch and revisit the issue the following day.

(The following is the discussion from Thursday, June 24<sup>th</sup>)

Dalzell reminded the Council members that a lot of alternatives were reviewed the day before, and the Chairman asked a select committee of Council members to whittle them down. He directed them to a revised report, item 9.B.1X.

Alternative 1: the current mitigation measures that are in place.

Alternative 2: the current mitigation measures in place or side setting if fishing above 23<sup>0</sup> N.

Alternative 6: current mitigation measures, side setting, underwater setting chute, or a tori line or paired streamer lines fishing above 23<sup>0</sup> N.

Alternative 7C: current mitigation measures, side setting, underwater setting chute or a tori line in all areas for shallow-setting boats only. Deep-setting boats would use the current measures, side setting or underwater setting chute or a tori line in conjunction with a line shooter and weighted branchlines. This would only apply with the current measures above 23<sup>0</sup> N.

Martin said he was involved with paring the alternatives down and said he would specifically like to address 7C. For the shallow set boats, the reason that they felt it was important in all areas is when shallow setting, the baits may be more available to birds on the surface. Therefore, the 23<sup>0</sup> N requirement might not satisfy the desire to not have interactions with birds. So the shallow set fishery should be in all areas, rather than only above 23<sup>0</sup> N. For both the shallow and deep set fishery it continues to offer the opportunity for options. That was important, keeping in mind that in the shallow set fishery will be at 100 percent observer coverage. USFWS was quite encouraged that hard data could be obtained on not only what the fishermen preferred and what was effective from the fishermen's standpoint, but how effective they actually were in the shallow set fishery.

Martin moved that the Council adopt 7C as the preferred alternative but modify it, for both the shallow set and deep set portions, to exclude blue dye.

Duenas seconded the motion.

Morioka called for discussion.

Martin clarified that there is very little but some shallow-set fishing that takes place south of 23<sup>0</sup> and it is important to acknowledge that there may be opportunities south of 23<sup>0</sup> to have interactions. They need to extend especially the shallow-set fishery which has a higher interaction rate in those southern areas.

Morioka asked Martin to restate the motion.

Martin read "The Council directs staff to complete an amendment to the regulations implementing the Pelagic Fishery Management Plan to mitigate seabird interactions in the Hawaii-based longline fishery for final action at the October 2004 meeting. The analysis should focus on alternatives 1, 2, 6 and 7. The Council initially selects the following preferred alternative: A, in all areas shallow-setting boats use current mitigation measures excluding the requirement to use blue dyed bait or use side setting or use an underwater setting chute, or use a tori line, i.e. paired streamer lines; and B, North of 23<sup>0</sup> N deep-setting boats use current mitigation measures excluding the requirement to use blue-dyed bait or use side setting or use an underwater setting chute or use tori line, i.e. paired streamer, in conjunction with the line shooter and weighted branchlines.

Duenas accepted the amendment.

Morioka called for further discussion, hearing none, called for the question.

The motion passed unanimously.

**C. Sea Turtles**

**1. Update on Current Sea Turtle Measures**

**A. Review of Final Rule Published April 2, 2004**

Dalzell said the Final Rule for reopening the swordfish fishery was published on April 2<sup>nd</sup>, and directed the Council members to a printed copy in the Council binders, item 9.C.1.A(1). The swordfish fishery reopened with mackerel-type bait, large 18.0 circle hooks, limited number of sets (2,120), and a hard cap on the take of sea turtles: 17 loggerheads and 16 leatherbacks. The sets were divided up on the basis of an expression of interest which was solicited by PIRO. Just one boat so far has gone out fishing.

**B. Update on Implementation of Final Rule**

Katekaru began by following up on what Robinson said regarding the Notice of Availability for Pelagic Amendment 11. It was published, and Katekaru brought copies to make available to the Council members. The comment period closes on August 23rd. Following that, there will be a Secretarial decision-making period. They are looking at the latter part of December to have a decision on Amendment 11.

He said he would give a brief overview of the implementation of the final rule. There are three components of the implementation: shallow-set certificate program, the sea turtle interaction limit where they monitor the interaction rates, and the requirement for all fishermen to use dehooker devices. Along with this comes an educational training component.

He pointed out that the shallow-set certificate program is spearheaded by Susan Matsumoto. Colleen Bass was hired to provide the dehooker education where she trains the observers as well as the fishermen.

Under the regulatory amendment there is a maximum annual limit of 2,120 shallow sets. These sets are divided among 164 interested permit holders. They have received shallow-set certificates. One certificate is valid for one single shallow set any time during the calendar year. They sent out letters to all the permitholders on April 2<sup>nd</sup> and put a deadline of receipt for interest for the certificates as May 1st. They mailed out certificates on May 14<sup>th</sup> to the 120 requesters. Each longline permitholder received 17 shallow-set certificate permits.

It was an unusual year, they started the program mid year. Normally, under the final rule, they request that the permitholders indicate their interest by November 1st of each year, and by December 1<sup>st</sup> they will have allocated the certificates. At the end of this year they will be going through the same process for the calendar year 2005.

Questions that fishermen asked about the certificate program included:

1) Do you need a vessel in order to receive a certificate? The answer is no. If you are a permit holder, you may obtain a certificate provided that at the time of the deadline for the interest they are a permit holder and they must submit a written request to the Regional Administrator.

2) What happens if a fisherman receives too few shallow-set certificates? This happens when they have a lot of requests. By dividing the 2,120 allowable sets by the number of interested parties, the fewer you would have per fisherman. However, these certificates are freely transferable among the holders. But the constraint is that these certificates would expire and become invalid by the end of the calendar year.

3) What happens if you lose your certificate? If they are lost we will not replace the certificates. We have indicated to fishermen they should treat them like money.

There is one vessel currently operating under the final rule shallow-set certificate program. That's the only one at sea at the moment.

The other program has to do with monitoring the sea turtle interaction limits. When the limit is reached, the shallow-set fishery is shut down for the remainder of the calendar year. This is monitored through the observer program. If the limit is reached, they publish a notice in the Federal Register when the closure will take place. They will also contact all the permit holders by mail, fax, e-mail, and will give them at least seven days advance notice of the closure from the time they file the notice. So there will be kind of a grace period so that they can make arrangements to stop the swordfish fishing.

Katekaru acknowledged Mr. **Shawn Hillen (phonetic)** of **ARC** who trained Colleen Bass and Louis Van Fossen, on how to use the dehookers. He reported all the vessels are required to carry specific equipment to remove hooks from sea turtles, such as mouth openers, gag preventers, dipnets, a tire, bolt and wire cutters, and dehookers. He reported Bass has done dockside training and trained the observers, and it will also be included in the Protected Species Workshops.

Bass prepared educational materials which will be translated into various languages; Korean, Tagalog, Vietnamese, and they also have a training video. To date, 18 observers and 22 fishermen have been trained.

He concluded the report by showing the training video.

Simonds asked if fishermen can make copies of the certificates and laminate them in case they lose one.

Katekaru said no, they have a watermark and cannot be copied.

Simonds asked if they have to carry it at sea?

Katekaru said yes.

Simonds asked if it is waterproof?

Katekaru said they would consider it.

McCoy called for questions.

Morioka asked how much latitude is there in the interpretation of these regulations and equipment required? On an alia there will be physical constraints.

Katekaru said the regulations apply to Hawaii longline-based vessels only.

Keith Davis with the observer program said the logbook pages on boats are not waterproof, and the shallow-set certificate must be attached to the logbook pages. He said fishermen are pretty responsible to keep that information in the wheelhouse, which does not need to be waterproof.

Simonds asked if the fishermen could get a copy of their permit?

Katekaru said they would issue a copy.

Simonds clarified she was talking about the certificates, not the permit, and said it should be laminated.

### **C. Potential Changes in Implementation for 2005**

Simonds said during the regulatory process they did hear from several fishermen about their concerns on the way the certificates were being handled.

Dalzell said they heard no formal comments on how the divvying up was done, but did hear suggestions that it should have been based on previous participation in the fishery.

Simonds asked if they had received any written comments from fishermen?

Dalzell said no.

McCoy called for questions.

Martin said he thought it was an equitable way to distribute the allocation effort, but he knows others who think otherwise. He had mentioned to Dr. Hogarth that there were segments of the industry that felt that historical effort should have played a more important role in the distribution of allocation.

## 2. Outstanding Measures for Sea Turtles (Action Item)

Hamilton said this item looks at a range of additional measures to conserve sea turtles. She reminded everyone that it was a final action item.

She clarified that when she referred to general longline or general permits or general longline vessels, she was referring to all the longline vessels except those in Hawaii.

There are a total of four measures the Council is looking at. Three are outstanding measures that stemmed from the BiOp that was recently issued on the re-opening of the swordfish fishery. When the judge vacated the previous BiOp, some necessary regulations were vacated. The new BiOp calls for these regulations to be re-implemented within one year. The three issues are:

- a requirement for general longline permit-holders to attend annual Protected Species Workshops;
- a requirement for fishermen on general longline vessels to carry and use dipnets, line clippers and bolt cutters;
- a requirement for small boats using hooks to target pelagics species to follow handling guidelines and remove trailing gear. Part of this was a regulation that was vacated and part of it is a new regulation.

The new fourth measure looks at shallow-setting north of the equator by general longline vessels. Although no general longline vessel has set north of the equator, if they should, it seemed wise to have them using the same kind of measures that are effective in reducing turtle interactions.

Hamilton reviewed the different options and the pros and cons of each one.

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

- Option 1A: No action. Operators in American Samoa will no longer be required to attend, only the Hawaii-based operators and owners. With this option there is no increased cost but they don't receive any education on protected species.
- Option 1B: Reinstate the requirement for American Samoa vessel operators only to attend the workshop. With this option it would be a fairly low cost to attend the workshops, as they are held in Hawaii and American Samoa, but it doesn't educate the owners.
- Option 1C: Require both operators and owners to attend the workshop as is required for the Hawaii-based longline fishery. This could be costly to some

owners, in Hawaii some live overseas. However if both attend, they are both educated and can both be held responsible.

At the 122<sup>nd</sup> meeting the Council said both operators and owners should attend. The idea is that owners will put some pressure on the operators because they will both understand the importance. Also, once you educate both, it would be possible to make a regulation that holds both parties responsible. Both the operator and the owner can be subject to sanction if they fail to attend the workshop.

#### Issue 2: Mitigation gear on general longline vessels

Hamilton prefaced this issue by saying general longline vessels are not thought to have many interactions. She clarified the only general longline fleet currently is in American Samoa. There were 76 observed sets and zero interactions, and between 1992 and 1999 there were only 6 interactions reported in logbooks.

- Option 2A: No action. There is no cost, but it could be stressful for sea turtles.
- Option 2B: Require the gear but have an exemption on the longline boats with a freeboard of 3 feet or less from having to use long-handled line clippers and nets. This relieves the stress on the sea turtles, but the mitigation gear costs approximately \$100.
- Option 2C: Require the gear and no exemption for the smaller vessels. This will relieve the stress on some sea turtles, but can be more stressful on others as the long handles tend to be unwieldy on small vessels, and the mitigation gear costs approximately \$100.

#### Issue 3: Handling requirements for non-longline vessels

Hamilton clarified that this is regarding handling requirements for nonlongline boats using hooks to target pelagic species. It is not believed that trolling and handline boats leads to many interactions, however, if there should be an interaction it is important the fishermen know how to deal with it appropriately.

- Option 3A: No action. There would be no cost, but also no mitigation for sea turtles.
- Option 3B: Require nonlongline vessels; albacore, handline, jigboats, using hooks to target pelagic species to follow the handling guidelines and remove the trailing gear in the EEZ waters. There is no cost of buying special equipment but there is a cost of time. This option would mitigate interactions inside the EEZ but not outside.
- Option 3C: Require nonlongline vessels; albacore, handline, jigboats, using hooks to target pelagic species to follow the handling guidelines and remove the trailing

gear wherever they fish. There is no cost of buying special equipment but there is a cost of time. This option would mitigate interactions everywhere.

Option 3B is required by the BiOp. At the 122nd meeting 3C was the preliminary preferred alternative.

Hamilton then reviewed the handling guidelines. She said they must be brought onboard if they appear comatose, elevate the hindquarters, do the reflex test periodically, have a water-soaked towel on them and release them after four to twenty-four hours. This is already a requirement for all commercial vessels, but not recreational small boats. A new requirement for everyone is to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles, including cutting any trailing fishing line as close as to the hook as possible.

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

- Option 4A: No action. There would be no cost to fishermen, but it would not reduce or mitigate interactions
- Option 4B: Require circle hooks with mackerel type bait, and the other measures required of the Hawaii-based longline fishery, e.g., use of dehookers. There is an increased cost to the fishermen. The package of dehooker materials is estimated to be about \$500. Gearing up to have circle hooks and mackerel-type bait is estimated to cost between \$2,500 and \$3,000. Also it does not limit effort, therefore, if the general longline permit-holders are fishing more and more north of the equator, the Council may want to consider further measures. This may also reduce catch rates, but it reduces and mitigates interactions and allows fishery development.
- Option 4C: No shallow-setting north of the equator by general longline permit-holders. This would limit all interactions, but there will be lost opportunities.

At the 122<sup>nd</sup> Council meeting 4B was the preliminary preferred alternative.

Hamilton clarified 4C was a precautionary approach, as far as they can see there were no shallow-sets north of the equator.

McCoy called for questions.

Morioka asked about the list of required items with regard to dehookers. He asked if there was some latitude regarding the type of vessel and the kind of longline fishing they will be doing.

Hamilton replied it is at the Council's discretion as to how to craft the recommendation.

### **3. /4. Second Cooperative Research and Management Workshop / Baja Meeting**

Irene Kinan said she would provide an update on the Council's sea turtle program. There are five conservation measures and a regional tagging database, so there are six projects that the Council is currently involved in. The conservation measure in Baja was the last one to get on track.

The goal for the conservation measure is to reduce loggerhead mortality by reducing loggerhead poaching and reduce loggerhead bycatch in the coastal halibut gillnet fishery, which is close to 1800 animals per year. The average sized loggerhead caught in the Hawaii-based longline fleet was 58 centimeters for a carapace length. In the halibut gillnet fishery they are about 62 centimeters, so essentially what was happening was they were being conserved long enough to get to Baja.

The workshop was held April 3 - 4. The goals were for education and awareness building to reduce poaching and fishery bycatch, and most importantly, to assess the community's interest and willingness to participate. They held the first workshop in Puerto Magdalena and the second in Lopez Mateo. In Puerto Magdalena there was a great turnout. All 18 halibut gillnet fishers were there with their families. They broke out into small work groups with the fishers and discussed what kind of strategies they were willing to undertake. They believed they can crack down on directed loggerhead turtle poaching at hot spots through work with the **PROFEPA** agents there. These agents didn't have money for gas so they were able to get them money to patrol hot spots.

The fishers decided that promoting the use of nets only up to 20 fathoms may help to reduce loggerhead takes, and implement closure areas at 23 fathoms. Also investigate and implement gear changes, such as shorter nets, shorter soak times, possibly look at hook-and-line type fishing instead of gillnet fishing are experiments they will be working on with the fishermen. Another recommendation was to place trained observers on pangas to document the bycatch and resuscitate live turtles. Students from a school for field studies across the bay at San Carlos will be used, and it would be part of their curriculum. Continuing to monitor mortality, foraging ecology studies, satellite tracking, in collaboration with the Southwest Region and Peter Dutton will be continued. Investigating halibut market opportunities, promoting halibut fish in San Diego coming out of the no-bycatch fishery. Also continue education and outreach.

They were hoping to have 80 people in Lopez Mateo, but ended up with about 30, but had full participation of all four fishing co-ops.

The Second Sea Turtle Workshop occurred a few weeks ago on the South Pacific hawksbill and the South Pacific leatherback sea turtles. They had 11 experts at the hawksbill workshop. The goal was to review the simulation model developed by Milani Chaloupka to complement the other four models that he created for the Lab. The Council is interested in the hawksbill workshop because of the American Samoa fishery and its possible interactions with hawksbill turtles. The models suggest a population size of

about three million hawksbills in the Southwest Pacific Region, mostly from Australia. There are three populations that are really supporting the entire hawksbill population in the Pacific. The Solomon Islands, does have a very large population, but they also have their issues with poaching and egg harvest. All the U.S. recovery plans right now will be updated, so they created a threat matrix for the South Pacific Region to be included.

Regarding the leatherback workshop, they had 25 experts and stakeholders from Papua, PNG, the Solomon Island and Vanuatu and the U.S. Experts were convened from areas with the last great nesting beaches in the Pacific. They also developed a threat matrix that will be used for the ESA recovery plans and catalogued all the leatherback nesting beaches. About 11 out of 23 nesting beaches are currently being monitored. They reviewed data collection, strategies, management techniques, etc. One of the recommendations was to hold a Melanesian leatherback workshop to get the Solomon Islands on track. They have over 11 nesting beaches and only two are being monitored right now. They hope to develop a three-year action plan.

Kinan reported they are building a regional tagging database. Stakeholders include SPREP, SPC, ASEAN, SEAFDEC, as well as Colin Limpus in Australia and George Balaz. They hired a database officer who is housed with SPREP. The database is functioning but is still being worked on. The database officer discovered that the tagging data that was already in was flawed, so she's decided to re-enter all the data that she can find. A database manual contractor will begin working on the manual in July. They expect the completion date to be the end of this year.

## **5. Sea Turtle Models**

Kinan reported she would give Milani Chaloupka's presentation he gave to the SSC. There have been three papers published in Hawaii for the Hawaiian green turtle. The first one is a 30-year recovery trend for the French Frigate Shoals nesters. This population appears to be expressing a 30-year recovery trend, and seems to be on the increase after 30 years of monitoring. The second one is spatial and temporal variations in somatic growth, which essentially means that the growth rate of the Hawaiian green turtle has slowed down. This is an indication of the species approaching carrying capacity. The third one discussed fibropapilloma (FP) disease on somatic growth. It seems that FP is leveling out in Hawaii, although in some areas it has reached epidemic proportions. In other areas, it does not occur. In the areas where it is influencing the populations, the rates have declined somewhat.

Chaloupka used a Bayesian time series approach and the Horovitz-Thompson model to determine that the population appears to be on the increase. From 1970 until about 2002, the population, although very variable, does seem to be growing quite rapidly. Regarding the somatic growth of the turtle, using five foraging grounds of the same stock they determined that the growth rates do appear to be slowing down, and this is due to a density-dependent factor as limiting resources slows growth rates.

She commented that although FP is of epidemic proportions in some populations and is a devastating disease, it does not appear to be something that is going to some day wipe out the Hawaiian green population. The population is still on the increase. The turtles 67 carapace length appears to be the one most affected, as they grow bigger, the FP rate appears to get smaller.

Kinan finished by applauding the Council members for supporting and promoting the turtle program.

Duenas asked if anything is being done with nurseries to grow them out to survival size?

Kinan replied there is a nursery at Cayman Farms in the Caribbean.

Duenas asked how successful it is.

Kinan replied the turtles are growing, but supposedly people don't like the taste of farm-raised turtles.

Seman asked how important sea turtles were to people's diet in the countries she has visited, and did she get any information regarding cultural take.

Kinan replied Chaloupka's report is written with the feeling that cultural take is possible due to the increase in the Hawaiian green sea turtle population. They don't really know the genetic stock of the turtles that occur in CNMI, American Samoa and Guam. They do know there is movement, but don't know about the genetic stock. She said she was hoping for genetic information from those areas by now, but they don't have any. Each island area has received turtle funds to do research. CNMI could very well share the stock with Sabah Park in Malaysia, who has a sky-rocketing population. So that would be good proof of a cultural take. It is something the Council is considering. The Council is thinking about doing some scoping meetings and assessing feelings here in Hawaii, especially with regard to the Hawaiian green. In other places, turtles are a resource. In Baja, Mexico, for example, during Easter Sunday, everyone wants to eat turtle. In Baja they appear to take about 30,000 green turtles during Easter Week, which is why they were fighting so hard for them to release just two.

## **6. Transferred Market Effects**

Hamilton clarified she would be discussing a study done by Dr. Camilo Sarmiento from the University of Miami. The focus of his study was looking at how the closure of the Hawaii swordfish fishery shifted swordfish effort to other nations that perhaps don't use turtle mitigation measures at all, therefore inadvertently increasing the number of turtle interactions. Sarmiento studied folks that might have moved in and replaced the Hawaii-based longline effort. He based it on the study by Paul Bartram and John Kaneko. They identified California, Mexico, Panama, Ecuador, Costa Rica, Australia and Chile as countries that would have the potential to fill in for the lost swordfish landings.

When the swordfish fishery in Hawaii closed in 2001, landings in California did not go way up. Sarmiento hypothesized that perhaps they felt the same regulations were going to hit California-based boats, or perhaps they fished for tuna, so why bother. Imports of swordfish from Costa Rica, Panama and Ecuador did increase significantly in 2001.

Sarmiento used an Econometric model to explain these changes in imports. Imports to the U.S. from Ecuador and Panama were both to have been found to have increased at a statistically significant level. The U.S. had imported quite a bit from Costa Rica in the past, so it could not be tied to the closure of the Hawaii swordfish fishery.

Sarmiento also estimated in pounds. He had a confidence of 50 percent that the increase of imports to the United States resulting from the closure of the Hawaii longline fishery was between 2.7 and four million pounds. Correspondingly, he could be 75 percent sure that it was greater than 2.7 million pounds.

Hamilton then reviewed the details of his study, and said he determined that there could have been between 50% and 100% replacement of Hawaii production by foreign fleets.

Then it was noted by an audience member that the increased production from Ecuador and Panama rose very quickly, and perhaps it was not as much increased production but perhaps a shift in selling to the United States once Hawaii stopped supplying the swordfish. In conclusion, she determined that they know that imports of swordfish have increased significantly, and now the research needs to focus whether the countries increased their production or just shifted to a new market. If the market changed, that would not be an impact on the sea turtles. If the production increased by countries that do not use any kind of sea turtle mitigation, that is an increased impact on the sea turtles.

Duenas asked if interactions with sea turtles would be included in the study.

Hamilton said yes.

## **D. Marine Mammals**

### **1. Marine Mammal Workshop**

Pooley reported the workshop was held June 2 -3 at the Council office because it provided the opportunity to do teleconferencing as well as have public participation. When the NMFS Office of Protected Resources proposed recategorizing the fishery to Category I from Category III under the Marine Mammal Protection Act, the Federal Register notice mandated this region to hold a scientific workshop on false killer whale interactions, population status, etc. Pooley organized and chaired the workshop.

Participants included a broad range of people from PIRO and PIFSC, various other experts, as well as a scientist that each plaintiff in the litigation was asked to recommend.

They looked at: marine mammal abundance estimates; fishery interactions; mitigation efforts; and stock assessments.

The conclusions of the workshop were being reviewed by the panel members and were expected to be completed by the end of the week. Bill Robinson and the Office of Protected Resources in Washington were to be sent the conclusions, and are collectively responsible for providing Bill Hogarth advice on categorization. Pooley said it was an interesting workshop, and they took a good step, but it asked more questions than it answered.

Morioka asked if the Council's concerns regarding how best to conduct an assessment and how much reliance they can put on such data were discussed.

Pooley answered the primary source of data for the stock assessment that exists was a five-month line transect survey of the Hawaiian Islands conducted by the LaJolla Lab. That is a technique that has been used for 20 years in the Eastern Tropical Pacific. The interaction rate or the sighting rate with marine mammals in general, false killer whales in particular, was extraordinarily low. Joe Mobley, who's done these nearshore surveys using aerial surveys from a small plane also reported pretty low sighting rates with false killer whales, greater sighting rates on some others. Robin Baird, who is an independent researcher, is now contracted by NMFS to do some work. He has done work on toothed whales in the North Pacific. He has done some very small boat surveys of the MHI within the 1,000 meter depth using crossbow techniques to get DNA samples. The interaction rates with false killer whales were pretty small. The general consensus seems to be that these surveys, particularly the boat-based surveys, appear not to be very productive. Whether it is a problem of technique or not, it costs a lot of money to run a big boat to see a couple false killer whales. The question is if there any bias involved in what you see. One of the projects that they're going to try to do is to look at observer data to answer some questions having to do with seasonality in the surveys, because there were no comprehensive 12-month surveys. There's been one large boat survey in the NWHI and throughout the EEZ, and then these smaller ones within the MHI. The general consensus seemed to be that the best approach might well be to use the Hawaii observer program, give them high quality digital cameras and take pictures of every marine mammal they see.

NOS does a large-scale survey called SPLASH that involves a number of techniques, but the general consensus was that it was too seasonal and too restricted in waters to be particularly useful.

People have used some hydrophone arrays, but those were circumstances where they were put in specific locations. Placing hydrophone arrays all over the EEZ would be extraordinarily expensive. It might ultimately be the right thing to do, but not yet. There

was a consensus that some sort of mark-recapture study by the observer program might be the best way to approach it.

Morioka asked if, when the fish are eaten off the line, if that data is collected to determine possible pod size?

Pooley replied it is evidence the observers could collect. It doesn't say how many false killer whales are in the pod, but it certainly would give you evidence that there was something there. A researcher from Australia is differentiating teeth marks on the fish catch to see the kind of species that is likely to have created that.

## **2. Update on New Marine Mammal Measures**

Dalzell said there were none. In Alaska they are looking at ways to mask the sound of fishing vessels, which is becoming an increasing issue elsewhere. The work Jeff McPherson from Australia is doing is important to the Western Pacific, i.e., a small acoustic device that sits above the hook and is activated by the animal's sonar and gives off a burst of sound which basically nullifies their ability to use that sonar to see the fish. But the trouble is that it costs about \$30 for each individual device. He is also working on something using acoustic technology which will make the tuna look much larger than it really is and therefore become less attractive as a food source.

Morioka added that Tamara has just come onboard and shared anecdotal information with him about sperm whales and their ability to steal bait and fish off the hook. He asked her to provide the Council an update on what was happening in the Pacific Northwest and how they could learn from those experiences.

### **E. Shark Management**

#### **1. Alternatives for Shark Management**

Beeching mentioned the issue has been reviewed at the last three Council meetings. A lot of the alternatives that the Council prefers are now redundant. Precautionary annual harvest guidelines of 50,000 blue sharks are no longer necessary because people aren't prepared to bring carcasses of blue sharks back just for the fins. Measures for blue sharks for other FMPs have been sidetracked because a number of sharks have moved to the Coral Reef Ecosystem FMP. There was a need to develop a new definition specifically for bottom longline gear, but that is also covered with the Coral Reef Ecosystem FMP. **There was the idea of one shark per trip of any species other than blue shark, but they know that the landings of non-blue sharks are self-regulated in that the value of the carcasses declined according to the number of the carcasses brought in, and then you'd see a relative increase in the value of shark carcasses. As the number declined, it seemed to be oscillating.**

Both the the anti-finning legislation and the reopening of the longline fishery are having impacts. One of the mitigation measures in the new longline swordfish fishery is

the use of mackerel bait, and more sharks may be taken with mackerel bait. Discarding offal for seabird mitigation is likely to attract sharks, too. This particular work has started to focus on looking at alternatives when the next EIS occurs in October 2004.

They hope to obtain good information on recent stock and biology research for short-fin mako, bigeye thresher and silky sharks from three recent Japanese documents. Rick DeRiso reported there has been a decline in catch per unit effort of silky sharks on FAD fisheries. They will also continue to investigate and analyze the observer database to see if there has been an increase in the catches of sharks where offal discards are used.

One suggestion for possible actions was to institute harvest guidelines for the number of sharks or families of sharks, perhaps new maximum harvest sizes. Beeching said he thought they will probably focus on the monitoring of shark bycatch by species and perhaps requiring changes in fishing methods to minimize mortality of released sharks. They saw in previous analyses that a large number of sharks are alive at the point of capture. More appropriate than controlling landings would be to try to maximize the release of live ones.

Morioka said he read that to mitigate for marine mammal interactions it is not advantageous to use offal discards. As they deliberate actions to mitigate one type of situation, they may be creating an attractant for another type of a situation.

Beeching agreed, and said they should be thinking in terms of ecosystem-based management.

## **2. Shark Viewing and Feeding Tours**

Beeching reported it is a contentious issue. He began by providing background on the issue. He said Hawaii is the second state in the U.S. after Florida to ban shark feeding. The actions are driven mostly by safety considerations. The Hawaii State regulations shore ban commercial feeding of sharks for any purposes other than for catch. It doesn't regulate traditional Hawaiian cultural or religious practices. At the last meeting, Ernie Lau placed a motion asking if the State ban could be extended into federal waters perhaps by amending the Pelagics FMP and/or Coral Reef Ecosystem FMP. The prime concern appears to be one of safety.

Beeching then played a television news clip. He commented that it was somewhat promotional, but it did show the operation in action.

Beeching said there are currently two shark feeding operations located offshore of the crab trapping area. The wastes from the pots are routinely dumped, and the sharks have been introduced into the area for decades. However the crabbing operation is intermittent. It is in deep water, about 400 feet. The species are mostly sandbar and Galapagos sharks. There are also tiger sharks, whale sharks and some hammerheads.

They use a small amount of chum, one gallon per day for three trips. The number of trips depends on the weather, and sometimes they won't go. They are not putting the chum in the water to bring the sharks to the boat, they say the sharks come to the boat anyway then they bring them close with the chum.

Beeching said there are pros and cons. There is a high educational and research value, and it encourages tourism and is a source of revenue and employment. Some say the sharks are only attracted to the cage and crab boats, but others say they're attracted to any boat in the area. There are no reported cases of sandbar shark attacks, but other sharks are attracted to the cage operation. There appears to be no significant impact on shark behavior or essential fish habitat, however it is suggested by some that any impact on essential fish habitat or shark behavior is bad. Some say that sharks may even follow the cage boats back into Haleiwa Harbor, and some say just the opposite.

He said the SSC recommended determining whether or not shark viewing operations in Hawaii waters fall under the purview of the Magnuson-Stevens Act. And if so, then support scientific investigation into whether or not such operations have a substantive impact on shark behavior or essential fish habitat. He contacted Feder to see if the Council had the authority to act, and Feder concluded that this isn't fishing and as such does not fall directly under the purview of the Council. Beeching suggested bringing recommendations to other agencies to consider instituting data collection, chumming guidelines, rules to avoid the development of true feeding behavior, restricting further licensing, etc.

He described the situation in South Africa, where there are very rigid guidelines. They don't allow anything to be towed behind the boat encouraging sharks to jump out of the water. They will allow limited chumming, but they set guidelines. No mammal material. No blood, only fish pieces. They set limits on the type of cage material and the size of the cage and the number of people who can go into a cage, guidelines for safety and also to discourage those operational practices that might alter shark behavior in a way that would be detrimental.

Ebisui asked Feder if there was a definitive opinion from NOAA General Counsel as to this type of action being beyond the purview or intent of the Magnuson-Stevens Act.

Feder said he consulted with other colleagues at NOAA General Counsel and they all agree, but it has not been raised to the level of the General Counsel himself. It would be highly unlikely that the agency would treat something like this as fishing because it does not involve the catching, taking or harvesting of fish. The part of the Magnuson Act that describes what may be included in an FMP begins by saying that an FMP includes conservation and management measures applicable to fishing by U.S. vessels and foreign vessels to conserve fisheries. This is a situation that not only doesn't involve fishing vessels or the catching, harvesting or taking of fish, but actually it appears to involve the feeding of fish. It's almost the reverse of fishing. There are specific instances where a proposal was made to a Fishery Management Council to consider regulating anchoring operations by vessels that weren't fishing vessels. There was a

definitive answer in that case by a very formal opinion issued by the Office of General Council NOAA that that type of operation is beyond the purview of the Magnuson Act as it wasn't a fishing operation at all.

Ebisui requested a formal opinion, and pointed out that they are not talking about a new FMP to address this, sharks are part of the PMUS of the pelagics plan, just an amendment to the plan. National Standards include human safety at sea, and he commented that he was not convinced that MSA isn't broad enough to accommodate this type of action.

Farm said he views it as a mobile FAD, because when they go and they put it in the water it attracts the fish.

Ebisui then commented on the news cast. The broadcaster claimed the activity occurs in about 400 feet of water, but it does not, it occurs in 60 fathoms.

McCoy asked if that was state waters or federal waters?

Ebisui said it depends on where you are measuring from. Directly inshore from the sites there are at least three or four surfing spots that are heavily surfed, fished, as well as skin divers, jet skiers, canoers, paddling teams, etc. Ebisui also said they take more than 1 pound of chum, he sees two five-gallon buckets on their swim step every morning.

With respect to crabbers, the crabbers move their traps, it is not the same spot day after day. There are some experienced watermen in that area who mentioned that they have noticed an increase in the number of sharks inside the surfline in the recent years.

Ikehara said when the proposal surfaced it was his understanding it would be considered a long shot of the MSA. They were concerned about the safety at sea issue for all the users that operate in the area. It was also a question about trying to facilitate enforcement of the State law. The difference between State waters and federal waters is just 100 yards. He reported he received a call from someone in Denver Colorado asking about requirements to set up such an operation in Hawaii, so there is considerable interest in setting up these operations in other areas of Hawaii. The fact that it may not be clearly defined as a fishing operation doesn't negate the concern about proliferation of these operations. Someone will need to come up with some process by which they can regulate these operations.

Farm asked if there any actual measurement to see if they are three miles out from shore?

Ikehara said he would need to check with enforcement.

Ebisui said they are very visible from the shoreline. He recommended that Feder provide a formal opinion as to whether or not it is outside of MSA jurisdiction.

Duenas recommended the staff start investigating whether they would put limits or how far out it occurs.

Feder asked if the reason for this action would be to conserve fish resources or the protection of human beings?

Morioka said, from the State and Council's perspective it would be Standard 10, safety at sea. Also, he would like to know if it impacts essential fish habitat.

Feder asked if there was consensus that it was not a fishing operation, and the concern is the danger to humans at sea.

Ebisui said yes, but there are also more sharks in the area now.

Ikehara said the issues are the potential impact on shark behavior that may affect their survival as a species, essential fish habitat, and National Standard 10.

Dave Itano said a lot of the questions can be addressed by tagging, using the same technology they are using on the anchored FADs with sonic tags and receivers placed at various places, including their site and including along the inshore areas where the crab traps are and where the akule fishermen operate. These tags are put in these sharks as they come near the receivers, they record their presence. He said he told the SSC that there is already a large listening array in the Hawaiian Islands of these receivers. One person is using them in the Big Island for manta rays and green turtles which can be used to expand the listening area dramatically with no cost to the particular situation. They do recognize a seasonal pattern of the sharks there. They have sandbars part of the year, Galapagos the rest, and a few tigers. It would be interesting to know where these sharks are going and if these are indeed the same ones that come back again and again to the same spot, or if they go to other areas. Until you do a careful study, you aren't going to know and you'll just be speculating on the claims being thrown back and forth.

He said regarding the question of if it is a fishing operation, it is clear it is not. However, under Magnuson it could possibly be construed as changing their behavior. He reiterated Ikehara's concern that there are other people interested in doing this because it is a money-maker. If it is promoted by other companies it will proliferate.

George Krasnick commented that it is not a MSA issue. If the State has concerns, they have an obvious hook to manage these vessels, a berth in the State harbors.

Morioka said a motion for the Council to request a legal opinion by NOAA General Counsel determining whether the Council may regulate shark feeding and viewing under the Magnuson-Stevens Act, and also that the Council directs staff to conduct a scientific investigation on whether such operations have impact on shark behavior or essential fish habitat was made and seconded. He asked for further discussion.

Hearing none, he called for the question. It passed unanimously.

#### **F. Pelagic Squid Management (Action Item)**

Itano said he would provide a description of a Hawaii fishery that many may not even be aware of. Japanese immigrants started a squid fishery mainly centered around Hilo. Incidental catches of large tunas in this nighttime fishery lead to the development of the famous Hawaiian ika shibi handline fishery for large tunas. Since that time, catching squid has persisted as pretty much an incidental catch of the tuna fishery. Recently, in the squid data there is a decline in squid catches domestically, which parallels the decline of the ika shibi fishery over the same time period. There is a small domestic nearshore fishery for squid. A lot of what they know about squid in the Hawaiian waters comes from a cooperative effort between NMFS and the University of Hokkaido. They identified 62 species of squid and have now rated about seven of these as possibilities for development for fisheries, the edible species. Of these, there are some main ones including the red squid, *Ommastrephes bartramaii*, the basis of a large fishery by the Japanese driftnet fishery. Attempts are now underway to develop a jig fishery for this large pelagic squid. There is also a small very edible reef squid, which undergoes periodic abundance in the Hawaiian Islands. The large diamond-back squid is a very valuable commercial species, large and very highly prized. The basis of the domestic fishery locally has always been the purpleback flying squid.

He reported he went to Kauai to look at their existing fishery for squid, which was not well-documented. Approximately 20 or 30 participants from different backgrounds participate in the fishery. The squid season runs from May to October. The target species is the purpleback flying squid, and occasionally the diamond-backs. The vessels do single night trips. The gear type is very uniform, they use home-made steel bars with squid meat wrapped very tightly on them. They prefer to use local squid, not California squid because it is tougher. They drift without a parachute. When asked why they don't fish where the large squid are, they said they would wreck their boat by running into shore, it's a tradewind drift coming into the east side. The marketing is undocumented or poorly documented. Quite often people go fishing for special events and occasionally the surplus goes into the retail market.

It is essentially a bycatch-free fishery, there are incidental catches of large tunas, mahi, swordfish, thresher shark, that occurs if they set a line like a tuna line down while they are fishing for squid. If they are really squid fishing they don't use another line in the water, they don't want a line tangling their squid jig and they don't want other baits in the water distracting the squid.

The other center of squid fishing in Hawaii is Hilo. The fishermen said the bigger squids were off of Hilo and it is quite seasonal, but parallels the ika shibi fishery, spring, summer, fall. The target species is purple squid. Squid fishing originally supplied bait for the old flagline fishery out of Hilo. Hilo is also characterized by the use of baited line and a gaff and a net. They gaff them and then scoop them with a net.

As part of the job Itano reported he looked at the DAR data and they had 55 years of squid catch and effort data that no one had ever looked at. They realized there were a lot of problems with it because it had not been verified, so the Council hired someone to reconcile a lot of the data entry mistakes by going back to original data. Another thing was that a lot of people call octopus squid, and if they reported it as squid it went into the squid database and not the octopus database. Eventually, Itano reported, they gave him the database to work from. He had only had 7600 catch records for 50 years, but it was quite detailed data. All that data combined was only 265,000 pounds, of which 92 percent was sold. If it was not sold chances are it was never reported. In one year, 1965, only three fishermen reported catching squid in Hawaii. Then there was a high in 1990, where 77 fishermen reported landing, and that is when the landings were highest.

Itano then showed a graph which detailed the price and total landings and gear type of the fishery for 55 years. He said, thanks to the Council and the efforts of the DAR all the fields in the dataset seem to be pretty good. The bad aspects are that the individual fishermen cannot be tracked, the data is not species-specific, although they assume it's mostly purple squid, there's a lot of confusion between fishing gears, the number of squid caught per trip is never reported, and there still seems to be mixing of squid in the octopus database and visa versa.

Itano recommended that DAR continue to clean up the database and institute some changes, such as: the ability to track individual fishermen between years; get species-specific on the reporting; look at the specific squid jigging gear codes to make it easier to report; clean up the cross-filtering between the two squid and the octopus database and make sure it is entered correctly.

He said regarding monitoring this fishery, it is such a tiny fishery so federal oversight might not be appropriate. He recommended using the DAR system and see if they can improve it slightly.

Flint asked if they use much light when they are working?

Itano said in Kauai the boat had a small, above-water light, 12 volt battery-powered, just a 25 watt bulb. They don't like a lot of light because the light keeps the squid far away. The ika shibi fishery uses an underwater submersible light.

Meeting adjourned for the day.

Meeting reconvened on Thursday, June 24<sup>th</sup> at 8:04 a.m.

Beeching directed the Council to document 9.F.1.A, the latest update on the alternatives. He said the local operation started in about 2001, and they have records from two jiggers that operated in the high seas from 2001 and 2003. In August the boat transferred to the Southern Hemisphere where fishing has been excellent so the boats have stayed down there.

The work is being done in parallel with a Squid EIS. In July 2003, the project was initiated. They have a management action team comprised of Hamilton, Dalzell, himself, PIRO, NMFS, Headquarters, and George Krasnick who is doing the EIS work. In May 2004 they studied some alternatives and impacts, and are looking at finishing in March 2005.

He clarified squid should be managed because they are a major prey item and a major predator so clearly they are a key part of the ecosystem. They are heavily fished by other nations. Squid catches have declined in the South Atlantic so that could increase pressure in the North Pacific. They know the Chinese are increasing the number of boats that they're putting out, actually surpassing the effort that the Japanese are putting out at the moment.

US vessels fishing for squid in the North Pacific jig in the US EEZ, and the operator believes there's a very good chance that they will fish in our EEZ which is the reason he chose to buy American hulls. If squid are included as a Pelagic Management Unit Species (PMUS) this would be in line with an ecosystem approach to fishery management. If this current enterprise is successful there may be an expansion of the U.S. squid jigging fishery, so it makes sense to establish regulations early on.

There may be bycatch issues. Other species of squid are caught. There may also be tangling, in the South Pacific there have been cases of blue shark being entangled in the lines. Seabirds may be distracted by lights.

The Council had problems obtaining information about logbooks and permits. They obtained the 2003 logbook information by following a paper trail to Washington and Sven Fougner sent the 2001 data. It is unclear where the data is from 2002. The High Seas Fisheries Compliance Act has a permitting system which for five years. It is not really clear what boats are doing and where they are doing it. Initial inquiries indicated 51 jig line vessels operating on High Seas Fishery Compliance Act permits, but it turned out that most of the 51 jig line vessels were albacore jigging boats, which are really trolling vessels. There are nine categories of jig line boats. NMFS Headquarters is talking about getting a committee together to revise the High Seas Fishery Compliance Act permit system. It is not really a tool for managing US vessels, it is a means of registering and of gathering data. Since we have become a region, PIRO will be responsible for issuing permits for boats out of Hawaii, whereas before they were to apply to Seattle or California.

Regarding proposed immediate actions, he said they are: developing a more useful experimental log sheet; looking at using electronic logbooks; would like to try to put an observer on the squid jigging boats; and looking at initial action by the Council to facilitate good fishery management for squid. He said they are looking at mechanisms for monitoring and mechanisms for managing.

The objectives of the Council action are being done in parallel with an EIS process. The EIS process has been asked to do a study which covers all aspects of the squid fishery in open waters. So they are looking at the high seas compliance act. They're looking at the high seas fishery as well as the fishery that comes under the Council's jurisdiction. There are two objectives: 1) Objective A, look at appropriate mechanisms under the Council system; and, 2) Objective B, establish management mechanisms outside of the Council's jurisdiction.

The alternatives that come under the Council's jurisdiction are:

A1) No action.

A2) No action by the Council but continue to improve data collection by voluntary means.

A3) Designate certain species of squid as PMUS.

A4) Develop a squid FMP.

A5) Improve mandatory international monitoring and establish mechanisms for both domestic and international management by pursuing and participating in international management agreements for Pacific pelagic squid. Also consider the use of mandatory observers.

The alternatives that come outside of the Council's jurisdiction are:

B1) No action

B2) Cease issuing high seas fishery compliance act permits.

B3) No action but continue to improve data collection by voluntary means. Improve management monitoring by replacing the High Seas Fishery Compliance logbook and requires High Seas Fishery Compliance Act permit applications to indicate specific fisheries, including both gears and target species, and centralize data into a database easily available to resource managers.

B4) Establish domestic management mechanisms by categorizing all domestic vessels harvesting squid on the high seas as under the jurisdiction of one or more fishery management councils and asking the relevant council to include pelagic squid in their fishery management plans.

B5) Improve mandatory international monitoring and establish mechanisms for both domestic and international management by pursuing, participating in international management agreements for pelagic squid and consider the use of observers.

Beeching then showed a comparison of the alternatives which used pluses and minuses to indicate the impacts.

The Pelagics Plan Team recommended that:

- They are aware that there is a small domestic squid fishery in Hawaii and a limited seasonal high seas fishery that operates north of the Hawaii Archipelago. The Pelagics Plan Team is aware that this fishery may expand in the future, but at this stage recommends that the only action the Council takes is to request that NOAA Fisheries improve the monitoring and data reporting requirements for High Seas permits.

The SSC recommended that:

- the Council ask NMFS to improve the monitoring and data reporting requirements for vessels permitted to fish on the high seas for squid. Specifically, permits should distinguish between squid jigging, the albacore jigging vessels, and the appropriate High Seas Fisheries Compliance Act logbook should be developed for species-specific squid catch and effort.
- the SSC encourages the Council to continue with alternative A2, which is to establish appropriate monitoring mechanisms for monitoring and managing the pelagic squid harvest by domestic vessels within waters under Council jurisdiction. The SSC encourages the Council to continue with Alternative B3.
- the SSC encourages HDAR to continue refining squid catch reports and add squid target species and gear codes to the database.

Morioka asked, given the move to an ecosystem-based management regime, if it is important for the Council to understand what role squid plays and if that ought to be a part of this plan.

Beeching said they are both predator and prey, and are very significant predators. Depending on the species and location, they include any range of food items, from other squid, fish, and crustaceans.

Morioka asked Severance why the SSC selected A2, which was a voluntary process, versus A3, which is a mandatory monitoring process.

Severance said possibly the idea was that voluntary might be successful for now because the domestic fishery appears to be small, but the SSC was cognizant of the size of the international fishery and it was cognizant of the predator/prey relationships, especially that squid are an important forage both for broadbill and for the tunas.

Morioka asked if Ikehara had anything to add.

Ikehara said if the Council wants the plan team to monitor the squid fishery more closely, it might be useful to consider it having them appended to the Pelagic FMP as PMUS. In that case, the plan team would have to be responsible for reporting on it.

Bigelow said the plan team thought it was a little bit premature to put it as a PMUS or as a Squid FMP. They suggested just strengthening the data collection, both domestically and internationally.

Morioka asked if it was intentional that that it was limited it to the EEZ.

Severance said his best guess is that was unintentional.

Beeching said it was also suggested that the Kauai fishery is so small, that even though it occurs in federal waters it is a dying-out fishery. Probably the simplest, best way of monitoring that would be for HDAR to continue to collect data, and then that would by perhaps by an MOU be transferred to NOAA so that NOAA Fisheries could keep a tab on it.

Morioka asked the Council members if they had a motion to address alternatives under A?

Duenas said he would like to recommend adoption of A3.

Morioka called for discussion.

Duenas clarified the reason he recommend A3 was because they need to have some sort of proper documentation when it goes through the EIS process and so they can find out if it actually impacts the other fishery aspects of the project.

Robinson said ultimately he did not have any particular concerns with the different alternatives. The only concern he had was whether the Council wanted to move forward with an action now or wait until the fishery management action team completed its deliberations and the EIS process was done so there was more information available.

Hamilton said the Draft EIS will be completed before final action and all the public comments will be in and available to the Council prior to the final all action.

Robinson said that would be fine, assuming that the final action is based upon one of the alternatives that are contained in the analysis. The only way it wouldn't work is if a new alternative comes up midway through the process that hasn't been part of it.

Hamilton replied that has been a bit of a problem working out this idea of fishery management action teams. What they have done so far is specified when there could be no more new alternatives.

Ikehara suggested including diamondback squid.

Duenas accepted the amendment, and Farm seconded it.

Katekaru asked if it is solely in the EEZ, if there would be any federal permit requirements for these vessels?

Hamilton said at this point they would be a PMUS which does not bring a permit requirement automatically, that would be a separate action.

Katekaru said if these vessels are in the EEZ, how would PIRO know what vessels are required to report to them.

Ikehara said in they are fishing in Hawaii they are required to have a commercial fishing license anyway and report to HDAR. The question might be applicable to other areas that may not have permits or are required to have reporting.

Hamilton said the thinking was that, for example, for trollers, they don't know exactly who they are, they just trust that enforcement will catch them on an ad hoc basis.

Katekaru said he would like to get feedback from Enforcement to see if that would be sufficient.

Morioka called for public comment.

Bob Endreson commented that lumping high seas pelagic squid with nearshore squid is probably contributing to the confusion. Also, he said it is currently mandatory that he reports his catch. The problem is that NMFS doesn't know where the reporting goes to and they can't find his logbooks. It should be a question of centralizing where the data goes.

Feder pointed out that the High Seas Fisheries Compliance Act is a separate statute than the Magnuson Act and the Council does not have a formal role in the High Seas Fisheries Compliance Act. If the Council takes action here, it would be just a recommendation to NMFS.

Morioka said that was understood.

Morioka called for additional comments or questions, hearing none, called for the question. The motion passed unanimously.

Morioka asked Duenas to address sub-objective B.

Duenas recommended the Council move forward with B4, improve mandatory monitoring by replacing the HSFCA logbooks.

Morioka asked Feder to assist Beeching draft a motion for the Council, then called for discussion.

Feder said the context of this is that the Council staff will work this into an EIS that is being developed. This looks like a recommendation that would be initially made to the Fishery Service followed up by a final recommendation, so the wording is fine.

Robinson said he was struggling with trying to figure out why the High Seas Fisheries Compliance Act logbooks would have to be totally replaced, not just modified.

Hamilton said it was not to change the logbook that everyone with the high seas permit uses, it would be creating one specifically designed for squid fishing.

Feder said the motion might also specifically mention squid fishery in the Pacific, if that's what this is limited to, rather than looking at High Seas Fisheries Compliance Act permits and logbooks around the country.

McCoy asked what if they might wander into the jurisdiction of other countries.

Simonds said she questioned that too, but it means both, because the FMP does not stop at 200 miles. The boats report their catch wherever they fish in the Pacific Ocean. It was a very unusual FMP when it was passed in the '80s. They did that on purpose to prepare for international management, which is how they got the turtle and shark information. All that information came from the high seas. MSA jurisdiction may say 200 miles, but that is not how the FMP works. It is an international FMP.

Robinson said the high seas compliance logbooks now say Pacific squid logbooks, and he thought they were general logbooks that you reported all of your catches on.

Hamilton said they were trying to clarify that the only logbooks that would be changed are those used by people fishing for squid in the Pacific Ocean. So all application forms would be changed to indicate the gear and target species, but only the logbooks from folks fishing for Pacific squid would be changed under this recommendation.

Beeching revised the wording to read more clearly.

The revised motion was moved and seconded.

Morioka called for the question, and it was passed unanimously.

## **G. International Meetings**

### **1./2./3. PrepCon VI / IOSEA / IATTC**

Simonds said she would be reporting on three international meetings that she participated in as a member of the U.S. delegation.

For the meeting that occurred in Bangkok, she said she gave a brief report at the last Council meeting. She directed the Council members to the report and associated documents in the Council briefing book. The US is a member of the Indian Ocean MOU. One of the highlights of that meeting was that 2006 is going to be the Year of the Turtle. This MOU also encompasses the Pacific Islands, so the Pacific Island Nations can also apply to be a member if it so wishes.

The second meeting was the PrepCon meeting in Bali, where they discussed the agenda for the first meeting of the Commission. The very hot issues were overfishing of bigeye tuna and yellowfin, in particular capacity.

The third meeting was the IATTC. The biggest concern for them is as they are looking at managing the fisheries in the Eastern Pacific, they will go ahead and cap the number of boats, do quotas. But then what is happening in the Western and Central Pacific commission. They might be doing something such restricting their fishermen, and if the Western and Central Pacific is not doing the same thing, they're losing and we're gaining. She said they talked a lot about how to work with the Western and Central Pacific commission. Everybody is very concerned about capacity. They operate by consensus, if one country disagrees, nothing happens. The EU is a very prominent spokesman there. They're not members like they are members in the Western and Central Pacific Commission, but Spain does all their dirty work.

Simonds also reported the Third International Fishers Forum is going to be held in Japan in September of next year. The WPRFMC will play a prominent role in developing the agenda and hopefully some Council members will be able to chair some panels. The only thing that the Japanese agreed to is to have a joint experiment with Western Pacific fishermen on the new mitigating turtle technology not just for swordfish fishing, but also for tuna fishing. They have had several meetings over the last month with representatives of the government and the industry.

Ebisui asked how it was that Pohnpei was selected as the seat on the Western and Central Pacific Commission,

Simonds said she blamed it all on the US. They had asked the State Department to table the US, mainly Hawaii, as an Interim Secretariat so as they went through the PrepCon meetings they would be able to concentrate on something. But for the first several meetings of the PrepCon all they did was discuss where the Secretariat was going to be, and they ended up voting for Pohnpei. That is where the first meeting is going to be, but there aren't enough accommodations to host the 28 countries, so they suggested

that Guam would be a place to actually hold the meeting, or Hawaii. The FSM is being supported by Taiwan and she read some State Department cables talking about how representatives are going there to help build the structure, etc. They already had the funds, the place and the East-West Center President agreed to have a certain space all mapped out.

Duenas commented that he attended the FFA meeting and the member countries wanted it on Guam, but the State Department wasn't interested.

McCoy said they had a meeting in the territories with the State Department and they volunteered one seat. He asked if that was offered?

Simonds said when the new Commission meets in December, they will be sitting at the table and his governors have to decide who is going to represent each of them.

#### **H. 2004 Plan Team Report and Recommendations.**

Keith Bigelow, the Pelagic Plan Team chairman, directed the Council members to document 9.H.1. in their briefing book and read the 11 recommendations that the plan team drafted and discuss the action items.

For Hawaii:

- The plan team recommended the Science Center conduct a study on the volume of imports of the frozen fresh tuna into Hawaii, specifically, are they impacting any other fishery sectors, most notably the offshore handline fishery, which produces the fresh poke product.
- The Plan Team recommended for the annual module, that the Region and the Science Center generate an annual table of fish discards and the condition by fishery sectors of swordfish and tuna longline fleet.

For the Mariana Archipelago:

- The plan team recommended the Government of CNMI explore the feasibility of drafting new legislation requiring local fish vendors to participate in the Commercial Fish Receipt Book Program to improve the monitoring. They have a similar recommendation for the Government of Guam.
- The plan team recommended the Marianas inquire about establishing the offshore creel census from Ylig on the east side of Guam as the fishery participation is increasing on that side of the island.

For American Samoa:

- They noted there were a number of infractions or fishing occurring within the closed area around American Samoa, so they encouraged the Council to notify the fishery participants to also conduct some sort of coordination with the Office of Law Enforcement to notify the participants they should be well outside the closed area.
- The plan team recommended, as the American Samoa fishery basically targets albacore tuna and there are a number of neighboring Polynesian countries that also target albacore tuna, most notably Samoa, Cook Islands, they encourage broader cooperation with the countries bordering the American Samoa EEZ to collect and process regional data to get a better handle on their sort of subregional albacore resource.
- The plan team recommended that DMWR seek grants to assess the feasibility of developing the infrastructure and processes to utilize the longline bycatch.

International items:

- Pursuant to the Council's requirement for taking action if overfishing occurs, the plan team requests that the U.S. Delegation to the PrepCon pursue action by the Conference to ensure that fishing mortality on bigeye and yellowfin tuna do not exceed the level where overfishing is occurring.

On National Standard 1, there is a working group that seeks to revise the National Standard 1. There is a great concern with the new planning team about this they want to develop optimum yield reference points. We have reference points for overfishing and overfished status, but optimum yield is a rather complex issue. Specifically, it should not be implemented unless they're accompanied by detailed guidance, both regulatory and technical, on how these are to be developed. In particular, it's going to be really difficult develop optimum yield reference points for the highly migratory species. In the interim:

- the team recommends the Council should submit comments on the proposed Working Groups' recommended revision prior to the publication of a proposed rule.
- The plan team reiterated the previous recommendation that the Council should consider defining FADs to be a fishing gear and to consider strategies for controlling their use. There is a number of issues and rationale, about nine different issues that are listed to suggest why this is an important issue for the defining of FADs. Some progress has been made for investigating the PFAD issues in Hawaii.

Duenas asked if there was a problem with dealer reporting in Guam so that it now needs to be mandatory.

Bigelow said the problems were with CNMI, but the representative of Guam would also like the legislation in Guam also.

Duenas said the GFCA has participated in the program for over 20 years and there was always a very good working relationship between the people that need the data and the fishermen. There is only one other fish market that purchases local fish on a regular basis, and a third vendor which sells 95 percent imported fish.

Simonds asked Bigelow to ask the Guam plan team member why it was suggested.

Seman said regarding recommendation number two, there is already a draft. Perhaps it would be best to phrase it as encourage CNMI Government to pass proposed legislation.

## **I. Advisory Panel Recommendations**

William Sword referred the Council members to item 9.H.1. in their briefing books and read the recommendations by the Pelagics International Panel.

- Regarding sea turtles, the AP endorses the preferred alternatives for minimizing impacts to pelagic fisheries on sea turtles, on seabirds.
- Regarding the Council's initial action for the seabird longline mitigation, the AP recommends that NMFS should provide low interesting for fishermen who finance reconfiguration of vessels to allow for side setting.
- Regarding squid, the AP concurs with the SSC recommendation that the Council ask NMFS to improve the monitoring and data reporting requirements for vessels permitted to fish on the high seas for squid and encouraged Hawaii DAR to continue refining squid catch reports.
- The panel recommends that the Council seek funding for exploratory research of squid resources in all of the Western Pacific Island areas.
- Regarding American Samoa, the Recreational Panel reiterates its request for a 12-nautical mile longline area closure around Tutuila to protect recreational and subsistence pelagic fisheries. The panel also requests that NMFS, PIFSC provide an updated analysis of the volume of fishing by different-sized class vessels within and beyond 12 nautical miles from Tutuila.
- Also in American Samoa, the AP requests that DMWR provide better work facilities for recreational anglers in American Samoa.

- Regarding sharks, the AP recommend that the Council request NMFS to conduct a quantitative assessment on the effects of shark predation on the Marianas bottomfish and pelagic trolling fisheries to see if the frequency of shark predation is increasing and has negatively impacted their profitability margins as sharks take their catch, bait and gear.

Ebisui asked if the 12 nautical mile closure for recreational and subsistence fishermen was endorsed by the full AP or the Recreational Advisory Panel.

Sword replied the Recreational AP.

Simonds said, regarding the recommendation asking for funds for side-setting, someone might have such a proposal for the \$5 million Disaster Relief fund.

#### **J. SSC recommendations**

Severance directed the Council members to items 9.J.1 and 9.J.2 in their briefing book. He reported that some of these recommendations have already moved to Council action, so he would not repeat any thing they already acted upon.

- With respect to Hawaii blue marlin CPUE, the SSC expressed concern about the ongoing decline of blue marlin CPUE in Hawaiian waters. It is recommended that NMFS continue with their comprehensive analyses of marlin CPUE and that Council staff report at the next SSC meeting on possible actions that the SSC might advise the Council on what management actions they might consider. The Council convey the SSC's concern about potential overfishing of Pacific blue marlin to NOAA Fisheries and the U.S. State Department for consideration of the need for possible management actions in the appropriate international fisheries forum.
- Regarding turtle management, the SSC concurred with the Council's preferred management alternative, 1C, of having both operators and owners attend Protected Species training workshops. The SSC concurred with the Council's preferred management measure, 2B, of mitigation comprising dipnets, long-handled line clippers and bolt cutters and an exemption for boats with less than three feet. That means the alias primarily in American Samoa. The SSC concurred with the Council's preferred management measure 3C for mitigation requiring nonlongline pelagic vessels to follow in the guidelines and remove the trailing gear wherever they fish, but recommends that the handline guidelines be reviewed by the Council to address specific issues, such as the practicality for small boats releasing a turtle over the stern of the vessel and the need to maintain a comatose turtle onboard for a minimum of four hours.
- The SSC recommends that the Council write the NMFS Pacific Islands Fisheries Science Center asking them to develop a schedule for stock assessments for mahimahi, ono, opah and monchong over the next two years.

- Regarding options for yellowfin and bigeye, the SSC is extremely concerned about the decline of bigeye and yellowfin tuna stocks in the Pacific Ocean. The SSC recommends to the Council that it expresses these concerns to the Department of State and ask them to propose some management measures to the new Commission to reduce fishing effort on these species. Interesting possibilities for such management measures include abiding by the terms of the 1999 resolution to limit fleet sizes and capacity at the 1999 levels and a registry of canneries and fish processors, buyers, brokers and agents to which agree to cooperate with and support the goals of the new Commission. For instance, vessels fishing in the Convention area would not be allowed to sell fish to canneries, buyers, brokers and agents which are not on the approved registry list. It's just a kind of an option for the Council to consider recommending to the State Department, to the Commission.
- The SSC concurred with the plan team recommendations. Severance noted that, regarding the PFAD recommendation, it is very important that the Council and the State get a handle on this fishery and that the EIS move forward successfully and carefully. It is a fairly sensitive issue with a lot of secrecy. There is quite a bit of misinformation and misdirection.
- Regarding sea turtles, the SSC applauds the investment in and progress made on sea turtle conservation by the Council. With respect to the sea turtle models, the SSC heard with great interest the results of work done by George Balaz and Milani Chaloupka on analyses of the Hawaiian green turtle population data and encourages further studies of this type. The SSC compliments Chaloupka on the utility of the hawksbill population model and encourages further work of this type.
- Finally, the SSC heard with interest the results of the market transfer effects study by Dr. Sarmiento. The SSC suggests the results of this study be combined with the results of other studies that look at turtle takes per ton of swordfish. The SSC also encourages additional studies to look at the effects of the Hawaii swordfish fishery closure on total world swordfish production and total swordfish imports into the U.S.

#### **K. Public Hearing**

There were no public comments.

#### **L. Council Discussion and Action**

Morioka said, since the Council has already heard the recommendations, they should forward them as a recommendation as a whole unless an item requires further discussion.

The Council members agreed.

Ebisui asked if the contemplated study in recommendation 1 would give information on such things as how long gassing fish extends the shelf life?

Bigelow said no, the initial concept was to have the PIFSC economist look at the actual volume of imports, mostly the frozen gassed tuna into Hawaii, perhaps some of the other fresh imports from Fiji or somewhere else in the South Pacific, but not the actual gassing process or how long it extends the shelf life.

Simonds suggested that in the beginning of the paper they include background about the issue.

Regarding recommendation 2 or 3, Feder suggested that the Council consider deleting from No. 3 and 4 the words, drafting new legislation to avoid the appearance of using federal funds to lobby state or territorial governments.

Seman said number 3 is actually irrelevant as they are already proposing legislation. It should either be deleted or the Council could encourage the CNMI Government via a letter of support.

Simonds agreed with writing a letter or encouragement.

Morioka asked for and received consensus from the Council members.

The Council made the same change to number 4.

Number 5 and 6 were accepted as written.

Regarding number 7, Ikehara suggested that where it says the original recommendation, just say previous recommendation. The Council members concurred.

Number 8 and 9 were accepted as written.

Number 10 was voted on previously.

Number 11 was accepted as written.

The SSC recommendations were accepted as written.

Numbers 12A, B and C were accepted as written.

Robinson commented on number 14 that he was supportive of the measures that were recommended to be implemented within the one-year time frame. With respect to the general permit fishery fishing above 23<sup>0</sup> N, his understanding is that it hasn't occurred in the past and the EIS and analysis does not contemplate it occurring in the future.

However, if there is the remote possibility that vessels from American Samoa or even Hawaii longline vessels might turn in their permits and get a general permit in order to fish above 23 because what doesn't happen here is the effort limits and the limits on turtle interactions would not apply to general permitted vessels fishing north of 23 Degrees. So if some of that at some time in the future that occurs there might be an issue because the impacts on turtles haven't been taken into account in the current biological opinion. So it would create a problem that would probably create a flurry of concern and actions. So it is not clear to me whether the Council might want to continue to look at this in the future to see if it is a problem and a loophole the Council might want to close and you want to take the chance that this will never occur and an emergency action wouldn't be required.

Simonds said they wanted to be precautionary at this point then look into it further over the next several months.

Robinson said he was supportive of these measures going forward.

Morioka read the recommendation: Recommends that staff finalize the transmission to NMFS Regional Administrator for review and approval. He called for the question. The recommendation passed unanimously.

Number 15 was previously voted on.

Martin commented on number 16 that the wording should be revised to read: that the Council propose exploring with the DAR to consider funding of low interest loans or economic aid to allow for side setting.

Hamilton said they were considering ending the NMFS low interest loan, and they thought those loans should be still available to reconfigure to side setting. So it was the NMFS loan program that they were talking about. They said, don't end it, use it at least for this.

There was discussion about the wording, and the Council concurred.

Feder said the Council seems to have taken final action Number 14 that concerns the regulatory amendment for sea turtles, but what about 1 through 13? Are those still pending?

Morioka clarified that 14 was specific because it was a final action, and they were going to adopt all the rest at one time. They were reviewing them all now for clarity.

Number 17 and 18 were voted on already. There was no further discussion on number 20, 21, 22 and 23.

McCoy commented on number 25. The American Samoa Council members recognize the importance of the sports fishing industry as social and economic issues. He said they met and would like to table this until they can have discussions with other user

groups, just to see what kind of direction we can take without creating any further problems with that issue.

Tulafono agreed that they would like to defer this recommendation pending limited entry approval. To include another amendment to the limited entry would prolong the approval of the limited entry program.

Simonds said the decision should be put off until the Council provides an updated analysis of the volume of fishing. The Council will do the project, and then come back at the next meeting and discuss how to deal with it. The Center will do the analysis.

The Council members concurred.

Tulafono recommended striking recommendation 26 and the Council members concurred.

The CNMI delegation recommended striking recommendation 27, and it was determined that the recommendation would only apply to Guam, not the entire Marianas archipelago.

Morioka said they had reviewed and concurred on all of those items before them. He asked as a general motion to accept them. The motion passed unanimously.

Martin made a motion that Council staff review the Protected Species Zone around the NWHI to see if there may be some opportunities to recapture some of that region, and provide a report at the October Council meeting. He provided background on why it was closed, and said within the last year he believed the Main Hawaiian Islands has had 16 interactions with recreational and other fishers with no resulting area closure. He said one of the major concerns is the international conventions, the areas within the EEZ will become of even greater concern and importance to the domestic fishery.

Cruz seconded the motion.

Morioka called for discussion.

Ebisui asked for clarification on what zone he was referring to.

Martin clarified it is the 50-mile corridor starting at Nihoa and going up past Kure. There is a significant region that is quite rich in resources. He said he would like the Council to consider looking at that again and finding out if there's any opportunities that we might have to possibly reduce protected species corridors, still taking into consideration the monk seals, in light of the position that the NMFS has demonstrated in the MHI, that interactions by other fishery groups have not resulted in the same closures that some of the other areas have.

Ebisui asked what the justification was at the time it was implemented. He noted that there have been interactions with other user groups, but none of the other user groups have the kind of soak time that a longliner has. So if there are interactions with shore-casters, the equipment is tended and something can be done about it right away.

Simonds said it would be a good idea to review the closure given that they are also dealing with the NWHI Reserve and the Council is going to be making recommendations at its next meeting on how they want the management regime to look like in the NWHI. So it would just be another aspect of the analyses. She said she recalls vividly how the protected species zone came about. A fisherman came to the Council and said they were interacting with monk seals and that they would consider a 20-mile closure. Then they had many discussions in the Council meeting and ended up with 50 miles. They looked at the dive patterns of the monk seals and all the information they had at the time. Then when the Reserve came about they chose the 50-mile closure. But things are happening differently with the monk seals and there is additional information. It would be another aspect of looking at the management of the NWHI.

Morioka asked USFWS if they had any comments.

Flint said she did not know, but would predict that they would be completely opposed to opening up the Protected Species Zone to any kind of longlining, not just for monk seals, but because it's provided some measure of protection for breeding albatrosses that are using that same area when they're feeding very small chicks. So I suspect that the Service's position would be to be unhappy about that kind of a proposal.

Morioka asked even an analysis?

Flint said no, an analysis would be fine.

Morioka clarified that was all the Council is addressing right now, an analysis of the data.

Martin moved that the Council accept the motion as written.

Morioka said the second was there and asked for further discussion. Hearing none, he called for the question. Ebisui was opposed and Farm abstained, the other Council members voted in favor of the motion.

Robinson said every person who sits in his chair has a little different style, some play it safe and abstain on every single motion that makes a recommendation to their agency. He said that is not his style, but at the same time, his voting with the Council to make a recommendation to his agency does not mean that they can always comply with the particular request. Sometimes they may not have the resources, the money, the data, etc. But in every case he will try to comply with the recommendation. Some people asked if he would be abstaining, and his answer was that if he knows ahead of time what the answer is, he will probably abstain.

Morioka said the Council appreciates that very much because it facilitates discussion and it is truly appreciated.

(Brief break taken)

## **X. BOTTOMFISH FISHEIRES**

### **A. CNMI Bottomfish Management Measures (Action Item)**

Jack Ogumuro reminded the Council at the last meeting held in March 2004 they had asked for an analysis of eight bottomfish options, and said he would be reporting on what they had done in the interim.

He first provided background on the EEZ around CNMI. The federal waters around CNMI are about 300,000 square miles, and 14 islands with a land area of 181 square miles. It has 36 banks and reefs. There are two banks around Rota, four around Tinian, ten around Saipan and 20 in the Northern Islands. The Islands of Saipan, Tinian and Rota located in the southern part of the Northern Mariana Islands are the populated islands. The islands of Uracas, Maug, and Asuncion are designated as conservation areas.

The interest to regulate the federal waters around the CNMI stems from two factors. First, the Guam Bottomfish Amendment prohibits vessels over 50 feet in length from fishing within 50 nautical miles from the Island of Guam. This is a concern to the CNMI fishermen because it would force these vessels to end up fishing within the CNMI waters. The second factor has to do with the existing large vessels in CNMI. There are four to eight vessels greater than 50 feet that are actively fishing in the Northern Islands.

The bottomfish fishery occurs primarily around the islands and banks from Rota to Zealandia Bank, north of Sarigan, and it involves small boats less than 50 feet. These are boats that will go out and fish in a single day or make overnight trips. They target shallow and deepwater species. They are either subsistence, recreational or small-scale commercial. There is also fishing around the populated islands of Saipan, Tinian and Rota.

Three concerns need to be addressed: 1) the status of the resources; 2) gaps in the data collection program; and 3) approximately 85 or 90 percent of the fishermen in CNMI have vessels smaller than 30 feet, and they are concerned about the large vessels.

In addressing these concerns, the Council needs to make sure that they are consistent and the solutions to these concerns are consistent to the Bottomfish FMP objectives, which are to: ensure adequate information is routinely collected in EEZ waters; protect opportunities for the small-scale commercial, recreational and subsistence bottomfish fishermen; provide sustained community participation in the CNMI

bottomfish fishery; and encourage consistent availability of fresh deepwater bottomfish to CNMI consumers.

He then reviewed the 8 options and provided pros and cons:

Option 1: No action. The advantage under this option will be no new burden. This has to do with cost, time and effort. The disadvantage would be inadequate fishery information being collected.

Option 2: Local reporting. The advantage is improved data quality from the bottomfish fishery, creates independent validation of creel survey results, and vice versa. Can capture data on all or part of bottomfish landed. The disadvantage is that it may duplicate creel surveys and other information systems. Similar results can be achieved outside of the FMP and new burden on fishers.

Option 3: VMS. The advantage is the effective means to monitor compliance with closed areas, provides additional safety system for vessels. The disadvantages would be, not needed if there are no closed areas and no new burden on fishers.

The control options:

Option 5: Vessel size over 30 and over 50 feet. The advantage to having a vessel size option would be that it would protect opportunities for small vessels, reduce the risk of overfishing and simple enforcement. The disadvantage would be that it would discourage development of export markets, may impact commercial vessels supplying local markets and could exclude some current vessel owners.

Option 6: Fishing gear limit. The advantage would be benefit small vessels by limiting efficiency of large vessels, reduce risk of overfishing by discouraging growth of the fishery. The disadvantages would be discourage development of export markets, may adversely impact commercial vessels delivering product to local markets and difficult to enforce.

Option 7: Closed areas. The advantage would be to preserve fishing opportunities to small vessels, reduce risk of overfishing by discouraging growth of the fishery. The disadvantages would be six large vessels may be displaced from current fishing grounds and administratively burdensome.

Option 8: Limited access. This option as an advantage would reduce risk of overfishing by capping effort, reduce risk of capitalization. The disadvantages are limit fishing opportunities based on entry criteria and administratively burdensome.

Since the last meeting, the CNMI Council members, plan team members, and AP members had a series of meetings where they developed these recommendations. They recommended that the area closure be zero to fifty miles from shore from Rota to Alamagan, and vessels equal to or less than 30 feet would be allowed to fish within this

closed area. They also recommended that the large vessels would be grandfathered if there are any regulations in the final analysis. Local reporting would be required for all vessels less than 30 feet. Those over 30 feet that are commercial would be required to do logbook and sales reporting. This applies to charter vessels as well. Regarding VMS, vessels less than 30 feet would not be required, whereas vessels bigger than 30 feet would be. Regarding gear restrictions, they did not want this option as of yet because the groups believe there might still be a lot of fish up in the Northern Islands. Regarding limited access, they recommended exploring this option further because it involves a lot of complicated issues.

He said that the Bottomfish Plan Team, AP and the SSC members reviewed the options and made recommendations. The Council took initial action by selecting the preliminary preferred alternatives. They have drafted the amendment and solicited comments on range alternatives. The SSC will be reviewing the document at its 87th meeting in October. The Council will be considering these options at their 124th meeting in October.

He then showed a table which showed the different recommendations from the different council families and what each group preferred.

Morioka asked Seman if they were collecting this data from vessels under 30 feet, and what his concerns are.

Seman replied that there was no local issue to any vessel fishing. He said they have a data collection system in place, the commercial sales receipt and a direct survey of the arriving vessels from the Northern Islands.

Morioka asked his thoughts regarding vessels over 30 feet.

Seman replied it was consistent in all the scoping meetings they conducted on Rota, Tinian and Saipan.

Duenas inquired about the grandfather clause, and said no 30 foot vessel can go all the way up to Alamagan. It is 150 miles from Saipan one way.

Sablan replied they have the CDP project that goes up to Alamagan, and the mayor of the Northern Islands requested they reserve those areas, particularly for that project, the Remote Island Fishing Station. If they don't, the larger vessels may fish there and compete with the canoe fishermen.

Duenas said regarding VMS, they should include in the recommendation that NMFS include it as a free project for the citizens of the Northern Marianas, paid for by the federal government.

## **B. Plan Team Report and Recommendations**

Ikehara referred the Council members to Document 10.B in the Council binder and said he would read them for Bob Moffitt who could not attend.

Program-related recommendations include:

- The Bottomfish Plan Team supports the concept of developing fishery ecosystem plans on an archipelagic basis. The plan team suggested that the Council staff flesh out a background paper for the Council and its advisory bodies to consider. The background papers should include a pros-and-cons evaluation of alternative mechanisms, such as: A) slow integration of the crustaceans, bottomfish and coral reef ecosystem management unit species into the insular FEP; B) immediate combination of FMPs into archipelagic FEPS; C) keep existing FMPs and plan teams and establish a separate transition team; and D) consider gear-related FMPs combined with FEP postfact.
- The Bottomfish Plan Team asked that it be allowed to review and comment on the NWHI draft alternatives related to the bottomfish fishery as provided by NOS.
- The Bottomfish Plan Team asked the Council to investigate whether or not protocol for reviewing hooks taken out of seals, which was previously endorsed by the SSC and Council, has ever been implemented by the Pacific Islands Fisheries Science Center.
- As detailed bathymetric, habitat and fishery information becomes available for the MHI and NWHI through the HURL bottomfish investigations, the Council, NMFS and State of Hawaii may need to consider developing a policy for information distribution.
- Regarding federal data collection from the recreational Main Hawaiian Islands bottomfish fishery, the Bottomfish Plan Team suggests providing the following options to fishermen as discussion points: 1) a mail-in survey based on the registration database, 2) mandatory federal permit and reporting and use of a voluntary reporting program. In that effort the Bottomfish Plan Team recommended providing background information on ongoing bottomfish fishery monitoring and research initiatives, including environmental/climatic shifts, stock enhancement research and fishery monitoring activities.
- The Bottomfish Plan Team recommends that the genetic sampling protocol and kits to collect genetic samples be forwarded to the observer program. The Bottomfish Plan Team also strongly supports the funding of the proposed HIMB genetics study and that it be extended to all island areas.
- Regarding CNMI bottomfish management, the Bottomfish Plan Team supports the continued process of developing the management measures for the bottomfish resources around CNMI. The Bottomfish Plan Team suggests consideration be

given to: 1) the idea of limiting access upfront and allowing controlled expansion; 2) establishing an additional control date; 3) requiring VMS for all boats over the maximum size as agreed to in the final regime; 4) paying for VMS units on existing large bottomfish vessels; 5) requiring commercial reporting of catch and effort information; and 6) grandfathering in existing fishermen with larger vessels.

- The Bottomfish Plan Team endorsed the PIFSC initiative to restore an insular fisheries research program, which should fully support bottomfish research, monitoring and stock assessments.
- The Bottomfish Plan Team recommends that a stock assessment scientist be added to the Bottomfish Plan Team to provide related expertise.

Region-wide recommendations:

- Conduct sensitivity analysis on the effects of MPAs on fishery-based estimates of fishing mortality and CPUE for potential impacts in relation to overfishing/overfished thresholds.
- PIFSC use the stock assessment SAIP funding to establish an ongoing program to collect bottomfish size frequency information in each island area, age at maturity; in support of addressing the Bottomfish Stock Assessment Workshop recommendations.
- Create a group to establish action plans and associated budgets to implement the stock assessment workshop recommendations.
- Council should encourage continued mapping of bottomfish habitat throughout the region in efforts to refine EFH.

Mitsuyasu asked Ikehara to mention the revised estimates they are trying to get.

Ikehara showed a graph and explained to the Council how they recalculated the indicators related to National Standard 1, what was considered overfished. He summarized that, taking the archipelago as a whole, which indicates at this point it might be considered to be in a safe condition, as far as overfished is concerned, but it does represent that a level of overfishing is occurring. For Guam, it is noted that there is a point that's calculated as there is some overfishing. For CNMI, it is well below that line. American Samoa is also well below the threshold. He noted that there are some indicators that mean that the Council may have to undertake some consideration of potential rebuilding plans in the future.

Duenas said the data collectors on Guam get confused between inshore and offshore. If this data is inshore data he has no problems with it, but if it is offshore he does.

### **C. SSC Recommendations**

Mitsuyasu directed the Council members to 10.C.1 in the Council briefing book for the specific SSC recommendations with regards to the CNMI management plan. He said the SSC endorsed all the plan team recommendations and specifically wanted to call attention to the region-wide recommendations, which some of those recommendations have been repeated for a number of years. They strongly feel it's important to get them done.

Regarding the updated stock assessment information, the SSC heard the report from Bob Moffitt, which is preliminary numbers. They are still trying to refine that information to get more accurate estimates. The SSC was encouraged what Moffitt was able to do with information that he had and wants to emphasize the importance of calculating and assessing the SPR for particular species that may be in marginal condition, but that is not yet completed. Also, they wanted to emphasize the need to implement appropriate collections of tissue from fish throughout the region concurrent with the size-age frequency conditions for genetic analysis, and that is a proposal that HIMB had developed but has not been able to fund.

### **D. Advisory Panel Recommendations**

Mitsuyasu then directed the Council members to document 10.D in the Council briefing book. He said most were included in Ogumoro's presentation, and one additional recommendation that the Council provide travel support for the off-island advisors. They also wanted to encourage the CNMI local government to pursue data collection mechanisms for the smaller vessels through either licensing, permitting or in creel surveys, particularly noting that Guam had implemented their voluntary survey and perhaps something can be done in CNMI, too.

### **E. Public Comment**

Ebisui said under public comment, Gary Dill wanted to address the Council about his particular situation.

Dill said he holds a bottomfish permit for the NWHI Mau Zone. He said he had spoken to them on occasion, mostly representing the bottomfishermen of the Northwest. He said he was there to ask this Council's consideration in helping him in the fishery by an extension or some sort of waiver of a rule that he is currently operating under. He said about a year and a half my boat, the IMUA, an old wooden sanpan, developed some very serious problems with fuel tanks. So he began repairing it. After a few months he ran out of money and time and patience. Al Katekaru informed him about a rule that when a permittee does have some major problems with a boat, you could rent or lease another boat for a year. He did that last June. After suffering some problems with the new vessel, he finally got the bugs out of around the first of the year. However, he ran short

on time and did not put enough aside to finish the repairs on his vessel. He asked the Council members for an extension of another year for use of the replacement vessel.

Ebisui asked Katekaru to address the issue.

Katekaru agreed there was a provision under the bottomfish regulations that stipulate that if your vessel is unseaworthy the permit holder is able to lease or charter a vessel for one year. At the end of the year the permit expires. He said perhaps the proper mechanism would be to submit a letter to the Regional Administrator explaining the situation and NMFS will look at that. There is an appeal process under the bottomfish regulations, and that may be another avenue. At this point, short of a regulatory amendment to allow extension, I wouldn't know how a fix could be made other than an appeal process or a regulatory fix.

Ebisui asked if the Regional Administrator could grant an exception.

Katekaru said he did not know, and deferred to Feder.

Morioka asked Hamilton to remind the Council where they are with the use it or lose it.

Hamilton said the Council some time ago took final action on the recommendation to suspend the use-it-or-lose-it requirement retroactively to the date of the Executive Order. But the transmittal of that is held up by the completion of the Bottomfish EIS.

Ebisui said the issue is two-pronged, Dill would like to continue to fish and is also concerned about the use-it-or-lose-it provision.

Feder said he would like to confer with Katekaru and get back to the Council in the afternoon.

Ebisui said fine.

Morioka asked for further public comments. There were none.

Simonds asked the Regional Administrator what the remaining impediments to completing the Bottomfish EIS were. She said not completing the Bottomfish EIS was holding up not only that use-it-or-lose-it amendment of the Council that the Council voted on several years ago, but also transferability amendment that the Council voted on several years ago. These packages are in the region. They understand why in the earlier years the EIS was held up, because it has to do with the NWHI. As far as bottomfish is concerned, it's been through a review by NOS, by the Reserve. So the longer they wait, the chances of it getting anywhere gets harder and harder because things happen.

The other thing is that the Council is going to be making recommendations for a management regime in the NWHI, so they still have outstanding EISs for crustaceans and precious corals. They are going to go forward to complete those EIS up to where the bottomfish is at this point since there has been an agreement on many of the issues. They would like to see these out before October when the Council is going to be talking about this because they need their EIS alternatives for the NWHI management.

Robinson said he asked about that, and although he does not have a huge amount of detailed knowledge yet, it appears that the holdup is related to some last-minute Protected Resources issues having to do with impacts on marine mammals. So what they will do is get the Protected Resources people together with the EIS team within the next week or two to work through the Protected Resources issue and then continue and complete the EIS.

Simonds said good, they will keep talking everyday.

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

Ebisui called for questions, hearing none, proceeded to review the matrix of action items. He said with respect to Number 1, supporting the concept of developing fishery ecosystem plans, they were deferring discussion and voting on this item until the Ecosystem Habitat Committee. He moved the Council approve items 2 through 9 together.

Duenas seconded the motion.

Morioka called for discussion, hearing none, called for the question. The motion passed unanimously.

Ebisui moved the Council accept number 10, the CNMI preliminary preferred alternative.

Sablan seconded the motion.

Morioka called for discussion.

Sablan said mandatory VMS should be only for commercial vessels, but now it says for all bottomfish vessels.

Ogumoro agreed.

The wording was changed and the amendment was moved and seconded.

Feder said with respect to the reference to the zero to fifty nautical mile closure, the Council should direct Council staff to define a single closed area rather than drawing circles or drawing lines around each of the islands or rocks or atolls. It might make it

much easier if there was a unified closure rather than trying fifty nautical miles from the center point of each island. Come up with some straight line boundaries in a single block.

Sablan said for clarification, some of these islands are over 50 nautical miles apart, so they cannot draw those straight lines exactly. They need to focus from the center of each island or rock.

Feder said they might also want to clarify exactly which islands they are talking about.

Sablan said Rota, Saipan, Tinian, FDM, Anatahan, Sarigan, Guguan and Alamagan. Those are the islands from Rota to Alamagan.

Feder clarified it would be those islands and those islands only, and Council staff would identify the centerpoint and draw the 50 nautical mile circles from that center.

Sablan said yes.

Mitsuyasu said they will identify it in the next document.

The amended motion was moved and seconded.

Morioka called for further discussion, hearing none, called for the question. It was unanimously approved.

Ebisui moved to approve number 11.

Duenas seconded.

Morioka called for further discussion, hearing none, called for the question. It was unanimously approved.

## **XI. CRUSTACEANS FISHERIES**

### **A. Update on MULTIFAN-CL Lobster Model**

Ikehara said he was sitting in place of Peter Young, and called on Gerard DiNardo to report on the MultiFAN CL lobster model.

DiNardo said he would be providing an update on their modeling efforts using MultiFAN CL. He clarified he did not want anybody leaving and thinking that they have a finished model. They had some glitches recently that put a halt to that development for about a week. He said he would not be estimating the exploitable population size as they were still in the preliminary stage.

A workshop was convened at PIFSC in 2002 to review existing data and a population model used to assess lobster stocks in the NWHI. The workshop provided a suite of recommendations, one which dealt with model development. In particular, it was agreed that the application of MultiFAN CL should be explored further. The panel agreed that it was not feasible to develop a two-species model or a stand-alone model given the paucity of data. Workshop participants also addressed model structure and provided the blueprint to guide further development.

The model is spatially structured. They wanted to do it that way to basically capture some of the structure of the populations they are seeing. There are differences in demographic parameters between banks, so they wanted to capture some of that in their structure. Basically, what they decided to do was break the NWHI into six regions: 1) Nihoa; 2) Necker; 3) from French Frigate Shoals to St. Rogatein; 4) Gardner Pinnacles; 5) Raita and Maro Reef; and 6) Laysan to Kure Atoll. It was important to utilize as much of the information they had available. In the past they relied on just catch and effort data. It was their goal to incorporate all of the data they have available into the analysis.

DiNardo showed a table that included the terms of the datasets that were used. They included commercial data and research data. The commercial data is broken into two datasets based on the gear type. Prior to 1988 the black plastic traps were used, but they had no vents in them, after that, there were vents. They broke them into two separate fisheries. From 1983 up to 1999, for all of the banks where there was commercial fishing going on.

The last column tells if there was size structure information collected associated with that fishery.

For the research survey data, they have their normal annual resources survey that they do for NWHI lobsters included. He also incorporated the very early information into the model, the pre-fishery information. It was the tripartite data which was never incorporated into the model before. It gives a baseline of what the population was prior to any kind of heavy fishing.

They included all the tagging data.

Other aspects of the model structure include:

- Catchability: which determines if it is fishery specific. There were basically 20 different fisheries, each one of them is going to be generating a specific catchability, relatively constant over time. The same goes for selectivity in terms of what a gear takes, in terms of size structure.
- Growth parameters: It is a single-growth parameter for the entire archipelago. They assume there is no change in that.

- Natural mortality: They assume there is an effect not only in the fishery but there was an age effect and also a time, so they are tracking fishing mortality over time by age and by fishery.
- Dispersal: Movement between banks. They are assuming there were none, because they looked at adult populations or juveniles with no movement between banks.

DiNardo then reviewed the results from the latest model run, which he said were very encouraging. The independent estimates they had of some of these parameters matched with what the model results actually provided.

Regarding selectivity, when he looked at it in more detail it was exactly what he would expect. The smaller animals caught were higher for the traps that had no escape vents. For the early wire trap data, they expected to see very few of the small animals caught, which was what they saw. So the selectivities match up quite nicely to what they believe is going on with the gear, and actually have tested that with the gear.

They have data on fishing mortality by age class from about 1976 to about 2003. The fishing mortality over time coincides with the increase of the fleet and the increase in effort in the mid to late '80s. Prior to running the model their best guess at natural mortality was .456, the model estimated .44.

Regarding growth curves, the parameters that are associated with growth are very similar to what the historical growth curves have shown.

Regarding abundance by age class, the lowest one would be juveniles, then as it goes up it gets older age classes.

Regarding biomass by region, they see a consistent decline in the biomass over time, from 1983 to the present, for all areas. That is showing what the impact of the fishery is on the populations of lobsters. DiNardo described a table, and summarized that if there had been no fishing for lobsters up in the NWHI, they would have seen a decline over time. He commented that was very interesting because it starts to corroborate some of the information that Jeff Polovina has been presenting on the regime shift, which he said was occurring about in the mid 1980s. Basically, what it's showing is that if there would have been no fishing you still would have seen a decline in the population over time. It wouldn't have been as steep or as fast as what we saw with the fishery, but nonetheless, it still would have occurred. He said it is encouraging, considering that a lot of their independent estimates they have associated with the research they have been doing over the last 20 years match up quite nicely with what the model is projecting.

He finished by saying the model is back and running, and they are going to continue the analysis. Once they feel they have come to a point of where they are comfortable with the model and the results it's given, they are going to have it reviewed

by an independent expert panel. At that stage, when they give it a stamp of approval, then finally they can move forward and do additional estimates.

Morioka asked, even without the fishing effort, that fishing mortality, and showing that decline, does that include the increase of apex predators that would drive something like that?

DiNardo said it is not included, but it is implicitly in there.

Simonds congratulated DiNardo on presenting the Council with this assessment, since they are all going to be able to use it over the next several months as the Council decides what kind of fishing regime it would like to see in the NWHI.

### **B. 2004 Northwestern Hawaiian Islands Cruise and Charter Plans**

DiNardo said he would first discuss the resource survey, then move on to the tagging charter.

He provided background information on the survey. It is an annual survey that began in 1984 to 1989, then they took a year off, then started up again in 1991. The objectives over time were to evaluate the performance of commercial and research gear, calibrate the gear types, monitor local populations of lobsters in the NWHI and collection of biological and oceanographic data. Now, the major emphasis is to monitor the populations and collect biological and oceanographic data.

They use a standardized protocol so they can assess the information and look at it over time so they don't have any changes in the way they are sampling that could bias their interpretations.

They use a fixed site design stratified by depth, which basically means they go back to the same site every year. They fish ten strings of eight traps at shallow stations (less than 20 fathoms), two to four strings of twenty traps at the deep stations (greater than 20 fathoms). Traps are fished overnight and baited with one and a half to two lbs of frozen, cut up mackerel.

In terms of data collection, they collect information on the species caught, its tail width and carapace length, sex of that animal, the reproductive condition, the location, its recorded string level, not the trap level which is difficult to do. Then there are subsamples taken of both the target, meaning the lobsters, and the bycatch which are retained for further processing. They also collect a significant amount of bycatch information for the fatty acid work for monk seals. They also have experiments that go on onboard trying to interpret some of the catch data.

The survey is touted as the NWHI survey, but it is not. They only visit two banks, Maro Reef and Necker Island, which are the mainstay of the fishery. He showed a graph of the sites.

He reported the survey left the previous Sunday.

Regarding the tagging program, the program stemmed from another technical review they had of the stock assessment program which asked them to start collecting independent estimates of population size and updated estimates of population dynamic parameters. It has been going on since 1998 in partnership with industry. They charter two vessels annually as the research vessels are not equipped to do the amount of fishing they need to generate good estimates from tagging.

Regarding the research protocols, the sample design is a stratified design based on catch rates. From the historical catch data, they use that to tell how much fishing effort or tagging effort should be placed where in the bank. More effort is placed in an area with more historical fishing effort.

About 300 traps are fished per day. The traps are fished overnight and baited with one and a half to two pounds of mackerel. They mimic the research survey in terms of protocol.

Regarding data collection, it is the same as what is used in the research surveys; species collected, tail width, sex of the animal, reproductive condition, location of where it is caught and the tag numbers. Once the standard information is collected, all the lobsters are tagged and then released on the bottom with a release device.

Regarding the types of tags, initially they started using ribbon tags. They used them from 1998 to 2002, then switched in 2003 to Passive Integrated Transponder (PIT) tags. They have gotten away from them because over time the animals were chewing on them. Animals that are coming up with a ribbon tag are double-tagged to provide some idea of the efficiency of those new tags as well as the shedding rate for the ribbon tags. The new tag is about 11 millimeters long.

In Necker Island they go for spiny lobsters. Between 1998 and 1999 6,000 animals were tagged. In 1999, they stopped the tagging operations prior to the commercial fishery that operated in 1999, so the recaptures were from the 1999 commercial fishery. They did not get back up there again for a while due to funding shortfalls, but in 2002 they tagged 14,000 using the two vessels. They had 20 recaptures that year. In 2003 they tagged 11,000 more spiny lobsters and had 500 recaptures. They have 25,000 animals up there that are tagged.

In Maro Reef they go for slipper lobsters. The first time they did any tagging was 2003, when they tagged about 2,700 slipper lobsters. He said this was low, which was surprising because catch rates at Maro Reef are high for slippers in June yet in September they are extremely low. They may have to rethink the timing of the survey up in Maro Reef.

The 2004 plan is to go up in September for a 30-day charter. Two vessels will start at Necker Island, and then one will leave and go to Maro Reef and finish up there and the other one may then meet up at Maro Reef and do the tagging there.

They were able to secure funding for the fall charter through the Cooperative Research Program at Headquarters. It is a laborious process, and he said it would be nice if they would get a chunk of money that comes out here directed solely for cooperative research. For next year they have put in through stock assessment improvement funds (SAIP) for a very large grandiose survey which would be archipelago-wide, which would hopefully bring a lot more charter vessels online to help out with our research. It would be the first time they had an archipelago-wide survey. It would not necessarily be solely directed at lobsters, it would be directed at a variety of issues, a lot of ecosystem issues to start gathering information, as well as lobsters and bottomfish also.

Martin asked if he intended on continuing or expanding the videotape work of the release mechanisms.

DiNardo replied they do two things during all the cruises. They do periodically videotape the release of lobsters in our release device, which gives them an idea of what is going on over time with the released animals and whether or not they are being predated upon by other animals. To date, they have not seen one released animal eaten. The other thing they are doing is trying to videotape a trap fishing overnight to get some idea to see what is going on around the trap, as well as what is going on in the trap. There is something called dominance hierarchy, which basically states when you have an animal in a trap it may be excluding other animals entering the trap. They need to know that because that is some way of also adjusting the catch rate information that we have that we use to come up with our relative abundance estimate. What comes out of the videotaping is some incredible pictures of habitat associated with the operation. That information is being given to the folks that do the coral reef work. Then can take that and incorporate that into their camera analysis to come up with benthic habitat maps.

Martin asked if the charter work is site-specific or a collaboration between the two scientists and the vessel captain?

DiNardo said the goal of the tagging program is to catch as many animals as possible and to tag as many animals as possible, while also within some kind of a scientific sampling framework. The scientists will pick many of the sites in terms of where to go, but they also leave freedom up to the vessel captain and try to use his experience in terms of where the best catches could be. That has worked out quite well in the past.

Duenas asked if the molting affects the tags.

DiNardo replied they did tagging shed studies in the past on the ribbon tag, and the tag is retained because it goes through the flesh itself, not any of the shell. Both tags are retained through the molting stages.

Farm asked what the life span of a lobster is.

DiNardo said six to eight years, but it is the mortality rate that is the key. Natural mortality is about .45, about .5. Approximately half of the animals die each year.

Duenas said the ratio of recaptures was better in the beginning than today.

DiNardo said right, but the animals were being collected operating under the guidelines of the commercial fishery, which was a first come, first serve. There was a little scrambling going on to fish as fast as you can and fish wherever you can. They had a bit more methodical approach later.

Duenas asked if the commercial fishery was going on at the same time?

DiNardo said the fishery was just used as a platform for recaptures. They did all the tagging up to the beginning of the commercial fishery, then they ended and walked away. They used the commercial fishery to generate the estimates, which is what gave them an estimate of fishing mortality.

Farm asked what release system they were using when the 6,000 were tagged.

DiNardo said the same release device was being used.

### **C. Main Hawaiian Islands Lobster Stock Assessment**

DeMello said the Main Hawaiian Islands lobster stock assessment is being done by DAR. What they are working on right now is the first phase of two phases for the stock assessment. The first phase consists of two parts, an analysis of the DAR commercial catch data and a comprehensive literature review. Right now DAR is in the process of selecting a contractor, and has some potential candidates. As soon as they get that contractor selected, they can move forward on the project.

### **D. Update on Annual Report Development**

DeMello said the Crustaceans Annual Report will be out at the end of the year.

### **E. 2004 Plan Team Report and Recommendations**

DiNardo read the recommendations.

- The Plan Team recommended that the lobster cruises and charters incorporate into their plan the possibility of releasing some lobsters at night to determine if predation by sharks is occurring.

- The Plan Team recommended that the Center immediately prepare a proposal to submit to the State of Hawaii regarding the Federal Fishery Disaster Relief Program for continuing cooperative lobster research.
- The Plan Team strongly supports the completion of habitat and benthic characteristic mapping projects and recommend that the projects include habitat areas of commercially important species, deep-water slope areas and probably even shallower. The problem is with a lot of the mapping going on, it's being done in shallow water, and that's really not going to be of much use when they are trying to determine habitat characterization in those areas where you have commercial fisheries going on.
- The Plan Team recommended that the MHI lobster stock assessment project move forward with the hiring of a contractor to complete Phase 1.
- They recommended that the plan team submit comments on the annual report outline by April 20th, 2004. Plan team members will work with Council staff on drafting the report.
- The plan team members recommend the status of stock information be included in the annual report. They felt they should come up with one that includes not only information about the performance of the fishery, but also the status of the stock.
- They concurred with the SSC's recommendations regarding the archipelagic ecosystem approach to fisheries management.
- The Plan Team recognized that lobster is becoming a species of interest in CNMI and lobsters should be included in all future plans for research in that area.

#### **F. SSC Recommendations**

Severance directed Council members to item 11.F in the Council briefing book.

- The SSC encourages the completion of the NWHI MultiFAN CL spiny lobster model and a general review by an expert panel.
- The SSC encourages NMFS and PIFSC to conduct a similar analysis for the NWHI slipper lobster fishery.
- The SSC recommends that noncommercial fishery data where available be included in the Crustacean Annual Report. The SSC also concurs with the following Crustacean Plan Team recommendations: 1) recommends NMFS and PIFSC to assess the possibility of using video to assess the magnitude of shark predation on lobsters at night; 2) recommends that NMFS and PIFSC to prepare a proposal to submit to the State of Hawaii Federal Fishery Disaster Relief Program for funds to continue cooperative lobster research; 3) strongly supports the

completion of habitat and benthic characterization mapping projects and recommends the current and future habitat characterization projects include areas of commercially important species, i.e., some of the deepwater slopes; 4) recommends that the MHI lobster stock assessment project move forward with hiring a contractor to complete Phase 1 and supports the continuation of the project; and 5) recognizes that lobsters are becoming a species of interest in the CNMI and recommends that lobsters be included in all future plans for research in the area.

#### **G. Advisory Panel Recommendations**

There were no Advisory Panel recommendations.

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

There were no public comments.

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

Ikehara moved that the Council endorse the SSC recommendations, which include the plan team recommendations.

Cruz seconded the motion.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

### **XII. ECOSYSTEMS AND HABITAT**

#### **A. Archipelagic Fishery Ecosystem Plans**

Seman called on Jarad Makaiau to give the presentation.

Makaiau said Paul Bartram apologized that he was unable to attend. He reported that at the last council meeting they had discussed the concept of developing Fishery Ecosystem Plans (FEPs), and the Council endorsed moving forward with the process. In the last three months they have been reviewing the available literature on ecosystem-based management and trying to put together what would meet the goals and objectives of fisheries management, while at the same time taking into account those other issues that are necessary to be addressed in ecosystem-based management but is not necessarily in their purview to manage.

In the initial assessment they were going to do a pilot project in the Marianas. Congress has been supporting a pilot project for FEPs, primarily in the South Atlantic and the Gulf of Mexico. Unfortunately, they did not have any funds directed in the Western Pacific for the Pacific areas to do this.

They picked the Marianas for a couple of reasons. One was because of the opportunity to have the inter-governmental relationship and testing of cross-jurisdictional, cross-authorities management ability. Since there are two island governments out in the Marianas region, the Government of Guam and the Government of the Northern Mariana Islands, they thought it would be a good test pilot to see collaboration and cooperation at that level. Second, there are a lot of initiatives ongoing with local action strategies of the Coral Reef Task Force. The groundwork has been laid by a number of initiatives. Third, CNMI and Guam have a lot of community-based management and community cooperation at the grass roots level, different from Hawaii where there is more integration of different ethnic diversity, and they want to use that to their advantage. Lastly, it would be a good opportunity to utilize the Community Demonstration Project Program and Community Development Program as a conduit to further the ecosystem pilot project.

Geographic eco-units: ecosystem management could be looked at from various scales including a global ecosystem, an archipelagic ecosystem, an island-level ecosystem or finer scale. They want to make sure they define those scales clearly and develop goals accordingly. Also, human communities are part of the ecosystem which is important to remember when developing a pilot study and management options. Specifically, they need to express and explain what their desired objectives for future resource conditions are going to be as fisheries is just one component of ecosystem-based management. They want to bring in agencies that have the appropriate authority and include them in the management decision-making process.

Specific ecological performance indicators: When moving from single-species management to ecosystem-based management, how do you know what your management decisions are resulting in and what the effects are of the management decisions? You must set specific criteria and performance indicators to get feedback on the effects of their decisions.

Modeling: It is unknown how ecosystem interactions and linkages affect each other, so the more models that are built allows a better picture of ecosystem effects.

Ecosystem fisheries management is about managing people, so ultimately, they have to change behaviors, change ideas and get people to buy-in at all levels.

Balancing human needs: This is a point that needs to be express. NMFS is developing guidelines for creating FEPs. In a presentation made by NMFS representatives it was noted that ecosystems are place based. Therefore, it seems logical that if ecosystems are place based, then local island entities that may be affected by an FEP should have a higher degree of say in the management decision than “stakeholder” from other areas. So in developing FEPs for the Pacific, the Council would like to provide those communities with a higher standard of decision-making input. It goes back to traditional reliance. The people who use the fishery and marine resources should have a higher claim in terms of how those resources are utilized and managed.

Operational steps for pilot fishery ecosystem plans: Identify ecological functions and services of ecological subunits. How reference points and performance indicators are established.

Programmatic EIS. Shifting from a FMP to a FEP is a large undertaking. The pilot project itself would be independent of the Councils management, but in the future a definite Programmatic EIS is needed to try to change the FMPs over to FEPs.

He showed a spatial resolution of eco-regions taken from land-based management. While they are doing the pilot study, a lot of it is going to be habitat-based, looking at long-term baselines of habitat conditions. There are mapping initiatives going on that take snapshots of habitats. How they get information on past changes will be a focus on the project that's documenting changes of habitat composition and fish abundance over time.

NOS mapping: They are in the process of overlaying rugosity maps, which shows the different structure and changes in bottom contours and the associated abundance of distribution of fish. This will be a key component of FEPs.

Examples of habitat indicators: Look at changes in bottom cover, shallow-water bottom relief. He reported the NOAA Fisheries and the National Ocean Service has been doing a lot of the studies which show that fish are attracted to a lot of structure. When looking at ecosystem-based management and those various eco-regions, they will select places where there is high structure to focus the pilot project on. The Council doesn't necessarily need to look at the whole archipelagic scale, they can look at discreet areas, maybe the south side of Guam, or the northern part of the CNMI.

When switching to FEPs, the Council will need to account for National Standard requirements in an ecosystem-based context.

Best practices: The long-term cycle and the past conditions. Building a past index of resource condition and habitat condition will give the Council a better idea for future management. Land activities have a profound effect on nearshore resources, particularly with the Coral Reef Ecosystem FMP. A lot of the things that happen nearshore affect the pelagic fish.

Cross-political boundaries: is a key issue when dealing with management. Historically government agencies have to mandate responsibilities and make sure their responsibilities are maintained. It is going to be a test to see how they can get inter-agency cooperation not just at the federal/state level but also at an inter-agency level.

The next step for the pilot project is to identify work plans and come up with a detailed scope of work. They have to assemble a pilot study team, who's going to do the work. The core team will be comprised of people from the Marianas Islands and Guam.

They want to make sure that their goals and objectives are met by establishing these best practices and implementing them through a Memorandum of Understanding or Memorandum of Agreement. This is a mechanism federal and state agencies use to further cooperative management without compromising individual jurisdictional authorities.

Sablan said regarding the pilot study team, he cautioned that a lot of people in the Northern Marianas Islands would prefer using standard vernacular to understand a lot of these concepts and terms

Makaiau said community buy-in is very important if an ecosystem pilot project is to be successful. Much of the work will be informing communities about this initiative getting communities up to speed on the concept of ecosystem-based management.

Sablan said that's the problem, in the vernacular they don't have that term.

## **B. Ulua Tagging Program**

Annette Tagawa and Clay Tam, project coordinators from HDAR, presented. Tagawa began by providing background.

The ulua tagging project is an angler-based project where they ask for help from volunteer fishermen to help capture, tag, release and recover ulua and papio. The project originated in 1997 by a group of fishermen on the Big Island, who had some concern that the ulua and papio fishery was not what it used to be. The ulua and papio fishery was the biggest recreational fishery in the state and there was not much information on it. The fishermen got together with some of the staff on the Big Island and created a tagging project. In the year 2000 they had the opportunity to take the project statewide and have it headquartered in Honolulu. Now they have taggers tagging fish from Midway to the Big Island. Upon becoming a volunteer, all volunteers receive a tagging kit that consists of a few dart tags, a tag applicator, instruction manual, measuring tools, data return card. Whenever one of the tagged fish is caught, both the person who caught the fish and the person who tagged it receives a letter regarding the history of that fish; how long it was out, how much it has grown and how far it has traveled.

She said the project goals were to gather information on the following: 1) determine movement, migration and habitat patterns of all species of ulua, papio and kahala; 2) update growth curve information; 3) determine size class distribution of fish caught and/or released by fishermen; 4) determine stock distribution based on the number of fish tagged and recovered to monitor seasonal influences on the ulua and papio resources.

She showed a chart that gave the number of new volunteer anglers they are able to recruit every year. During the first fiscal year, 2000, 32 anglers had signed up. At the end of last month they had recruited about 435 new taggers. They distributed 25,274 tags. The total number of volunteer fishermen as of the end of May is approximately

1,103 volunteer anglers. The majority of these are located on the Island of Oahu. The majority of fish are being tagged on Oahu.

Overall, 12,685 fish have been tagged by anglers. 1,965 have been recovered, which gives a recovery rate of 15.5 percent. The reason for this is because a lot of the fish that are tagged are juveniles. They have been recaptured and re-released.

She then turned the presentation over to Tam who provided an overview of the other kinds of data.

Tam showed slides that represented the data generated from the project.

This first slide showed tagging effort of juvenile omilu and white papio. The fish were from four to six inches, with continued tagging effort as they mature and grow through the season, to seven and eight inch fish. The 2002 minimum size requirements for the papio was seven inch total length. As of January 2003, it was increased to ten inch fork length.

This next slide looked at growth rates of juvenile omilu. The fish were between four and a half to thirteen inches in fork length. There were seasonal growth rates they were able to identify influenced by the type of bait in the fishery at the time of the year. Earlier in the year there is an average growth rate of quarter inch, maybe half inch up until June.

Regarding movement, based on short term recoveries the fish have been recovered within 30 to 120 days. In the months of September through March they noticed that these fish have traveled in a clockwise direction. From March to September, they travel in a counter-clockwise direction around Oahu in particular. They speculate this may be due to current patterns and availability of food.

He then showed a representation of what they had seen from March and June. During the summer months, they have the general counter-clockwise movement. The fish were between nine and a half inch and eighteen inch in fork length. Of the same year, July, they noticed something happening with the movement of these fish. In a normal pattern, they did have fish starting to go in a counter-clockwise as well clock-wise movement, which is different from what they have seen in the first two years. Then in August about 90 percent of the recoveries that moved were generally in the clock-wise direction, which is completely opposite of the first year. But by September, they had returned back to a more normal habit to a counter-clockwise motion.

Keeping that in mind, there was an occurrence that happened in the summer of 2003. Some may remember the huge run of juvenile aweoweo. A run of this magnitude had not occurred in the islands since the early '60s and prior to that, early 1900s. The run had actually started in early July on Kauai on the west end and moved in an east direction, around Kauai, across the channel to Oahu, and it trickled down to Molokai and Maui by the end of September. There was so much of this around the fishermen were

reporting the water actually turned red with these aweoweo. They weren't really big fish, between two and three inches. This coincided with some of the unusual movement data that they saw early on in the summer.

A kahala amberjack that was recovered this year was originally tagged at St. Rogatien Bank by one of the NWHI bottomfish boats in July of 2000. It was captured in March off Kona. They estimated distance of travel was approximately 678 miles and he was out for a little over two and a half years and grew four inches and grew to a total fork length of 33 inches.

Tagawa conclude the presentation with benefits gained from this project:

Management benefits: establish trust and open lines of communication with fishermen. With them helping to tag fish and giving their observations, they were able to put together the story behind the condition of our ulua and papio resources in the MHI. The combined tagging effort produces a large volume of tagged fish which provides a large amount of data that can be used to assess the ulua and papio resources at minimal cost.

Community-based management: growing from public support and participation in the ulua tagging project. For example, catch and release is becoming more common place. All of the taggers are so enthusiastic that they are starting to tag more fish and are anxious to release it and to get the data back. They want to learn more about the fishery, how fast it grows, how much it travels, and basically where it goes.

Self-enforcement: happening amongst the fishermen. Because the project is being spread by word of mouth, if a fisherman on the shoreline catches a tagged fish, he's highly pressured by fishermen around him to record the information and release that fish, or if it's undersized, terribly pressured to release that fish.

Management decisions: more easily supported and accepted by the fishermen through the project because they become part of the process of gathering information and data that they know and trust will impact management decisions that will best support their fishery.

Future goals: They would like to increase tagging effort on all the neighbor islands and gather more information on all other species of ulua, papio and kahala, especially on the neighbor island to assess the differences, if any, of species composition and distribution. Hopefully, one day expand the targeted species as requested by volunteer anglers. A lot of anglers have been so anxious at tagging, they wanted to tag other species. Expansion of support to accommodate increasing public demands for the continuous growth of the ulua tagging project. As you can see, every year more anglers are recruited. The demands by the public are outweighing what they can provide in terms of time and labor. Council support has allowed them to hire someone to help them catch up with the data. As the project continues to grow and larger numbers of fish are being

tagged, this opens the door for further research in to determining standing stock, exploitation rate and spatial distribution of fishing effort.

### **B.1. Update on Annual Report Development**

Makaiau reported that the Coral Reef Ecosystem FMP was finally implemented in March. The plan team had been working for over a year on trying to meet its annual reporting requirements, and how to go about doing that not only to be consistent with the National Standard 1 and 2 Guidelines, but also to be able to look at things from an ecosystem-based management perspective. One of the things that they've been doing at the last plan team meeting was to look at a mechanism that could assign certain coral reef species or an aggregate number of coral reef species into trophic levels, because ecosystem monitoring has been considered to be looking more trophically than species-based. Because of the sheer number of Coral Reef Ecosystem Management Unit Species it will be virtually impossible for the plan team to develop MSY control rules and overfishing criteria for every single species. They have been looking at a broader perspective from ecosystem-based management. In the FMPs they have the standard reporting contents, which are similar to the Bottomfish Plan Team Annual Report and also the Pelagic Plan Team Annual Report. They outline the basic standard fishery performance information. This plan team is going to have to do a lot more than just those things. The Pelagic Annual Report has specific-information, but that cannot be done for the Coral Reef Ecosystem FMP. The FMP has status determined reference points for MSST, maximum fishing mortality, biomass in relation to MSY. With all of these reference points on the whole management unit species itself, it's not on an individual species. It's for the entire MUS list.

During this plan team meeting they discussed looking at other reference points that they wanted to establish. Particularly, the FMP calls for setting a reference point for recruitment overfishing. It also calls for a mechanism to identify potential indicators for measuring ecosystem overfishing. What ecosystem overfishing has been generally termed as is fishing down trophic levels which start with the top apex predators. They also wanted to identify how to assess the success of the management regime, so they have set out some performance indicators to make that clear.

The long-term goal was an allocated outline of a stock assessment, not just including fishery performance data, but also fishery-independent data. That was a strong recommendation that from the coral reef stock assessment workshop. They have a tremendous amount of fishery-dependent and fishery-independent data, how do you tie those two together in terms of building a stock assessment.

In the Coral Reef Plan Team report, they are looking at all of the Coral Reef Ecosystem Management Unit Species as a whole, but instead of reporting by individual species, they took a different approach. They will look at the total aggregate landings of all coral reef species together, and look at them by gears to get an effectiveness of catchability by gear types.

The nets are predominantly the gear that was able to catch the most Coral Reef Management Unit Species, hook and line about halfway. All other gears, hand harvest, spear are pretty low. So this is one way that the plan team would like to incorporate this Level 1 reporting data. All of them together by gear. The second level of the Level 1 reporting is estimated total documented landing, including aggregate values.

They are looking at how to measure effort for coral reef species. They have a multi-species fisheries utilizing multi-gears, both shoreline and boat-based. To simplify it in the annual report for the first go-around, they will simplify it by gear types. They are looking at effort by gear.

They are not sure yet how to separate catch per unit effort by gear type. They may treat each report as a single trip because coral reef fisheries are inherently day fisheries or two-day fisheries.

There is very general reporting. Because the reporting mechanisms in all the other islands are different, they wanted a way to look at it from an ecosystem perspective. There will also be a second tier getting away from just all coral reefs to a more specific level. This is where we get to the family-level reporting where we can identify specific families.

About 80% of the fish come from five families in all island areas; the goatfish, the surgeonfish, parrotfish. In some island areas, wrasses are a large component of the catch. They can look at individual family level because they cannot really get into species-specific information at this point, not in this first annual report, anyway.

If they take it on face value of moving down trophic levels, apex predators is the first thing to go. Secondary predators are the next focus. That will give them that ecosystem monitoring aspect in the annual report, then they will do the analyses accordingly, by the gears. One of the points that have been made on a number of meetings is the Bottomfish Fishery Management Plan that includes a lot of shallow-water coral reef species. Inherently they overlap. What they plan to do is to tie in with the Bottomfish Plan Team, and include shallow-water MUS into the trophic level reporting when they can. In this first go-around they will not include aquarium harvest information. Later on they hope to include aquarium harvests, because it is substantial, particularly on the Big Island.

### **C. 2004 Plan Team Report and Recommendations**

Jeff Walters said he would not read through the recommendations as they have been further developed by the different committees as they have moved up the chain to the Council. He said it was their first meeting after it was codified into a rule in March. He focused on one key recommendation, that they are going to need technical assistance and data management and analysis systems beyond what they have. They are also concerned about fixing the glitch that happened with the fish on the potentially harvested

list that probably should be on the currently harvested list. If it's on the potentially harvested list, it cannot be kept, which is a real problem and not their intention.

#### **D. SSC recommendations**

Severance directed the Council members to document 12.D.1 in the Council briefing book.

- Regarding the Archipelagic Fishery Ecosystem Plan, the SSC was impressed by the proposed approach and welcomes the Marianas Archipelago Fishery Ecosystem Plan initiative. Further, the SSC encourages continued progress on this initiative without waiting for the final NOAA guidelines regarding FEPs. The SSC also strongly encourages identification of appropriate funding sources so that this project can be completed in a timely fashion.
- With regard to the annual reports, the SSC encourages continued efforts in data gathering and preliminary analysis as proposed by the Coral Reef Ecosystem Plan Team and notes with satisfaction that one biologist and two technicians will be hired by the CNMI Division of Fish and Wildlife to re-establish the inshore creel survey.
- The SSC agreed in principle with the five recommendations put forth by the Plan Team, allowing them to move ahead effectively in producing the first annual report for coral reef fisheries of the Western Pacific and encourages the Council to ensure appropriate staffing.
- With regard to the FMP and plan implementation, with respect to the Coral Reef Ecosystem Plan Team recommendations for possible amendment to the final rule implementing the Coral Reef Ecosystem Fishery Management Plan, the SSC specifically endorses Recommendation 2, that candidate species designated in the plan as potentially harvested coral reef taxa be moved to the currently harvested coral reef taxa list on a case-by-case basis.
- Finally, the SSC does not concur with Plan Team Recommendation 1 since it would appear that this regulatory change could be too inflexible and insufficiently precautionary, and that the suggested criteria are not appropriate for all Coral Reef Ecosystem FMP Management Unit Species. To clarify that, the SSC is aware of the concern about people facing potential penalties if they don't have a permit and they catch some fish on the potentially harvested list, but the 20 percent rule was regarded as difficult to operationalize given some of the species involved.

#### **E. Advisory Panel Recommendations**

John Gourley read the Advisory Panel recommendations.

- The Advisory Panel concurs with the SSC that candidate species designated in the CRE FMP as potentially harvested coral reef taxa be moved to the currently harvested coral reef taxa list on a case-by-case basis.
- The plan team would like to allow flexibility to the fishermen when it comes to the incidental catch when they're out there fishing. The SSC was stating that the 20 percent suggested by the plan team may not be quite adequate. The AP recommends the Council request the plan team to explore options to establish a finite or definite number of potentially harvested coral reef taxa which could be in either pounds or pieces that can be legally retained without a special permit. The existing regulations require a fisherman to obtain a special permit in order to retain a single potentially harvested coral reef taxa. Although this is required by NFMS Office of Law Enforcement to make this provision enforceable, it does not provide the nonFMP permitted fishermen the flexibility to retain any potentially harvested coral reef taxa harvested incidentally while fishing for currently harvested coral reef taxa or other Management Unit Species.
- Regarding EFH, the AP recommends the Council investigate the ecological effects of live fire military exercises off Guam's Southern Banks. The AP is concerned that military exercises may have much greater ecological impact than anchoring on Guam Southern Banks, which is presently prohibited by vessels larger than 50 feet in length.
- Regarding the Northwestern Hawaiian Islands Sanctuary Designation Process, the AP recommends that the Council continue to manage fisheries in NWHI and supports the continued management of fishery resources by agencies that have mandated responsibilities and expertise in fisheries management, such as the Council, NMFS and State of Hawaii. NWHI fisheries should not be managed through the Sanctuary process. The AP further recommends the Council support the preservation of the Native Rights to fish and cultural access to the NWHI Sanctuary. The AP recommends the Council pursue a Memorandum of Agreement with NOAA, or other agreement, to retain primary responsibility in developing and promulgating fishing regulations within federal waters of the proposed NWHI National Marine Sanctuary.
- The AP supports the concepts of restructuring the Council's FMPs into Archipelagic Ecosystem-Based Plans and supports a pilot project to develop a Draft Fishery Ecosystem Plan for the Marianas Archipelago. Furthermore, the AP recommends that a technical working group of the Council's choosing be established to guide the development of the Marianas Archipelago Fishery Ecosystem Plan. The AP recommends that the Council contracts out the development of an initial outline for the Marianas Archipelago FEP and that local issues be considered when moving forward with this initiative.

## **F. Standing Committee Recommendations**

- Regarding the development of annual reports for the Western Pacific Coral Reef Fisheries, the Ecosystem and Habitat Standing Committee supports the recommendations set forth by the SSC regarding the five recommendations made by the Coral Reef Ecosystem Plan Team on the need for appropriate funding and expertise to effectively produce the first annual report for coral reef fisheries of the Western Pacific.
- Regarding the Archipelagic-based FEP, the Ecosystem and Habitat Standing Committee supports the concept of managing fishery resources of the Western Pacific on the archipelagic basis and encourages continued progress on the pilot project to develop a draft FEP for the Marianas Archipelago.
- The Ecosystem and Habitat Standing Committee further recommends that the Council establish a technical working group to guide this initiative and identify appropriate funding sources so that this project can be completed in a timely fashion.
- Regarding the Coral Reef Ecosystem FMP the Ecosystem and Habitat Standing Committee concurs with the SSC that candidate species designated in the plan as potentially harvested coral reef taxa be moved to the currently harvested coral reef taxa list on a case-by-case basis using the framework provision identified in the CRE FMP.
- The Ecosystem and Habitat Standing Committee supports the Advisory Panel recommendation that the CRE Plan Team explore the option to establish a finite number of potentially harvested coral reef taxa that can be retained with a special permit.

## **G. Public Comment**

There were no public comments.

## **H. Council Discussion and Action**

Seman made a motion that the NMFS immediately hire a person with stock assessment expertise to fill a dedicated position in developing reference points and undertaking stock assessment analysis for coral reef and bottomfish fisheries.

Sablan seconded the motion.

Morioka called for discussion, hearing none, called for the question. The motion passed unanimously.

Seman made a motion to direct Council staff to begin development of a background paper detailing the approach and content of the Draft Fishery Ecosystem Plan for the Marianas Archipelago. The Council further recommends that the Council staff work with NMFS, PIFSC to establish a technical working group to guide the development of the draft Fishery Ecosystem Plan.

Sablan seconded the motion.

Morioka called for discussion, hearing none, called for the question. The motion passed unanimously.

Seman made a motion to recommend that the Coral Reef Ecosystem Plan Team review recent coral reef fisheries catch and landing data for all areas and identify those potentially harvested coral reef taxa that meet the criteria to be designated as currently harvested coral reef taxa. The Council further recommends Council staff begin preparation of the framework adjustment to the Coral Reef Ecosystem FMP to identify potentially harvested coral reef taxa and currently harvested coral reef taxa.

Sablan seconded the motion.

Morioka called for discussion, hearing none, called for the question. The motion passed unanimously.

Seman made a motion to recommend the Coral Reef Ecosystem Plan Team work with NMFS Office of Law Enforcement to explore the option to establish a finite number of PHCRT in pounds or pieces that can be legally retained without a special permit.

Sablan seconded the motion.

Morioka called for discussion, hearing none, called for the question. The motion passed unanimously.

Seman made a motion to direct Council staff to work with NMFS PIRO and National Marine Sanctuary Program to develop a Memorandum of Agreement or other form of agreement with NOAA to ensure the Council retains primary responsibility in developing and promulgating fishing regulations within federal waters of the proposed NWHI National Marine Sanctuary.

Sablan seconded the motion.

Morioka called for discussion.

Feder asked if the National Marine Sanctuaries Act already had a process for this? What would this Memorandum of Agreement do that goes beyond the procedures of the Sanctuaries Act?

Simonds said other sanctuaries around the country have MOUs with Fishery Management Councils on how they will work on with each other on issues, and the one with the South Atlantic Council comes closest to what this Council would like to see as to relationship and protocols, etc., with the Sanctuary.

Ebisui said a Memorandum of Understanding certainly would lend clarity to the issue.

Morioka called for further discussion, hearing none, called for the question. The motion passed unanimously.

(Lunch break taken)

### **XIII. FISHERY RIGHTS OF INDIGENOUS PEOPLES**

Morioka called the meeting back to order.

#### **A. Community Demonstration Project Program (2<sup>nd</sup> Solicitation)**

Scott Bloom said at the last Council meeting it was announced that the funding for the four initial projects came through. It's taken a little bit of time to facilitate the process of money transfer, but those projects are getting started. Mr. Duenas received his check, and the Northern Islands Remote Fishing Station Project is underway. The two other projects for Hawaii are concurrently still working out some details between the recipients, with Alu Like to facilitate.

Regarding the second solicitation, they are trying to clean up the process to avoid some of the pitfalls that they experienced the first go-around. He reported he personally sent the second solicitation itself to Headquarters and General Counsel about two and a half weeks prior and is awaiting comment. He expects no major revisions and does not expect to have to wait for the omnibus, which is the preferred method in which to announce these Federal Register Notices. It will be his top priority after the grants deadline, June 30th.

Duenas asked if there would be problems with the start date because of the delay in the funding.

Bloom said no, if he requests an extension to the project or a change of start date, he will make sure that gets approved.

Simonds said there is already the framework for the solicitation, and she recommended one change which was to tie the mission of the Council to these projects, particularly the one they talked about for American Samoa in terms of bycatch. She said if there are any problems, don't hesitate to call her. She also asked if they expected any more rescissions of their money.

Robinson said he does not see any more rescissions in the offing for FY '04 money, but there is no way to know about '05 money.

Simonds said when she was in Washington, D.C. and talking about this with the Admiral, apparently, everything and anything can be touched unless the Congress exempts a program. She also talked to Bill Hogarth and he said that if they get very close and think that something is going to happen then what he would do transfer the money to the Council so it won't be lost.

Bloom added it is their intention next fiscal year to do back-to-back solicitations to try to drain down this pot. As soon as the first Federal Register Notice goes through and they get applications, they are going to immediately fire out a Federal Register Notice to try to solicit more applications.

Simonds said that was the agreement years ago, that they would have two solicitations a year.

Duenas asked if they still have a balance of 1.1 million after the rescission, plus the FY 05 addition.

Bloom said he could get him the exact figure.

Simonds said she is going to get asked questions from the Hill about whether or not they should continue this funding. They asked her this before and, of course, she said yes, so they really have to take care of getting the money out the door.

## **B. Update on Guam Community Development Program**

Duenas said they suffered some delays in the project. They had a scoping session done in May where they recruited about 48 fishermen in that phase of the project. They wanted to do a second phase of the project, which included training, but since Guam has so many activities there were delays. They are looking at a renewed start date of September 1st. When they had the scoping session for the AP over 70 fishermen attended, and they had well over 50 participants willing to partake in the program.

## **C. CNMI Marine Conservation Plan (Action Item)**

Ka'ai'ai directed the Council to the MCP in their briefing book and said they were given a draft at the 122<sup>nd</sup> Council meeting. There were two projects added to the previous MCP that CNMI had submitted for approval, the Puerto Rico Dump and the Northern Islands Remote Fishing Stations. CNMI took it and put it in its final form, but the content did not change.

Sablan said it will be an action item and they will vote on it during the Council discussion and action.

#### **D. Workshop for Coastal Zone Management - Fiji**

Ka'ai'ai said late last year Ueta Faasili from SPC approached the Council and asked for the Council's assistance in putting on a Coastal Zone Fishery Management Plan Workshop. They had planned for the workshop in August and were working on agendas and travel for the people, but then began to get really busy with other meetings so they asked to postpone the workshop until next year. Right now they are still working on the agenda and are looking to schedule it for next year.

#### **E. Advisory Panel Recommendations**

James Borja read the AP recommendations.

- Regarding the Community Demonstration Project, the AP requests that the Council explore implementing voluntary data collection projects in American Samoa and CNMI modeled on the Guam CDP project.
- The AP recommended that the Council continue to support the voluntary community monitoring program.
- Regarding the Community Demonstration Project Program, the AP recommends that the Council provide better, more timely communication between Council staff and the Advisory Panel. The AP recommends that American Samoa have the highest priority for selection in funding in the second solicitation. American Samoa representatives were very disappointed by not having a share of the first award for this program in American Samoa. The AP recommends that the Council with NMFS move ahead with the process to see how successful the projects can be and how they assist in developing community participation in the fisheries. The AP recommends that the Council contract with CNHA to provide grant-writing workshops in the island areas. The AP recommends the Council request NMFS reimburse the funds lost to rescission. The Panel noted that NMFS delays caused the backlog of funds, thus resulting in large rescissions. Finally, under the Community Development Project Program, the AP requests NMFS provide a time table and schedule for solicitations to avoid the long delays in the cycles of solicitations.
- Regarding the green sea turtles, the AP recommends that the Council continue to process for delisting the Hawaiian green sea turtle and continue the process to establish a cultural take in Hawaii and all of the other island nations. Finally, the last recommendation would be to propose research to determine the genetic stock of turtles in the island areas.

Seman sought clarification from the Executive Director with regards to the process of establishing a cultural take in Hawaii. He asked what they could do about the request that was made by the CNMI Government four years ago.

Simonds said the Council is already on record trying to establish a cultural take by exemption. It is a long process but they did start it. They need to hold a workshop on the criteria for delisting because it is not that clear, short of going to the Congress and getting a legislative fix. They have not forgotten about the entire jurisdiction, but are starting with Hawaii because there is a report based on science for the Hawaiian green sea turtle, which is a separate population.

Haleck asked why American Samoa did not get its share of the project.

Ka'ai'ai responded that the CDP Advisory Panel ranked the proposals and the American Samoa project was up in the top four. However, there was a wrong amount set for what the boat would cost, so that project did not move forward.

Seman asked if the AP recommendation about the highest priority would change anything in the current setup in how the projects are being selected?

Ka'ai'ai said the process is already described in the FR Notice. What the Advisory Panel is asking for is to use greater consideration in looking at the American Samoa proposals.

McCoy asked if it is still a competitive process.

Ka'ai'ai said yes, by statute.

Seman said his concern is that some of this proposal that will be submitted in the future are coming from different entities, different private citizens. Everybody will want to be a priority.

Simonds said they are supposed to be providing the citizens of the jurisdiction assistance in terms of helping them to respond to the criteria properly. She believed they would be holding workshops again right after the solicitation is announced in the Federal Register.

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

There were no comments from the public.

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

Sablan made a motion that the Council approve the CNMI Marine Conservation Plan and direct staff to transmit the plan to NMFS for Secretarial approval.

Haleck seconded the motion.

Morioka called for further discussion, hearing none, called for the question. The motion passed unanimously.

#### **IV. PROGRAM PLANNING**

##### **A. Chair and Executive Directors' meeting**

Morioka said they had an excellent meeting, and had the opportunity of meeting and hearing Senator Inouye and Congressman Gilchrest, who are supporters of the fishery management process. There were issues and ideas, situations where the outstanding Executive Director was able to buttonhole the Assistant Administrator of Fisheries and have him commit to funding and administrative requirements that she had well thought out. He also thanked all of the Council members for their contributions and said the events they hosted were very well received by all attendees. The themes that were used were imua, looking forward, and lokahi, which is family, the importance of family and moving forward and onward with activities.

Simonds said it was great for them to be in charge of this annual meeting because it is the right time to make a lot of changes. Senator Stevens and Senator Inouye will be taking over the Commerce Committee in January, so it was auspicious to have Senator Inouye at the meeting. The Regional Council system has the full support of those two senators and Congressman Gilchrest. In fact, he talked about how the NOAA budget should be like the NASA budget. They were able to get a number of agreements and are following through.

##### **B. Regulatory Streamlining**

Simonds said one of the issues discussed at great length at the Chairmen's meeting was regulatory streamlining. The Councils are not fully in favor of how NMFS wants to deal with regulatory streamlining. They are very concerned that the way it looks is that NEPA is the overall umbrella rather than the Magnuson Act. Hogarth decided that Jack Dunnigan and the Council Executive Directors would discuss this after the Chairmen's meeting and come up with a compromise, which they did. There is to be a pilot project working together to get the fisheries management process going a little faster than it has in the past. A number of the hang-ups deal with the attorneys' review, they seem to take a long time.

##### **C. Update on Legislation**

Ka'ai'ai said S2066, the Snowe Bill, had a hearing on June 10<sup>th</sup> regarding moving the amendments to the Magnuson Act forward. The Council was asked to transmit recommendations which they did. There was a hearing but he does not know what the results were. It does extend through Fiscal Year 2008 the authorization of appropriations

under the act. It provides implementation of a treaty between the United States and Canada concerning Pacific albacore tuna fishing and allows with respect to Pacific insular area fisheries and fishing agreements monitoring programs that the Secretary of Commerce determines to monitor harvests by foreign fishing vessels. The bill also talks about a quota system, development of a review system by the National Research Council, regulations to that quota system. It directs the Secretary to make a preliminary evaluation of a plan or amendment or a regulation concerning a plan or amendment and takes specified action depending on whether the evaluation results are positive or negative.

Senate Bill 2244 was a bill to protect the public's ability to fish for sport or for other purposes. It is the Right to Fish Bill regarding recreational fishing.

On June 2nd, Senator Inouye introduced three bills, they were read on the floor and sent to the appropriate committees. The first bill was Senate Bill 2488, Marine Debris Research and Reduction Act which establishes a program under NOAA and USCG to identify, assess, reduce and prevent marine debris that has adverse impacts on marine environment and navigational safety. Senate Bill 2489, Coastal and Ocean Mapping Integration Act, seeks to improve, expand and integrate federal coastal and ocean mapping activities, mandates that federal agencies with mapping mission coordinate under NOAA to develop mapping priority and strategies. Senate Bill 2490, Ballast Water Management Act of 2004 amends the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish ballast water management requirements.

Hawaii State Legislature House Bill 1743 prohibits artificial lights that are positioned toward or directly illuminates the ocean, unless such light is authorized and required for public safety or safe ocean navigation. House Bill 2569 protects the Ni`ihau shells by prohibiting the sale of seashell items with descriptions of Ni`ihau or Ni`ihau shells unless it contains 100 percent Ni`ihau shells It passed the Hawaii State Legislature and became law. Senate Bill 2968 relates to natural resource violations, establishes a new civil resource violation system within DLNR for rule violations, amends the statute regarding DLNR's enforcement authority within the Kaho`olawe Island Reserve.

There was no significant legislation reported from American Samoa.

In CNMI, their complaint to quiet title in waters seaward of the low water mark was awaiting federal opinion and due on April 8th, 2004. The Court found that the United States possesses paramount rights in and powers over the waters extending seaward of the ordinary low water mark on the Commonwealth's Coast and the island's and the land's minerals and other things of value underlying such waters and that the CNMI Marine Sovereignty Act and the Submerged Lands Act are preempted by federal law. The Court is awaiting CNMI's response to the Government's brief.

In Guam, there was no significant legislation reported.

Robinson said he had received a heads-up the day before about a bill that was supposed to be introduced into the House that day sponsored by Congressman Rahall out

of West Virginia and co-sponsored by Sam Farr out of California, called the Fisheries Management Reform Act of 2004, which implements some of the recommendations for reform relative to the councils that came out of the Ocean Policy Review and the Pew Commission, including those that separate conservation from allocation and has the Secretary set the harvest levels requiring balanced representation in the councils, addresses financial conflict of interest. It not only requires the Secretary to provide training to Council members, it prohibits newly-appointed Council members from voting until they've received the training.

#### **D. Status of Hawaii \$5 Million Disaster Funds for Federal Fisheries**

Cruz said Ikehara was not there to report, but he had mentioned previously that they are in the process of hiring a project manager. As soon as that is done, they will be moving forward, convening committees to provide guidance in the program development.

#### **E. Recreational Fisheries Data and Management**

Michael Kelly provided an update on the plan, what their process is and what an implementation strategy would be that would work hand-in-hand with the Council process. He said it is early in the idea stage. The WP Council is the first Council they are talking to about it.

The Constituent Services Division comprises four independent teams. The first is the NOAA Fisheries education and outreach team. They also have a Recreational Fisheries Team that is actually being fed very well these days. They have a new person coming onboard who will be a team leader, and they also have another coordinator position that will be advertised very shortly. The Recreational Fisheries Team also has a field component. We have a person in the Southeastern Region, Michael Bailey, in Florida and Marty Goldman working the Southwest Region. These positions came about as part of the 1996 re-emphasis on recreational fishing and part of the Executive Order that President Clinton issued asked for greater participation in the regions. Each region at that time designated a recreational fishing person. They will propose and encourage that the region take a good look at the possibility of having a full-time Recreational Fisheries Coordinator who will work as part of their team to coordinate the activities of recreational fishing and serve the constituents in this region. They also have a Trade and Commercial Services Team and an environmental liaison, Rachel Fuseback who just joined. That environmental liaison team is working hard to head off problems before they become problems.

The strategic goals for the recreational fisheries strategic plan were: 1) coordination of NOAA efforts; 2) constituent support; 3) clear, responsive program direction; 4) improve inter-agency cooperation.

Regarding the process, he came to the office in January of this year. Shortly after, Hogarth said they need to do something about recreational fishing. So they decided that a good place to start would be to develop a Recreational Fisheries Advisory Committee in

MAFAC. That committee is working, they are advising both Hogarth and the Secretary on recreational issues now. They then put together a NOAA recreational fisheries working group. They had a National Strategic Planning meeting on March 25th of this year, and at that meeting had members from the interstate commissions, members from the recreational community, the industry, come to town and tell us what they thought a plan should look like. They are now having the Regional Constituent Sessions. On August 10th they will take the draft plan with the input back to MAFAC at their meeting in Juneau. Hopefully by October 1<sup>st</sup> they will have a final plan in place. The outstanding step is what to do next. He said the process has been working very well to get a very diverse set of ideas. They will be taking all of the comments from the meetings and doing some analysis before they get added to the next versions of the plan.

The outstanding issue has to do with implementation, what they do next and how they work with the Councils to get it done. They will be developing in the short-term a NOAA implementation team who will be working with the regional coordinators on what an implementation strategy should look like. The step they really need some help with is how they roll this out to the Councils and what kind of participation they should ask for from the Councils in the implementation of this team. It is important that the strategic plan have solid measurable results and that they use Admiral Lautenbacher's cost schedule and performance features so they have a good understanding of what the budget is going to be, a time line, the responsible party, and then what performance measures will be used to track their success. After that will be performance management. That will be another place where they will count on the advice and expertise of the Councils to help tracking their success as this implementation strategy moves forward.

Morioka asked if any consideration was given to expanding the membership of the NOAA recreational fishing working group to include representatives from each of the eight Regional Fishery Management Councils.

Kelly responded that is a great idea. They were concerned initially at getting their own house in order inside, and still have a ways to go before the internal working group will be down the road far enough that the participation from the Councils will be meaningful, but it is an excellent idea. Someone from each of the councils as an advisor or representative to the implementation team might be a smart way to do it.

Morioka said the Council has always received inputs from its constituent groups. In the development of strategic plans, it is also important to be cognizant of what people down in the trenches are desiring and what kind of things they are looking for. The presence of council membership, even as an advisory capacity to the team as a whole, would be important. So implementation is after the fact. Development, integration, those kind of things, those steps are coming up to implementation. He said if Kelly would reconsider and think about that, he would appreciate it.

Kelly said he would.

Duenas asked what the term "recreational" means. Pacific Islanders don't understand that terminology.

Kelly said their definition is that part of the fishery that doesn't go into commercial catch, including charter boats and subsistence fishing.

#### **F. WPacFIN**

Hamm since the last Council meeting he and his staff have made site visits to all of the island agencies for normal hardware, software upgrades, data quality control, staff training, trouble-shooting and planning for future projects. One of the biggest activities they are involved with is getting the plan team reports out, so just before the meetings they were helping them prepare their modules and getting their analyses in place for all of the updates for their reports. They have just finalized the last go-around of those reports with all of the newest data available. One of the things that helped them produce timely reports this year is the major effort on reprogramming or programming report generators for all of these things. They have automated report generation. Last year they finished it in American Samoa and now in CNMI and Guam, so now all of the tables and graphs, what used to take weeks to do, now takes minutes. When you get data updates, the document goes in from the Visual FoxPro system, in through Access database or through spreadsheets and on into the Word document that was used. All the islanders have to do now is push the right button, have all the data processed and clean, of course, push the buttons and then all of the graphs and tables are automatically updated. They just have to concentrate on the interpretations and then worry about recommendations, updates and that kind of thing. So that has been quite an accomplishment. In those areas, they have made some progress with the State of Hawaii and hope to have that automated by next year as well.

He highlighted two special projects in American Samoa they started this year. One was working with Gordon Yamasaki's office on a vessel tracking system. He keeps real-time data on all of the vessels that come in there for his sampling program. In a cooperative effort with PIRO and PIFSC, they are providing him with a database management system to help him with his monitoring and make his reporting easier. In turn, they get a report from a different source of all the comings and goings of all of the longline vessels. They have an additional quality check into the longline monitoring program through that process. Also in American Samoa, a GIS programmer was hired. They worked with her while down there and gave her guidance and some direction and some instructions on confidentiality issues, etc. She's done some really good work already. In August one of Hamm's staff from the Division, how works with GIS, will be going down and learning from the American Samoa contingent. It will be the first technology transfer going from the islands into Central, which is encouraging to see.

In Hawaii, the major efforts have been coming up with new protocols and procedures to integrate all the new forms. They have all the data from the fishery reporting system, the dealer reporting system and the longline to create the best available data for Hawaii. This is an evolutionary process. As they develop more and more of

these algorithms they see new places to improve on that. One of the outgrowths of the project is to see better cross-referencing between datasets to ultimately improve all of the datasets and improve the validation criteria for everything.

In Guam, they had the swordfish public hearing. Hamm thanked the Council for their assistance with the arrangements.

He said they have, as usual, responded to many data requests, and in particular they worked with a Council contractor, Dr. Dirk Zeller, on the coral reef project and provided quite a bit of support and data for him.

Reports that have come out of WPacFIN and the Division in the last three months include Fisheries of the US Reports, inputs for Headquarters from all areas, our Living Ocean, where they have updated the nearshore chapter for the Western Pacific for all areas, Fisheries Statistics for the Western Pacific, their own admin report, and the report for the SCTB meeting, in addition to the six modules for the plan team reports.

Regarding the website, it looks like a hybrid of what it used to be. They have been mandated to reformat into new standards for NOAA and PIFSC, which they expect to take six months. The existing URL still links to the new page.

Right after the last meeting they had a mini meeting of the FDCC to discuss the budget. Unfortunately, they started out 17K shorter this year than the normal 850 that we have gotten in years past. An extra 10K was allocated to help support CNMI. After that meeting, all of the agencies were very productive in getting new three-year proposals in on time. They went into grant management with all this promise of first-in, first-out, and there they still set sit. However, since then, Headquarters got into the budgets and cut another 29K out of WPacFIN add-on budget, which ultimately all came out of the Central budget so that none of the islanders would have to modify their budgets that were already in the grants management. So he started the year a minimum of 39K short, but is working with the new management at PIFSC to resolve these shortfalls.

All of the cooperative agreements are still sitting in grants management, even though they are supposed to start July 1. Scott Bloom said he expects them to be signed by September.

He reported he has become more involved with the Fishery Information System at the Headquarters level and am looking at that for potential increased funding for some projects in the Pacific to help with the fishery statistics in the islands. He will be going to a meeting in August to Seattle for a week to work with the rest of the FIN people, as well as others, on fishery information system, the national system. He will also be going to SCTB for the first time outside of Hawaii to participate in their statistics and data workshop.

## **G. Revisions to National Standard 1**

Dalzell said they grappled with this for about five years during the Magnuson Reauthorization, and the regional efforts were mostly disapproved. They finally got them through maybe a year or so ago. There was a workshop held in November last year on revising the National Standard guidelines. Overall, they foresee very few problems with the revisions.

Under the new guidelines, they're going to put more emphasis on controlling fishing mortality, rather than controlling biomass. Controlling biomass is difficult, if not impossible, but they can control how much is extracted, fishing mortality. The control rules have a mortality threshold and they have a biomass threshold. The mortality threshold will be the one given the most imminence in the future with the stock threshold as the second line of defense. If new guidelines are issued, the existing rebuilding plans will be grandfathered in and the Council will have three years to complete necessary amendments for other aspects. Assuming some guidelines are issued later this year or early next year, they will have a three-year interval to amend the FMPs to be consistent.

Regarding international fisheries, it is important for the Council to keep an eye on the new guidelines. The guideline will amplify discussion on international highly migratory species and straddling stocks in which the U.S. has an interest. Generally, they rely on international organizations to determine the status of HMS stocks or assemblages under their purview, including specification and status determination criteria and the process to apply them. If they are part of an international fishery management convention, then they will look to that convention to determine stock status and also the overfishing criteria. If this international organization does not have a formal plan for rebuilding an overfished stock or assemblage, they would use the Magnuson-Stevens Act process to develop a plan to be promoted in the international organization or arrangement. They would develop appropriate domestic fishery regulations to implement internationally agreed upon measures consistent with a rebuilding plan, giving due consideration to the position of the U.S. domestic fleet relative to other participants in the fishery.

The other issue is that most of the biological points with respect to limit reference points and control rules and rebuilding, there's nothing that gives the Council any problems. They do talk about optimum yield, and want to change the current rule language to say instead of, the OY may be specified, to say, must be specified. The guidelines suggest that they're going to require an optimum yield reference point to be set, but there's very little discussion on how the guidelines will be changed. If that is going to happen, they want to have very clear guidelines on how to set an OY reference point with respect to our MSY overfishing control rule. The OY is defined as the MSY reduced by socioeconomic circumstances or factors. It is not a strictly biological reference point. It has even stronger ramifications talking about highly migratory species where trying to develop an OY in the context of a stock that's exploited across the Pacific or across part of the Pacific becomes even more difficult.

## **H. Stock Assessment Planning**

Dalzell said the presentation is primarily concerned with pelagic stocks as they don't have any other stock assessments, apart from lobster. Regarding species management under the FMPs across the entire Western Pacific, they really only know anything about bigeye, yellowfin, in the West and Central Pacific, the Eastern Tropical Pacific, South Pacific albacore, North Pacific bluefin, skipjack in the West and Central Pacific, striped marlin in the Eastern Pacific, swordfish in the North Pacific, blue marlin Pacific-wide and North Pacific albacore. They have no individual stock assessments for any species of bottomfish and nothing for coral reef fish.

Tunas are done every year or every two years. So that is the status of the stock assessments at the moment. When he put the comments to the SPC and IATTC, their comments in terms of priorities were to improve bigeye tuna stock assessments and species like striped marlin. In terms of the pelagics, there's also concern about silkie sharks declining in purse seine CPUEs. In 2054, in the long distance future, IATTC will begin looking at sailfish and black marlin. The other point they heard during the stock assessment section of the SSC about the SEDAR Review Process, both SEDAR and the SARS process in the northeast whereby stock assessments are not only conducted, but they're reviewed independently by panels that review both the data, the methods and finally the stock assessment, the actual outputs that have been put through the modeling mincing machine. In the SEDAR process, it is an extremely thorough review process. The comments from the SSC was that it appreciates the review of the stock assessment review process in the Northeast and Southeast regions and requests an update on the SEDAR process for review of stock assessments at this next meeting. The second part of the recommendation stemmed in part from comments from the Ocean Commission about the need for independent review of stock assessments. With respect to the MultiFan assessments of lobster, the SSC would support the use of the Lobster Stock Assessment Workshop with an expert panel and approves the existing composition of that panel: Dan Goodman, who is a population biologist from University of Montana; John Mapton, who is also an SSC member from the SPC, Oceanic Fisheries Program; Mike Fogarty from the Northeast Region, and Louis Botsford out of UC, San Diego. The first independent review of the stock assessment for any of the FMP species would be conducted by this panel. In the future, as more stock assessments are conducted and after they have heard more about the SEDAR process, the SSC will be able to make more recommendations about how the stock assessment review should proceed in the future.

## **I. NEPA Activities**

### **1. Archipelagic Management**

Kingma said continued planning is ongoing for the programmatic EIS on ecosystem-based management. It is going to be a large project, so they think there is going to be a need for a steering committee involving PIFSC, PIRO, Council staff, Headquarters, and also the contractor and his group. In the next 6 months they will begin scoping activities. In a discussion with Paul Bartram over the proposed pilot program in

the Marianas Archipelago ecosystem-based management, it is appropriate that that program will fit with the analysis and the affected environment section. The preliminary time line shows that summer of 2006 should be appropriate for completion of that document.

## **2. Squid and Seabird Measures**

Regarding the EIS on squid management and seabirds, The Environmental Company has been awarded the contract to develop that EIS. Kingma reported the time line was included in the Council's report. The preliminary draft is scheduled to be completed on July 9th. The public comment period should begin shortly after that and end on October 11th to coincide with the next Council meeting. The NEPA analysis would be ready and documented for the Council's action.

## **3. Sharks, PFADs and Recreational Fishing**

Recreational fishing data, shark management and private FADs are scheduled to be analyzed in an EIS. However squid management, seabirds and the rest of those were all clumped together in the scoping that was conducted six months ago. They separated out seabirds and squid and fast-tracked those items for the Council action. Regarding the other items, fishing data, shark management and private FADs, the contract is being negotiated with PIRO and the Environmental Company. It has not been worked out yet. They expect to get more information on that contract in July, and the schedule for the completion of that analysis.

Marine mammal interaction is likely to be done by the Council EIS on mitigation measures, they are going to start planning on that very soon.

Initial planning on the NEPA analysis for the Council's sea turtle conservation measures and program is going to be started very soon.

## **J. Programmatic Grants Report**

Simonds directed the Council members to documents 15.A, Confidential Reports, and J, the administrative cooperative agreement. The fiscal performance report is a report the Council does every six months that is sent to the Feds. It tells them exactly how the Council spent the money, what they have done at all the meetings, staff positions, all the amendments that are pending or being developed, the education program, the indigenous and subsistence program, what they have done about enforcement. It also helps the Council members know what is going on.

Simonds said they were informed the day before by Ikehara that the State was not going to have their funding for the MRFSS survey; \$150,000 plus another \$60,000. Hogarth happened to be there. They asked the State to write a memo to the Council about the problem so that the Council can take some action. She said the Council members had the letter already.

Matt Parry said he has been very happy with the response from the Council, everyone has shown an incredible amount of concern. The project has been coming along well and everybody has been very pleased with it, it has very a prominent role to play in the future.

Simonds added that the program came to Hawaii because of Richard Shiroma. Hogarth and other councils around the country are not pleased with this program, they believe they're not getting the information that they really need. She said they would like to continue the funding, but for the program to be carried out in Hawaii rather than from Headquarters, to have a real regional survey where the Center, the State and the Council would make the decisions on the design. The telephone calls are now made from the mainland, which is an example of some of the problems. It is working for pelagics but not for bottomfish.

Robinson said by trying to take control of the program and running it with a regional orientation and direction, it would be following in the footsteps of where he just came from, where after many years of struggling and fighting and arguing, they took control of the MRFSS Program and had the states design data collection programs that actually worked.

Cruz made a motion to recommend that the HMRFS survey be controlled regionally so as to provide local knowledge and ensure its continuity and funding.

Sablan seconded the motion.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

#### **K. Plan Team Reports and Recommendations**

There were no plan team reports.

#### **L. SSC recommendations**

Dalzell said they were covered as one recommendation in the stock assessment report.

#### **M. Advisory Panel Recommendations**

Gourley read the Advisory Panel recommendations.

- Regarding recreational fishing, the AP generally supports the Draft NOAA Recreational Fishery Strategic Plan. It recognizes and takes into consideration the

differences between regions within the Western Pacific and ensures that indigenous fishing rights are protected.

- With respect to the selection of recreational fishery data envisioned by the RFFP, the AP recommends that NMFS focuses on the collection of recreational boat trip data as opposed to data collection from individual anglers in order to avoid redundancies and double counting.
- The AP is in favor of voluntary recreational fishery data reporting, but is not in favor of a mandatory recreational fishing license. If a permit and fee system are implemented funds should be used to pay the cost of public defense of indigent fishermen.
- The AP requests that WPacFIN explore the potential to expand current survey methods to collect information on shoreline recreational fishing in American Samoa, Guam CNMI.
- The AP recommends that NMFS recreational fishery staff travel to all island areas to educate island residents and to present their plans and hear from the potentially affected residents before making any final decisions.

#### **N. Standing Committee Recommendations**

- The Standing Committee requests the SSC review the SEDAR process and formulate recommendations to the Councils on how stock assessments should be conducted and reviewed in the Western and Central Pacific region.
- The Standing Committee requests the contractor complete the EIS for Bottomfish, Crustacean and Precious Coral Fisheries.
- The Council reiterates its role in implementing domestic fishing regulations stemming from international fishery management conventions in which the U.S. participates and directs staff to develop a policy framework for the Council to adopt at its October meeting.

#### **O. Public Comment**

There was no public comment.

#### **P. Council Discussion and Action**

Cruz moved the Council adopt the recommendation.

Morioka said for the Council to disregard items six and seven since they have already taken action on those. He asked Cruz if he would like to also include Items 1 through 5 in his motion.

Cruz accepted.

Tulafono seconded.

The Council members spent time word smithing the recommendations.

Morioka asked if the maker of motion and the second would accept the amendments, and Cruz and Tulafono said yes.

Morioka read the recommendations, asked for consensus after each one and said they would be voted on as a whole:

- Regarding program planning, the Council requests the SSC to review the SEDAR process and formulate recommendations to the Council on how stock assessments should be conducted and reviewed in the Western and Central Pacific.
- Direct staff to complete the EIS for bottomfish, crustacean and precious coral fisheries.
- Reiterates its role in implementing domestic fishing regulations stemming from international fishery management conventions in which the U.S. participates and directs staff to develop a policy framework for the Council to adopt at its October meeting.
- Supports the draft of NOAA recreational fishery strategic plan, RFSP, as long as it recognizes and takes into consideration the differences between the regions within the Western Pacific and ensures that the indigenous rights are protected.
- Recommends that NMFS focus on the collection of recreational boat trip data as opposed to data collection from individual anglers in order to avoid redundancies and double counting with respect to the collection of recreational fishery data envisioned by the RSFP.
- Is in favor of collecting recreational fishery data and directs staff to develop an options paper based on information gathered at meetings and workshops with fishery participants throughout the region.
- Requests that WPacFIN explore the potential to expand current survey methods to collect information on shoreline recreational fishing in American Samoa, Guam and the CNMI.
- Recommends that the NMFS Region, PIFSC and Council staff in all island areas educate island residents and to present their plans concerning recreational fishing and hear from potentially affected residents before making any final decisions.

Robinson asked if they would all be doing outreach any time they consider a recreational type management measure?

Morioka said it was twofold. One, they have to begin the process of engaging the constituents and two, following up.

Robinson said then it reads fine. He then asked about the focus on the collection of recreational boat trip data as opposed to individual angler data. He asked if that meant that one would not collect data from the anglers who fish from shore?

Duenas said no.

Morioka called for the question, and the motion passed unanimously.

## **XV. ADMINISTRATIVE MATTERS**

### **A. Financial Report**

Simonds said regarding the financial reports, they are not broke yet. She directed the Council members to the confidential financial report in the Council binder which includes every agreement they have, including the administrative agreement. Essentially, they get about \$4.4 million per year. One of the things that might affect the administrative budget is the cancellation of the October Fisheries Conference. Since Hogarth has already engaged the hotel in Washington, D.C., he thought it might be good to invite all of the councils and all of the members of the councils to come to Washington, D.C. that week. This would only be the second time it had ever happened. In October 1976 all the councils and every council member participated in a national meeting. She said this is the best time to do this, given all the things talked about earlier; the Ocean Commission Report, the pieces of legislation, and the councils are still going to hold the Second Managing U.S. Fisheries Conference in March 2005. It would coincide with the Magnuson Act reauthorization. They also have to make sure that they get Hogarth to pay for the D.C. conference next March. The Council's October meeting is the week before, which was changed to accommodate the D.C. conference. She said as long as they do not have to pay for anybody it is a good idea, since they do not have funds for that in the budget. She said she told Hogarth they thought it was a good idea. They would need to develop an agenda, etc.

### **B. Administrative Report**

Simonds reported there were staff changes, and directed the Council members to the report in the Council binder. She said the first page gives them a good idea of all of the grants: active, pending and one that closed. It showed the budgets, the balances and the end dates.

She reported they hired Randy Holmen as the fiscal officer, Cindy Knapman went back to school, and Eve Mann left.

Regarding the audit, she said they are audited annually as opposed to other councils that are audited every two years, because if they are going to need changes or help, she wants to know right away.

She said they already discussed the meetings and website development, etc.

### **C. Meetings and Workshops**

Simonds said the upcoming meeting list was in the Council briefing book. She reviewed the meetings the Council would be involved with. The next meeting that involves the Council is the grants workshop. She is sending Randy Holmen but will be monitoring it via video conference. Makaiau will be going to Japan to give her report on coral reefs. In August they are going to participate in the HIBA Science Study, and Dalzell, who is the chairman of the Bycatch Committee for Standing Committee will be going to Marjuro. In September the three Pacific Councils have been invited to speak at MPA National Advisory Committee Meeting, which is going to be on Maui. The Chairman and two staff will be participating. The SSC and the Council meetings are in October, and now the All Council Hands Meeting. In November they are participating in the Science and Management Workshop. They will be attending the ISC meeting. At the NWHI Symposium they will be talking about the Hawaiian Archipelago Ecosystem Fishery Management Plan. She said she is considering sending someone to the observer conference. They will be attending the FAO Consultation on Sea Turtles. They will be attending PrepCon and the inaugural session of the Commission. In January the MAFAC meeting is going to be held in Hawaii, and they will have a hand in developing the agenda and would like a couple of Council members to go. She said they are hosting and bringing experts from around the world to the Ecosystem-based Workshop. The SSC meeting will be in February. They will be attending the FAO Committee on Fisheries. She is on the steering committee for the Fisheries Conference II, in Washington, D.C. In April they usually have plan team meetings. The Annual Council Chairs' meeting will be hosted by the Pacific Council in California. The SSC meeting will be held in May instead of June. The Council meeting will be in June and October. The Pelagic Fisheries Research Program Review will be in December.

Ebisui asked that he be allowed to attend the August MAFAC meeting, especially in light of the strategic plan and their creation of the recreational fishery advisory group.

Simonds said it would be good if he would go and give a talk. The Council hosted a Pacific Islands Recreational Fishing Symposium several years ago.

Morioka asked the Council members for concurrence that Ebisui attend and give a presentation, and they agreed.

#### **D. / E. Advisory Group Changes / Standing Committee Recommendations**

Morioka said with the passing of Richard Shiroma and the long vacancy of the vice-chair, the Standing Committee felt for the balance of the year they should have an acting chair of the AP and acting vice-chair of the AP. William Mossman, previous chair of the AP, said he would fill Richard's remaining term. In September they will be soliciting for new AP members. Eric Gilman, from Blue Oceans agreed to sit in as vice-chair.

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

There were no public comments.

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

Robinson announced for the record that Mr. Ed Ebisui and Frank McCoy were reappointed to the Council.

Morioka motioned for the Council to adopt the Standing Committee recommendations 1 and 2, and called for the vote. It passed unanimously.

Farm asked that Ed Ebisui and Frank McCoy be scheduled for the next briefing class, as they may not be able to vote if certain things come up.

Morioka solicited a motion to appoint Michael Tenorio to the Coral Reef and Crustacean Plan Teams.

The motion was moved and seconded.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

McCoy motioned that Samoan translation be included in the American Samoa logbook amendments, and that it be incorporated into the next printing.

Tulafono seconded the motion.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

### **XVI. OTHER BUSINESS**

Simonds discussed an amendment to the existing 401(K) plan. She said every time there's a tax change they have to clarify. She asked for their approval to put in writing that compensation for the staff includes COLA.

Morioka asked if there was a motion.

McCoy moved and Duenas seconded.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

Morioka read the recommendation that NMFS use the American Samoan fish names in the next printing of logbooks for the American Samoa longline fishery.

The motion moved and seconded.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

Morioka asked if any council member had decided to go to the Farewell at Sea on Saturday for Richard Shiroma.

Sablan said, for the record, CNMI representatives would like to come, however they need to fly back home as scheduled.

Morioka said they would be presenting the following the resolution at the memorial service:

Recognizing the distinguished services and in memory of Richard Shiroma, the Western Pacific Regional Fishery Management Council was established by Congress under the Magnuson-Stevens Fishery Conservation and Management Act of 1976. The Council was established not only to monitor, develop and regulate the use of oceans in the three to two hundred miles Exclusive Economic Zones off U.S. coastlines but to place responsibilities for these waters squarely on the people with a vested interest in their own backyard. The Western Pacific Regional Fishery Management Council oversees the Exclusive Economic Zone of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam and Hawaii.

Whereas Richard Shiroma was an avid recreational fishermen from Kaneohe, Hawaii who pursued pelagic and bottomfish species in the Main Hawaiian Islands and held a commercial fishing license just in case he had a good day; and

Whereas Richard Shiroma advocated recreational fishing an important activity and life style choice for Hawaii residents and businesses and believed that special care must be afforded to our island ocean resources to ensure that future generations will have positive experiences; and

Whereas Richard Shiroma was a generous, gregarious, caring and committed person with strong and informed opinions who kept his promises and honored his responsibility; and

Whereas Richard Shiroma could be pakiki and habute to show his displeasure; and

Whereas Richard Shiroma was an active member of the Council's Advisory Panel since 1999 and Chair of the Advisor Panel for 2003, 2004; and

Whereas, Richard Shiroma believed that Council members should serve without compensation; and

Whereas Richard Shiroma was the Chair of the Council's Recreational Fisheries Data Task Force created in 1999 and instrumental in re-establishing the Marine Fisheries Recreational Statistical Survey, MRFSS Program, in Hawaii through his leadership; and

Whereas Richard Shiroma was a champion for recreational small-boat fishermen throughout the Western Pacific Region and lead by example as a member of the Aiea Boat Club and the Recreational Fishing Alliance; and

Whereas Richard Shiroma was a true ambassador of the Aloha Spirit welcoming and showing island hospitality to Council family from American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Hawaii and the Continental U.S.; and

Whereas Richard Shiroma annually provided Council staff with roasted turkey and trimmings for the holiday celebration; and

Whereas Council members, staff and family have come to know and respect him as an honest, trusted friend and advisor whose enthusiasm and presence will be surely missed.

Now, therefore, it be resolved on this day, Thursday, June 24th, 2004 that the Council recognizes Richard Shiroma for his contributions and dedication to the goals and mission of the Western Pacific Regional Fishery Management Council during his time as a Council family member. Be it further resolved that the Council thanks Richard Shiroma and his family for his years of service and gives our deepest sympathies to his family for their loss.

In memory of Richard Shiroma the Council established an annual award with a perpetual trophy to recognize a Council family member who has distinguished himself in service to the management and conservation of Western Pacific Regional Fishery resources.

Aloha, Richard, hele on.

It was signed by Executive Director, Kitty Simonds and its Chair, Roy Morioka.

Morioka announced they would be presenting the resolution to Richard and his family on behalf of the Council.

Simonds said they plan to contract with someone to carve probably in koa a fish and then have a plaque. Every year the name would change. She said they should have enough funds, the AP contributed over \$800 and the Council contributed \$600.

Hearing no further business, Morioka adjourned the meeting.