



**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

MINUTES OF THE 124<sup>TH</sup> COUNCIL MEETING of the  
WESTERN PACIFIC REGIONAL  
FISHERY MANAGEMENT COUNCIL

October 13-15, 2004

Pagoda Hotel  
1525 Rycroft St.  
Honolulu, HI 96814

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

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

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CHAIR  
Western Pacific Regional Fishery Management Council



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Roy Morioka, chair, formally opened the 124<sup>th</sup> meeting of the Western Pacific Regional Fishery Management Council (WPRFMC, or Council) on October 13, 2004.

## **1. Introductions**

The following members were in attendance and introduced themselves:

Judson Feder, NOAA General Counsel  
Bill Robinson, NOAA Regional Administrator  
Alofa Tuamu, American Samoa Fishery Council  
Stephen Haleck, Council member, American Samoa  
Richard Seman, Council member, Northern Marianas Islands  
Ben Sablan, Northern Marianas Islands  
Frank McCoy, American Samoa  
Frank Farm, Hawaii  
Manny Duenas, Guam  
Adrienne Loerzel, Guam  
Walter Ikehara, Division of Aquatic Resources , sitting in for Yvonne Izu  
Sean Martin, Hawaii  
Ed Ebisui, Hawaii  
Commander Bob Wilson, Coast Guard  
Craig Severance, University of Hawaii at Hilo.

## **2. Approval of Agenda**

Roy Morioka, Chair, presented several amendments to the agenda and recommended approval of the agenda.

(Motion move and carried)

Morioka recommended that a nominating committee comprised of Frank McCoy from American Samoa, Richard Seman from the Commonwealth of Northern Marianas Islands, Manny Duenas from the Territory of Guam and Sean Martin from the State of Hawaii represent the membership on the nominating committee.

(Motion moved, seconded and carried)

Morioka gave the charge of recommendations for the AP Advisory Panel to the vice-chairs from each region. Ten representatives from each island area, as detailed in the council SOPP, will be recommended by the vice-chairs the end of this meeting.

## **3. Approval of 123<sup>rd</sup> Meeting Minutes**

Morioka asked for a motion to approve the 123<sup>rd</sup> meeting minutes.

(Motion moved, seconded and carried.)

Ebisui provided an observation about the minutes. The court reporter and the staff have done an outstanding job on the minutes -- a very difficult job. They are very well done, very clear, and very concise. He moved that they be commended .

McCoy moved, Mr. Sablan seconded. Motion carried.

#### **4.A. American Samoa**

Tuaumu reported that over the last three months the fisheries in American Samoa have been increasing, longline fishing as well as the catch. Prices were up on albacore, yellowfin and skip jack. Unfortunately, the price of gas was also up.

Hiring of professionals, biologists, and scientists, for programs remained a problem. There were two senior scientists at the moment and they were in the process of hiring two more biologists; one will be onboard around the first week of December. They were hopeful for a complete staff of four to five senior biologists.

The community-based program was going well. There were nine villages participating and three to five villages ready to come into the program. The campaign season in American Samoa is creating some delay, but work continues with the villages.

Some villages open their reserves periodically so they can control fishing within the area. Nobody goes in fishing unless approved by the village committee; whoever comes into the village must go through that process.

The inshore creel survey and data collection continues with three local ladies with BA degrees in biology. In addition to the inshore creel survey and data collection they will be in charge of the community-based program and will be supervised by a senior biologist.

All of the buoys were lost during the hurricane. FEMA has come up with some funding to replace these buoys. Funding from the Federal Aid Program will also be used. They hope to deploy some of the buoys before the end of this year.

The buoys have been very effective, especially in the sport fisheries group.

Tuaumu commended **Mrs. Judith** and her office for working together with the American Samoa Enforcement Department with foreign fishing vessels violating the Lacey Act. The American Samoa staff worked around the clock with six agents from Hawaii to conduct the investigation, which is still ongoing.

For American Samoa and the rest of the Pacific, the work done by the Office of NOAA with the help of local fisheries sends a great message about the enforcement side of the fishery.

Morioka congratulated the Government of American Samoa and its collaboration with the Government of Samoa in developing a Memorandum of Understanding (agenda item 4.A.2) as a great start towards efforts to an Archipelagic Ecosystems Fishery Management Plan.

Haleck commended Director Ray Tulafono for the work he has done, not only with the community-based program, but with the different aspects of fisheries in American Samoa.

McCoy added that the fuel crunch around the globe has translated into higher prices at the pump. And, while fish prices have risen, it is seasonal. It doesn't take much to upset the balance of these fragile island economies.

The war in Iraq has also impacted these economies with the deployment of 500 to 600 soldiers. The people of the Pacific are resilient, but it is important that those who can assist understand the conditions.

Morioka asked the price of gas in American Samoa.

McCoy responded that at it was 1.65 for boats, about a 65-cent increase in three months.

#### **4.B. Guam Island**

Duenas thanked the participants in creating the report, the Division of Aquatic and Wildlife Resources, the Guam Coastal Management Program, the Bureau of Statistics and Plans, the Western Pacific Council Island Coordinator, Guam Fishermen's Cooperative Association and the Office of the Governor.

Mr. Duenas also commended John Calvo for his outstanding work on Guam and asked for the Council's continued support of that position in Guam

Fishing was poor in July. But there was some improvement in August, especially for blue marlin. The Guam Marianas Fishing Derby in August brought in more marlin than any other species combined.

Poor sea conditions continued due to nearby tropical storms.

Bottomfishing increased due to the distress of the pelagic fish in the area. Calmer seas prevailed in September.

The creel survey under the Division of Aquatics observed a significant amount of rainbow runner creel census days at the end of August. Ylig Bay continues to have the most significant fishing activity during the summer months. And, because of the calm waters, the eastern side of the island was accessible.

The regular survey of Ylig Bay has been difficult due to the availability of staff. There were concerns by the fishermen as to why Ylig was being monitored. When it was explained

that the best time to get the information needed was when the water was calm and all the fishermen go out, the fishermen understood.

Duenas shared a picture of Tony's onaga catch and his family.

Bottomfish in July and August was poor again due to rough seas. In September it picked up due to better weather.

The bottomfish catch creel census survey was significant. It was primarily composed of snappers, jacks and groupers, mainly because of the access to these Southern Banks. A more structured survey methodology was being considered to overcome obstacles in Ylig Bay.

The coral reef experienced a better harvest rate in late August and September due to better sea conditions.

The harvest of humphead wrasse increased during this period. For some reason in August or September there was an abundance of the giant humphead wrasse that averaged about 80 pounds. Seventeen were caught in 12 days, which was a pretty good harvest.

Guam Fishermen's Cooperative Association's seafood safety program found two cases of ciguatera. One was a barracuda caught on the northwest side of the island and one was a red snapper caught on the eastern side, which weighed about 15 pounds.

Additionally, inshore surveys were still being conducted to evaluate the spillover effect into adjacent areas of these reserves. Identification of inshore and offshore species code files was ongoing with Aquatics and NOAA to fix any discrepancies of species names and code numbers.

The Coral Reef Ecosystem Plan Team was scheduled to meet in January 2005 to discuss data and content outline for the inshore collection.

Crustacean harvest by offshore fishing activity at three offshore creel surveys has decreased significantly.

Reef fish make up the bulk of the spearfish catch. Spearfishing has shifted to the east side of the island due to calmer waters.

Duenas congratulated the National Marine Fisheries Service for their work on the shark fin without carcass case and urged them to continue their review. The Fishermen's Coop conducted an experiment on what the ratio would be and came out to eight to nine percent, as opposed to five percent from the National Marine Fisheries Service. So NMFS was being asked to review the case.

Regarding enforcement, conservation officers arrested spear fishermen that harvested spiny lobsters that consisted of egg-bearing, undersized or speared individuals. Spiny lobsters

can only be harvested by hand and not punctured in any way. The smallest lobster was approximately six inches in length.

Also, fishers obtained 57 species, approximately ten pounds, of weathered coral from Guam Customs and Quarantine. An individual traveling from Saipan to the U.S. Mainland transiting on Guam declared possession of biological samples and was found to possess the coral pieces.

The Conservation Reserve Program proposal was submitted to the Guam legislature. This will provide for more part time conservation officers for enforcement of Guam Fishing Regulations.

Public Law 27-87 provides a permitting system within Guam's Marine Preserves for nonfishing activities which may impact the health and welfare of particular species or habitat in the Preserve Area. This group has already started working and is made up of different user entities, such as jet ski operations and paddle canoes. The objective is to see if their activities impact any of the coral ecosystems.

The Aquatic Citation System is being obtained. An updated system would solve problems with the existing penalty programs.

An update of fishing regulations would help clarify definitions and other issues, such as the size of juvenile rabbitfish, so they are enforceable.

With regard to MPAs and the Community-based Conservation Plan, both local and federal adoption was being explored to manage the marine resources vital to the community. The objective of the program is to ask the Council and National Marine Fisheries Service to allow the jurisdiction of areas to create an MPA within the three to two hundred mile EEZ as defined by the community. This will allow the community greater input in creating marine preserves within the federal waters without having to go through all the hoops of actually creating an MPA that is not desired or not is workable.

Aquatic arrests in marine preserves: 26 individuals were arrested for illegal fishing in marine preserves. The illegal catch of approximately 422 pieces of fish, weighing 80 kilograms, was confiscated.

With regard to the ecosystem and habitat, one untethered FAD with a radio transmitter and netting was found five miles off the western side of Guam in July. Recovery efforts were unsuccessful due to rough seas. It is believed to belong to a purse seine FAD. According to reports of the purse seine industry, they were no longer using this type of technique or methodology, but apparently that was not the case.

There are 14 FADs currently. Two units are offline. There are 35 shallow moorings scheduled to be implemented. An MOU with the Guam Marine Awareness Foundation has been signed covering the installation of offline FAD systems.

With regard to marine mammal interactions, a juvenile spinner dolphin was turned over to the Fisheries staff from an individual that was attempting to rescue it from a shark. The juvenile and its mother were observed in Cocos Lagoon at the southern end of the island, with the juvenile in distress from numerous shark bites. The incident was reported to U.S. Fish and Wildlife Service. The carcass is currently in Aquatic's possession. Education is necessary to prevent well-intentioned individuals interfering in naturally-occurring cycles in nature and prevent prosecution from law enforcement agencies.

With regard to coastal area reefs, the Guam Fishermen's Cooperative Association kicked off two weeks of events with the Fishermen's Festival and the Guam Marianas International Fishing Derby in August. Coastal cleanup was part of the program with tree planting, which was also held the week before. It culminated with the Fishermen's Festival with all the participants attending. According to the reports, over 500 participants attended.

The Pollution Indicators of Stress in Coral Reefs Workshop was attended by the Aquatics people. The workshop was held August 31st to September 2nd in Honolulu. The proceedings from the workshop will include a toolbox for managers to use to monitor impacts from different types of land-based sources of pollution on coral reef ecosystems.

Marine preserve assessment surveys will include Tumon Bay starting in FY05.

A noncommercial, Volunteer Data Collection Project commenced September 1st with all 147 fishers participating. Data is being turned in on a daily basis.

With regard to subsistence and recreational areas, the Guam Coastal Management Program along with the Guam Fishermen's Cooperative Association was working on a joint project to develop a Clean Marine Program. The Guam Fishermen's Cooperative Association will be monitoring and managing an oil recovery and battery storage facility to help clean up the marinas. Any funds created by this will go to help dredging the Marina.

Efforts were underway to identify community marine needs. Scoping sessions are planned, with Mr. Paul Bartram providing technical guidance and the GFCA providing logistical support.

Under fishing communities and the Marine Conservation Plan, Council staff has been working with local partners on updating the Marine Conservation Plan. Partners include the Bureau of Statistics and Plans, the Division of Aquatic and Wildlife Resources, the Guam Fishermen's Cooperative Association and the Port Authority of Guam, as well as the Governor's Office.

For fishing tournaments, the Ninth Annual Guam Marianas International Fishing Tournament was held with approximately 60 boats participating. Due to poor sea conditions the turnout was low and the fishing wasn't that great, but everyone seemed to be happy.

The Aquatics Kid Fishing Derby was held July 2004 for kids seven to twelve years of age. Approximately 75 kids participated in the event, which helps instill environmental ethics and conservation practices among kids.

The Catch and Release Derby was held at Asan Memorial Park.

The Guam Fishermen's Festival, Gupot Peskadot, was sponsored by the Guam Fishermen's Cooperative Association. The festival offered educational displays and activities. GFCA provided entertainment and special pelagic fish dishes for the visitors to eat. This was part of Guam Fishermen's Cooperative Association's ongoing program to change the eating habits of the Pacific Islander from coral reef fish to pelagic fish.

The Council's display was included under seascape, which was a joint venture with the UOG Marine Lab, Aquatics and the Bureau of Statistics and Plans under the Coastal Management Program.

The Island Pride committee partnered with Guam Fishermen's Cooperative Association for the Sixth Annual Fishermen's Festival in the August Island Pride Event. The Island Pride Campaign is comprised of the Guam Visitor's Bureau, the Guam Coastal Management Program, the Guam Environmental Protection Agency, the Division of Aquatic and Wildlife Resources, the Western Pacific Fishery Management Council and the Guam Fishermen's Cooperative Association.

The Environmental Education Curriculum Committee, which is comprised of natural resource managers, has been meeting at the University of Guam Marine Lab. The focus of the group is "from the mountain to the sea" environmental perspective.

International Coastal Cleanup for Guam was supervised by the Guam Coastal Management Program. It was the fourth event in the Island Pride series. The cleanup collected all kinds of trash around the island. Last year there were only seven sites involved. This year there were 14 sites and three dive sites.

The Fisheries Development and Community Demonstration Project, GFCA Longline Project, has been delayed due to the number of high profile activities in July and August. Negotiations are ongoing on vessel acquisition. Prospective vessels have been located on Guam and possibly one in CNMI.

For fisheries development, the Guam Volunteer Data Collection Project commenced September 1st. Jantz's Restaurant, the Department of Aquatics and the Guam Fishermen's Cooperative Association have been set up as the location sites for dropping off the forms.

The Aquatics staff has been trained and supplied with material to distribute on their regular creel survey schedules. Council staff has been meeting with fishermen at the Flea Market to speak with them about the project. Council staff also met with each village mayor to promote the project. The response was hampered rough seas and pending storms, which kept fishermen at home.

For the month of September, 40 fishing trip surveys were received.

The Fisheries Development and Community Demonstration Projects Program activity picked up with the release of the August 26th Federal Register Notice. Council staff conducted the CDDP grant application workshop on September 29th.

#### **4.C. Hawaii Report**

Ikehara greeted the Council and directed the group to section 4.C.1 for his report and proceeded to provide highlights of his report.

The Main Hawaiian Islands bottomfishing fleet had a drop in landings as a result of fishermen making fewer trips. Due to the improvement of economy, there are an increasing number of construction jobs. This coupled with the increasing cost of fuel, has probably led to a decline in the renewals of commercial marine licenses. There are fewer fishermen who are commercial fishing because they've been able to land better-paying jobs.

The total licenses have dropped by about 8.9 percent from the previous year. Among bottomfishermen, it has dropped almost 21 percent.

Landings were steady for the Northwestern bottomfish fleet. Favorable weather conditions enabled them to target onaga in the Hoomalu Zone.

The DLNR Bottomfish Project, which has been funded for quite a long time by the American Samoa Council has reported a milestone. Twenty eight hatchery-raised juvenile opakapaka have been released into the wild.

These are fish whose previous generation of broodstock were collected as juveniles from Kaneohe Bay. Their offspring were spawned and raised in the pens at the hatchery on Coconut Island at the Hawaii Institute of Marine Biology. They were fish large enough to be tagged and be released back into the wild. This is a milestone for the project and for any culture of this type of species.

Hawaii Goes Fishing, a television show on Oceanic Cable Channel 16, was there to film the release. A video clip was provided by Hawaii Goes Fishing and will be shown at the Fisher's Forum tonight. Mr. Tuaumu offered to schedule another showing if the Council members wished to see it.

Tuaumu congratulated Dr. Chris Kelley and his staff for achieving this important milestone.

The aku fleet was now down to just two boats and only one was working in July.

It was a fairly slow period for the trolling fleet, although prices were strong. A couple of veteran fishermen, Richard Shiroma and Roy Takatsuki were lost in July.

Tuna longline prices were strong but fish were scattered and hard to find.

Only one vessel attempted swordfish longlines, more of this will be discussed in other reports.

Tuna handline landings were relatively strong in offshore areas.

For near shore or coastal fisheries, the usual summer run of oama, juvenile goatfish didn't materialize this year. There were some reports of small schools, but nothing like the large schools and widespread occurrence that we usually get.

Fishing for halalu and akule was also very slow this year. But the opelu and papio fishery was strong. Fishermen have also reported large numbers of sharks in the near shore areas. There was a shark attack off Molokai.

Regarding precious corals, the local staff joined the National Marine Fisheries Service aboard the OSCAR ELTON SETTE for surveys in the Au'Au Channel. There would be more about this in the Precious Corals Section.

Marine Resource Protection work continues on developing the framework for the MPA system, this will help develop a more coherent and cohesive policy regarding MPAs.

An internal group is continuing to work on producing an insert which should be published in the newspaper by the end of the year. It will be an informational document that will lay out some of the thoughts for moving forward with the MPAs in Hawaii.

Public hearings were held around the State in July on the Northwestern Hawaiian Islands Refuge, which was announced at the last meeting. Over 24,000 public comments were received by letter and e-mail during the public hearings. Those comments are being reviewed.

Final changes to the proposed rules will be made before they are presented to the Board of Land and Natural Resources.

Public input is being solicited on the current set of bag limits and size limits for reef fish in the Administrative Rules. The legal sizes were changed in December of 2002 and public response to those change and the results is being sought.

Ten cruises to replace missing FADs and for maintenance and recovery of FADs occurred between June and September.

As far as artificial reefs are concerned, a new U.S. Army Corps of Engineer's permit was being requested. The State system required them to obtain permits, do an environmental assessment, and get concurrence from the Navy, et cetera.

There is a habitat utilization project that surveys and characterizes some of the benthic habitats in some of the more interesting areas. There are six sites that are scheduled to be worked on: the Wai Opae area, which is off the Big Island; Hanauma Bay; Waialea on the Big Island, Kealakekua on the Big Island, and Molokini, which is between Maui and Kahoolawe.

To date, Hanauma Bay, Molokini and part of Waialea are completed.

The Marine Gap Analysis project continues and a report will be presented at the U.S. Coral Reef Task Force meeting in Miami. Due to the unfortunate occurrence of a hurricane, that meeting was postponed to December.

In conjunction with NMFS, a coordinator is being sought to finish up the Coral Reef Fisheries Local Action Strategy. That should be completed fairly soon.

An awards program for the Living Reef Campaign has been established. Tiffany and Company has provided a crystal trophy, which will be one of the awards to be given for coral reef conservation work to industry representatives. This will take place some time next year. Several events like this are being planned to involve private companies in coral reef conservation efforts. More information can be obtained at [www.Hawaiiireef.org](http://www.Hawaiiireef.org).

The Hawaii Marine Recreational Fisheries Survey continues to crank out interviews. Between March and June 1,048 intercepts were collected. All that data was entered into Microsoft Access and sent off to Maryland to get crunched by Tom Sminkey.

The Ulua Tagging Project also continues to crank along. By the end of August, they had a total of 1205 volunteer anglers on their list, who tagged almost 15,000 fish. About 2200 returns have been done and continue to escalate.

An online public version of the commercial licensing system will be rolled out by the end of the year. This internet system is used by staff to issue over the counter licenses. Before the end of the year fishermen will be able to go online and renew or purchase new licenses. Fish dealers will also be able to go online and verify if fishermen have been licensed.

New plastic card licenses are now being issued to commercial fishermen. Chairman Morioka has been issued a new plastic card for bottomfish registration.

There are continuing improvements to the commercial fishing reporting system.

Work continues on invasive species. Lake Wilson has been cleaned up, has stayed pretty clean and is being monitored. The legislature appropriated \$4 million to the Hawaii Invasive Species Council, who will attempt to work on a wide range of invasive species, both terrestrial and aquatic. The Governor placed a \$1 million restriction on the funds and there are various work groups meeting to develop a spending plan to be approved by the Council. Their plans include spending about 33 percent on prevention, 40 percent on response and control, 20 percent on research and applied technology, and 7 percent on outreach.

Two main projects were requested from the Invasive Species Council: a project on Ballast Water and Hull Fouling and the other on the development of an Aquatic Invasive Species Response Team. These have not been approved yet, but will be addressed at the next meeting of the Invasive Species Council.

Morioka thanked Mr. Ikehara and asked for questions.

McCoy commented that the work being done with opakapaka is interesting and would like Mr. Ikehara to keep the Council abreast of it, see where it goes, if it's going to have similar problems with the salmon.

Ikehara responded that they are hoping to get to the point where thousands of fish can be released, which is a ways off, but considers this a remarkable achievement so far.

McCoy asked if the fish were tagged.

Ikehara responded that all the fishes have a DLNR tag on them. And if found they should be reported. They are also trying to work on a suitable reward for the reporting. Ikehara offered to arrange a tour of the hatchery at Coconut Island if the Council members were interested; he offered a video to any interested members. The video shows the aspects of the hatchery and the culture process.

McCoy inquired if the fish were going to be released in State waters.

Ikehara responded that they were not being too specific about where they were released, but that the fishes were released in State waters.

Morioka referenced page 2 of the report, second paragraph, where fishermen have also reported greater number of sharks in the nearshore area. Their presences could be attributed to change in surrounding current patterns. He asked if Mr. Ikehara could elaborate on what is suspected.

Ikehara responded that he was not quite sure but the El Nino process is starting and it has been a very warm summer. He speculated that it could be a series of patterns of oceanographic climate that could be associated with the presences of more sharks.

Morioka requested that the Hawaii report continue with Sean Martin.

Martin reported that the auction mentioned at the last Council meeting was up and ready as of the middle of August. Things are going quite well. He encouraged anybody who has the time to go down and check it out.

The boats all unload in front of the auction, unlike how it used to be when the fish were trucked all over the Honolulu Harbor area. Now all the boats come there, they tie up in front of the auction and unload directly into the building. So if you are up early in the morning you can

actually see the whole process, from the vessels unloading until the fish is taken back out. All in a brand new facility that certainly the auction owners are quite proud of.

An update on the current longline fishing activity and catches shows the tuna fish or deepset portion of the fishery as the dominant portion of the fishery. Its catch rates are slightly better than fair. Prices have had large fluctuations recently and are somewhat depressed.

For swordfish fishery, only one boat went out and made a few sets. The problem was that where the boat was, had a high concentration of squid in the area. The squid ate the mackerel off the hook. So it was somewhat of a discouraging first trip for the only boat that has gone out at this point.

However, the next two weeks will see boats begin to get active in that fishery as the traditionally best months of November, December, January, February, and March come up.

There are a couple things that are going to affect not only longline fishermen in the State of Hawaii, but all fishermen landing certain species of pelagics: the FDA has come up with a new set of handling guidelines. Although the FDA doesn't have jurisdiction over the boats themselves, they do have jurisdiction over United Fishing, the fish auction where fish are sold.

After two years of negotiating with the FDA, the auction announced last week that there will be requirements for all tuna over 20 pounds, all marlin over 40 pounds, and all mahimahi over 20 pounds, that are distributed or sold through the auction will have to be gilled and gutted. This wasn't to correct a problem that the market or that the industry has had here, it was more preventative. And, the FDA has been somewhat inflexible in their approach to this. He believed that the Fishery Service has been involved in convening a workshop where experts on histamine and other types of seafood safety issues will be called in.

There is a significant concern in the industry that this will have a negative effect on revenues for the fishing vessels. But it looks like it's pretty much a done deal now and it's going to happen. Whether the industry chooses to follow up and take it further via the legal system or other agencies is unknown. But, in the meantime, the FDA is implementing these new rules.

Another report in the Pelagics or International Section of the Council meeting was the IATTC bigeye quota ruling for east of 150 in the IATTC Convention Zone. In discussions with Mr. Robinson last week, the 150-ton quota for the Hawaii and California longline fishery was over halfway used. There may be a need before the end of the year to close the access to bigeye fishing east of 150. That could potentially have a negative impact on the industry.

Martin reported some net marine debris issues in Kaneohe Bay. There was a large piece of net has been in Kaneohe for about four months and was surrounded by turtles. The condition was reported to the Aquatics Division and wanted Mr. Ikehara to know about it.

His solo effort to remove it was cancelled when it was estimated that the debris weighted four or five thousand pounds and trying to wrestle it onto a boat didn't make sense. There were

reported sightings by somewhat reliable sources of manta rays swimming in the area have become entangled.

Ikehara responded that he was not aware of that particular net debris, just generalized bunches of netting around the Windward side of the island.

Martin explained further that this particular debris was on the Northwest side of the sandbar and that it was huge. He offered to provide more directions.

Ikehara responded that he would like a more precise location from Mr. Martin later.

Simonds inquired if the net was a fishing net or cargo.

Martin responded that he thought it was a combination of North Pacific trawl type netting and some cargo netting, massive, with all kinds of different components to it.

Morioka thanked Mr. Martin and requested that Ed Ebisui continue with the North Shore report.

Ebisui requested that he give report after Mr. Farm, but did have a question for Mr. Martin.

Morioka agreed.

Ebisui stated that there was a rumor that the auction contemplating raising their commission rate from 10 percent to 15 percent. He asked if Mr. Martin has heard anything about that.

Martin responded that the rumor has been floating around for a while now. The question was posed to the general manager of the auction about two weeks ago at a meeting that he was attending. His response was that there won't be any change in the commission in his lifetime, which was his direct response to that particular question.

Simonds remarked that the general manager was 80 years old.

Martin agreed and speculated that a change could come soon.

Morioka called on Mr. Farm to provide his report.

Farm reported an experience not unlike the Guam beach cleanup throughout the State. In line with national efforts, there was a lot of activity. All the beaches are assigned to a number of organizations here locally. These groups do shoreline as well as in-water cleanup. The program really works. In reviewing the activities of the clubs he is directly involved, debris piles have gone down. Pictures are taken each time and the piles have gone from huge with a lot of large items, such as discarded parts of trucks and vehicles, to smaller piles with beer bottles and caps.

His recent experience has seen fishing become very slow, especially for himself. He quipped, “But of course, if you don't go out, you don't catch very much fish.” His trolling activities have been super slow, so he has resorted nearshore activities that have been more productive.

Farm inquired of Mr. Duenas the kind of punishment the courts in Guam were giving to lobster and preserves violators. He noted that Hawaii seemed to be pretty lenient.

Duenas responded that he did not have any information at hand but was aware of a recent court case where the judge threw out the case due to the lack of due process regulations, which are currently being worked on.

Farm continued his report by noting the concern over the number of accidents and fatalities related to marine activities that have happened here in Hawaii. The last three functions he has been to all started with a moment of silence for someone in the group that had suffered a fatality or serious damage.

In addition to Richard (**Shiroma**), there have been other trollers and a number of divers who have gone their way due to shallow-water blackout or other things. There have been more frequent sightings of sharks and, more importantly, the sightings appear to be more aggressive so that people are getting injured.

He invited the members to join him and some other colleagues in examining and brainstorming the area to try to see what might help to reduce or eliminate this type of negative activity that is going on.

Morioka thanked Mr. Farm and asked for questions from the group.

Ebisui wanted to echo some of the previous statements with an example of an opelu-akule fishery at Haleiwa Harbor. The fishery fishes very close to shore, just outside the harbor. Coincidentally, that's the same area where the shark tour operations are conducting their activities. The fishermen are continuing to complain about the interactions they are having with sharks. Most of them attribute that to the shark tour operation.

In addition, in speaking to skin divers who dive on the North Shore, they've also mentioned, as Frank had said, the appearance or the abundance of sharks recently, including fairly large tigers, ten to twelve in number and in the eight to twelve-foot range.

Ebisui noted that similar reports are coming from people that surf, including, in the last two months, sightings at Waimea Bay of a large tiger, and up the coast around the Sunset Beach area, another large shark inside the surf line. He was not sure if it was a coincidence, but the number of these reported sightings by people on the shore, in the water, and on boats has certainly increased, and continues to do so.

Morioka thanked Ebisui and asked for questions or comments.

Farm remarked that he realized why Ebisui wanted to follow his report. He didn't realize Ebisui was going to touch on the same subjects. He echoed what was said as far as more sightings. He noted that there are more people going out into the ocean, more users, more divers, et cetera. There might be more competition for the fish. There were all kind of theories.

Farm noted the question of danger and the fatalities and injuries that have occurred. Just last week somebody got a shoulder torn on Molokai from a shark. It was fortunate that it was not a fatality and the person was recovering. Due to this a concern was growing in the community as to what was going on.

Many years ago, the City had the Mayor's Task Force on Water Safety. He and some others are talking about putting something together and trying to approach the problem. The akule and opelu fishermen in Ed's area are quite concerned, and later in the agenda they would discuss getting a legal opinion from the counsel on that shark activity out there.

Farm asked that Walter (Ikehara) be aware that it may end up in his area if Ed Ebisui is not able to assist. The fishermen in that area are concerned and have been discussing and presenting their views.

Morioka thanked Mr. Farm and called on the Island report from the Commonwealth of the Northern Marianas Islands.

#### **4.D. Commonwealth of the Northern Marianas Islands.**

Seman noted that his report could be found in section 4.D.1.

In regards to fisheries, the Division of Fish and Wildlife has completed the construction of anchors for 12 FADs to be deployed. It's in the process of procuring necessary materials for the rigging process. Deployment of these FADs should be completed by December of this year.

Since the last Council meeting in June, fishing in general has been very poor due to numerous typhoons that swept through the Commonwealth, or for that matter, through the Mariana Islands. The first was Typhoon Tinting that tore through the CNMI in June, followed by Super-Typhoon Songda in August and Tropical Storm Sarika that devastated the Northern Islands in September.

For enforcement, the Division of Fish and Wildlife Service Enforcement Section has made five arrests from June to September of this year. Most of the arrests involved illegal fishing with cast nets without license, and one involved fishing with gillnet. All have been resolved through Administrative Hearings except for the incident involving fishing with gillnet, a banned fishing gear.

Their work with NOAA Enforcement on the Cooperative Marine Law Enforcement Agreement has been completed. The Joint Enforcement Agreement is currently being worked on. The Office of Law Enforcement has been very active and has completed a draft version of the Joint Enforcement Agreement. They are hoping to finalize the agreement as quickly as possible.

With regards to the Ecosystem, the U.S. Navy, Fish and Wildlife was involved in the annual FDM nearshore reef assessment conducted late June of this year. The scientific team, consisting of the DFW biologists, did area and underwater surveillance to determine the impact of continued aerial bombardment by the U.S. military.

As a result of the typhoons mentioned earlier, there were six channel buoys in CNMI that were lost at the Sugar Dock Channel and another six marker buoys at the four designated sanctuaries. The CREWS buoy, which was deployed during the Research Vessel OSCAR SETTE's visit to the Marianas and monitors the air and water temperatures as well as the wind speed, was also damaged.

In noncommercial fishing, the 20th annual fishing tournament took place on September 11 and 12, with over 97 boats and over 350 participants from CNMI, Guam and the Republic of Palau. The winning prize of \$10,000 went to Hoa Van Nguyen, a Guam fisherman, for catching 519.4-pound Pacific blue marlin.

This year's derby marks the 20th anniversary. There were 18 vessels that came in from Guam that participated this year.

Seaman quipped, "Guam has a habit of coming over to the tournament and taking most of the money. Manny was supposed to be there, but I don't know what happened. He cancelled at the last minute, from what I understand."

Dr. Kate Moots, a Division of Fish and Wildlife biologist, performed her last day of work with them on July 27th of this year. She is now doing scientific research work in South Africa. Dr. Moots worked for the Division of Fish and Wildlife for over three years and was a member of the Council's Bottomfish and Ecosystem/Habitat Plan Teams.

There will be a court hearing on November 2<sup>nd</sup> in Honolulu with regards to CNMI and its Submerged Lands lawsuit. It will not be in San Francisco.

Morioka thanked Mr. Seman and asked for questions.

Duenas noted that Dr. Nguyen, who won the Saipan Derby, is a member of the Guam Fishermen's Cooperative Association. He won a total purse of \$18,000.

McCoy inquired what the average cost of the FAD was.

Seman responded that the 12 that were going to be deployed represented \$400,000 of the annual budget. That price included the anchor, chain and all the rigging.

McCoy asked who funded that.

Seman responded the U.S. Fish and Wildlife Federal Aid provided the funding.

Morioka asked for other questions.

Duenas remarked that the winner of the Saipan also won the Rota Derby this past weekend.

Seman noted that in addition to the grand prize, the winner also took the total weight prize of \$3,000, and took the third place in the marlin category of \$1,000 for another fish, and yet another category prize of \$3,000. The fisherman did well.

Morioka said apparently, then called on Council Member Sablan.

Sablan noted that there was an active group in the village of Tanapac, called the Tanapac Action Group. Richard (Seman) was notified that this active group was planning to save a lot of the corals and perhaps create a sanctuary just in front of the village, therefore, closing the channel. They are requesting a small-boat channel be dug out in front of the village so they can have a coral preserve. In doing that, they will have two dry creeks that during typhoon season run very strong. This group wants to rechannel the water and move it down so it can be filtered before it gets into the sea.

He noted that with all these typhoons there is a lot of dead corals in front of the village. They are putting out a notice to CRM, DEQ, Army Corps, EPA and Richard's office that this active group is seriously planning to rechannel the two dried creeks to the south to where the wetlands are.

He will report more as the work progresses.

Morioka thanked Mr. Sablan and called for questions. There were none.

## **5. Reports from Fishery Agencies and Organizations**

Morioka called on Bill Robinson, the PIRO Director from the Department of Commerce.

### **5.A.1.a Pacific Islands Regional Office**

Robinson noted his report is under Agenda Item 5.A.1.a.

The regional office continues to solicit and fill additional staff positions to better meet the program and support responsibilities. The priority has been with hiring staff for the Protected Resources Divisions, including a NEPA Project Manager, and a specialist to lead the sea turtle Hawaiian monk seal and marine mammal efforts.

An NEPA project manager has been hired for the Sustainable Fisheries Division.

Fiscal and administrative support capabilities have increased with two budget personnel, clerical support and grants assistance. They will be filling 16 new full-time positions and plan to

continue that growth over the next few years. Currently, they have almost 20 contract employees that are providing critical support and project work for the staff.

In the area of NEPA, there are a number of training activities going on. NEPA training has been held for both the PIRO staff in Honolulu. Additional training has focused on grants administration and NEPA compliance. A joint PIRO/Council/PIFSC training is planned for November 9 through 11 on NEPA.

A project manager approach to NEPA is being implemented and involves each NEPA project having one individual who is assigned to be the project manager. This project manager will be accountable for working with the Council, planning the NEPA project and making sure that all the steps are followed through.

A list of different NEPA activities was included in the briefing binder. Those activities include working with the State on an incidental take permit, a number of fisheries EIS, a completion of NEPA on the South Pacific Tuna Treaty and an implementation of the Western and Central Pacific Fisheries Convention and what NEPA responsibilities will be assigned prior to participation. They are not quite sure what the commitment is going to be.

They also participated in initiating e-mail commenting procedures associated with NEPA and other Federal Register solicitations for comments. This adjusts past policies of accepting public comment only by mail and fax and establishes mechanisms for public comments now to be accepted by e-mail. Public comment is being solicited in Federal Register Notices and includes some of the NEPA actions as well. Sites to receive the e-mail comments have been established and activated and will continue to work on different mechanisms for attracting (activity) and using the process.

Under Sustainable Fisheries Management Actions, Amendment 11, the limited entry program for American Samoa, was approved by NOAA Fisheries on September 22nd, 2004. The final rule is anticipated to be published some time this month and is likely to be effective in November.

Work continues with the Council staff on the regulatory amendment to the Pelagics FMP on additional sea turtle mitigation measures that were adopted by the Council at the June Council meeting. A target schedule has been prepared for processing and implementing the regulatory amendment.

Out for public comment was a DEIS, Draft Environmental Impact Statement, on seabird and squid measures. The public comment period ended October 12<sup>th</sup>. It is anticipated the Final EIS will be available in February of 2005.

A final rule extending the moratorium on the harvest of groundfish at Hancock Seamount has been promulgated. Published on August 19<sup>th</sup>, it extends the moratorium for another six years through August 31, 2010, as recommended by the Council.

The Environmental Impact Statement on the bottomfish, seamount groundfish fisheries in the Western Pacific is in its final stages. It was hoped that it would have been completed and filed with EPA by now, but in the final stages of review it was determined that NOS and the Sanctuary folks needed a few weeks to review it and comment. They are currently reviewing it and their comments should be received within the next two weeks. Then the Environmental Impact Statement can be completed.

The two Draft Environmental Impact Statements, the one on Crustaceans and the other on Precious Corals, are under review by NOS and the Sanctuary Program. As soon their comments are received and integrated, the statements will be filed with EPA and a comment period opened on both.

On the International Fisheries arena, there has been quite a bit going on that the Council will be interested in. The Western and Central Pacific Ocean Convention, Prep Con's Third Scientific Coordinating Group, SCG3, convened in Majuro in the Marshall Islands from August 19 to 21. The participants reviewed the stock assessments produced during the previous week at the 17th meeting of the Standing Committee on Tuna and Billfish.

#### **11.G.1. Bigeye Tuna Management Measures**

The bigeye tuna assessment results suggest that current biomass is above the biomass at MSY and recent fishing mortality is about the MSY level with the probability of at least 67 percent of being in excess of the MSY.

The yellowfin stocks, however, appear to be fully exploited and likely approaching MSY fishing mortality and biomass levels.

The Coordinating Group agreed with the Standing Committee recommendation that additional mortality of juvenile bigeye would lead to continued fishing levels inconsistent with maintaining the stock at MSY.

In the case of yellowfin tuna, both biomass and fishing levels were approaching MSY and additional fishing effort was not expected to result in any increase yields.

It was noted that for both species, recent recruitment rates have been at levels well in excess of historical averages, and if recruitment returns to more normal levels, the situation for bigeye and yellowfin would become acute given current fishing levels.

The Coordinating Group produced a matrix of management options based on a background paper presented at the Bali Prep Con meeting. It included an assessment of whether or not the analyses of the likely results of implementing those options could be done in the near future or in the long term. The matrix provides recommendations on data sources and types of analysis to explore the various management options.

The U.S. position is that the list of options should be trimmed to exclude alternatives that in all likelihood would not be viable or effective, or for that matter, ones where data doesn't exist to do an analysis.

A meeting is planned with the Governments of Australia and New Zealand. This follows a meeting in early October where an approach to the final Prep Con session and the first meeting of the New Commission was discussed. The objective is to convince the Commission to move forward as quickly as possible to narrow the range of management options. An analysis of the options is needed so that later in 2005 when the Commission meets again it can consider adopting one or more management measures that would put a lid on fishing mortality, particularly on bigeye tuna.

There was also some discussion on the priority of stock assessments to be completed in the coming year, although some were interested in seeing an updated South Pacific albacore assessment. The majority of the participants believed that the top priority continues to be both big bigeye and yellowfin tuna.

It was also suggested that focus be on the Pacific-wide bigeye assessment, rather than two assessments, one for the Eastern Pacific and one for the Western and Central.

There was also a Convention workshop on capacity convened in Japan from July 14 to 16. That meeting centered on reviewing the relevant capacity resolutions undertaken at the Multilateral High Level Conferences that lead to the signing of the Western and Central Pacific Fisheries Convention.

In September 2000 the U.S. objective to that meeting was to try to broaden the current discussion beyond just purse seine capacity, and have the parties focus on capacity and limitations for all fleets fishing on Western and Central Pacific Ocean bigeye and yellowfin tuna stocks. That meeting was not terribly successful.

The workshop did come out with a number of recommendations. One required those nations with large high seas tuna fishing fleets to cease construction of purse seine and longline vessels unless the vessels replace existing authorized vessels that may sink or are to be scrapped.

The recommendations that would be sent to the final Prep Con and the Commission include:

- To restrict the issuance of licenses so as not to undermine the implementation of the above recommendation;
- An agreement by the Taiwanese to scrap 23 purse seine vessels over 1,000 gross tons or have them cease fishing by 2007;
- To request members with large high seas tuna fishing fleets to submit a fleet reduction program to Prep Con coming up in December;
- To identify vessels subject to a fleet reduction program in the Convention record of fishing vessels;

- To exchange information on business entities that might undermine a fleet reduction program;
- To recognize that localization should be encouraged and not discouraged - basically, licensing vessels to supply shore-side facilities of the island states.

The biggest issue that faced the members of the Convention was reducing overall capacity and fishing mortality on bigeye, but at the same time not compromising the ability of the island states to develop longline fisheries and other fisheries on tuna within their own waters domestically.

It is clear that any solution to capacity and the fishing mortality issue will have to have some provisions that allow the island states to continue to develop up their own fisheries internally. So there will have to be provisions for swapping capacity somewhere within the rules.

The final Prep Con and first meeting of the Commission will be in Pohnpei in French Micronesia from December 6 through 10.

In the Protected Resources arena, it was an active summer with a number of incidents. One incident involved the TT40 Hawaiian monk seal that swallowed the large circle hook that had to be surgically removed. The seal healed well and was released back into the natural environment on Kauai. There were a couple other incidents of hooked monk seals that included at least one that was hooked, the hook was removed and the seal released.

Melon-headed whale were stranded in Hanalei Bay on Kauai. The animals were herded back out to the ocean with only one known mortality. The herding technique that was used on the advice of the local people was to make a lei of morning glories and use it with kayaks to herd the whales back out to sea. It was successful and the folks were real happy about that.

There have been a few other strandings that were dealt with. There were two Hawaiian monk seal pups born on Kauai. Human activities were coordinated around the State of Hawaii, a volunteer network over there, and the resort owners (one of the pups was in a highly populated hotel area). That went very well. Both pups were weaned and were relocated to remote beaches and are doing well.

NOAA Fisheries and the Hawaii longline Association, along with the cooperation of the Council, engaged in a Section 7 Consultation with Fish and Wildlife Service regarding the Hawaii longline fishery on short-tailed albatross.

Martin was happy to report that the biological opinion was completed and delivered. It was signed on October 8th, and received the following Monday. The Council members should have a copy of that by now.

Four Protected Species Workshops were coordinated and conducted for owners and operators of Hawaii longline limited entry permitted vessels during August and September. There were 172 certified during those workshops. There was a long list of folks to thank for their contribution to the success of those workshops.

The Habitat Conservation staff has been very active in a number of areas, particularly working with the military on surveys of a number of different mitigation sites. Those activities continue.

Robinson said he had pretty much covered his items and was happy to answer any questions.

Morioka opened the discussion for questions.

Duenas inquired about the e-mail comments that are now being accepted for all the EIS, DEIS, etc. and if there was a filter for those comments? Duenas explained, "For example there was a situation on Guam where you want to do something, and then you have a community outreach program where you go out and have scoping meetings on Guam and 50 people show up and give their comments on this issue, which all points to one direction. Then you've got an e-mail receiving line on the other end from Nebraska saying the opposite, how do you filter that? Or should there be a filtered at all?"

Robinson responded that as in any situation, the content of the e-mails and who they are from all go into the evaluation of the comments. It is not so much quantity, quite often it is the quality of the comments that count.

Duenas responded that he was glad that a filtering mechanism was in place and recognized the needs of emerging communities.

Duenas also noted that Taiwan is continuing to produce 2300 metric ton fleets and the Spanish are out there with the same sized vessels. These capacities are all in the purse seine side of the industry. And although the Palau Agreement and all others limit the number of vessels, it doesn't limit the capacity and effort. So while other countries have increased the 200 vessels they have operating in the Pacific, the U.S. reduced its size.

Duenas further explained that it seemed unfair that the focus was on status quo, that is, telling the longline fishermen or the hook-and-line fishermen that they have got to watch what they catch, but it's okay for those big, one mile long nets to be out there fishing for the next three months and loading up their holds with fish that are not going to be consumed properly. It is known that some are poorly handled. He felt more effort should be put into the purse seine side of the house because purse seine affects the juvenile bigeye, juvenile yellowfin and all of the other species.

Regarding the Protected Species Workshop, he had heard that it is done a lot in Hawaii for longliners and others. He recommended that it be done for the community as well whether people are affected by it or not. The more involved the community is the better they will be able to handle situations. He suggested that they take the workshop around the islands and see who wants to participate and contribute to bettering the environment.

Robinson thanked Mr. Duenas for his excellent suggestions.

Morioka thanked Mr. Robinson and called on Mr. Ikehara, then Council Member McCoy.

Ikehara had additional comments about the e-mail pathway. He mentioned that they had done it a couple times and found that 95 or 99 percent of the received e-mail was basically template. Similarly it was found in the recent Northwestern Marine Refuge public hearings that probably 22,000 out of the 24,000 total, almost 23,000 of the received e-mail or 98 percent was mostly template. They were able to find software that was able to filter some of that out.

The e-mail that was identical was put into a separate category from those that were different. He suggested that Mr. Robinson have something in place to use as a filtering system to categorize it as it comes in prior to implementing the system.

Robinson thanked Mr. Ikehara and said that they were working on that.

McCoy thanked the Service on behalf of the people and fishermen of American Samoa for the approval of their limited entry program and for all the hard work.

McCoy said, "I'd also like to thank the Council for the foresight and seeing that problems could develop in many areas of the management schemes. It's a new fishery. While we've been planning this thing for a few years now, it will probably play as a model and show us some things that we may have forgotten or haven't implemented yet.

Last but not least, is to thank the Council Executive Director, and her staff and everybody involved for the tedious, hard work in bringing the whole process together. It's taken a long time. It's been time-consuming, and we appreciate that. Thank you."

Morioka thanked Council Member McCoy.

Morioka asked with regard to the Western and Central Pacific Fishery Convention, the U.S. is not yet a signatory. Could Mr. Robinson elaborate as to why -- Bill Gibbons-Fly was not present, there was interest in knowing what was happening.

Robinson responded that he did not know all the details of the politics of why the Senate hadn't ratified it yet. He surmised that those things take some time, particularly in an election year.

His understanding was that one of the issues was the Senate did not like to take up a single treaty and act on it. So the State Department has now gotten three different agreements and packaged them all together and will be sending all three to the Senate for ratification in a package. The Senate would act upon all three of those sometime early next year. To the best of his knowledge, there wasn't any opposition to any of those agreements and to that package. The expectation was that the Senate would act favorably.

But it does leave the situation of the U.S. not being a member of the initial meeting in December. There have been a number of discussions as to how nonmembers, who have been

fully participating through all of the Prep Con meetings, will be treated during the first meeting of the Commission.

He surmised that it would be up to the member parties. He has heard that there may be a minor distinction between those who are members and those who are not, but everyone is expected to be around the same table and participating as they have in the past.

Morioka asked given his role in a similar organization, being a charter member seems to accrue special benefits. Will that be a benefit to those primary signatory nations? Are there any differences? Or will anyone standing out subsequently be treated similarly or equitably?

Robinson responded he did not believe so. The first meeting of the Commission to a great extent is ceremonial and deals with administrative issues of hiring an executive director and staff and similar items. He surmised that the member nations would have the decision-making authority in those cases.

It is hoped that because of the situation with bigeye tuna the Commission will step up to the challenge. The world is watching since other fishery management organizations have taken actions to reduce mortality. There is an expectation that this Commission will do the same. It is hoped that at the very least, this first meeting will narrow the management alternatives to those that can be realistically analyzed and implemented some time in the near future and get those analyses done so that the next time the Commission meets it could actually make some decisions.

Morioka thanked Mr. Robinson and asked for further questions. Dr. Sam Pooley was asked to give his report.

#### **5.A.1.b. Pacific Islands Fisheries Science Center**

Pooley noted that they are still getting organized at the Science Center and his report was late, but he hoped it was in the book.

His report was a little different than some of the previous reports in that it is more of a report of activities than accomplishments per se. It gave an idea of the kind of activity that goes on a daily or weekly basis within the Science Center.

First in the report was the Northwestern Hawaiian Islands Science Symposium that most of the Council family, including the Council itself, Fish and Wildlife Service, the State of Hawaii, National Ocean Service, was sponsoring the first week of November. It will be an excellent opportunity for people to look back over the last 25 years or so at research in the Northwestern Hawaiian Islands that the various agencies have carried out to basically get a good footing for the future.

He mentioned the following items:

- The Council was interested in the foraging ecology of monk seals, research they have been conducting over the last several years by putting satellite transponders on seals. A

contractor has compiled that data into a series of administrative reports that are cited in the briefing binder.

- The West Pac FIN website is now linked to the United Nations Ocean Atlas website. Dave Hamm and his group have worked very hard to have a user-friendly website. The website reflects each of the island fisheries offices, who are partners in that website.
- Several of the scientists participated in the Science Night of the Hawaii International Billfish Tournament, which they plan to keep doing. It has been a long tradition of trying to reach out to the sports fishing community, share what we've learned of issues that are of interest to them, and learn from them in terms of what their concerns are.
- The OSCAR ELTON SETTE has just completed its last cruise of the year. It's proven to be, a much better research platform than expected; a nice replacement for the TOWNSEND CROMWELL.
- There are 17 scientists onboard the NOS vessel, the HI'IALAKAI, at the moment doing rapid island assessments and other research in the Northwestern Hawaiian Islands. It will be coming back in the next day or two.
- The contract vessel, the CASITAS will also be returning later in the week after the second leg of its marine debris recovery cruise. He noted that the vessel had discovered three shipwrecks, including perhaps the Pearl and the Hermes. The only time he had been in the Northwestern Hawaiian Islands near Pearl and Hermes there was a yacht sitting in Pearl and Hermes. So evidently things have not changed. They are trying to retrieve the cannon and cannon ball from one of those wrecks so it can be used in the appropriate manner.
- The last time he had spoken to the Council he had just made the move from the Regional Office to the Science Center, and wasn't quite sure what he was doing. He quipped that he thought it was still the case. He found it interesting that when you've worked in a place over 20 years, and come back in a new function to discover that things have really changed. Much is due to the fact that his Deputy, Mike Seki, has taken over the day-to-day running of the Laboratory; the budget, the personnel.

He quipped, “and occasionally I think, well, “what the heck is the Science Center Director supposed to do? What most of my colleagues do is spend most of their time traveling.” That was not really what he had in mind. He has been meeting with the research collaborators at U.H. and the University of Guam and will continue to do that kind of thing. They were also hosting and participating in three national and international meetings in October.

- The PISCES is an international forum for discussing marine issues from the science perspective. It was meeting this week and next week in Honolulu. Jeff Polovina was one of the keynote speakers and a number of people from the National Marine Fisheries Service would be attending.

- The science board, which represents the six Science Centers within the agency, was meeting next week in Honolulu at the Dole Street facility under a new roof with shiny new gutters and a gutted-out bathroom. Pooley quipped, “So we're not quite sure where they're going to take care of those functions, but at least they'll have a roof.”
- He explained further they have had this new building and project going on for almost ten years. NOAA made the decision to abandon the site and go look for another site to consolidate all of NOAA facilities. And they hope that can be done by 2009. But if it's not, they will have a roof that should last us through some time in the 2010s and he guessed they would have restrooms that would do the same.
- As a last point he mentioned the meeting with NOS and some other NOAA partners the following week to allocate ship time across the three NOAA vessels that operate out of Honolulu as a good sense of the partnership with the NOAA family.

That was a quick run-through and there are things in his report that he did not mention. He encouraged people to look through the Northwestern Hawaiian Islands Science Symposium website or the brochures and encourage participation by the public, as well.

Morioka thanked Dr. Pooley and asked for questions.

Simonds noted that she had heard on the radio that one of the developers down at Kaka'ako was giving up their right to a lease. It seemed like an enormous space and did Dr. Pooley think that Kaka'ako can be put back on the list?

Pooley responded that there were two Kaka'ako sites and they were in discussion with Kojima about the aquarium site as well. The NOAA Chief Administrative Officer is in charge of this project. They've looked at a number of sites in Kaka'ako and for various reasons took them off the plate. They are aware that Kojima has pulled out of the aquarium site, and that may or may not affect their future plans. But that is not the direction they were going toward.

Morioka asked with regard to Administrative reports, if the public was able to access those reports.

Pooley responded yes, all of their administrative reports are available on the website for downloading. If they are not available that way, send him an e-mail and a hard copy would be sent. Copies should be circulating to all of the Council members.

Duenas commended Dr. Pooley and Mr. Robinson for coming to Guam and he expressed the hope that the relationship with the University of Guam would continue.

Morioka thanked Dr. Pooley and called on Allen Tom to present his report.

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

Tom greeted the Council members and asked for their indulgence as he had combined three presentations into the one he was going to do and there may be a little technical difficulty.

The National Marine Sanctuary Program is 13 sanctuaries spread throughout the United States. They have suggested a division into regions: the Pacific Islands Region includes the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, which they would be hearing about tomorrow; the Hawaiian Islands Humpback Whale National Marine Sanctuary, and, last but not least, Fagatele Bay in American Samoa.

Normally the Council is presented an update with what's going on with these three sites, today there would be a different tact given they would be hearing specifically about the Northwestern Hawaiian Islands tomorrow. So instead he was going to explain what the region was and what his job was.

### **5.A.2.a Pacific National Marine Sanctuaries Update**

They have a Draft Mission Statement. It is draft, so if people wanted to take a look at it and provide any comments, the regional structure will probably not be firmly set up until next year.

The region is really divided geographically and culturally, which he thought was very important. They are island people and behave and function a little differently than the counterparts on the Mainland, and that is something needed to be taken into account when looking at the sanctuary programs and how they function.

The Oahu Office of the Northwestern Hawaiian Islands and the Humpback Whale Sanctuary have been combined. They co-located last week and have some regional space in Hawaii Kai. The large office space which will house the combined group to the year 2010 when the new NOAA building is completed and they will move there. The combined facilities in Hawaii Kai will provide regional presence and with the two Hawaii sanctuaries, who will help with administrative support, cross-pollination between the two programs.

When the region is up and running, hopefully by next year, there will be one superintendent, himself, and a Deputy, Nancy Daschbach, who is currently the manager of Fagatele Bay. She'll be moving up towards the end of next fiscal year.

They will have a Regional Archeologist, Hans Van Tilberg; a Regional Geographic Information Specialist, Susan Vogt; an assistant for the GIS, Evan Weinberg; a Regional Administrative Support person, hired mainly for the Oahu office; and a NOAA Corp. Officer, probably coming sometime in April. The NOAA Corp. Officer will help with a variety of projects, boats, buildings and whatnot.

The Geographic Information Systems Program is a project that Susan Vogt, the contractor, is running. She is working with the three sanctuaries and focusing on working with the partners that reside within the sanctuary program: National Marine Fisheries Service, the Fishery Council, and the Pacific **Service (Science?)** Center.

There was an example of one of the documents on the desk in the back, the Bathymetry Atlas, which was done with the National Marine Fisheries Service. That's an example of some of the projects the GIS person will be creating for all the sanctuary sites.

Susan is also helping out with the designation documents for the Northwestern Hawaiian Islands. Some of the maps will be presented tomorrow. They will be up in the room, and a variety of other things that are needed for a full GIS program, such as a plotter and things like this.

They certainly would welcome other partners to work with.

Thanks to the Fishery Council they have been able to co-fund a GIS assistant. So Evan Weinberg is shared part-time between the Council staff and the Sanctuary Program. He is helping mine some of the data here in the Council and put it on maps. So hopefully by the next March meeting he will have a presentation to show what he's been working on.

Susan will continue her work by developing a five-year plan. The goal is for each of the sanctuaries to have their own GIS capabilities, their own product, their own map, and their own atlases.

That was an outline of some of the projects that each of the sites is working on. With the Northwestern Hawaiian Islands, it is mainly designation. Much of the GIS project, the maps, the data, is what the GIS program is working on for the Northwestern Hawaiian Islands.

For the Humpback Whale Sanctuary, the project is water quality and a lot of benthic habitat characterizations.

Fagatele Bay has requested a huge GIS component to look at it from the mountain to the seafloor, as well as their own GIS Atlas.

The Maritime Archeology Program run by Dr. Hans Van Tilberg looks across the region at some of the maritime heritage significant sites. Hans also has developed a five-year plan.

Both the five-year plans for the Maritime Heritage Program and the GIS Program are developed. The Council is welcome to look at them.

Right now Hans is focusing on the Northwestern Hawaiian Islands, mainly because of the designation process. He has been working to identify some of the shipwrecks and some of the maritime archeology resources that are located there.

In Year 2 and beyond he will begin focusing on the Main Hawaiian Islands, mainly the Humpback Whale Sanctuary. By Year 4 and Year 5 he will be looking at the areas around Lanai as a possible shipwreck corridor. This, of course, is in conjunction with the State or territories that they are working with.

Fagatele Bay is a small area that he works on whenever he goes out American Samoa. He includes the entire territory and is helping to map and define other resources out there.

In terms of what he's doing regionally, there is a Japanese mini sub located in Pearl Harbor. That is one of the projects that he said he would discuss with the National Marine Sanctuary Program since it is being looked at on a national level.

In the near term, Hans is doing a field survey of the U.S.S. SAGINAW, which is adjacent to Kure Atoll. Mid-term, he'll complete analysis and interpretation. And long term, they're looking at national registry nomination for it.

The Japanese mini sub is located in Pearl Harbor. A partnership of the Department of Defense, Department of Interior and a whole host of agencies are working on this. Money has just been received from the Navy to begin the short-term research, which is the location and to begin some general mapping of it. The second phase, which will begin next year, is doing some side-scan. He believed there were some bodies still existing in the mini sub. While they are going to have to look at it and definitely try not to remove it, but figure out how best to protect it. This represented one of the more regional projects that the Sanctuary Program is working on.

In summary, some of the projects that are going on at each of the sites: the Northwestern Hawaiian Islands humpback whale site and Fagatele Bay, which was more of an inventory of the sanctuary and surrounding territorial waters.”

Morioka opened for questions.

Tom remarked that there were no questions, they were being saved for tomorrow.

Simonds commented that for just that part of it. Very good, Allen.

Morioka remarked that there was a question.

Farm asked Mr. Tom if the mini sub was in Pearl Harbor or outside of Pearl Harbor.

Tom responded that he believed the mini sub, while he did not have the exact location, was at the mouth of Pearl Harbor and was the same on that was in the newspaper a while ago.

Morioka thanked Mr. Tom and called on Agenda Item 5.A.3, NOAA General Counsel, Southwest Region.

### **5.A.3 NOAA General Counsel SWR**

Feder noted that his litigation report was at 5.A.3.A in the Council's briefing report. He reported on several cases of interest to the Council. The first two cases have direct relation to fisheries in the jurisdiction of this Council.

The first is the Hui Malama I Kohola case, which is the case filed last year challenging the classification of the Hawaii longline fishery under Section 118 of the Marine Mammal Protection Act. The fishery was classified as a Category III fishery, meaning it has only infrequent interactions with marine mammals. Environmental groups challenged that classification by the Fishery Service alleging that it should be classified as a Category I fishery.

The Government, successfully defended the classification of the fisheries as a Category III fishery at the District Court level. Environmental plaintiffs appealed that decision, and in the meantime the Fishery Service reclassified the fishery as a Category I fishery in a Federal Register Notice published on August 10th.

That Federal Register Notice appears in the Council briefing book at **11.D.1.B**. That reclassification was effective on September 9th. The topic will be discussed at greater length later in the Council meeting.

The plaintiffs then filed to dismiss their appeal to the Ninth Circuit because it was no longer necessary. They got what they were seeking, which was recategorization of the fishery. They also motioned the courts to vacate the District Court's order. The Government does not object to the Plaintiff's motion.

The Hawaii Longline Association, interveners in the case, however, has actively opposed environmental plaintiff's motion to vacate the District Court's order. So those motions are pending at the Ninth Circuit level. But basically this case, for all intents and purposes, is finished with the categorization of the fishery.

The second case of interest to the Council is a new case filed by Turtle Island Restoration Network and other environmental organizations alleging that the Fishery Services' management of the Hawaii longline fishery violates the Migratory Bird Treaty Act, the Endangered Species Act, and the National Environmental Policy Act, NEPA.

Plaintiffs in that suit have asked the court to enjoin the operation of the Hawaii longline fishery. They filed a motion for preliminary injunction. That motion was heard before Judge Ezra in the Hawaii District Court yesterday. Judge Ezra took the matter under advisement. He didn't issue a ruling from the bench, but promised to prioritize his consideration of the motion for preliminary injunction.

The primary defense raised by the government to that motion for preliminary injunction is an argument that Section 305(f) of the Magnuson Act, which provides outside parties the opportunity to seek judicial relief for decisions made under the Magnuson Act, applies to this case because the relief sought by plaintiffs is closure of the fishery and the fishery is managed under the Magnuson Act.

The government argues that this is fundamentally a Magnuson Act related case and should be subject to judicial relief provisions of the Magnuson Act at Section 305(f).

Plaintiffs interestingly enough didn't bring this case under the Magnuson Act. They brought it under the Endangered Species Act, Migratory Bird Treaty Act and NEPA. So it's an interesting argument and an argument that the Court did not feel comfortable adopting immediately. It was taken under advisement.

Further down in the litigation report there were two other cases that involved Atlantic fisheries. There was an Ocean Conservancy case and an Oceana case. In those cases, too, the Government raised similar arguments that claims that were not brought under the Magnuson Act but involved fisheries managed under the Magnuson Act should be subject to judicial relief provisions of the Magnuson Act at Section 305(f).

Section 305(f) provides that challenges to Magnuson Act actions must be brought within 30 days of the action taken. So in the case of the Hawaii longline fishery, the operative regulation was issued on April 2nd of this year. That's the regulation that reopened the swordfish fishery. It's the regulation that was recommended by the Western Pacific Fishery Councils. So plaintiffs have to bring a claim within 30 days and courts are not authorized to issue preliminary injunctive relief. They can issue injunctive relief, but only after a full hearing of the case.

In the Ocean Conservancy case and the Oceana case that were brought before the D.C. District Court, the court agreed with the government's position that those claims that were not brought under the Magnuson Act were still subject to the judicial review restrictions of the Magnuson Act.

In both of those cases the D.C. District Court declined to issue a preliminary injunctive relief to the plaintiffs, not based on the merits of the arguments, but because 305(f) prevents courts from issuing preliminary injunctive relief in Magnuson Act related cases.

Another case that might be of some interest to the Council is the Earth Island Institute case that was heard by the U.S. District Court for the Northern District of California. That case involves the purse seine fishery for yellowfin tuna in the Eastern Tropical Pacific, that is the fishery that is being regulated under the Tuna Convention Act and decisions are made by the Inter-American Tropical Tuna Commission.

The Fishery Service had issued a formal finding that the international purse seine fishery there is not causing significant adverse impact on depleted dolphin stocks.

The significance of that finding was that the labeling standard for tuna product harvested in the Eastern Tropical Pacific by large purse seine vessels was changed such that the dolphin-safe labels could be used on that product even if the product was harvested in association with dolphin.

Environmental groups successfully challenged that determination at the District Court level. On October 8th, the government filed Notice to Appeal to the Ninth Circuit. So we're currently operating under an important injunction that keeps the dolphin-safe labeling standard as a somewhat stricter standard, that is that tuna harvested in association with dolphins cannot be

labeled dolphin-safe, that that might change again depending on what the Ninth Circuit decides at appeal.

Another case that is not in the litigation report is called Trans World Marine v. Hogarth. It was filed in the District Court of the Seventh District of California. That is a challenge to a denial of economic assistance to a swordfish fisherman under the Direct Economics Assistance Program for Hawaii longline fisheries that were affected by the court orders, which began in the year 2000.

The Fishery Service denied an application for economic relief by one particular swordfish fisherman, as it was inadequate information that the fisherman was an active participant in the Hawaii-based longline fishery during the 1999 window period.

The government won at the District Court level and the fisherman plaintiff appealed to the Ninth Circuit on October 4th.

Feder concluded his report and asked for questions.

Morioka thanked Mr. Feder and asked for any questions from the group. Hearing none, he called on Don Palawski for his report.

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

Palawski thanked the Chairman and Council members and invited them, on behalf of the Fish and Wildlife Service and all U.S. citizens to celebrate National Wildlife Refuge. He provided the annual magnet and story. The Hawaiian akepa was on the magnet.

Last year the Refuge System celebrated its 100th anniversary, 100th birthday. So this year in National Wildlife Refuge week the theme is Conservation and Action, a New Century of Conservation.

In the Pacific there are 19 national wildlife refuges. Ten of those refuges really are focused and their purpose is on recovery of endangered species and habitat protection. In addition, there are nine refuges that are marine refuges.

In the long term there are a set of refuges where they are learning from the past mistakes and trying to recover endangered species. But there is the opportunity to look to the future and protect the marine resources within these refuges.

It was good to hear the reports of Mr. Robinson and Mr. Pooley and Mr. Tom. The coordination with NOAA is keeping him very busy, but it was appreciated. They are looking forward to continuing to dialogue with the Council, with NOAA and to talk about these refuges and what the National Wildlife Refuge Administration Act is all about and how to operate under that act so all can continue to coordinate.

He appreciated the comments that were made about coordination with Hawaii Longline Association, this Council and NOAA on issuing the final biological opinion. It was hard work and they greatly appreciate that effort. So hopefully, over time, all can continue to have those kinds of dialogues to work through some issues that will sometimes a little touchy, in terms of what the refuge rules are versus other rules.

He wished that he could announce that they were going to acquire a lot more personnel, but they are not. He will keep trying to attend meetings and apologized for being late. Lots of activities happening all at the same time.

He announced that they were currently advertising for a new refuge manager at Midway. The former manager has departed, so they have an acting manager there. The announcement would close on October 21st. So if anyone was interested, the Midway job was available.

Another personnel announcement was what they are calling a Refuge Zone Law Enforcement Officer. The position was a new one and the officer arrived about a month ago. They are looking forward to coordinating with NOAA and the State and others on law enforcement through the Coast Guard.

Operations at Midway are continuing. Last week 1.1 million gallons of fuel were delivered to Midway. A large part of that, about 425,000 gallons, was at the request of the Coast Guard so that during the course of this fiscal year they can continue their operations on search and rescue and Medivacs, things of that nature.

They are still working at looking at how to develop a Visitor's Use Program on Midway.

At Rose Atoll, they are continuing the clean up of the Chinese longline vessel that ran aground there over ten years ago. This past summer they went out and with a contractor cleaned out a lot of the debris from inside the lagoon. There was additional metal that had washed up on the reef top that they got. Then the big task next spring is to try to get the drive train and some of the bigger pieces off the coral reef. Hopefully that will complete that job. It has been a long time in the process of trying to do that work.

The Fish and Wildlife Service has been petitioned to list the black-footed albatross. He has not seen the petition and didn't have much information on it. But if the Council members had questions, he said he would try to find out more.

His final item involved working with the Science Center on a project at Tern Island called the Monk Seal Second Chance Program. This is a supplemental feeding program for yearling seals that are thin. The objective is to get them over the hump in the first couple years of life. It's going to be logistically challenging, of course, at Tern Island, especially in the wintertime given sea conditions and everything else. But they believe it is important and are going to try to work on it and hopefully help the seals out in the process.

Palawski concluded his talk and asked for questions.

Morioka thanked Mr. Palawski and asked for questions.

McCoy inquired that in the course of Rose Atoll cleanup, he expressed interest in talking to Mr. Palawski and seeing who could do the work. He had not heard and wondered who did the work.

Palawski responded that this was a lesson learned in communication. He explained that they were in such a hurry to get things done that they did not let everyone know what they were up to and how things were progressing. Next time they will also make sure the Division of Wildlife Resources are fully informed.

McCoy inquired where the contractor was hired from.

Palawski responded that the contractor for marine debris removal was Moon Divers out of American Samoa. The vessel was from the Independent State of Samoa.

McCoy noted that Rose Island is under a co-management plan. And, as natives, they have a vested interest and would appreciate the work.

Morioka called on Ms. Simonds, then Mr. Farmer for their questions.

Simonds inquired about the petition process and if there was a deadline for decision-making.

Palawski responded that he believed that once a petition has been received, Fish and Wildlife Service has 90 days to look at the information in that petition and then look whether the information is valid and then continue that evaluation. It has one year to make a determination whether the petition is such that the species deserves listing of some type. So basically, the timing was one year from the date of petition.

Having experience with the Fish and Wildlife Service, Mr. Palawski noted, there are lots of species out there that have been petitioned and it's very difficult to meet the timelines sometimes. Also, there may be a priority setting process whereby there are some species that have been petitioned that are very close to extinction and we have to think about those species first.

That is what has been happening over the last five or six years, in terms of number of petitions received and how to deal with the large number. And habitat piled on top of that also created a backlog.

Farm inquired about any changes to the thoughts of having recreational activities on Midway.

Palawski responded that they, once again, have a contractor doing an evaluation of what a visitor service program could look like at Midway and there is still very much interest by the Fish and Wildlife Service to have a public use program at Midway. There are lots of things to

consider on how to implement that, making it economically feasible. Hopefully, there will be a visitor's use program at some point in the future.

Martin was curious about the funding for Midway, knowing it has been an issue for a couple years, and that some congressional members had pushed something through.

Palawski responded that he thought Mr. Martin's comment was a pretty good characterization, funding trying to be pushed through Congress.

Palawski continued explaining that one of the big things about Midway is that it's being maintained as a commercial airport. So it has to meet all the standards that the Honolulu International Airport has to meet. In order to meet those standards, which had to do with it being an emergency stopover for trans-Pacific two-engine jets, it takes about \$6 million a year.

FFA has now come to the table. There is a lot of maintenance and improvement besides just operation that needs to be done because it had to transition from a military style airport to a commercial airport. That means runway lights, different types of radar, tremendous change in infrastructure to meet all those standards. That is ongoing.

The Fish and Wildlife Service is encouraging others who use the facility to come to the table with sufficient funding so that it could be operated as a National Wildlife Refuge and meet the needs of the partners, whether it be the fisheries, National Ocean Service, the Coast Guard, or the Department of Defense. This is all still on the table and being discussed.

Funding appears okay for this fiscal year. However, it is year to year depending on what happens on September 30th and starting the new fiscal year.

Martin inquired about the current non-government usage of the airport, if there was regular traffic, private aircraft, or anything, using the field regularly.

Palawski responded that the Fish and Wildlife Service has a contract with Air Craft, to maintain support for the operation there. So no, there wasn't a lot of private air craft that came in. The main reason it is open and needs to have this emergency status is for situations like last January when a 777 with 340 people aboard had to land there. This is an important place to have an operation for that kind of a situation.

The Fish and Wildlife Service could probably operate Midway without that commercial airport status, but it is such a significant issue in terms of safe airline travel they coordinate it with everyone to make it work.

McCoy asked if the air craft was inbound or outbound.

Palawski responded that the aircraft was flying direct from Japan to Houston.

Morioka asked if was running some tourists, returning tourists or taking some back?

Palawski replied, yes.

Tuaumu asked about recent surveys or research at Rose Atoll.

Palawski responded work has been occurring over quite a number of years. After the shipwreck happened a series of transects were set up on the reef top because the fuel spill caused the death of the coral on the reef top. The site has been monitored every couple of years.

The monitoring would be before the removal of the ship, and then afterward. It is hoped that after all the metal and debris is gone, the natural recovery will take over and over a number of years the monitoring will document the recovery of the reef.

Tuaumu noted that recently their legislature asked about the latest reports from Rose Atoll. He asked Mr. Palawski's advice on bringing Rose Atoll to American Samoa Government administration.

Tuaumu explained that Rose Atoll is very important to the people of American Samoa and there are legends about how American Samoa got Rose Atoll.

Palawski responded that he was not aware of the activity in the legislature and agreed that Rose Atoll is a very important place to the American Samoan people. They would like to communicate on coordinating that. He noted that it is harder to protect these places.

For instance, there are sailboats that have electronic nautical charts that show Rose Atoll being in New Zealand, not American Samoa. There is a lot of work to do to make sure those places are protected.

Morioka asked that Mr. Palawski repeat comments he had made during the Marine Protected Area Advisory Committee Meeting on Maui with regard to the subtle differences between the National Wildlife Refuge Act and the National Marine Sanctuaries Act. He felt it was important for the Council members to hear.

Palawski explained that for the National Wildlife System, when a refuge is established and it's established for a particular purpose, the refuge is closed to uses until such time that they are opened up through a public process.

The Sanctuary process is working here. The Northwestern Hawaiian Islands Sanctuary Designation Process is working on its goals and objectives and what those will be for the Sanctuary. Whereas, on the Mainland, sanctuary activities are open until somehow prohibited through regulations.

Morioka then asked of Allen Tom, if the Northwestern Hawaiian Islands are still open until closed.

Tom responded that the Northwestern Hawaiian Islands was a Coral Reef Reserve set up by the Executive Order and going through the Sanctuary Designation Process. So at this time it was still open, quote-unquote.

He added that Mr. Palawski was correct, the Sanctuary Act is different from the Fish and Wildlife Refuge in that everything is basically allowed unless specifically prohibited in the management plan. That is what is being developed for the Northwestern Hawaiian Islands.

Morioka thanked Mr. Palawski for the clarification and asked for any more questions. Having none, he called on Ms. Case of the Nature Conservancy. He extended the Council's appreciation for the cooperation that Ms. Case has provided through the years and welcomed her to the meeting.

#### **5.D. Report from the Nature Conservancy**

Case thanked the chairman and the Council for the opportunity to brief them on the Conservancy's marine work. She introduced herself as the Executive Director of the Nature Conservancy of Hawaii. She also introduced Kim Hun, who is the director of the Marine Conservation Program for the Hawaii program.

The Nature Conservancy is an international nonprofit conservation organization. They work in all 50 states in the U.S. and about 30 countries worldwide, including Latin America, the Caribbean region and the Asian Pacific region and have been doing conservation work for the last 50-plus years.

Their mission is to preserve the plants and animals and natural communities that represent the diversity of life on earth by protecting the habitat, the lands and the water they need to survive. They are a very science-driven, on-the-ground conservation organization. They take a non-confrontational approach and try to work with all partners who share common goals, public and private. They have been developing programs in the Pacific for the last 10 or 15 years and have staffed offices in Micronesia, Palau, Solomon Islands, Papua New Guinea, Indonesia, Australia and other places.

They have been doing terrestrial conservation in Hawaii since the early 1980s and just recently started up a marine conservation program for the Main Hawaiian Islands. The program is in the early stages and off to a good start. She then invited Kim Hun to give an overview of the marine conservation work in Hawaii.

Hun said her talk would be about the Hawaii program, a fairly young program that has been around for almost three years now. They have four staff members including three in Honolulu and one on the Big Island. They are very place-based, similar to the terrestrial program.

Their four priorities for the coming years are:

- Marine Gap Analysis, which was mentioned by the State. They are working with the State and the folks at NOAA;
- the Heritage Program gathers information on where the best resources are throughout the State. This is the first time this has happened for marine resources. They are very involved in the terrestrial side of the Heritage Program and are now supporting their work in helping with gathering existing information and also going out to get new information. Their interest in that is to develop the strategic plan, which again will be focused on the most biologically important sites in the Main Hawaiian Islands, looking at what are the threats to those places and what are the strategies that they and their partners will use to protect those places and the resources;
- Most of the focus over the last two years has been developing strategies for community-based conservation. They have been very focused on the Big Island, where they are working very closely with the State Division of Aquatic Resources and with the local community focused on developing what's been called the Coast Watch Program. The Coast Watch Program is working with the community on outreach and education to users of the resources so that they know what the existing laws, rules and regulations are. Also setting up a Community Surveillance Enforcement Program where they are working closely with the enforcement agencies in the State to make sure that the existing rules and regulations are enforced. They are working with the community and the scientific community to monitor the resources to see the changes over time. Through the strategic plan they will be looking at where they will expand that program to other communities throughout the Main Hawaiian Islands.

They are working on building a network of community projects. So working with local communities throughout the Main Hawaiian Islands who are doing marine conservation, bringing them together to share lessons learned and build capacity on a larger scale throughout the State.

One of the projects that they have been involved in from the beginning of the program has been an Invasive Alien Algae Removal Program. This is a person in the midst of many, many tons of alien algae. They have removed about 70 tons, focused in Waikiki. It has been a big volunteer outreach and education program working with the Aquarium and the State and other folks to manually remove algae.

They have developed a mechanized removal device system, affectionately known as the super sucker, which is a giant vacuum to remove algae. They will be testing that soon in Kaneohe Bay and working, again, with the State.

In Kaneohe they will be setting out plots to plot out plants, native urchins, which in initial tests seem to prefer the alien algae over native algae. Once it is removed they will see if the native urchins can control it. And in the invasive species side of the work, working with the State on implementing their invasive species plan for marine work, and focus on early detection and rapid response.

They are working with local communities to help train them to identify invasive species when they are out monitoring so that they can get a handle on them before they become overwhelming in certain areas. For example, alien algae on the Big Island, helping communities to be able to identify it so when it comes, it can be removed and it won't be as widespread as it is, for example, in Waikiki.

- Lastly, they are looking at ways to fund the kinds of initiatives for the long term. They have been very fortunate to be working with NOAA and really appreciate the support over the last three years for the program. They are looking at long-term sustainable financing mechanisms for marine conservation in the Main Hawaiian Islands, not just for the Nature Conservancy but for all the organizations and communities that are doing good work here.

They have helped set up a voluntary donation program with the dive and snorkel industry on Maui and the Big Island called the Reef Fund: the more you give, the more you get back.

This is a program where the operators themselves work with their clients. So if someone goes out to go diving, say, in West Hawaii, then the dive operators solicit donations up to any amount, but starting with \$5 donations. This gets folks into this reef fund that would then fund conservation activities in West Hawaii by various organizations, not just the Nature Conservancy.

We are also looking at ways to broaden that initiative to work with other industries which are dependent upon good marine resources in Hawaii.

Hun concluded her talk and asked for questions.

Morioka asked the Council members for questions.

Martin asked Ms. Hun about the status of the Nature Conservancy's involvement in Palmyra, in particular, construction projects coming up and collaboration with the University of Hawaii.

Hun responded that the Palmyra project is actually not part of the Hawaii program. It is a national project with the Nature Conservancy, whose director is Nancy **McKinnon (phonetic)**. She was one of the key people involved in the acquisition at Palmyra.

The Conservancy is a close partner with the Fish and Wildlife Service at Palmyra. They own the main island at Palmyra, and Fish and Wildlife Service has the outlying islets.

In looking at what is the best long-term use for Palmyra, there is wide agreement that a research consortium -- it would be a fantastic place to do a research consortium. So they've been developing the research consortium there now. Nine research partners are going to be headed up by the University of Hawaii. The partners include: the Nature Conservancy; University of Victoria at Wellington, New Zealand; Fish and Wildlife Service; UC Irvine; UC Santa Barbara;

Scripps; Stanford; and the American Museum of Natural History. So they've all gotten together and are committed for the first three years to a research consortium and have funding to build a research station there which is under construction right now.

While it is not part of the Hawaii program it may be in the future. It is not really affiliated with any state, it is a national project.

Martin asked if there were intentions to continue the limited recreational activities that were on Palmyra or will the focus be exclusively on research.

Hun deferred to Mr. Palawski.

Palawski responded that when the refuge was established through the NEPA process there were compatibility determinations for recreational fishing, which are still in place.

Under the 1997 National Wildlife Refuge Improvement Act is a process called Comprehensive Conservation Planning. Palmyra will be going through that process in the near future, which includes seeking public input, going through NEPA, and all of the steps. All of those things will be considered again now that things are different. There's a whole host of people interested in Palmyra. But as of right now, the recreational fishing, for instance, for bonefish, that was covered under the original designation is still in existence.

Martin noted that the EEZ around Palmyra is a very important EEZ for the industry based here in Hawaii. He asked that this be passed on to folks who actually run that portion of it for the Nature Conservancy and U.H. and that it would be appreciated if the Council were kept apprised of the activities. It is an important component of some of the work that the Council does.

Case replied that they would love to work closely with all the folks in NOAA on this. The research consortium would be a great venue to look at. The research projects will be focusing on marine issues, terrestrial issues, climate issues, and it would be a good opportunity for interface.

Duenas remarked that he was glad the Conservancy had a representative on Guam, Trina, a local resident. He also appreciated the collaboration and transparency of all the issues and hoped it would be continued, as well as the work on Guam.

Morioka asked for further questions.

Simonds thanked them for coming and hoped that they would be able to work together on community projects. The Council is going to be working on archipelago ecosystem plans that will fit nicely with their project.

Morioka also thanked Ms. Case and Ms. Hun for their presentation and applauded their collaborative and non-confrontational style and looked forward to working with them going forward.

Morioka called on Paul Dalzell, Council staff, to provide an update on the State Department's report.

### **5.C. State Department**

Dalzell referred to the document in the briefing books in section 5.C.1. The memo from Bill Gibbon-Fly to Ms. Simonds gives a brief summary of various activities, meetings, conferences that have been initiatives that are important to the Council from an international fisheries perspective:

- The first part of the memo was taken up with all Inter-American Tropical Tuna Commission Annual Meeting, which was held in mid June in Lima, Peru. At that meeting the Commission adopted a multi-year plan for 2004 to 2006 for the conservation and management of yellowfin and bigeye tuna in the Eastern Pacific Ocean. This plan applied to both purse seine and longline vessels fishing in the EPO. In this regard the Commission agreed to a six-week closure for all tuna purse seine vessels in the EPO and each country must implement the purse seine alternate in one of two alternative periods; either the 1st of August through the 11th of September, or the 20th of November through the 31st of December. Each country was to have notified the IATTC Director by July 15th with the data of the closure for its fleet.
- With respect to longline vessels, the Commission set limits on annual catches of bigeye tuna for the four major fishing fleets as follow:
  - Japan, just over 34,000 metric tons;
  - Korea, 12,500 metric tons;
  - almost 8,000 metric tons for Chinese Taipei, aka Taiwan;
  - China, 2,600 metric tons.

This came up in Standing Committee the other day about limits for bigeye. There was some concern that China and Chinese Taipei or Taiwan weren't subject to these limits. This report makes it clear in fact they were.

Catches by other countries are limited to the levels of harvested in 2001. There was more discussion of this later in the week in the pelagics part of the agenda and how it applies to the Western Pacific Council and how it applies to U.S. longline boats fishing in the Eastern Pacific.

- The Commission will review these measures at its annual meetings in 2005 and 2006. All the resolutions adopted by the Commission at its meeting can be found at the IATTC website, which is [www.iattc.org](http://www.iattc.org), and the '05 meeting will be held in Spain.
- There's the FAO technical consultation on fishing capacity, illegal, unreported, unregulated fishing. FAO holds a technical consultation to review the status of implementation of the international plans of action on fishing capacity, illegal, unreported

and unregulated fishing, sometimes known as IUU fishing. That was held in late June in Rome. A report of the meeting can be found on the FAO website, [www.FAO.org](http://www.FAO.org).

- There was a meeting held in Japan for compliance with MHLCT in Western and Central Pacific Fishery Commission Preparatory Conference resolutions on fishing capacity. In fact, Bill Robinson attended that meeting and has provided a more detailed summary. It will be addressed again in the Pelagics part of the agenda.

Japan hosted this workshop in mid July to address the issue of rapidly increasing fishing capacity in the Western and Central Pacific region. Much of this increase has occurred despite the adoption of two resolutions negotiated in 1999 and in Prep Con in 2002. The Western and Central Pacific Fisheries Commission urged restraints of these fast and efficient fishing fleets. This applies both to longlines and to purse seiners.

The Sapporo meeting produced a recommendation for the upcoming meeting of Prep Con that would remove up to 23 large tuna purse seine vessels from the Western Central Pacific fishery by scraping or by some other means. The focus of the recommendation is those vessels that have been constructed or otherwise introduced into the region since the adoption of earlier resolutions. The details of the plan remain to be worked out.

One of the more important of the resolutions was the Palau arrangement, which capped the number of purse seine vessels somewhere about in I think 2004 or 2005.

Upcoming meetings.

- There's an FAO Technical Consultation for International Guidelines Ecolabeling of Fish and Fishery products from capture fisheries. That will be in late October.
- Then of equal interest to the Council, is another FAO Technical Consultation On Sea Turtle Conservation in Fisheries. This is to be held in Bangkok in late November, beginning of December, and is a follow-on from the expert consultation that was held in March in Rome this year, and will also look at the reports of the Bellagio Conference that was held in Bellagio, Italy in November last year.
- Where all these threads will come to intersect is at the FAO COFI meeting, Committee on Fisheries meeting, which will be held in March in Rome next year. It is likely that an International Plan of Action for Sea Turtles as the end result of all of these efforts at the COFI meeting.
- The Seventh Session of the Preparatory Conference of the Western and Central Pacific Fishery Commission and the first meeting of the Western and Central Pacific Fisheries Commission will be taking place in Pohnpei in the first half of December. This will come up on the agenda in Pelagics later this week, where the agendas for both Prep Con and the first inaugural meeting of the New Fishery Commission will be reviewed.

That concluded Bill Gibbons-fly report.

Morioka asked for questions, hearing none he called a five-minute recess.

(Brief break taken)

Morioka called the meeting called back to order. He asked Tony Beeching to update the group on the U.S. Commission on Ocean Policy.

### **5.E. US Commission on Ocean Policy**

Beeching greeted the Council and thanked the Chairman.

The Ocean Policy document is described as a pre-publication copy, but for all intents and purposes it is the final. The text shouldn't be altered, at least according to the web page. The reason it was brought out as a pre-publication copy is because they didn't have time to produce the final, polished, colored draft version.

The Council should have a CD that was burned to save the hassle of trying of downloading a 540-page document. You'll also find an **organigram** showing the organization of the proposed New Ocean Commission Council. The Council was also provided an informational, support document.

Beeching proceeded through the various sections of the document:

- Section 2 is a synopsis of the Executive Summary. The Executive Summary is about seven pages in the original document. It is now three times the length, about 24 pages.
- Section 3, these are critical actions recommended by the U.S. Commission on Ocean Policy.
- Section 4, these are extracted references for the Council's convenience from Chapters 19, 20 and 21. They are the ones that probably will most affect the Council directly.
- Section 5, are the significant changes that he noticed in his review of the document. And while he has not been through the entire document, he has been through the chapters that were reviewed when the draft came out in May: Chapters 4, 6, 18, 19, 20, 21 and 22.
- Then finally, an appendix, which are the comments that were provided by the Council on the draft document back in May.

Beeching showed a proposed organic structure for the proposed new National Ocean Council. The new structures were in blue. Fairly high profile, the President's position is center, top. There's an advisor directly linked to the side, to the president. The Council is amongst the Independent Ocean Advisory Commissions or Councils, with a little dotted line coming in. The Council is really is the New Ocean Council, which looks very similar to the Council and has feed-ins from various advisory bodies.

He was not able to locate NOAA precisely on the chart, but throughout the text there are references to NOAA being represented on the various committees.

His overall impression was that the majority of the recommendations were sensible. It will function very similarly to a Fishery Council but at a different level. He believed there would be some redundancy in terms of decision-making, et cetera.

Although the rhetoric within the document supports the bottom-up approach, throughout the document the real substance is top-down.

With the addition of more federal agencies there is a likelihood of more confusion, turf battles and political positioning, and this could really set the Council back quite a way.

There are some examples of recommendations which were very good and reasonable. The first is to double ocean research funding. In the last 25 years research funding has dropped from seven percent to 3.5 percent of the total federal research budget. The Ocean Commission recommends that this be rectified and that the budget returns to those 25-years-ago levels, the percentage.

Linked to that bullet, it's mentioned that there is no national network monitoring oceans and coastal waters. They draw attention particularly to the need for a national program for social science and economic research, better mapping and charting and better dissemination of informational products.

It is also recommended that Congress should amend the Marine Mammal Protection Act. This is to say that interactions should be only those that have a meaningful effect on marine mammal's life history, on survival or reproduction, rather than any slight interaction.

There is a new recommendation, something that the Council has been pushing for a long time. It supports the idea that innovative new gear should be promoted, both for the own fisheries and then to be exported overseas where this could, for instance, reduce interactions with protected species or reduce mortalities.

Another new recommendation says that NOAA should work more closely with State agencies. Again, that's something we would probably approve of.

There were recurrent themes throughout the document:

- One is the explicit inclusion of certain animal groups e.g. sea turtles and seabirds. This gives them a high profile in the document throughout.
- It moves away from funding requests to Congress. In the first document there were a lot of comments saying, Congress should fund this and Congress should fund that.
- Also, there's a tendency to place the National Ocean Council as the lead authority. Some examples include:
  - o The first example, where it previously had said, implementation of the Endangered Species Act, particularly for anadromous species. The same

recommendation says, implementation of Endangered Species Act, particularly for anadromous species and sea turtles.

- This is an example of where before they would have said in the old 19-7, Congress should increase funding for Joint Enforcement Agreements to be implemented; now it says, the National Marine Fisheries Service should expand its use of Joint Enforcement Agreements.

And again, that's a theme throughout, wherever they referred to Congress either increasing, fully supporting, all of those references seem to have vanished. He surmised that the agencies are expected to do more, but without any extra funds.

In the same recommendation, the numbers changed, but the recommendations are the same for each. The first reference says, in the associated bullet, interagency teams should include representatives from...

Then the new bullet says, interagency teams, under the oversight of the NOC Commission on Ocean Resource Management, should include representatives from...

But again, that's a theme throughout the document.

These are references. He referred the Council to a particular section of the supporting document, which is Section 2, Synopsis of Executive Summary, if they wanted to look at the text. These are a group of recommendations clumped together because they are supposed to strengthen the Regional Fishery Management Council system to clarify jurisdictions.

- The first of these, fishery management councils should be required to rely on the peer-reviewed advice of their Scientific and Statistical Committees, particularly in setting harvest levels.

It should read, in particular, an RFMC should not be allowed to approve any measure that exceeds the allowable biological catch. Our SSC has problems with the use of the term "allowable biological catch." They see that as a direct link to ITQs.

- Second bullet, because of their importance in the process, SSC members should be nominated by the Fishery Management Councils, but appointed by the Administrator of NOAA and their credentials and potential conflicts of interests should be vetted by an external organization.

So if we look at a bottom-up approach and the importance of regional development, it's quite unfortunate if the appointment of SSC members is through NOAA.

- Third, an expanded research program is needed that involve fishermen, where possible, and is responsive to manager's requirements. This is an excellent bullet, and he believed most of the Council would support that.

- Membership on the RFMCs needs to be diversified and new members should receive consistent training in the often arcane use of vocabulary and policies involved in U.S. fishery management. The reference in the text expands on this and says that, if a member hasn't received training within six months, then that member should not be allowed to vote.
- Congress should amend the Magnuson-Stevens Act to affirm that RFMCs are authorized to institute dedicated access privileges. For "dedicated access privileges" one can read ITQs.

### **5.F. SSC Recommendations**

The SSC basically decided that they wanted to reiterate the three critical recommendations that they had at the last meeting.

- The first, with respect to Commission Recommendation 19-11, is similar to the idea that if you have a shared fish stock, a shared fishery, between two councils, what the SSC would like is for some sort of framework to be put in place so that those councils can work together to achieve combined management goals.

What the Ocean Commission recommends is that NOAA would appoint one of those councils as the lead agency and they would go forward on the management process.

- Two, here the SSC is opposed, or concerned at least, regarding the use of allowable biological catches. This appears to be a way of getting through to ITQs in the backdoor. They don't think this is the only way forward. It's one of many tools. So they're opposed to the way they feel it is being forced upon them.

That is the implication in some of the recommendations in the document.

- The third recommendation, if the Fishery Council hasn't completed an FMP or FMP amendment in a timely manner then the fishery could just be closed, that's the idea that comes out of the Ocean Commission report.

The SSC is quite opposed to this. In their experience, it has hardly ever been the direct fault of the Council if the document hasn't come out in a timely fashion. So that they feel this is extremely draconian.

Beeching's last slide summarized the letter that the Council sent to Admiral Watson following the review of the draft document.

What the Council says is basically that after reviewing those chapters, 4, 6, 18, 19, 20, 21 and 22, they believe the structure in place is competent and that the fishery management councils are the best way to go forward. They make three points:

- One, insufficient funding for stock assessments and fishery research at the federal and state level is a crucial point. There's just not enough money there to get the basic science done;
- There is a lack of planning and follow-through by NMFS;
- Then finally, an overbearing and centralized NMFS Washington bureaucracy. For two decades, the Councils have asked NMFS to delegate more authority to the Regional Administrators, but this has not happened. That was the basic meat of the text of the letter that the Council sent out in the last draft.

Morioka thanked Mr. Beeching and asked for questions. Hearing none, he called upon Dr. Severance to review the SSC recommendations

Severance asked if the Chairman wanted him to read the recommendations again.

The Chair responded that Mr. Beeching would put the recommendations up again and ask if Mr. Severance could fill in the thought process behind the SSC recommendations.

Severance responded that the first recommendation will come up again during Pelagics. This again was because of the implications of the IATTC stuff. But of course, the purpose behind this and the intent were rather obvious.

In particular, one of the things that the SSC noted about this report -- and remember, the Ocean Commission Report refers to many things other than fisheries, many, many things other than fisheries. So from the perspective, parts of the report seemed to be quite naive with respect to fisheries in the Western Pacific Region.

He shared his personal view point, rather than the SSC as a whole, the Commission Report compliments both the North Pacific Council and the Western Pacific Council for having well-managed fisheries. Then goes on to speak only to the North Pacific Council in a way of justifying the support for quota management, and it says nothing else about us as a Council.

Secondly, one perspective that was voiced by three different SSC members is that some of these recommendations appear to be a fix for East Coast problems rather than Pacific problems. In particular, the New England Council and the failure of the New England Council, historically at least, to abide by its SSC recommendations.

Next recommendation: Again, from the SSC's perspective, quota management is only one of a number of tools and it is extremely difficult in the region when it is very difficult to get really reliable stock assessments from both fishery dependent and fishery independent data.

The next one: Finally, shut down of a fishery by Secretarial action because while the fishery is active -- because an FMP amendment has not been completed in a timely manner, this was unnecessary. It was like holding a hammer over the head of both the councils and the regional organizations and NMFS itself to make progress on what are sometimes rather difficult

issues, particularly because of the requirements for a full NEPA process and the time lines for that. So that is partly what is behind that comment.

Morioka thanked Mr. Severance and opened the discussion for questions.

Ebisui asked with respect to the first bullet item on the hard copy, the last item under that is, Congress should amend the MSA to affirm that the councils are authorized to institute dedicated access privileges. He wanted to know what the thinking was behind that particular recommendation.

Beeching responded that as one of the recurrent themes in the document, they're really pushing for people to use ITQs.

Severance commented that he believed the moratorium on ITQs that was imposed two or three years ago has now expired. He asked Mr. Feder to comment.

Feder agreed and added that Mr. Robinson reminded him that it expired October 2003, a year ago.

Severance added that ITQs are very controversial. They can work in some fisheries. And, speaking personally, ITQs might not work so well in other fisheries. There are some issues of equity when ITQs are imposed.

He continued to describe how one SSC member commented that this appeared to be a sanitary term to substitute for ITQs because of all of the kind of baggage that the word has now gained from people either promoting them aggressively or being opposed to them aggressively.

Ebisui asked Mr. Severance to confirm that this is basically the same package being renamed and being put out there,

Severance confirmed that thought and defined ITQs to be individual transferable quotas, whereas, IFQs, individual fishing quotas, that may or may not be transferable. He further explained the thinking behind that is if people in opposition to ITQs view this as a taking of a public resource and privatizing it and giving at least temporary, not permanent, but temporary, rights in it, and there is a whole body of literature on rights-based fishing that sort of supports that.

Ebisui asked Mr. Robinson to comment.

Morioka called on Mr. Beeching to comment first then Mr. Robinson.

Beeching commented that in the associated text with these references it said explicitly ITQs.

Ebisui expressed his discomfort when one type of management scheme is being promoted or highlighted over all else.

Morioka remarked that it was the gist of the SSC concerns and the Chair's concerns also with regard to this whole process.

Robinson commented that in his experience, early on when some of the councils were actively pursuing ITQs there was active resistance, a lot of it coming out of New England and some of it coming out of other places, political resistance. So part of what we are seeing is an attempt to overcome that resistance and make sure that ITQs are one tool in the toolbox of management tools.

It is not the only tool, nor the best tool. There are some fisheries where it doesn't fit very well. For example some shrimp fisheries and some crab fisheries that are managed by size and sex is where it doesn't really make much sense to have an ITQ type program, and there are likely other fisheries, too.

He added that he thought there was political resistance to even allow ITQs to be used at all and that this was an attempt to overcome that resistance and say, hey, ITQs are one tool of many that should be available to a Council if the Council chooses to use it.

Duenas shared the observation that in going through the document it lacked transparency as far as the process which it created. Secondly, a lot of scientific information and background comes from Woodshole in the New England area. He suggested that there be more involvement in the document come from the Pacific region.

Morioka thanked all and asked for further comments or questions.

Beeching mentioned that he did take a section out from the presentation made to the SSC, and that was an abstract from the acknowledgements in which they were very thankful to Mr. Panetta and the Pew Commission for their ongoing support in the process. It really seems like they were involved in the process from the beginning, right through the very end and probably still involved in it now. Of course, one can't help but wonder about their objectives.

Morioka explained that the Chair took the liberty of having the SSC report at this point where it could be discussed for the sake of congruity. The Council will vote on this matter under Program Planning, Agenda Item 12, on Friday.

He moved on to the Enforcement and VMS section of the Council agenda of its 124th meeting. He asked Sean Martin to take the lead.

## **6. Enforcement/VMS**

Martin began with the first agenda item, Commander Wilson to present U.S. Coast Guard activities.

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

Wilson referred to the Coast Guard report at Tab 6.A.1. The report covered the Coast Guard fisheries enforcement from May through the end of September this year.

During this period there were had five suspected foreign fishing vessels encroachments in the Howland/Baker EEZ which they responded to. Unfortunately, no illegal activity was found after arriving on scene.

The Coast Guard also responded to a report from a U.S. fishing vessel of foreign longline gear deployed in the Kingman/Palmyra EEZ. They flew on that, could not detect the gear and no illegal activity was detected either.

Scheduled aerial patrols of the EEZ surrounding the Main Hawaiian Islands, Kingman Reef, Palmyra Atoll, Guam and the Northern Mariana Islands were conducted. But again, no illegal activity was detected.

After receiving numerous reports from U.S. fishermen in the Northern Pacific regarding the sighting of foreign vessels engaged in illegal large large-scale driftnetting, the Coast Cutter Healy was directed to patrol the area during her transit from Japan to the Arctic Ocean. Although numerous foreign fishing boats were sighted outfitted for squid jigging, no vessels were sighted that were rigged for driftnetting.

Air Station Kodiak flew a number of missions in the area, and that was only on the northern edge of the 14th District's area of responsibility. They were passing sighting information to the People's Republic of China law enforcement vessel, ZHONG GUO YU ZHENG No. 201. No vessels were found engaged in illegal activity, though low visibility often hampered the search efforts.

It is significant that the People's Republic of China fielded an enforcement vessel, and that really presents a significant step in the right direction.

Closer to home, the Coast Guard Cutter WALNUT conducted a law enforcement patrol south of the Main Hawaiian Islands that focused on the domestic longline fleet and most of the violations that were detected were minor in nature; things like floats not properly marked or official numbers not properly displayed. However, one vessel was found and another cited for having short floatlines.

The Coast Guard Cutter Kukui conducted a law enforcement patrol in the Northwestern Hawaiian Islands. Boarding the bottomfishing vessels she encountered along the way and reporting on the surface activity in the area. The surface activity was very light and no fisheries violations were detected.

In June a C-130 was used to transport three NOAA/NMFS personnel to the Island of Kauai to assist a monk seal with a hook embedded in its digestive tract, which was heard about earlier. The monk sea was transported back to Oahu for surgery. After the monk seal had recovered, a C-130 was used to transport the monk seal back to Kauai. On the return flight to

Oahu, we transported a deceased young whale back to Air Station Barbers Point for further non-Coast Guard transport back to NOAA facilities in San Francisco.

During the last Council meeting the Ecosystems and Habitat Advisory Panel expressed their concerns over the live firing exercises being conducted south of Guam and requested additional information on the subject.

Coast Guard units in Guam do conduct live firing exercises in Exercise Area Whiskey-517, as do units from the Navy. An AC5 squadron there uses this area extensively.

However, getting back to the Coast Guard, the largest caliber weapons used by the units are .50 caliber machine guns and 25 millimeter machine guns to shoot at floating targets. The rounds, once they enter the water, fall harmlessly to the bottom.

He thought there was some concern that they were lobbing rounds in and these were exploding on the reef and causing damage there. The depths of water being fired in are upwards of 2,400 fathoms to a depth of about 6,780 fathoms, pretty deep water.

They continue to maintain a great working relationship with NOAA Fisheries Enforcement, special agents here in Hawaii, Guam and American Samoa.

That concluded his report and Wilson asked for questions.

Martin thanked the Commander and asked for questions.

Duenas thanked the Coast Guard for deployment of the SEQUOIA in the region. Regarding the live firing exercise, he wondered if the Coast Guard and the Navy could somehow meet with government officials and find a better place for these live fire exercises.

Duenas also expressed a concern the recovery of the marine debris caused by the targets. He suggested that if using drums, a float be anchored to them so they could be recovered.

Wilson responded with regards to firing in a different area, that he wasn't sure how long these areas have been designated as a training area and was not sure if it was possible to select another area. He said he would have to look into it further.

Wilson also offered to look into rigging the usual 55-gallon drum targets with something to keep them afloat.

Martin asked for additional questions.

McCoy inquired if either the Commander or Mr. Duenas had a drum disposal problem.

Duenas said they use them for barbeques.

McCoy asked the Commander what the flight path and length of the path was on the .50 caliber.

Wilson was not able to recite what the distance was but offered that during firing a separate boat does a visual surface inspection of the area to make sure nobody is down range, an aerial inspection is done and the area is looked at via radar. A very safe range is maintained. Also, when using 55-gallon drums, these drums, if they have been used for lube oil products, have been thoroughly cleaned out so no petroleum products are put into the ocean.

McCoy wanted to clarify if adequate warning was given during the exercises.

Wilson responded that the Coast Guard does put out a warning on Channel 16 VHF FM, but some of the boats don't have VHF to monitor.

McCoy asked if this was a frequent event.

Wilson responded that the two boats on Guam each require semi-annual exercises, which amounts to four exercises a year.

There is also the 110, the same semi-annual requirement of the buoy tenders. So there are eight exercises annually, minimum.

Martin asked for any other questions.

Duenas made an additional comment that the Fishermen's Cooperative has a policy encouraging the fishermen not to drop soda cans, beer cans or beer bottles into the water. So it's common practice to keep the environment clean no matter what size of debris, whether it is reusable or not. Other groups are encouraged to have similar practices.

Martin thanked Mr. Duenas and expressed an appreciation of the industry in Hawaii that continues to enjoy a good working relationship with the Coast Guard.

There are times when the vessels do sea trials they're very accommodating in helping accomplish that without having any complications offshore and also more recently some Homeland Security issues related to port security have created a couple problems that the Coast Guard has been very expeditious in resolving.

Martin requested additional questions. Having none, he called on Judy Fogarty.

## **6.B. NMFS Activities**

Fogarty explained that their presentation would be in three parts as was done for the prior day's committee. Special Agent Friel would talk about the technology workshop and the things being looked at for Northwestern Hawaiian Islands Sanctuary Reserve situation. Special Agent Jeff Pollack would talk about some cases and summarize some of the things learned in the last quarter that impact their office and the work of the Council in general.

Friel introduced himself as Special Agent Tom Friel with NOAA Fisheries Enforcement. His current assignment is with the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve.

The mission in the Northwestern Hawaiian Islands is complex in that it requires surveillance and enforcement in a remote area. Workshops in May and July this year provided insight on the types of technologies that could be used to assist in this complex mission.

Friel shared the following topics and pictures in his presentation:

- The NOAA VMS system is a tool used to monitor, control and manage fisheries. It provides vessel positioning and its compliance with fishery management rules and regulations. Each tool is geared to specific fisheries.
- The ship sends out a signal received by a satellite, sent down to earth stations. The earth station monitors location and status, which is used for search and rescue by the Coast Guard. The system will automatically generate potential violators and will send information to the GRCC, the Coast Guard, and to the NMFS Office. This information could also be sent to pagers and cell phones. It is utilized by the Coast Guard on patrols and on SAR missions. It provides greater coverage, helps with time and area restrictions and provides documentation for evidence and prosecutions. The cost is reasonable and provides flexibility, increases capacity and capabilities. In the future it will be linked with satellite imagery and radar sat capabilities.
- The Ghostnet project consists of government entities within NOAA, airborne technologies, and universities in Alaska. They look at ocean modeling, remote sensing, airborne sensing, buoy development and deployment, as well as marine debris problems. Various types of cameras and imaging, especially infrared, provide more capabilities in finding the source the marine debris.
- Some of buoys were deployed utilizing similar capabilities, like the VMS system, which is IMARSAT.
- Two-way communications that is solar-powered, inexpensive, helps in showing coral damage, wildlife entanglement and other issues of marine debris.
- Tracklines up at Kure Atoll in the Northwestern Hawaiian Islands are put out by some of these buoys to assist scientists in the removal of the marine debris. The buoy here sends up information to the satellite, sends it to airborne. A four-way communication between airplanes, UAVs, satellites and the ships do the work.
- Bill Pichel from NOAA NESDIS talked about vessel detection and ocean parameter monitoring using radar. Images produced by the system were shown. Taken both day and night to help track vessels and showed how the radar works with the Ghostnet projects.

- A picture of hauling marine debris in the Ghostnet project was shown.
- An image of the U.S./Russia maritime border showed an accumulation of vessels on either side of the borders. The same technology is helpful in remote areas, like the Northwestern Hawaiian Islands, to see what boats are out there, are they transiting, are they lingering or are they fishing. Radar is also helpful in monitoring the high seas driftnet fisheries.
- Haru Matsumoto from NOAA and the University of Oregon talked about some passive acoustic monitoring. The sonar and SOSUS type buoy systems there are both cabled for electricity and battery-powered. Some of them moored and some of them not. The various ways of obtaining data allow one to see who is in what areas of the sea up there.
- A hydrophone deployed from a ship up in the northern part of the Continental U.S. on the West Coast was shown. Signals are sent from the buoys up to satellites and back down to the ground station, very similar to other signals sent from VMS type receivers and transceivers. There are various types of hydrophones which are cabled for electricity or powered by other sources, such as solar.
- RADARSAT, which is a Canadian-based satellite, is capable of sending information to check vessels across the oceans. This capability also helps in finding oil slicks, detecting ships, monitoring atmospheric and ocean changes, not just in enforcement, but in science. An ongoing theme throughout the Enforcement Technology Workshop was how to work together to share information and costs of these kinds of assets once they are in place.
- Ship detection utilizing the radar was shown with a schematic of the various uses of satellite imagery and radar imagery. Other uses include oil spill mapping and ship detection, which is critical. It has both day and night capabilities.
- Unmanned aerial vehicles are manufactured by Boeing. Lower in cost than some of the other drones, they have long endurance capabilities and are relatively easy to use compared to some of the larger ones. They are portable and have temporary launch capabilities off a catapult, trucks, or ships. The recovery systems can be similar.
- A ship-based retrieval concept was shown
- A picture of long-ranged, low-cost UAVs was shown.
- The Global Hawk has longer range, higher altitude and speed, but is cost prohibitive and requires a bigger crew to operate it. These were used in the Gulf War. The Global Hawk is able to go over the Northwestern Hawaiian Islands with a revisit time between two and six hours to cover the whole area. There is a difference in size,

increased needs for conservation personnel, and for operating personnel. They can work off satellites and ground stations.

- A picture of the imagery taken with the Global Hawk was shown. This technology can zoom in to show an ID of the vessel and what is happening on it.
- The information on Global Hawk was provided to promote work among various agencies and cost sharing by utilizing the same technologies. Around-the-clock surveillance is helpful in law enforcement, as it is in other areas of the maritime domain. The Coast Guard is working on their own program to put together new UAVs on their fleets.
- More conventional aerial and surface platforms were discussed in the Technology Workshop including various types of aircraft with different capabilities and different ranges. A representative from Guardian Marine Fast Patrol Craft talked about the Coast Guard's C-130. The C-130 has the capability to run all the way from Kauai to Midway and return without refueling.
- A retired gamefish agent talked about how these technologies were used in Operation Fisheye last year in California. Operation Fisheye included the Coast Guard, Customs, the Park Service, and various other agencies. The objective was to see how to detect violations using various technologies. He showed one of the images which was captured off one of their harbors up in Northern California showing some vessel detection.
- Satellite imagery allowed the various agencies utilizing these technologies to find violators for various fisheries with safety and other types of regulations. So all in all, Operation Fish was successful. It was helpful to see a smaller scale implementation of the same technology used on a larger scale in the Northwestern Hawaiian Islands.
- SeeMore Wildlife, a remote camera sensing company has been able to set up cameras in very, very remote areas utilizing solar and wind energy. They were able to put the cameras up in areas where weather conditions can be very challenging. These systems are very strong and sturdy. The remote setup is controlled centrally and is able to scan for, zoom in and record violators.
- NMFS is using this technology in the Northwestern Hawaiian Islands on sea turtle projects at French Frigate Shoals. A view of the screen panning left and right, up and down, zooming in and out from a remote computer setup was shown.
- SeeMore Wildlife has been setting up these systems in various parts of the world in various climates and conditions.

NOAA is evaluating these technologies and looking at various ways to share these assets, as well as sharing costs with sister agencies involved in the Northwestern Hawaiian Islands.

With regards to the Coral Reef Reserve Draft Management Plan is being develop and includes the recommendations from the participants.

A report on the workshops will be forthcoming and should be available by the next Council meeting. The report is intended to help in the drafting of strategies and activities for the proposed sanctuary.

However, NOAA is not waiting for the designation of a sanctuary. They are proceeding with the information coming from these projects and data mining historical data, especially with the radar program that came out of NOAA and NMFS. A subcontractor has been hired to assess these technologies and existing technologies in the work around the Reserve.

That concluded Mr. Friel's report.

Martin thanked Mr. Friel and clarified that this was item 6.F on the agenda. He asked for questions and having none, he called on Jeff Pollack.

## **6.F NWHI Enforcement Strategy Workshop**

Pollack greeted the Council and introduced himself and his job as a Special Agent in Honolulu, currently acting as the Assistant Special Agent in charge.

Pollack talked about activities since the last Council meeting in their efforts to protect and manage fisheries, enforcement, and the protection of threatened and endangered species. He divided his talk into general three areas they are involved in: investigations, patrols and outreach.

Within investigations, he concentrated on a range of investigations of potential harassment of marine mammals to regulatory violations by U.S. fishing vessels, in particular shark finning and cases or violations in the EEZ, Exclusive Economic Zone.

With regards to shark finning the first federal arrest and convictions were made under the Shark Finning Prohibition Act, **which is part of the Magnuson-Stevens Act or Lacey Act**. The Lacey Act is the federal natural resource anti-trafficking law and the underlying law from which the Lacey Act occurred was the Shark Finning Prohibition Act.

In this Guam case, the work was done jointly with Guam's Customs and Quarantine and other agencies in Guam, it was a foreign fishing vessel that illegally landed shark fins in Guam, transported them there with the intent to smuggle the shark fins out of Guam to the Philippines. The two individuals plead guilty to the federal charges, which is a first.

Another shark finning case was investigated in American Samoa. This involved a U.S.-flagged fishing vessel with an individual who was doing shark finning in the north during a fishing voyage. The investigation showed it was more for personal use, consumption, not so much commercial. However, it is still a violation to the Shark Finning Prohibition Act. Work continues to investigate efforts on shark finning.

As far as legal incursions into Exclusive Economic Zones, there was a case where a foreign longline fishing vessel was illegally fishing in the exclusive Economic Zones of Tokilau, Kiribati and the Cook Islands. This fishing vessel after fishing in the EEZ and didn't have permits from any of those countries, then the vessel landed its catch in American Samoa in violation of U.S. law, the Lacey Act. With the work of the staff and the hard work of the personnel in the American Samoan Department of Marine and Wildlife Resources, the case was successfully investigated and is proceeding forward.

This is an area where there could be further investigations, as in problems with foreign vessels fishing illegally in the EEZ of other countries and then landing their catch in American Samoa.

Work continues jointly with the Coast Guard, going out on patrols with them. Since the last Council meeting there have been a number of air patrols where with the Coast Guard, they patrolled the U.S. EEZ of Guam, Howland, Baker, Northwestern Hawaiian Islands and U.S. Possessions. Patrols continue in American Samoa on boat platforms with American Samoa Department of Marine and Wildlife Resources.

With regards to community outreach, efforts continue to educate the public about proper interaction with marine mammals, specifically monk seals and sea turtles, especially with the sea turtles on the North Shore of Oahu.

Since the last Council meeting some discussions were done with fishermen during the Protected Species Workshops.

Pollack ended his presentation summarizing with the three general areas; investigations, patrols and the outreach they have been involved with. He asked for questions.

Martin thanked Mr. Pollack.

McCoy was curious about the fish that was caught in three different EEZ. Did it get processed?

Pollack replied that the catch was offloaded at the cannery in American Samoa.

McCoy asked, so it got processed?

Pollack responded that it was offloaded in the cannery.

McCoy asked that under the new labeling act, where would that fish be originated from?

Pollack inquired, the fish that was offloaded?

McCoy said, yes.

Pollack responded that in this specific case, a foreign fishing vessel had fished illegally in the EEZ of those three countries, Cook Islands, Tokilau and Kiribati, and made sets. They did sets in those three areas.

Based on the investigation, they did catch fish in those areas. They landed that fish in American Samoa. So basically, the fish would have been illegally-caught fish that they would have landed there in American Samoa. Does that answer the question?

McCoy said, no, it didn't.

Morioka asked, what is the origin, the country of origin for that fish?

Pollack responded, yes.

Morioka asked that with the truth in labeling requirement, would it be American Samoa or – that was what he believed Council Member McCoy was getting at.

Pollack clarified, if Mr. Morioka was saying, as far as what laws?

Morioka clarified, the paper trail for the fish caught.

Pollack responded, right. The paper trail for the fish caught. They had documentation as of their investigation and the logbooks and records which show the fish caught in various areas.

McCoy said thank you.

Martin had an additional question. In trying to understand how a foreign fishing vessel fishing in another country's EEZ -- how did the U.S. Enforcement get involved? We've heard a lot of the resources of enforcement for this region were involved in prosecuting a foreign vessel fishing in another foreign zone, and he was wondering why the individual countries, whose EEZ were violated, why they weren't the enforcing group.

Pollack responded that some of these countries don't have a lot of enforcement platforms.

The way the U.S. law is written in the Lacey Act, if there is a foreign fishing vessel that violates these countries' laws, and they did violate the laws of Tokilau, Kiribati and the Cook Islands, then they violate the Lacey Act. This means they have landed and they have imported per Lacey the catch or fish into the United States in American Samoa. There are other elements, too, but in essence, they have violated the Lacey Act. Additionally, it has to be commercially related.

Martin asked a follow-up question. Does that mean that if there is, say, financial forfeiture of catch, which generates revenue, does that revenue return to the country whose EEZ was violated?

Or, he noted that Mr. Feder was shaking his head, maybe he's going to answer it for me. Or does it say -- in other words, does NMFS Enforcement get to recoup some of their expenses from going out and prosecuting this violation?

Feder added that as far as he knew, the money does not get handed over to the other country, but remains in the United States. Is that --

Pollack said, right.

McCoy asked Mr. Feder if the other countries were informed of it.

Feder responded as he understood, yes. The law wouldn't be enforced except after at least consulting with the other country.

Pollack added, yes, there are consultations. Actually, they would get these other countries to support, and express support for the investigation, and these other countries would even provide copies of their laws that had been violated.

Feder added that it is a policy call. The law itself is written in fairly simple form, it simply says that it is unlawful to import, sell, distribute, et cetera, fish or fish products caught in violation of national or foreign law.

McCoy asked if it didn't trigger anything else.

Feder asked what he meant.

McCoy said it's safe, that is red flags go up somewhere. There is a trail there to follow, Judson. So it doesn't start anything? It just ends there, a violation is issued, end of story?

He clarified further, what he is trying to find out is the labeling law that is in place right now, so where did this fish originate from? If it got into the canneries, it got processed. He was just seeking information and not trying --

Feder said that he didn't think it was particularly connected to the labeling laws.

McCoy said that if fish is sent anywhere, there is tracking for everything to say where it came from.

Feder said, right. So was Mr. McCoy saying then there might also be a violation of the labeling law, like additional prosecution for violating the labeling law?

Martin said that he thought maybe Mike could help.

Tosatto said he was sorry to speak from the crowd --

Martin asked him to come to the microphone.

Tosatto explained that the fish at the cannery is American Samoa fish. It is processed in American Territory so it's American law. The fish that goes through that cannery is caught inside the EEZ of other countries. Everyday it's landed. So again, it's not labeling that goes back to where it came from, it's American Samoa product from American Samoa. That is set.

The reason the Lacey Act exists is so when that product leaves it leaves as legally-caught fish. That's the nexus to why the U.S. cares, why we want that product that leaves the cannery is clean, as it were.

Again, that's why enforcement spends that effort.

Farm asked that, not trying to point finger at the cannery in American Samoa, but for checks and balances, if enforcement didn't discover this and take the proper actions, then an illegal act would have been performed completely with all the blessings of canning and exporting.

The cannery or the receiver of this kind of goods, should they be knowledgeable as to what is acceptable and not acceptable? That is, if a ship comes in and it brings it in and it's illegally caught, according to an American cannery following American laws, shouldn't this send up a red flag at the cannery?

Tosatto replied, yes and no, without presuming he knew every single law that the canneries have to comply with -- and there's a pile of them -- tracking the origin of that fish is not necessarily one of those right now. Again, **the fishery doesn't set on dolphins**. So again, that cannery doesn't naturally have that big issue. But if it was getting fish caught set on dolphins, then those things would apply. So it would have to register how that fish is getting caught. Is it being set on dolphins? Is it dolphin-safe, blah, blah, blah.

Arguably, they get around that by saying, traditionally this fish is caught not set on dolphins, so they're able to make those claims. Again, the reason enforcement is there is because there's an equal possibility that those foreign vessels potentially could be fishing illegally inside the U.S. EEZ. Again, that's why they're looking at those.

Martin thanked Mike. He called on Mr. Duenas for his question, then they would let Jeff off the hook.

Duenas wanted to clarify the issue with the Lacey Act. There was an issue on Guam a few years ago, where a vessel was reported to have been fishing in Papua, New Guinea, licensed out of FSM. It landed on Guam and was seized by the Coast Guard and the NMFS agent. When they looked at the logbook, the numbers were off. But when they looked at the GPS, it showed the true numbers, the tracking that vessel took. The point in this case is that there is a protocol so that the fish wasn't destroyed, wasn't damaged by the time in the delay of offloading. The NMFS agent took care of that project rather rapidly, and the agency handled that quite well.

Fogarty asked, so Jeff is off the hook?

Martin agreed that Jeff was off the hook.

Fogarty commented that she loved this part of the discussion about the cases that are being done. This was talked about in committee the day before. However, this case in particular some of the questions being talked about in Samoa, the cannery and landing has to do with (and she did not have the complete analysis of the statutes being worked with) American Samoa, which is not governed by U.S. Customs Law. Therefore, the definition of importation for American Samoa is different than it is going to be in Guam or in Honolulu or anywhere else in the United States. That is part of the problem in enforcing the statutes out there.

The comments made about marking and knowing what the source of the product is, those are good questions. And, it is something she would like to come back to the Council with at the next Council meeting and share what can be learned on some of those aspects because they are important.

There are many definitions of importation, and they're all different in the statutes that are enforced. That's a significant problem as to how to proceed with some of the cases.

They are good questions and important ones.

Going on to some of the other issues with this particular case in American Samoa, she has not lived out there as long as others, granted, and people on the Mainland say, yes, there are vast differences to deal with. Those vast differences came home to her very hard in this case in the last month or so.

To prosecute and to investigate this particular incident took launching three-quarters of her office. Every agent she had was put on travel to Samoa to support the office there. They had the assistance of the Department of Marine and Wildlife Resources and the Coast Guard as well.

Samoa also is different because they're not part of the Customs Waters. The U.S. Attorney's Office, when turned to will say, if there is a violation, will they prosecute? They said, no. Primarily, it's because this U.S. Attorney's Office does not cover Samoa. So for her office to do anything of a criminal nature in Samoa means they have to deal with the U.S. Court in Washington, D.C. So if a search warrant is needed, she has to go to Washington, D. C.

Additional challenges include situations like if there is an agent in Samoa with a problem and they try to get the work done via telephones, those phones may or may not be working that day. And worse, they are relying on some experts in the Solomon Islands for information and, definitely the phone don't work there everyday.

The information relayed to Honolulu is being relayed back to Washington, D.C. But to get a search warrant, an agent in D.C. has to understand the probable cause and the evidence amassed so that they can go into a court in D.C. and get that search warrant. That is a huge task, and it's not something that can be done right now. But, if something happened in Honolulu, a search warrant could be secured tonight and we could be there tomorrow morning.

There are issues that impact the office in this district that are huge. Life is not simple.

Guam is a little bit different because there are U.S. attorneys out there. It's a different district and life is simpler for the folks in Guam and CNMI.

But just touching on Samoa is fascinating, and provides an opportunity to learn.

Some of the other issues this last quarter included, working with counterparts at the Coast Guard, on these EEZ incursions. The incursions are known, but they don't have assets to get out there to detect them and document the violations. So again, they have to do historical background investigations.

The Coast Guard has limited assets, but they have none. The Coast Guard is their platform.

The other thing that the community can help with is if they are out on the water and see a violation to call it in. A system is being developed where the folks can reach out for the office and get that information to them timely so that perhaps they can respond to an actual violation as it occurs in the water.

The other thing she wanted to touch on was the NOAA Corp. Officer who was here for the technology presentations at the workshop in May. That officer was put on a Coast Guard flight with one of her agents out on one of the EEZ incursion flights. That NOAA Corp. Officer saw firsthand what they do and what they need to do to accomplish their mission and what the Coast Guard has to do to do theirs.

As a result of some of this talk about the Sanctuary and the Reserve Process, NOAA Corp. is researching that and will be talking to all about possibly locating an air unit in Hawaii to help with not just enforcement issues scientific needs. Even folks at the Weather Service, everybody has needs for more assets. She believed it would be a viable contribution and assistance to the Coast Guard if the air unit was located here.

The last thing she wanted to touch on was the problems with the Marine Mammal Act, the Endangered Species Act, with the State's thrill craft decision. The State is not able to assist right now in enforcing the Marine Mammal Protection Act. The humpback whale calving season is coming, and she knew that they are going to be very busy.

Hopefully, she believed that steps have been taken to remedy some of the statutory problems at the federal level to help the State get back onboard with protecting -- or enforcing the Marine Mammal Protection Act. But these are all things that are on their plate this next year are going to have a significant impact on limited resources in their office.

Then on a positive note, Ms. Fogarty said that the JEAs with Guam are back. And she believed they had been renewed. She could not say that they have been signed off on, but has been told that they are going to be.

The CNMI JEA is drafted, and that should fly, pending on CNMI getting back to her. If they need any modifications to that document, they will be in contact.

Martin thanked Ms. Fogarty and asked the Council members for questions.

Farm thanked Ms. Fogarty for her explanation on the problems that exist. Just to confirm what his understanding, was that the technical judicial complications and logistics of an American Samoa case versus one in Guam, those same or similar situations would apply to CNMI?

Fogarty said, correct. She believed CNMI would fall to Guam and that district, that if there was a federal arrest for some action, the U.S. Attorney's Office that is in Guam could handle that. There is an agent right now in Guam, so there is some coverage. However, they are not in CNMI proper.

Martin asked for any other questions.

Duenas thanked Ms. Fogarty for the effort in the shark finning case in Guam. He wanted to publicly acknowledge her efforts and her office.

Fogarty said thank you.

Martin thanked Ms. Fogarty and moved on to Agenda Item 6.C, Enforcement Activities of Local Agencies, CNMI and Mr. Seman.

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

Seman thanked the Chair. He said the only thing he had to share at this time is under investigation under their report with regards to the Joint Enforcement Agreement, as Ms. Fogarty had indicated also earlier in her report.

It is progressing as quickly as possible. The Attorney General's Office has reviewed the draft documents: the Draft Enforcement Agreement and the Draft Enforcement Amendment Authorization Program. He believed that they have already sent their response, to any comments that they had. From the communication they had from their agent out in Guam, they are hoping to have it finalized by the end of this month, if possible.

Fogarty said she would let them know as soon as they got it.

Seman said, right. Thank you. That was all he had to share.

Martin thanked Mr. Seman and called on American Samoa.

Tuaumu said that their enforcement staff has been increased up to nine. The Chief Enforcement Officer was in Iraq with his supervisor. So they are trying to hire a person to look

after the Enforcement Division. They can bring in about two to three more added to the nine, based on the budget and the funds they receive from NMFS.

Numerous dockside boardings continue with the NMFS Special Agent. Also, they continue issuing tickets for breaking the local laws. The court fines the violators with the minimum, and up to the maximum as stated in the law. They had about three cases within this three-month period. The only problem they are facing with enforcement activities is having equipment and a boat for surveillance.

Seman noted that the community-based program was requesting enforcement help in enforcement. They need a boat, not a big one, but something that can assist them in doing that.

Martin thanked Mr. Seman and observed that American Samoa rivaled both the federal and state assets, as far as personnel and local enforcement in Hawaii.

He asked if someone was going to give the Guam report.

Duenas remarked that they were continuing to work out the bugs in their new agreement. They are anxiously awaiting a vessel upgrade.

He noted a Supreme Court decision that says anything brought between the U.S. and Guam is no longer considered an import, as in the case of the drug importation case that was thrown out by the Supreme Court.

Martin thanked Mr. Duenas. Having no State representative prepared to give their report, they moved on to Agenda Item 6.D, Status of Violations.

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

Feder noted that the report prepared by his colleague, Paul Ortiz, and signed by Trudy Wiley appeared at 6.D.1 of the Council briefing book.

Only three cases were mentioned in the report, there was a new prosecution that Paul brought with respect to a vessel that is alleged to have fished with longline gear in the EEZ around American Samoa without a valid longline general permit. Paul assessed a penalty of \$200.

There were two settled cases, the first involved targeting swordfish during the period when targeting swordfish or shallow-setting was not lawful under the regulations. That case was settled because of HLA's successful challenge to the turtle conservation regulations that resulted in the vacature of the 2002 Biological Opinion.

The second case involved, to some extent, violation of the same regulations, and the counts were settled for the same reason, the vacature of the 2002 biological opinion. The second case also involved logbook violations that were eventually settled for \$500 apiece, for a total of \$1,000.

That was the end of his report.

Morioka asked Mr. Feder that it seemed \$500 for two violations for not maintaining or submitting logbooks, was a basic thing, why such a light fine on two incidents?

Feder apologized that he was not sure what happened in this case and why it was \$500 apiece. He speculated that maybe this was a first-time violation or that there weren't many similar violations with respect to this respondent in the past, or something. He didn't know.

Martin suggested that it was possible that the violation wasn't submitted or maintained, it could have been a signature or something as simple as that as well. It was hard to know what it might be.

Martin moved on to Agenda 6.E, Update on Electronic Logbook Amendment with Eric.

### **6.E. Update on Electronic Logbook**

Kingma thanked the Chair and the Council members. He quipped that his presentation was only about an hour presentation, actually, it was about five minutes.

To provide some background, at the last Council meetings there was extensive discussion regarding the Council regulatory amendment through the Regulation 50 CFR 660.14 to amend the reporting and recordkeeping regulations to allow the optional use of E-logs, the submission of logbook data on nonpaper media and the transmission of that data via e-mail or satellite systems. This was done because out in the region -- although he believed Kurt Kawamoto was not in the islands anymore, Kurt had a pilot program that was very successful with electronic logbooks. It turned out to save fishery participants a lot of time, and also saved the Science Center time and money. That was the reason for the amendment.

The Council made this recommendation noting that performance standards and protocols needed to be developed. They need to work these things out because of concerns from various agencies, including General Counsel, NOAA OLE and the Coast Guard regarding data security, input history.

These are some standards that need to be developed:

- Auditable input history so that one can go into the logbook software and pull out everything that was inputted, which is important for enforcement reasons.
- Format, of course.
- Electronic signature is an example of a standard that needs to develop so that logbook software can be certified through the Fisheries Service.

He offered an example of a protocol change, which was a documented process for changes to, for example, the logbook format, and it reduces liability on both sides of the coin there, that's the Fisheries Service and the vendor.

The Fishery Service has a program called the Fishery Information System (FIS), part of its charter is to improve fisheries data. FIS has identified electronic reporting as a very important technology to improve fishery data collection and accuracy. So they have a group that is meeting regularly to figure out to how to implement electronic reporting across the nation. They are working with them.

They worked with the Science Center to develop a funding proposal. There was an abstract that was reviewed at a recent FIS meeting in Seattle. The outcome of that review was that our proposal was very well received. They really like what they read.

The next step was to fully develop a funding proposal to acquire funds to develop performance standards and protocols. Work was being done collaboratively with folks from the Science Center and the Southwest Region. That group had also submitted a proposal that wasn't quite as well received. His group was definitely going to work with the mentioned agencies and representatives on the list that included: General Counsel, U.S. Coast Guard, NOAA OLE, and the fishing industry. They would develop the standards in the hope they can get this thing off the ground and implemented. It does save fishermen a lot of time and money for the Fisheries Service. So this technology is a good thing and they want to get this thing going as quickly as possible.

That was all he had and he asked for questions or concerns.

Martin asked for questions. He thanked Mr. Kingma and moved on to the next agenda item 6.G, Standing Committee Recommendations. He read the recommendation and asked Mr. Morioka to give the group a brief overview of the discussion yesterday in the Standing Committee and how this recommendation was generated, if it was okay with Mr. Morioka.

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

Martin said he had read the recommendation and called their attention to Document 6.G.1 on page 3. The Enforcement/VMS Standing Committee recommends that for the 125th meeting Council staff or/and the Observer Program investigate procedures for obtaining biological samples on hook or entangled marine mammals. This recommendation relates to safety issues and effect on the animals.

Martin asked Mr. Morioka if he would give the group an overview of the discussion yesterday in the Standing Committee.

Morioka replied that this recommendation was related to safety-at-sea issues when the captain of the vessel may be challenged by an observer as to the appropriateness of taking a biological sample. The concern arose when an animal would appear dead, might have been playing possum, and as they brought the animal closer to the vessel it revived or became activated and presented a danger not only to the crew, but to the animal itself.

There was some concern raised during the Standing Committee meeting, and therefore the Council staff was asked to obtain information for clarification and consideration by the Council going forward as to the appropriateness of this particular strategy. That is the basis of this particular recommendation.

Morioka said he was assuming that this was a motion from the Standing Committee?

Martin said yes, this was a motion. Public comments will be taken then Mr. Martin would return the chair to Mr. Morioka.

McCoy moved on the motion.

Farm seconded the motion.

Morioka asked for public comment.

Martin asked if anyone had public comment related to the motion on the table.

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

None was received.

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

Morioka asked the Council members for any comments as none were heard from the public. None were heard and Mr. Morioka called for the question.

The motion had been moved and seconded. The motion was carried.

Morioka begged the indulgence of the ladies and gentlemen present and the Council members. There was a very important presentation by Makena Coffman regarding the Honolulu Restaurant Survey. Makena was on the way to the Mainland and had a 2 o'clock deadline to catch a flight.

Morioka, asked Ms. Coffman to make her presentation. He thanked the audience for their patience.

#### **10.C.3. Honolulu Restaurant Survey**

Coffman introduced herself and noted that this June she did a study on the value of Northwestern Hawaiian Islands bottomfish in Hawaii's Restaurant industry. The purpose of the study was twofold; first to determine the value added to Northwestern Hawaiian Islands bottomfish in restaurants, and also to determine the elasticity of the market for Northwestern Hawaiian Islands bottomfish. In other words, whether bottomfish are substitutable with bottomfish from other places or other types of fish or not at all, both in terms of chef's preferences and customer's preferences.

Marcia Hamilton, Mark Mitsuyasu and helped her create the interview type survey.

Hawaii's top restaurants were targeted in terms quality and also pricing. It was initially based on Zagat's Survey Guide of Honolulu Restaurants. Chefs were also asked for their recommendations on whom to talk to.

Twenty four restaurant chefs connected with 29 different restaurants were interviewed. The reason there was overlap was because some chefs, particularly in hotels, manage two different restaurants. This started from an initial list of about 40 restaurants total.

No one actually denied an interview. Everyone seemed pretty interested, it was just a matter of getting in touch with people. It also became pretty apparent as she spoke with the chefs, they did not know very much about where their fish comes from This was because quality to them was of utmost importance and destination was an afterthought. Six of the most-frequently used wholesalers were also interviewed to kind of get a better idea about their supply.

Because interviews were done with Hawaii's top restaurants, this was a biased sample. But because bottomfish is a pricier fish dish, those were the restaurant that would be more likely to serve it. And, more interesting results came from targeting that restaurant group.

The chefs also recommended restaurants that frequently served bottomfish and because of the nature of the study, they figured those chefs would be more willing to talk to her. Given the sample results will reflect an over-emphasis of the importance of bottomfish in the restaurant industry that should be kept in mind in looking at the results.

Coffman showed a list of the restaurant chefs and the wholesale companies that she spoke with. In terms of findings, everything was divided up into issues of supply, demand and value added. She went on the highlight the findings:

- Absolutely none of the chefs knew if their fish came from the Mainland, Hawaiian Islands or the Northwestern Hawaiian Islands. But most of the chefs were pretty sure when they thought they had an import.
- Nineteen percent, or 4,of the chefs served only Hawaii-caught bottomfish.
- Twenty nine percent tried to serve Hawaii-caught bottomfish, depending on price and availability. But if the price wasn't right, then they switched to some imports.
- Twenty nine percent advertised bottomfish dishes as fresh island fish or under a similar title.

There was a discrepancy here between the number of chefs who serve only Hawaii-caught fish versus chefs who were advertising their fish as fresh island-caught fish. It was rather funny. She spoke to one person who said they only served Hawaii-caught bottomfish, which was very important to them as part of their marketing, so they put "fresh island fish" on their menu.

The next day she spoke with somebody who said that they imported some of the fish from Tonga, so it was on the menu as fresh island fish. She didn't know if that was really

mislabeled or misleading advertising, but definitely people have different concepts of what was acceptable advertising.

Additional results included:

- Twenty nine percent said the price of bottomfish was high and/or rising. Then 73 percent volunteered concern over bottomfish sustainability. She used "volunteer" because she purposely left out this question about sustainability thinking that they would say yes. But people who really cared about it brought it up -- 73 percent of the chefs brought it up. Fourteen percent volunteered concern about fishing regulations driving up bottomfish prices.
- In terms of wholesalers, every single one said the Main Hawaiian Islands bottomfish were of better quality than the Northwestern Hawaiian Islands bottomfish. Mainly, this was an issue of time. The Main Hawaiian Islands were just a lot closer when fishermen go out for a day or several days at a time, versus the Northwestern Hawaiian Islands when they are out for much longer.
- Because of this, 33 percent said the Northwestern Hawaiian Islands and imported bottomfish were comparable in quality, while under 33 percent said the imported were actually better in quality than Northwestern Hawaiian Islands bottomfish.
- Sixty six percent said the quality difference between imported and Northwestern Hawaiian Islands depended on the country of import. In some places, their fisheries were very close to shore and you could have your fish in within a day or two, then it's only a five-hour flight over. So you could have your fish to the restaurant a lot quicker than Northwestern Hawaiian Islands bottomfish.
- Thirty three percent said the price of bottomfish was high. This does not contradict what the chefs said about pricing, because this is a market with middlemen. The wholesalers price ex-vessel while the chefs price from the wholesaler.
- The imported bottomfish was most often coming from Tonga, Fiji, Samoa, New Zealand and Australia.
- After talking to a few chefs and about New Zealand snappers, otherwise known as bluenose, she spoke with Kurt Kawamoto and he found that there was no such thing as a New Zealand snapper. The bottomfish in New Zealand, the bluenose, is not the same species as opakapaka at all, however, that is what it is being served as in restaurants very often, and it's not even snapper. Nor is the yellow-eye that is coming in from Australia. The chefs don't seem to know what the exact species is and it is not something they ask their wholesalers, most generally.
- On the demand side, it was pretty unclear whether customers were willing to pay more for Hawaii-caught bottomfish or not. Here, 43 percent of the chefs said the customers were willing to pay more. While 19 percent said customers were not

willing to pay more, and 10 percent said the customers expect Hawaii-caught bottomfish to be less expensive relative than other fish dishes.

She remarked that this was of an interesting point of view. It was like, someone who lives in Los Angeles gets a plate of opakapaka for \$32, when they come for vacation in Hawaii, they expect it to be cheaper. But, that same plate of opakapaka costs \$32. She guessed this was similar for those who go to San Francisco to eat crab.

- Nevertheless, 77 percent named bottomfish on their list of most desirable fish species, both to cook with and to serve.
- She collected all the menus of the places she went to; 49 percent of all the meals on the menus were fish. Of that 49 percent, 27 percent of all the fish on the menu were bottomfish **that was a third of all the fish served in these restaurants. (?)**
- When asked how many days last month they had bottomfish on the menu, the average answer was 27. Most frequently people said they served fish everyday except for a few who only served it when the price was right.
- On average 41 percent of the customers of the restaurants interviewed were visitors to Hawaii. The range, however, was large - from 90 percent in the Waikiki hotel to like 10 percent at the more local places, like Roy's and Sam Choy's.
- Another rather interesting thing was that several chefs immediately told her that they only serve Hawaiian fish. However, when specifically asked where their bottomfish was coming from, they started naming foreign locations. It was rather confusing. It wasn't that they were lying, but rather a projection of what they would like to do in their ideal restaurant, was what they were saying initially. Then as they got into the details, it was, well, this is what they actually do. Perhaps that shows that there was some value for a restaurant to market itself as serving Hawaii-caught fish.

Based on this, she concluded that the elasticity of the market for Hawaii-caught bottomfish to restaurants who truly only serve Hawaii-caught bottomfish was relatively low. But that was only four restaurants that actually served Hawaii-caught bottomfish.

Whereas the elasticity of the market for bottomfish in general for people who were willing to import is extremely high because imported bottomfish were comparable in taste and quality to Northwestern Hawaiian Islands bottomfish and sometimes better in quality depending on the location of origin.

- On the value added side, the average price of a Hawaii-caught bottomfish dish is \$29.52, the imported is \$28.46. Actually, all but two places had them priced exactly the same and those two places differentiated between the two fish. The average portion size is 6.78 ounces. So, this is a pretty pricey fish dish.
-

- A common answer as to the way chefs price bottomfish dishes was by taking the bottomfish cost per ounce times portion size, and then adding in all the extras, like veggies and starches, and marking it up at 32 percent. This was across the board for their entire menu. So if one had a New York steak, it's marked up 32 percent. Salmon was also marked up 32 percent. Their profit margin was the same for everything on the menu. She didn't know if that was something learned in business school about how to run a restaurant, but the 32 percent markup was a common answer.
- Another common way was a fixed price on a bottomfish dish, making a little money on it when the prices are down, and then "eating it" when the price was up. However, these weren't mutually exclusive. People would often say that they would do a combination of the two. In knowing the history of bottomfish prices, they would average it out to be marked up to 32 percent.
- It appeared obvious that bottomfish is a really popular fish dish in most of Oahu's top-end restaurants. Several of the most noted boutique-type restaurants only serve Hawaii-caught bottomfish. By "boutique-type restaurants" she meant the more unique restaurants that are not chained, but have individual owners.

She thought this was definitely part of the marketing that they were supporting Hawaii products and maybe there was some value to that.

In summary:

- The expensive prices, as well as the inconsistency of supply for both Main Hawaiian Island bottomfish and Northwestern Hawaiian Island bottomfish make it difficult for most restaurants to only serve Hawaii-caught bottomfish, So most restaurants serve a combination of the two.
- Because of the obvious time factors, Main Hawaiian Islands bottomfish are considered the freshest and highest quality.
- Five wholesalers said Northwestern Hawaiian Islands bottomfish is comparable to most imports.

So what were the next steps. The scope of the study was small. It included just 24 different restaurants and only two certain types of restaurants on Oahu and one on Kauai. The study could be expanded to go to the outer islands and have a wider range of types of restaurants interviewed.

There seems to be a market for Hawaii-caught bottomfish on the U.S. Mainland as several wholesalers export to the Mainland. Several of the chefs said the Mainland was flooded with bottomfish. These were the chefs that said people weren't willing to pay more, for this reason.

She assumed that the U.S. market for bottomfish was beneficial to the fisheries and the wholesalers because it increased demand. However, the greater effect it may have on Hawaii's economy was unclear and probably needs to be further studied.

Also, many chefs voiced interest in getting more information on fish stocks; how the Northwestern Hawaiian Islands and other fisheries are managed, different sizes of fish, different catch rates. Providing such information could allow chefs to make more informed decisions about their menu selections, and what size of fish to purchase.

That concluded Ms. Coffman presentation and she asked for questions.

Ebisui thanked Ms. Coffman for a very interesting presentation. He asked if the wholesalers were selling filets to the restaurants or whole fish.

Coffman said both.

Ebisui asked that the chefs weren't able to distinguish between Leeward Island fish and Main Hawaiian fish, nor were they able to distinguish between species?

Coffman answered, no.

Ebisui said that was amazing.

Coffman agreed and said that providing more information could be very beneficial.

Ebisui remarked, "So much for expertise, huh?"

Coffman agreed and added, the chefs could tell whether a fish was very fresh, or if the quality was deteriorating, but exactly what type of fish it was and where it was from, no.

Morioka said that was interesting.

Ebisui asked Ms. Coffman what restaurants she ate at.

Coffman remarked that after the study her ideas have changed.

Ebisui said that they wanted to speak with her later.

McCoy remarked that this was a fine presentation. He asked if she had a photocopy of her presentation.

Morioka said that it was in the book at 10.C.2.

McCoy thanked her and said that it was well received.

Morioka corrected himself and said the section was 10.C.3.

Farm thanked Makena for a very interesting presentation. She had certainly added to the authenticity of his eating habits and knowing what he was eating. He said he could appreciate the price and that it was a real bargain, and the quantity, which was much more than six ounces. He remarked that it was a very good presentation.

Coffman said thank you.

Morioka asked for further questions.

Sablan said he was interested in Hawaii's raised fish from farms, were there any of those in the restaurants?

Coffman answered, oh, quite a bit, actually. A lot of restaurants have the farmed moi. It is really common.

Sablan asked if they were more expensive or less expensive.

Coffman said they were pretty much priced around the same.

Ebisui remarked that he didn't think wild-caught moi existed. Everything in the market was farmed. He didn't think anybody was catching moi in commercial quantities.

Coffman agreed

Morioka thanked Makena for a great job and wished her a safe trip. He then called a recess of 45 minutes until 2:30.

(Brief break)

Morioka noted that there was a quorum. The 124th meeting of the Western Pacific Regional Fishery Management Council was called back to order. First up, was the Observer Program and Charles Ka'ai'ai.

## **7. Observer Program**

Mr. Ka'ai'ai greeted the Council. Eddie Agae had sent him an e-mail saying he wouldn't be here to report on the Native Observer Program. They're recruiting on Molokai and planning to do a recruitment in American Samoa in November for the American Samoa longline fishery.

He didn't see Kevin Busscher.

Swenarton called out that he was doing the report.

Ka'ai'ai introduced Tom Swenarton who would be reporting on the observer program, longline observer, bottomfish observer.

## **7.A. Report on the NWHI Bottomfish Observer Program**

Swenarton thanked the Council for having him and that he would be giving an update and be available to answer any questions.

Morioka referred Council members to 7.A.C and D.

Swenarton began his presentation which included the following points:

- The staff includes one operations coordinator, Kevin Busscher; one training coordinator, who was Joe Arcineau, but now Don Golden would be taking that on. Joe was in American Samoa helping to set up the new American Samoa longline program; and seven debriefers.
- Program funding is \$3.8 million for '05, not including the funds for the new swordfish certificate fishery. He was not sure how much money was involved in that.
- They have been doing a lot of training. In June they trained ten observers and are currently training 23 observers.
- They feel there will be enough observers to cover the swordfish fishery, which will be 100 percent coverage on those boats, as well as the American Samoa observer program, which is awaiting regulations. It looks like the American Samoa observer program may be able to start that up in January.
- Also, there are also five more bottomfish observers being trained.
- For longline coverage they are trying to maintain 20 percent, but are actually getting a little higher than that, 24.2 percent as of September 18th for this year.
- He showed the total number of departures and observed trips. For swordfish coverage, they need to do 100 percent.
- They currently have 29 observers, but they have another 23 coming on line. They have sent only one observer out on a swordfish certificate trip to date, but are expecting more as the swordfish season gets underway.
- For bottomfish, they are at a 14.9 percent coverage level right now. But since there are so few of those trips, they are getting ready to send two more observers out, which will bring them up to the 20 percent coverage. They project that they will easily maintain 20 percent coverage on the Northwestern Hawaiian Islands bottomfish boats.
- They have had some protected species takes this year: two leatherbacks, ten olive ridleys and one green sea turtle.

- Some marine mammals were taken as well; four false killer whales, one Riso's dolphin, one humpback whale, one short-finned pilot whale and one unidentified cetacean that was hooked and mistakenly released before it had a chance to be identified, it was black fish of some kind.
- A few seabirds have been taken as well, three Laysan, four black-footed and two shearwaters. The albatrosses are currently being returned to port for some research purposes and they are getting a little bit of data out of those.
- Bottomfish protected species interactions included: one black-footed albatross, two boobies and one Laysan albatross. One black-footed albatross was caught as the baits were going out and going down, it was actually hooked as a result of bottomfishing. The other birds were hooked during trolling as they were diving after trolling baits.
- They have recently increased their collections and are getting a lot of good requests. So far they have collected two of the marine mammal DNA samples, where the observer took a long stick and took a flesh sample from the marine mammal. That's a rare event to have them come up close.

In addition to those two samples, they had twelve of the lobster phyllosoma, the juvenile lobsters that wash up on the deck as the mainline is coming in, and that was for Joe O'Malley down at the lab.

They got 11 samples from sea turtles, four albatross specimens for the U.H. project and are taking shark samples. They got 14 DNA samples from sharks; pelagic thresher, common thresher and long-finned mako for a project in La Jolla.

- They brought back 86 juvenile swordfish. Those were for Bob Humphreys looking at otoliths and his stock activities.

They brought 30 outreach fish, which is a variety of small fish that Bob Humphreys used when he goes to schools for outreach.

They also have 58 tuna stomachs samples for the Pelagic Fisheries Research Program. They're looking at trophic studies of seamount-associated, FAD-associated versus non-associated.

For the bottomfish, they brought back four samples so far for the fatty acid analysis studies, and will be bringing back more of those soon.

- They have an office and equipment in American Samoa. There are lots of trained observers and they are waiting for the regulations to be finalized, and will get going with that, perhaps as soon as January.

That concluded his report. He asked for questions.

Farm noticed that there were 29 observers for one longline trip.

Swenarton responded that the slide might have been read wrong, they actually have 29 observers on staff.

Farm asked if there was a difference between longline observers -- that was identified as swordfish observers, he believed, the 29 with one swordfish trip.

Swenarton remarked that he did say there was only one swordfish trip. But we they do have 29 observers on staff. So they have enough observers to cover the increased load of the swordfish fishery.

Farm continued and asked if it was swordfish versus tuna, or other types?

Swenarton answered, no, that they will be putting their regular longline observers out here, but they'll be given a little extra training before they go out to cover the difference in swordfishing and tuna fishing.

Simonds asked if he was saying that the 29 observers will serve both fisheries.

Swenarton answered. yes.

Simonds clarified that that was what he was concerned about.

Swenarton responded that some of those 29, he believed it was five that are also trained to do the bottomfish fishing, which is totally different.

Simonds explained that her question had to do with identifying the marine mammals. When they ID out there, what do they do? Do they take photos?

Swenarton answered that they try to get photos. They make a sketch and try to list at least five characteristics. Sometimes they don't have time. It can be really frustrating, like that unidentified cetacean that they got. One of the crewmen released the animal before the observer got a really good look at it like.

Some of them are pretty confusing, like the black fish he had mentioned earlier. They do the best they can. But that's what we do, a photo, a sketch and five characteristics is the standard.

Simonds explained that because one of the big concerns of the Council was that the two research surveys that were done by the Southwest Fisheries Science Center said they observed either one or two false killer whales in those two large surveys. So we asked the Center if they would be beefing up a research program to identify these marine mammals.

Sam said that would not be for a year or so. But the best thing would be to have the observers take pictures of them, especially since there is going to be 100 percent observer coverage.

Swenarton confirmed that.

Simonds guessed that they were suggesting that that be done, that --

Swenarton inserted that is has been tricky trying to get these things identified. It's hard to get the fish identified also. The observers are trained, but they have never been in the fisheries before, so they do the best they can.

For the swordfish program, they would be doing some extra things. The observers will be sent out with good-quality digital cameras. Right now they are being sent out with portable paper cameras, the disposable cameras, and they don't take that good a picture.

Simonds asked if he meant the tourist-type camera?

Swenarton said, yes, because they go through a lot of them and that's just what they always did. But now they're going to have good digital cameras. Additionally, if the marine mammal comes close they're going to jab it with this pole to take an actual flesh sample for DNA analysis. For any marine mammals that are hooked and brought close to the boat, we should actually have a piece of that fish to help ID them later.

Simonds said that it was very important for all of them to have that information, especially the ID. She thanked Mr. Swenarton.

Morioka asked that along those lines of identification, Mr. Swenarton had indicated that it was difficult when the marine mammal is up close to identify them, so when they're off in the distance what are the probabilities that they are being identified properly?

Swenarton replied, not that good, and in that case they put in the data that it is an unidentified cetacean. Oftentimes they will come across a big pod of marine mammals. Some might ride close enough to the bow to see exactly what they are; sometimes they just see one fin or one blow.

So in their data, there is a lot of unidentified cetacean, unidentified whale, which have the two codes to cover that. One couldn't tell whether it was a finned whale, or a minke, or a humpback if all one just saw the blow from afar. Those are the majority of encounters. But when they do have a take or a hooking, they are usually identified because they come up real close to the boat, they're playing with it and the observer gets a couple of pictures. They have managed to take a couple examples of these fairly rare events. The taking of DNA is a great thing.

Morioka noted that the reason he was asking was that the way the Southwest Science Center does their marine mammal observation is by standing on the quarter deck looking off. He was wondering how effective that is in determining what that animal.

Swenarton said he didn't know. He did know that it was hard for him to determine the species, but there are other characteristics that he is hoping the experts can use.

He added that they also record the sightings of marine mammals, not just the takes. So whenever the observer is out on deck and they see something out there, they will record it even if it is not hooked.

Morioka thanked Mr. Swenarton.

Simonds asked if the new cameras had telephoto lens.

Swenarton answered, yes, they have zoom capabilities.

Simonds asked that they may be able to get some of those animals that are far away from the boat?

Swenarton said that would be nice, yes. Because they spend a lot of time at sea, it's a nice way to survey marine mammals.

Morioka asked if he could tell him the lens range, if it was 50 to 200, 35 to 750.

Swenarton answered, that they take out to infinity. As far as the zooms, he was not sure, he believed that it is a 10X digital zoom of those cameras. But the actual range he was not sure of.

Morioka said he would be interested in knowing that and asked if Mr. Swenarton would provide that to the Council.

Swenarton surmised that within 100 yards they could tell it by species.

Morioka asked that he give them zoom capability. He thanked him for his report.

## **8. Fishery Rights for Indigenous People and Community Development Projects**

### **8.A. Community Demonstration Projects Program (2<sup>nd</sup> Solicitation)**

Ka'ai'ai began the next topic for Fishery Rights of Indigenous People. There was a second solicitation out that ended on October 25th.

The Federal Register Notice that came out announcing the second solicitation also announced the third solicitation. NMFS will be accepting applications in the third solicitation from January 1st to February 28th, provided there are funds available for the '05 solicitation.

Update on the Guam Community Development Program: They started a community Development Program this year in Guam. This was the Guam --

Sablan interjected and asked for Charles attention.

Ka'ai'ai said, yes.

Sablan asked if he was doing section 7 or 8.

Ka'ai'ai apologized and said he was on Item 8.

Sablan asked, where were they exactly.

Ka'ai'ai said at the Community Demonstration Projects, second and third solicitations.  
8.A.

Sablan added that is was section 8.B. He thanked Charles.

Morioka told the group that they were going right into the Agenda 8, Fishery Rights for Indigenous People, and Community Development Demonstration Project. They wanted to go to B, Update on Guam Community Development Program.

Duenas had a question on 8A. He asked Mr. Ka'ai'ai due to the short time between the training and the actual due date of the grant if there was any way to postpone the October 25<sup>th</sup> deadline. A lot of the participating island areas only got their training two weeks ago and it was rather difficult to meet the deadline of the 25th, which only allows three or four weeks of actual running around and getting all of the information.

Ka'ai'ai responded that this occurs with every solicitation, because it wouldn't be fair for them to take out a workshop without knowing what is going to be required, which is in the Federal Register and the Federal Funding Opportunity.

They had done a second solicitation workshop about a year ago, and that was based on the first solicitation. However, the two solicitations were different.

Duenas explained that his concern was regarding the solicitation timeline, whereas there are only 60 days to create a program after spending 30 days educating the public on how to prepare that program. So, he was wondering if there is any way to extend the deadline or to rectify the problem.

Ka'ai'ai replied that according to Scott, no, he was going to stick strictly to what was published in the FR Notice.

Simonds noted that they had the same problem last year, okay.

Ka'ai'ai said, yes.

Simonds said that it was not going to happen again. And there it is happening again. While we can't change this one, we have to be able to do that for the second one.

Duenas said that since it was going to follow the same guidelines on the second one, he thought there was ample time for the second.

Ka'ai'ai agreed.

Duenas said he was worried about the chances that some island areas would not be able to meet the deadline.

Simonds said that they need to ask the coordinators to get out there in the public and make sure that they are available to assist applicants.

Sablan thanked Ms. Simonds and asked for any other questions or comments for Mr. Ka'ai'ai. There being none, he asked Mr. Calvo to proceed with Agenda 8.B.

### **8.B. Update on Guam Community Development Program**

Calvo thanked the Chair and noted his topic was item is 8.B.1. To speed things up he provided each member with a copy and began.

The volunteer data collection pilot project was created under the Community Development Program, which is part of the Magnuson-Stevens Act. The voluntary program is a unified effort by the Council, West Pac FIN, Division of Aquatic and Wildlife Resources and the Guam Fishermen's Cooperative Association to pursue collecting fishery data and developing sustainable fisheries for the benefit of the people of Guam.

This project aims to recruit fishermen to participate in voluntary data collection, which will assist in defining local fishery communities and provide additional information on the fishing methods, effort, and the fish caught. The results will augment current data collection methods and provide an additional tool to support fishery management efforts.

There were numerous meetings with the Council staff representatives of the various entities; West Pac FIN, DAWR and the Guam Fishermen's Cooperative Association. The result of these meetings was a document outlining the program.

The project commenced September 1st with membership of the Guam Fishermen's Cooperative Association (GFCA). The turnout was excellent, as 140 fully completed activity surveys were received from Co-op members. This was out of approximately 200 members of GFCA. The GFCA accounts for an estimated 80 percent of the local commercial catch.

He showed some graphics on the results of the survey:

- a breakdown of the 142 surveys by village and by the size of vessel.
- the population by village and the number of vessels that participated from each village. He noted where they had good representation and where they needed more outreach. The southern villages normally have smaller populations, but they have a higher percentage of people who fish.
- the various fishing methods were on the activity survey, and the fishing trip survey. On other methods, there was only one fisherman in this round that noted that they did other fishing, which was net fishing.
- the local catch portion sold. He noted that only one fisherman said that they didn't keep any of their fish. Most fishermen said that their primary reasons for fishing were to put food on the table and for the enjoyment of the activity. They also noted the primary reason for selling any fish was to cover the cost of the activity. With the rising cost of fuel and maintenance, fishermen have had to sell more of their catches to support the activity. While the cost of fishing has gone up the selling price of fish has not. It was shown that most of the fishermen now have to sell most of their catch.

There were 40 surveys received during the month of September. All of them received from the Guam Fishermen's Cooperative and the Janz Restaurant locations.

Challenges and opportunities, education and outreach: The continued challenge has been to encourage new participants and keep volunteers motivated to participate in the project. The continued work with the village leaders to recruit participants provides promise to expand the project accordingly. Other outlets will also be pursued.

Weather being an unknown variable will continue to affect the participation in the activity. However, good fishing conditions may also increase the number of surveys turned in.

Guam's current infrastructure problems with power and water resources may affect the participation of fishermen. The issue goes towards the proper handling and storage of fish. The Guam Fishermen's Cooperative Association has worked to educate its members on the importance of proper fish handling and storage, also known as HACCP.

Calvo concluded his report with si yuus maase.

Sablan thanked him for his presentation and said it was excellent.

Calvo said thank you.

Sablan asked if there were any questions or comments for Guam. Having none, he moved on to Item 8.C, SPC/Council Coastal Fishery Management Workshop and called on Mr. Ka'ai'ai.

## **8.C SPC/Council Coastal Fishery Management Workshop**

Ka'ai'ai said they were working with Ueta Faasili and the SPC and were scheduled to have a Coastal Fisheries Management Workshop from April 4th through 8th of 2005. They have not determined where it will be. The Council has agreed to share in the cost in some way.

Simonds said, right, wherever it is cheaper.

Sablan said, Honolulu.

Simonds noted that everyone wanted to come to Honolulu

Sablan added, Homeland Security.

Simonds said that was a problem, in terms of visas. This needs to be decided quickly because it takes more than two or three months for people who aren't U.S. citizens to come into the country.

Sablan asked if she wanted the Council to decide.

Simonds replied that the SSC would be deciding

Sablan thanked Mr. Ka'ai'ai for his report and moved on to 8.D., John Calvo on the Marine Conservation Plans.

### **8.D.1 Marine Conservations Plans, Guam**

Calvo thanked the Chair. The Marine Conservation Plan was item 8.D.1.B, a draft from September 2004. MSA states that for violations occurring within the EEZ around American Samoa, Guam, and CNMI, fines and penalties are imposed under the act, including sums collected for the sale of seized property, which would be deposited into the treasury of the island's government. MSA needs to be expanded to provide that should the discovery and arrest result only after the violators have entered Guam's, American Samoa's or CNMI's ports, that the fines and penalties imposed under the act will also be deposited into the treasury of that island's government. This will assist in the funding of the Marine Conservation Plan.

The EEZ around Guam is bordered by the EEZ of CNMI 20 miles to the north and the Federated States of Micronesia 100 miles to the south. Given the proximity of the EEZ islanders of the FSM and CNMI, it is important that Guam continues to coordinate its efforts toward marine resource development and management with those island neighbors.

The dynamic nature of the tuna fishing industry of the Central and Western Pacific and the complexity of regional and subregional fisheries management and development issues present challenges for the development of a long-term plan. The FSM exercising its control of foreign fishing vessels in its EEZ illustrates this point. Vessels fishing in the FSM must offload at FSM port of calls. This has caused a downturn in the tuna transshipment business via Guam's Commercial Port.

He showed the Marine Conservation Plan objectives. The plan review process, the various projects and strategies described in the MCP are rated high, medium and low priority. Activities designated as high are those deemed in need of immediate attention or resources. Rankings may change as conditions change. Responsible entities are provisionally identified as being accountable for the implementation of projects and providing assistance when necessary to ensure that project's aims are met.

The Marine Conservation Plan Working Group will prepare the annual report. With the release of the working document public review will be pursued.

Objective 1 deals with fisheries resource assessment and monitoring. The first project is to conduct the bathymetric and seabed mapping of the Guam's EEZ. The initial Marianas Archipelago Reef Assessment and Monitoring Program Cruise aboard the NOAA ship OSCAR ELTON SETTE took place April 22nd to April 28th. This multi-disciplinary effort to assess and map the coral reef ecosystems of the Marianas Archipelago is scheduled to continue in March of 2005.

The initial mapping for Guam was only completed for a small section of the northeastern coast due to mechanical difficulties brought on by inclement weather.

Objective 2 deals with effective surveillance and enforcement mechanisms, a cooperative enforcement agreement. A combined observed sampling program of VMS can be designed and will be equal in effectiveness to the full observer coverage program established by NMFS. An MOU needs to be implemented between the NOAA Office of General Counsel, NMFS Enforcement, U.S. Department of Homeland Security, Coast Guard and the Department of Customs and Quarantine, Government of Guam for enforcement services to enforce the MSA, the Endangered Species Act and the Marine Mammal Protection Act. Local capacity and expertise must be built. They need to fund capacity, training and monitoring capabilities. They also need to implement a vessel monitoring system. VMS will assist in keeping track of vessels within Guam's EEZ. However, there is a need to explore the feasibility of establishing a corridor that is a specific pathway for transiting Guam's EEZ to its port.

Another objective is the development of an observer program. It would be assumed that the major costs for implementing an observer program will be borne by the foreign entity acquiring fishing access rights under a PIAFA. The program will maintain a high priority if the negotiation of a PIAFA is likely. It may take from six to twelve months to establish the program depending upon the magnitude and type of fishing.

The development of a Guam EEZ Regulations Handbook is another objective that would increase the level of compliance with U.S. EEZ and port of entry regulations. The handbook would provide easily accessible and comprehensible information for use by agents, captains and crew of foreign fishing vessels. The handbook would include U.S. maritime, immigration, environmental and health regulations, and other pertinent information. It would be drafted in a variety of languages, such as English, Japanese, Korean and Mandarin Chinese and be simple to read by individuals with different socio-economic backgrounds. The handbook would be

distributed free of charge by appropriate agents of the Guam and U.S. Government. The handbook would also be reviewed periodically for accuracy of information.

**Participation in Regional Pelagic Fishery Management Forums or Initiatives:** The cost will be dependent on the extent to which Guam is involved. It is Guam's wish to participate in all relevant meetings and initiatives.

**The U.S. Coral Reef Task Force:** Guam natural resource managers have met to set up the three-year Local Action Strategies. The strategies include land-based sources of pollution, fishing, education and outreach, recreational overuse and misuse, climate change and coral bleaching and disease.

**Western Micronesia Chief Executives' Summit:** The Summit would be comprised of the Governors of Guam, CNMI, Yap and the President of Palau. Resources are required to convene technical meetings, provide travel for policy-makers and appropriate staff to regional consultations and provide support for the information and the data necessary. Public participation is necessary to provide opportunity for public and private sector input.

**Objective 5, Habitat Assessment and Monitoring:** Long-term monitoring of coral reef sites. Guam is currently developing its Coral Reef Monitoring Strategy.

**Objective 6, Domestic Fisheries Development:** Capitalization, development and implementation of a fishing vessel loan program will provide funds below market rates to qualified local fishermen.

**Disaster Assistance Fund for Commercial Fishermen:** Eligibility criteria and application requirements need to be developed for a commercial fishery financial assistance program for business interruption resulting from a typhoon as well as to develop a grant program to repair boats and commercial fishing equipment damaged as a direct result of the typhoon. Once the program is created, it would be made available to commercial fishermen.

**Capital Financing for a new Guam Fishermen's Cooperative Marina Building Complex:** The construction of the facility will provide opportunity for increased income revenues for Guam's commercial and recreational fishermen expanding Guam's fishery economic base.

The Guam Volunteer Fishery Data Collection Project, was noted.

The Marine Science Bachelor Degree Program will assist with the building of local capacity. It is hoped that this program will provide a minimum of five undergraduate students per academic year graduating with a Bachelor of Marine Science Degree.

**Marine Conservation Public Education Campaign:** Materials promoting sustainable use of ocean resources need to be developed and distributed to the public.

The Western Pacific Demonstration Project, also known as CDPP, included the preservation of traditional fishing practices. Phase I pertains to the statistical analysis of

traditional fishing practices and identification of existing activities. Phase II would refer to the implementation of the Master of Traditional Fishing Program. With the current CDPP solicitation, there are a couple organizations that are looking towards fulfilling this item.

Other Marine Conservation Objectives includes data collection and reporting; bycatch and protected species interaction; and management measures. DAWR and the Bureau of Statistics and Plans, with the assistance and guidance of West Pac FIN have had three avenues of data collection. These are the random creel surveys, vendor surveys and the foreign fishing vessel reports. With the Council's and West Pac FIN assistance, the Volunteer Data Collection pilot project will provide a fourth avenue, which will enhance and provide further insight into the local fishing community.

Bycatch and protected species interaction will continue to be issues on Guam. A process to document the local sale of bycatch from the foreign fishing vessels has yet to be addressed.

Protected species interaction, while more monitored, need continued education and outreach effort. The influx of migrants from the Micronesian Islands and the crews of the foreign fishing vessels require more focus on this effort.

Area closures have been designated for the Guam EEZ for pelagic and bottomfish fisheries. These regulations, coupled with the MSA and other existing federal statutes prohibiting the take of marine mammals and endangered species provide adequate safeguards for the existing level of fishing activity around Guam.

The Guam MCP proposes monitoring and enforcement programs to ensure that these regulations are adequately enforced. Coral Reef money will be funding one environmental lawyer to handle local cases in line with Guam's Local Action Strategies. This person will be on the staff of the Attorney General's Office with a direct line to the Coral Reef Point of Contact for Guam, which is **Regi (phonetic)** with the Guam Coastal Management Program.

He noted that this was a draft, and was under review by the Governor of Guam.

Calvo ended his presentations with Si Yuus masse.

Feder commented that the Magnuson Act sets forth some of the mandatory components of each marine conservation plan, and there are five things specifically mentioned in the statute. It says that conservation management objectives shall include but not limited, and it lists five things. One of those things is grants from the University of Hawaii for technical assistance projects by the Pacific Island Networks, which is education and training and development and implementation of sustainable resources development project, scientific research and conservation strategies. While it is recognized that that is a bit odd, he didn't know if the Pacific Island Network even exists today.

Simonds interjected that it doesn't.

Feder repeated that it doesn't. But it is still in the statute and should be addressed by each of the marine conservation plans. The statute doesn't dictate what priority shall be assigned to that part of the plan, but the statute does require that each of these five things need to be included in each plan.

Simonds said that as Mr. Calvo had done with the previous plan, a little sentence in there about Sea Grant should take care of it.

Duenas noted the suggestion.

Sablan asked for any other questions or comments.

Simonds added that she thought it was a very good plan and whether or not they have funds from this particular PIAFA, or this section of the Magnuson-Stevens Act, if they have funds from other sources, they should apply them to this program.

Sablan asked Ms. Simonds if she was also saying that the Government of Guam Marine Conservation Plan cannot be adopted by this Council because of that amendment that she suggested.

Simonds said that if Mr. Calvo put it in before the end of the week the Council could vote on it on Friday.

Sablan asked, on Friday?

Simonds said, sure.

Calvo said thank you.

Sablan moved on to Agenda Item is 8.E.2. However, since Mr. Tulafono was not present he asked for the report from two colleagues from American Samoa.

#### **8.D.2 Marine Conservation Plans, American Samoa**

Haleck thanked the Chair. He said he had been in close communication with Ray Tulafono, who sent his apologies but he assured the Council that at the next meeting in March, hopefully, the Marine Conservation Plans for American Samoa would be submitted to the Council for review.

Sablan thanked Mr. Haleck and asked the Council members for comments, questions for American Samoa MCP? Having none, he went on to the Standing Committee Recommendations.

#### **8.E. Standing Committee Recommendations**

None were given.

Sablan asked for Public Comments.

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

There was none.

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

There was none.

Morioka thanked Mr. Sablan and called a recessed at with the group returning at 3:35.

(Brief break taken)

Morioka reconvened the 124th meeting. He began with by asking the Council members if they had Agenda Item 9.1 and 9.2.

### **9. Pacific Islands Region Strategic Plan**

He brought to the Council members attention Agenda Item 9, Pacific Islands Region Strategic Plan and Concur. This represented the Council's commitment to a process that the Council staff and NOAA Fisheries, Pacific Islands Fishery Science Center, the Pacific Island Regional Office and the Pacific Islands Division of Law Enforcement have embarked upon. This was a first-of-a-kind effort. He applauded Ms. Simonds for getting Pooley and the agencies together last year and starting this process.

This was the first of a series of three stakeholder meetings. The stakeholders today are the Council members and their peer agencies. He introduced Allen Tom, who was not present then from the SPC, Secretary of the Pacific Community, Mr. **Emerick Desamo (phonetic)**. He welcomed Mr. Desamo and thanked him for his participation in this endeavor.

There would be a stakeholder series workshop tomorrow with the environmental community and another with the commercial fishers. It would be held in another room as the Council meeting proceeds. This all inclusive process to get stakeholder input has resulted in a Draft Vision, Goals and Objectives that have been established as the strategic plan for the region.

This was first-of-a-kind, unique, leading edge. He was excited by the process because if this really came together as he had envisioned, they will have synergy in deploying very scarce resources. And be very concise and explicit and unified in their approach to the management and conservation of fisheries within the region.

They were very fortunate to have facilitators that are very familiar with the process and introduced from Concur, Scott McCreary and Eric Poncelet.

The Chair turned the meeting over to Mr. McCreary to guide them through this process.

McCreary thanked the Chair, Council members and other colleagues.

McCreary began by noting that this was one of a series, dating back a little bit over a year in time. They would hear about how the process has evolved as they go through today's presentation.

His teammate in this presentation would be his colleague, Eric Poncelet. First, he would walk them through an overview and the purposes of this part of the meeting, the agenda for this little section. Then Mr. Poncelet would acquaint them with the strategic planning process to date. Mr. Poncelet would go through the key steps and the vision. Then they would go through the goals and accompanying objectives.

The main point of this meeting was not to talk, but to elicit comments and to ask if indeed the goals and objectives resonate with the vision, their intentions, and their interests in marine resource management for the region. The aim was to see if they were on track and informed to do the final production of the document.

They expect to have this process wrapped up in about six month's time, and it was very crucial to get the Council's buy-in and review, as well as that of the peer agencies.

He asked Tony (Beeching) if he was driving the PowerPoint.

This was a unique effort in a couple respects: it represented the synergy of NOAA Fisheries, Science Center, the newly-created Regional Office, the Council and Pacific Islands Division from the Office of Law Enforcement. The premise was that all of these agencies stand to gain by working together. In an era of scarce resources, that is even more important.

He went through the following slides:

- The plan authors, also were displayed in their documents. This was jointly authored by a team involving the directors of the office, some of their senior deputies and other staff. It has been a collaborative drafting effort.
- The role of Concur has been to help guide and manage the process. They are not the authors of this plan that credit really rests with the staff.

But the goal today was to present an overview of the plan to encourage comments and to facilitate discussions as they go through it.

The purpose of the meeting was to present the vision, goals and objectives and elicit feedback from not only the Council, but also the peer agencies who are here, and in other meetings from the fishing interests. There would be a Fishers Forum that evening and from environmental organizations and from other fishing organizations the following day.

So turning to the agenda, the welcome and overview were done and they would soon turn to the strategic planning process to date, Mr. Poncelet would talk about that, then they would present and discuss the visions, goals and objectives.

The organizing questions he wanted the Council members to think about they went through the process included:

- do the vision and do the goals and objectives resonate with the organization's interest and with everyone's understanding on what the Council's interests are?
- are the vision and goals and objectives clear? Are they complete? Are they internally consistent? The Chair pointed out this was to be a concise document and their feedback was needed;
- particularly for the peer organizations, how might their organization participate in or contribute to the realization of the goals, recognizing this was a collaborative effort and not even just the Council and the Regional Office of NOAA Fisheries can do this together. More buy-in and support was required and needed to begin there.

Turning to the ground rules:

- they wanted participation and feedback. It was expected to be different from any other meeting -- respectful interaction;
- they wanted information shared;
- this workshop would inform revision of the strategic plan. So careful notes on their oral and written comments were encouraged as well.

With that he turned the meeting over to Mr. Poncelet who would be recapping the strategic planning process to date and go over the vision. Then Mr. McCreary would be back to go through some of the goals and objectives.

Poncelet thanked Mr. McCreary and the Council members.

He asked why do the strategic planning? Back in the spring of 2003 the Pacific Islands Region was formed, and in that process what had been the Honolulu Laboratory became the Pacific Islands Fisheries Science Center (PIFSC), and the Pacific Islands Area Office became PIRO, the Regional Office. He believed that including the Council and, more belatedly, the Office of Law Enforcement, there was a recognition that this was a moment in time to try to do something different than had been done before and to perhaps recreate and re-establish relationships and a way of working together among these offices, led by outstanding leadership from all of these organizations, they took a big step forward. The three main drivers that the Executive Officers recognized were that they could accomplish their overall missions of improving regional resource marine management and conservation and research better than they had before.

(Brief technical interruption)

Poncelet continued to explain that in addition to improving the research and management and conservation of marine resources, another driver was the ability to marshal and leverage the combined resources of the four offices better than had been done before. Finally, this was a great opportunity to further engage stakeholders in managing and conserving the marine resources of the region. So the new region came into being in April 2003. Since then there's been a series of steps that have been undertaken. He and Mr. McCreary has seen them a number of times for over the past almost 18 months.

In Spring of 2003 a steering committee of staff and senior leadership in the offices was convened to help guide this process. We convened a couple of staff workshops in the summer of 2003 to get information on what the priorities were and the goals and the critical concerns of the staff members of these offices. With that input, a strategic plan summary was developed in the Winter of 2004, earlier this year.

A Fishers Forum was held in March of this year to get some preliminary public comment on that summary version of the strategic plan. The input from that was incorporated into a revised version of a fuller strategic plan. Obviously there have been a number of iterations. That version was reviewed in September 1st and 2nd by the staffs of the four offices. Their input has again been incorporated into the version of the vision and the goals and objectives that was in front of the Council.

Today's effort was to gain further input, especially from stakeholder communities and from the Fishers Forum that evening, from the general public, fishers in particular, to advance the plan one step further. Later they would talk about how the next steps will unfold to completion of the plan early next year.

At this point they wanted to start engaging these key pieces that were in front of the Council.

First was the vision for the strategic plan. He welcomed comments or if they wanted to sit on it and if something percolates up later, they could make comments at any time. This needed to be a discussion. They would be walking through the vision statement and then through all of the goals and objectives. There was some sequence, but that did not make it necessary that they walk through the whole thing before people chimed in.

Poncelet offered a couple introductory pieces for the vision. The Pacific Islands Regional Office was a collaborative effort, and a unique one at this point. The plan being developed reflected a couple of key things: it is established into NOAA and NOAA Fisheries strategic plans and takes into account some specifics of the Pacific Islands Region: unique culture and unique geographical and ecological features that characterize the Pacific Islands Region.

With that as a preface, he read the vision. The vision is:

To achieve healthy marine ecosystems that provide for stability in fishery sources, recovery of endangered and threatened marine species and enhanced opportunities for commercial, recreational and cultural activities and improved aesthetic value.

One final follow-up to the vision was that there has been recognition by the drafters of the plan that a couple of things need to happen for this vision to be achieved. First of all, there needs to be an integrated, comprehensive science-based approach to marine resource management that guides the process. The vision is that the Science Center will become a leading science and research facility that produces science for all of NOAA in this region. Secondly, that greater coordination will be required than has been done in the past. This is coordination not only among the Pacific Island Region Offices, but also between Pacific Island Region, other governments, other agencies and of stakeholders. Third, there needs to be an important increase in community involvement, public outreach, and public participation to ensure improved management conservation. Then finally, an emphasis needs to be made towards things like staffing and funding and facilities management to make sure an infrastructure is in place for this vision to be achieved.

With that, he asked if there are any preliminary comments that anyone wanted to make on the vision itself. He stated that the follow-up in the whole process has been a very inclusive one, a participatory one involving stakeholders, involving staff, efforts basically to make it as bottom-up as possible, as well as having guidance from the directors of the different offices.

Morioka asked with regard to the comment that the plan reflects those of NOAA and NOAA Fisheries nationally, I would imagine that would include all of the agencies within NOAA. Then to investigate the achievement of the vision, and that will be achieved by making the Pacific Islands Fisheries Science Center a world-class science research facility. He was wondering whether the integration of all science into a Pacific Islands Science Center rather than just a fisheries-based Science Center would better accomplish NOAA's objective and complement theirs. Because as the Council has proceeded down the road, they have tried to interface with NOS. NOS has their science objectives. They have their own vessel. This seemed to be replicating administration. He could see administration being singular, and goals of both agencies folded into optimum utilization of resources available.

Morioka was wondering if that kind of discussion occurred in the development of the draft vision statement; that when considering NOAA and NOAA Fisheries, one has to look at the big picture and see what would be optimum.

McCreary responded that he thought that was an excellent question. Institutionally there is the Fisheries Science Center. That is one focus. One of the topics that got the most attention from staff was the whole issue of science and research integration and data dissemination.

There are specific goals fostering international cooperation, both on research and access to information that was under Goal 5 that they would come to in a minute.

Goal 6 also talked about maximizing the quality and accessibility of data in support of marine ecosystem management, which by definition goes beyond just fisheries. The theme of global science integration was not specifically stated in the plan, but references could be found to that in existing goals and objectives.

Morioka responded that his interest was not in a global integration, but rather an agency or NOAA itself integrating its resources. The Admiral speaks a lot of matrix management, however, what is seen and heard is two different things.

As the strategic plan is developed, he was looking for guidance that says, the resources are scarce, what is the optimum way to utilize these resources. If two administrations are build that is not doing matrix integration. So he saw dichotomy and was confused.

As they move through a strategic plan, it should be one that embraces NOAA, NOAA Fisheries, NOS and partners in the international arena. If the international piece is left out he didn't get the feeling that they were meshed. He didn't thing there were there.

From a strategic plan perspective, he imagined that is what they would be looking for and they would have the vision enough to look from a top-down perspective and say, "here are some natural fits and this is how our strategy ought to be implemented."

What he saw was a substrategic plan, just from a regional perspective, and maybe that's where he was getting disconnected. He asked Mr. McCreary's assistance.

McCreary thought that was very good insight and offered two observations. First, the premise of the strategic plan is there is strength in these four agencies sticking together to leverage their influence. Quite honestly, one thought or one expression of that leveraging of influence is financial. It's being able to go to Congress and say, the Pacific Region really deserves a lot of support.

But there was another kind of leverage, and it's leveraging policy integration beyond this region nationally. The strategic plan has not tried to do that, but he thought Mr. Morioka was putting his finger on the opportunity perhaps to do that.

He thought it was a policy level discussion that probably Mr. Morioka ought to engage in with the directors. But he thought Mr. Morioka was accurate in saying maybe what has been written so far doesn't quite go to that national policy integration.

McCreary asked if that was fair response.

Poncelet added that when the Vice Admiral was here back in September, he and Mr. McCreary spoke about this more global vision of having NOAA become more centralized in the area. But the specific link between that discussion and the initial draft has not been drawn in the plan.

Duenas wondered that since there is a world outside the State called territories, Pacific Islands, why they weren't included in the process. He was hurt that works continued on with the strategic plan and it says, on the first thing, stakeholder workshops, stakeholder involvement. Maybe CNMI or American Samoa has had workshops down there.

Morioka told him that this was it.

Duenas explained further that he knew there were workshops with Concur last time the Council met at the Ala Moana. There was a working workshop there. He was curious whether it was going to expand out to the territories and reach out to the other people that live in this region.

McCreary interjected that he thought Ms. Simonds wanted to respond to that question but wanted to make a comment first.

They have not physically gone to American Samoa or to the other territories as a part of the process. However, they did try to reach out to those stakeholders through a step of doing a series of focused stakeholder interviews, 30 in all. They did several, he couldn't remember the exact number, of people from the other territories outside of Hawaii. There was at least that effort. Not as good as in-person, for sure, but that was a part of the strategic planning effort. He asked Ms. Simonds to elaborate.

Simonds said that she was sorry that Mr. Duenas felt so hurt. But, the process has been going on for a year and a half, it started last April. While they didn't plan any workshops going out there to do that, it was never too late. There is certainly the structure with SSC members, AP members and the coordinators. It could be done. There could have one workshop in each place, if that is what they would like to do. What was done was a long list of interviewees was given to the facilitators a year and a half ago. Then they tried to get in touch with different people. They had a design. So, right, that's probably not good enough. So it can be done if that is what is wanted.

Poncelet asked if they could recommend additional steps they could take to make sure they were adequately reaching stakeholders further away from Honolulu. He added that they did contact ten or so folks from the different islands.

Duenas said that Mr. Poncelet was the expert at conducting the process, he was just wondering if they were going to reach out to the communities out there. He was sorry that he ignored his responsibilities as a Council member for the past year.

Simonds noted, eighteen months.

Duenas repeated, eighteen months, or whatever length of time it was. He never envisioned that this was a limited entry program.

Simonds said Mr. Duenas was getting carried away.

Morioka called for order.

Simonds called on the Chair.

Morioka said with regard to Mr. Poncelet's comment, the second bullet read: "Foster greater cooperation among PIR offices, island governments and international partners by

expanding its management and science presence throughout”, and that they were engaged today with their peer NOS.

He was curious as to why that was not in that particular statement, that not only Pacific Island Regional Offices, but peer agencies, such as the National Marine Sanctuary Program are not part of this integrated effort because there is this often cross-jurisdictional effort that is required. He was curious as to why maybe that was not there.

Simonds asked to respond. She explained that when they started developing this, actually more like ten, fifteen, twenty years ago, the whole idea was to get the National Marine Fisheries Service family together to decide how we work with each other, to develop protocols for working with each other. So when they became a region that was the time to actually get very serious about this, to do this.

Since this has been developed, talks were done with the Admiral and with the brothers and sisters across the table. The next step, after the plan was complete was to work with the other agencies, Fish and Wildlife Service, as well, to develop protocols with them on how to talk to each other. That's a future step, which has been discussed, (and the Admiral was delighted) first among the NOAA family and then with other partners. The whole vision was for all to really work with each other, it does not preclude anything.

Tom jumped in, as a part of a sibling agency of NMFS, to say that that was the way it was explained to NMFS. The Council was going to get its act together, formulate strategies, and then NOS was going to jump in at some point.

They are certainly at that point of NOS, the Sanctuary Program and the Pacific Service Center was going to be have their own strategic planning meeting early next year and it doesn't make any sense, as the Chair said, to duplicate and ignore what strategies have gone on here.

So he invited the Council to participate in their developing of a plan so they can mirror what was here in the objectives, and hopefully it will be the same as theirs. Certainly, when they all move together into one NOAA building, they should have one big NOAA strategy and it shouldn't be different.

McCreary said that one of the challenges in putting together a planning effort was that it needed to take shape gradually and the participation grows in concentric rings. When they went out to the public in the spring, there weren't goals. There were critical issues. So this document has evolved a lot and the thinking has evolved a lot. He thought that the next six months would be a really critical time to weigh in and shape the document and look for others that need to participate and look for other themes that need to be folded in.

The other point he wanted to make was they have only presented the vision. This will make a little bit more sense and hang together more as they step through the suite of goals and objectives that structure the plan. So, he suggested that they take a couple more comments and press on with the meat of the document.

Feder suggested that they consider in the one-sentence vision statement itself extending endangered and threatened marine species to somehow include marine mammals generally, since that one of the important obligations of the National Marine Fisheries Service, is to conserve marine mammals generally. It's not limited to endangered and threatened marine species, which is a reference to the Endangered Species Act.

Feder knew that there's reference to marine mammals generally under Goal 2, but it doesn't seem to be covered in this one-sentence vision statement, which to him was a bit odd.

McCreary thanked Mr. Feder and asked for any other comments on the vision. Having none, he suggested to the chair that they press on.

Morioka thanked Mr. McCreary.

Mr. McCreary introduced the 12 goals and companion objectives that grew out of the staff workshop we convened last spring. This spring at the Fishers Forum ten critical issues were identified, and that got revised a couple of times, arriving at the 12.

He proceeded through each, reading the goal and paraphrasing the objectives:

- Goal 1 is to implement conservation and management measures based on ecosystem principles. That is expressed through four specific objectives:
  - o Looking at management measures for geographically-based ecosystems;
  - o Expanding current research and monitoring, those two companion ideas;
  - o Dealing with bycatch, obviously a major issue in this region;
  - o Collaborate with other federal and state or territorial offices and agencies.

So right up front in the first goal there was an objective that reinforces the kind of collaboration, the Council were pointing to.

- Goal 2 is to conserve and enhance recovery of protected marine species. This would include a particular focus on sea turtles, Hawaiian monk seals, other marine mammals, as Judson just noted, and protected seabirds. There were specific objectives for four of the most important species in this region.
- Goal 3 is to conserve and manage the Pacific Islands Region's fisheries using science-based management. There was a great deal of focus in the first staff workshop on the need to strengthen the linkage between science and management. That was one of the most important themes that came out, and it certainly came across in the interviews that were done, and again in the last staff workshop. The objectives included:
  - o Build grass roots support and participation in fishery research. By the way, part of the Fishers Forum will deal with recreational bottomfishing;
  - o Support local governments. Again, this points to interagency coordination;
  - o Assure scientific integrity of information used.

Ikehara suggested that Objective 2 include “and work collaboratively with local governments in managing EEZ fisheries”.

McCreary repeated that Mr. Ikehara wanted to add, “and work collaboratively with local governments in managing EEZ fisheries” to objective 2, Goal 3. He thanked Mr. Ikehara. He asked if there were any specific comments on Goal 3 or its companion objectives.

Tom he was not sure if an additional objective should be added to Goal 2. But, in looking at Objective 4, it says support the U.S. Fish and Wildlife Service in the conservation and management of populations of protected seabirds. Within NOAA, even though it doesn't say that in these objectives, there are other programs that NMFS works with, for example, the Sanctuaries Program that also protects marine mammals, and it's not mentioned. He was not sure if they wanted to be so specific like that, but maybe it could combine somehow to work with other federal agencies that have these same --

McCreary verified that Mr. Tom didn't want to it just to the Fish and Wildlife Service, but recognize that there are other companion agencies.

Tom added that if that is done, then it would be more than just seabirds.

Poncelet asked if he wanted this added for all four objectives.

Tom said, right.

McCreary asked if he had specific language that he could think of and wanted to share before the meeting ends or by e-mail that would be helpful.

These kind of specific comments are exactly what they were looking for. They don't expect them for every single goal and objective, but if they have them, that would be great.

He asked for any particular feedback on the objectives under Goal 3.

Feder had another comment under Goal 2. The phrase, conserve and manage, that appears in Objectives 1, 2 and 3, he suspected that that might come from the Magnuson Act, where they conserve and manage fisheries.

To him the verb "manage" in this context is a little bit odd since the primary aim is really to conserve, and in the case of marine mammals, protect these populations of protected marine species. He suggested deleting the term "and manage" under each of those objectives.

And perhaps under Objective 3, to use the term "protect populations of marine mammals" which is the term used in the Marine Mammal Protection Act.

He was not sure if there was an explanation for the use of the term "and manage" in those three objectives, but offered his thoughts.

Morioka said he had heard the second part of Mr. Feder's comment, but missed the first part. He asked him to repeat the first part.

Feder said maybe he didn't speak clearly. He was suggesting perhaps use the word "protect" instead of conserve, but the term conserve is okay, too.

McCreary thanked Mr. Feder. He again asked for any specific comments on Goal 3 or companion objectives. Hearing none, he continued.

- Goal 4 is to conserve, protect and restore marine habitat in coastal ecosystems in the Pacific Islands Region. Building on this goal, specific objectives include:
  - o Implementing broad-based research programs, plural;
  - o Increasing partnerships with other federal and local authorities;
  - o And improving technical review of proposed federal actions to eliminate or reduce potential negative impacts.
  
- Goal 5 is to support international cooperation in the conservation and management of pelagic ecosystems in the Pacific. Companion objectives:
  - o Leading U.S. representation towards international agreements;
  - o Increasing international education outreach;
  - o Providing information on reducing fishery-related and other sources of marine debris working in international fisheries forums;
  - o Fourth, increasing research and access to information.

So those are the four companion objectives to realize supporting international cooperation.

- Goal 6 is to maximize the quality and accessibility of data in support of sustainable marine ecosystem management. Specific objectives here point to:
  - o Monitoring of fisheries and ecosystems;
  - o Improving the accuracy and precision of collected data, a major theme, by the way, of concern of staff;
  - o Improving the way databases are managed in terms of documentation, transparency and access;
  - o Also, improving data processing and transmission systems.

So several particular activities to improve the quality and accessibility of data. So that takes us to Goal 7.

McCreary called on Mr. Poncelet for his comment.

Poncelet: One more objective on this.

McCreary added Objective 5, which was improving the coordination of data management. Again, this was of great interest to the staff in the staff workshop recently held.

He handed the discussion over to Mr. Poncelet to go through Goal 7 through 12.

Poncelet continued with Goal 7:

- Goal 7, to integrate social, economic and cultural information and understanding into sustainable marine ecosystem management. This is an effort to bring sustainable management into the plan. Two key objectives here:
  - o One was to have better collaboration and exchange of social, economic and cultural information;
  - o Secondly, the importance of increasing understanding of policy trade-offs, in particular with relation to both marketing and nonmarket values. They got some feedback in March from the Fishers Forum that was convened at that point.
  
- Goal 8, expand support and education concerning good stewardship of sustainable marine ecosystems. The objectives:
  - o the first one has to do with cooperation among the different organizations -- actually, improved cooperation with individual organizations to support good stewardship practices;
  - o The second and third objectives are improving or increasing the communication in the education with island residents and other stakeholders with regard to good stewardship practices and with regard to sustainability;
  - o Then finally, increasing fishery participation by indigenous people and communities.

Tom asked if Objective 4, was limiting by just increasing fishery participation by indigenous people. He suggested that it be opened up to increase fisheries and stewardship participation, not just limiting it to fisheries. Education is part of the goal.

Poncelet responded that his understanding of the objective was -- as Marcia Hamilton discussed earlier, that it was driven by the Magnuson Act, it is important to increase participation in the fisheries. But he thought it made sense to expand that to stewardship as well.

McCreary added that at the Fishers Forum meeting in the spring one of the very strong themes was to increase the emphasis on indigenous ways of knowing cultural traditions, and acknowledge this. We tried to infuse that idea into the revised plan, it had not really been there in the earlier critical issues.

Seman interjected that this brought them back to Goal 3. That in going over Goal 7, which mention about the cultural information, it would integrate this as to stakeholders. He wanted to see the conservation management of the Pacific Islands Region Fisheries using

science-based management, but it doesn't mention traditional-based type of management. Perhaps in Hawaii it was not a big practice, but in American Samoa culture it was a big deal in management, and that should be reflected.

McCreary said that was a very good comment.

Poncelet asked if that would be for the goal in Goal 3.

Seman said, right.

Poncelet as if that would appear anywhere else.

Seman said, yes, that there was another part here in Goal 7, just the way he was reading it, integrate social, economic and cultural information and understanding. He thought he would like so see it include the words "cultural practice" as well, into the sustainable marine ecosystem management.

McCreary suggested that the phrase "traditional knowledge" could also be used as opposed to "traditional information," which has a more robust connotation.

Seman said, right.

Ikehara asked Mr. Seman if he would expand his modification to include, encouraging community-based management where appropriate.

Seman asked, under Goal 7?

Ikehara said, under the modification made on Goal 3, as an objective.

Seman said that members of SPC have a plan to adopt management practice utilizing traditional means. There was a thing about them going into the new technology. But then sometimes new technology is, "wait a minute, let's go back to old practice of managing fisheries."

Ikehara added that it would include community-based as well, if that was part of the tradition. Okay.

Poncelet clarified with Mr. Ikehara if there was an "as appropriate" --

Ikehara said, no. He was just asking Mr. Seman if his new objective included consideration of community-based management. I think he basically indicated that it would be.

Duenas said that he felt more comfortable with what Mr. Seman said and what Mr. Ikehara was saying. A lot of the goals mentioned here, or objectives, use a lot of local government, stuff like that. Maybe if it just had "community" instead. Because that way, it

reaches down to the lowest level of the spectrum rather than just to the government, because then it's a top-down approach.

McCreary clarified that either add "community" or substitute community for local government.

Duenas said, no, no. There was local government like in Goal 3, Objective 2, support local government. Then "support communities", which he thought had a better ring to it as a goal and objective.

Severance said that this was one of the points he had written down to add, too. But he thought that it might be better to say, local authorities and communities, to include them both. He asked Mr. Duenas if that was okay.

Duenas responded, yes.

McCreary asked Mr. Severance to elaborate on why having both is preferred.

Severance said that the Council was about to embark on the beginnings of a community-based ecosystem fishery management plan that was going to include two parts of its jurisdiction, both CNMI and Guam. And that was going to be bottom-up. It's going to be community resource people, people with experiential knowledge, people with traditional knowledge.

As an anthropologist, he would argue that traditional knowledge is also science-based because it's based on inquiry with natural observation. They didn't have to say traditional knowledge as opposed to scientific knowledge.

However, if the community is included, it is different than the governmental authority. Some of these communities, as in Samoa, are re-asserting their authority over their own reefs with this new and very fascinating community-based fishery management program. But in other places, that has really been lost.

The potential to use it as an information, monitoring and knowledge resource base is really there because who is likely to know more about the condition of the fishery resource; the people who use it on a daily or weekly basis, or once a year or less frequently than that to monitor?

Poncelet thanked Mr. Severance and appreciated his point as a fellow anthropologist. He continued with the goals:

- Goal 9 is to support successful conservation and management of sustainable marine ecosystems through effective enforcement strategies. This is the enforcement goal. Two major objectives:
  - o To do this through the promotion of partnerships and other means of enhancing effective enforcement strategies;

- To expand the range and use of innovative enforcement tools. To explore new ways of doing enforcement better.
- Goal 10 is to integrate NEPA processes and analytical requirements into sustainable marine ecosystem management. Several objectives support this:
  - One is to improve the staff capacity regarding NEPA, in general. So improve knowledge and expertise;
  - Secondly, increasing and coordinating the information available to support performing NEPA analyses;
  - Then finally, improving the recognition of when NEPA actually applies and ensuring NEPA compliance.
- Goal 11 is to provide appropriate and effective staffing and administrative support for sustainable and marine ecosystem management. This was a goal that got a lot of attention in the staff workshops to date. Key objectives here:
  - One is to address issues of staff morale and development and considering new structures to improve those;
  - Secondly, improve the underlying technical structures for administration and telecommunications. So improving technological infrastructure;
  - Third is to improve facilities management to enhance the working environment for the staff and accessibility to the public;
  - Then finally, to improve coordination within the administration, the IT and other service-oriented functions.

Feder suggested an addition objective and was not sure if it belonged with this goal. That something along the lines of, to improve recordkeeping and record retrieval systems to ensure project files were easily accessed by Agency, Council staff and, as appropriate, to the public.

Poncelet asked if he thought that would be covered on information management, Goal 6. This may be dealing with different types of information, but there were a number of objectives that have to deal with improving data processing and transmission, improving coordination of data management, intensive data sharing, that is Objective 5. Do some of these capture --

Feder interjected that those might capture it. He guessed that he meant Goal 6 in terms of scientific data.

McCreary said that Mr. Feder said “recordkeeping”; that has a different connotation than data.

Feder said, yes.

McCreary clarified, administrative and lawyer, not scientific.

Feder said it could include all of the above, his suggestion was broader.

Poncelet thanked Mr. Feder and continued with Goal 12.

- Goal 12 is to promote and improve safety and security for both fishery participants and Region Staff. The two objectives here:
  - o To increase safety at sea for fisher participants;
  - o Secondly, improve safety in the workplace, both the office and in the field.

Duenas said he had no problem with this. He wanted to add that had something to do with ensuring the perpetuation of coastal fishing communities, that's part of the National Standards. He wondered if it needed to be added or was already defined.

He thought that fishing communities need protection just as well as habitat and ecosystems. They are all part of one.

McCreary asked if he thought should be a stand-alone goal or would it nest or link up with one of the existing goals.

Duenas remarked that he was asking a sponge right now, he was just sucking up what was on the board.

Ikehara suggested that it would fit under Goal 4.

Poncelet responded that they needed to ponder on that to see if it fit somewhere or whether it needed to be stand-alone.

Morioka had a Strategic Planning 101 question. He asked if this was a vision statement stating where they want to be and if they were developing goals and objectives as to how to get there.

McCreary said he was on the right track, but he was missing three other pieces that they were going to tell him about.

Morioka said he would wait for the three other pieces. He was curious that if the vision statement is to get to this healthy marine ecosystem and do all of these things, and subordinate to some of the goals there was a notion of having to work with sister agencies, et cetera, wouldn't that bubble up to be a significant goal in achieving their vision. It should be one of the keystone efforts that they ought to be looking at, and that should be set aside.

“What we need for the vision is an objective statement to effect the identification of responsibilities and authority intersections so that we know where our crossovers are, so that we've identified these things, so that we can better as individual agencies, and even with our international partners, know where these intersections occur and see where our strengths are, where our weaknesses are, and if there are synergies available to us, to better utilize the scarce resource.”

He apologized for coming back to the scarce resources.

McCreary thought Ms. Simonds wanted to respond.

Simonds said that throughout the entire document the words are there. It says, collaboration --

Morioka said he understood and that was what he was saying.

Simonds said, it's all throughout this whole thing.

Morioka said that that was what he was saying that is was under each goal as an objective, and he was wondering if it by itself was worthy of being a goal.

Poncelet clarified that it would have its own objective of how to actually going about doing that --

Morioka said, exactly.

Poncelet said that that was something different from what was being discussed.

Morioka responded, correct.

Poncelet said Mr. Morioka pointed out a challenge of coming up with a strategic plan because there are goals and objectives and under the objectives there are actions and they are inter-related, intertwining and at some point it has to be parsed out and in the most clear fashion possible what it was going to say. Poncelet said that in some cases, it was important to reiterate certain points to not miss or lose a key point in the process

McCreary explained that one of the messages that a strategic plan sends is what is important, and the highest level after the vision are the goals. He thought Mr. Morioka's argument was, maybe this goal of interagency collaboration rises to the level, that level, and deserves that kind of attention, even though maybe it exists under the other ones. He asked if that was right.

Morioka explained that was his feeling, that if it is essential in order to achieve the vision, it was important when dealing with peers in the workshop, that that bubble up to be of equal importance in the hierarchy of deeds. This didn't mean only to peer agencies, but also to peer international agencies, because there, too, is significance.

He apologized for causing all the humbug.

Simonds said that is was not humbug. She thought that "you could take all of these goals and take out where we have international cooperation, take all of these things out and you can

put them all under one. If that is how you would like to see it, well, that's fine. Because the words are really all here. It's just rearranging all of these goals.”

Severance said Goal 3 and Goal 4 and both Objectives 2, following Mr. Duenas’ suggestion, Goal 3, Objective 2, will include “and local communities.”

Then Goal 4, Objective 2 that will read, “federal and local authorities and local communities.”

Yesterday there was an informal meeting of some members of the Council's Social Science Research Planning Committee with a representative from PIRO and a representative from PIFSC. This was seen as an opportunity to try to integrate some social science research needs into the plan, and maybe use the plan to upgrade or enhance social science information-gathering to meet the Council's needs. He had a couple suggestions for added language and proceeded:

- Under Goal 6, there would be one additional objective. That would be Objective 6. And with some consensus from the group, it should read “Develop mechanisms for comprehensive data collection on human and cultural uses and valuations of marine ecosystems.”
- Under Goal 7, either add this to Objective 1 or create an additional objective that would enhance the social science research capacity of agencies and staff.
- The last one, Goal 10, Objective 1, staff knowledge and expertise concerning NEPA processes. It might help, following NEPA processes in Objective 1, simply add the phrase, “including social and economic impacts analysis”, which is sometimes a stepchild of NEPA analysis.

Poncelet thanked Mr. Severance and ask for any other comments.

He thanked the group for the oral comments. They also had an opportunity for written comments, which they invited if new ideas pop into their heads in the next week or so, to please write them down and send them to him. Their e-mail address was up on the board and in their packets. He then gave the floor to Mr. McCreary for next steps.

McCreary said that Mr. Morioka alluded to Strategic Planning 101. The first pieces of this are vision, goals and objectives. That's what has been covered so far. The question was, so what, how were they going to accomplish this. That has a couple pieces.

There are action plans prepared to carry out each of the objectives. There are also to be a set of what are called operating protocols. Operating protocols are procedures that explain how the sister agencies who offered this plan are going to work together to carry out recurring problems that they have to face. They have coined 23 operating protocols.

This was companion to the strategic planning effort begun last spring. It had been dormant for several months and was reactivated and given a big push about one month ago. There are 23 of these operating protocols that will be emerging. That covers the first “so what”.

The other big picture of “so what” is to establish milestones and checkpoints. A strategic plan is no good if no one is asking the question, did you accomplish what you set out to do. The step that remained was establishing milestones and checkpoints, and then, treats the strategic plan not as a static document, but one that lives on and is updated. The suggestion has been annually, maybe it will be every two years.

But in any case, that is the concept. It goes from vision, to goals, to objectives, to actions to operating protocols, to checking in and feeding back and seeing how it can be done even better.

In terms of the timeline, Mr. Poncelet has talked about the steps leading up to the strategic plan so far. The following were the next steps:

- Input from these workshops will be considered along with additional written input from staff;
- The input would be folded together and compiled into a full draft of the strategic plan in the December-January time frame;
- The full draft would be reviewed by the Office Directors in January-February;
- Then a full review and written feedback by PIR staff and stakeholders in February-March.

He told Mr. Duenas that there could be a juncture, or before, for reaching out, if possible.

And then full review by NOAA Fisheries Headquarters and finalize the full strategic plan by May. So they were looking at a fairly brisk pace to try to get this all wrapped up and approved at all necessary levels in the next six or seven months.

That's the game plan. That includes other federal agencies.

Duenas said he was just talking to Ms. Simonds about having island coordinators work on it also, passing it out to the communities and then getting it back.

McCreary said, good. He thought the document was at the stage where it could stand up and support a review and scrutiny. It wasn't at this point a month ago, now was the time.

So implementing and updating the plan, he just spoke about the specific actions to carry out individual plan objectives. These interagency committees have been developing operating protocols and then the review and annual update. That is the strategy.

He reminded them that they had other meetings coming up:

- the Fishers Forum tonight;

- tomorrow they would be reaching out to the environmental community, and particularly some of the commercial fishers who did not make the Fishers Forum in the spring.

He said that this was one of the more comprehensive strategic planning efforts that they know about in the marine resources sector. There's still room for improvement here. But he thought they should be proud of the staff, the Council and NOAA Fisheries, and all the hard work they've pursued in doing this.

He reiterated that other comments were welcomed by e-mail if they don't get them all out today. He asked for any other parting shots or final comments on this effort to date? He asked the Chair and Ms. Simonds if they had any else to add.

Morioka asked Ms. Simonds if she had anything to add.

Simonds said that except to thank everybody very much, especially Concur, she just wanted to add to what was said about the staff, they've worked very, very hard. Marcia, and our office worked all summer on this.

She mentioned that Bill Hogarth was happy that they were all doing this. He wishes that the rest of his Regions and Centers and Councils would do the same thing. So they are trying to push them all to do the same thing.

McCreary noted that they were breaking new ground.

Simonds said, yes.

McCreary thanked the Chair.

Morioka thanked Mr. McCreary. He continued that they were at the end of the day's agenda and it was 4:49. He reminded them about the Fishers Forum that evening at 6:30 to 9:00. He hoped to see most of them back here at that particular time.

The 124th Western Pacific Regional Fisheries Management Council was recessed until the following morning at 8:30.

(Meeting adjourned for the day)

Morioka called the 124th Council meeting of the Western Pacific Fisheries Regional Management Council back to order. The first order of business was Section 10 Insular Fisheries, beginning with Crustacean Fisheries and Walter Ikehara.

## **10.B. Crustacean Fisheries**

Ikehara introduced Gerard DiNardo to speak about the 2004 Northwestern Hawaiian Islands Cruise and Charter Plans and MultiFAN stock assessment.

Morioka referred the Council members to the pink document on their tables entitled, 10.B.1.A, NMFS/Industry Cooperative Research Tagging Program.

DiNardo greeted the Council and thanked them for accommodating his changes. There would be some additional copies the general public once they are finished copying them.

His presentation would combine 1 and 2, the cruise, the charter plans and the MultiFAN stock assessment. He started with the MultiFAN CL progress.

#### **10.B.2.a. NMFS/Industry Cooperative Research Tagging Program**

The last time he had presented the initial results he indicated that there was a slight problem with the model and they were trying to validate it to see if they could get it working. Since then, the model has been fixed and they are proceeding with running it.

DiNardo said that the extra panel review of the model that he spoke about at the last meeting was moving forward and it looked like they would have it early 2005, probably in January.

The five members of the initial 2001 review panel, some of whom were the architects of the original plan, have been contacted and will be brought back. Four of them have said yes so far and his is waiting for the fifth one. If necessary, they will ask for a substitute for that person. This should provide a good review of the model.

DiNardo moved on to the Cooperative Research Tagging Program with some of the results from this year's tagging program. These results are very preliminary and just got off the boat two or three weeks ago. A lot of the data has not been keypunched.

DiNardo thanked the captains that supported them on the trip, especially Jerry Ray aboard the KATY MARY and John Miking aboard the MARIE M, and their crews, they did a fabulous job.

He provided some preliminary information regarding the program before showing the results from this year. The tagging program stems from a technical review of research done in late 1999, 1998. They critiqued some of their models and determined that some more parameterization was needed to get better estimates. At that point they initiated a tagging program.

There have been some hiccups since 1998, when they had to stop for a few years to do some funding, but they are back on course. Permanent, long term funding has been found. That may be something that shouldn't be said in the federal government, but he thought they were in good shape for the future.

The research protocol is a stratified design based on catch rates. Basically, more effort is put in areas with higher catch rates where there are more animals.

Fifteen strings of 20 traps were fished each day. The traps were fished overnight and one and half pounds to two pounds of mackerel was used, basically the same way they fish in the commercial fishery, as well as the same way they fished in their June research survey.

The data collected is the standard data collected whenever they go out. The species is identified, the tail width and carapace length, sex of the animal, the reproductive condition and the location of where the catch and release took place. In addition, all tagged lobsters and the bycatch are released on the bottom using a release cage device. They videotape the process each time to make sure everything is still working out well with these devices.

The results for this year were put it in the context of the last few years.

Tag types: Between 1998 and 2002 ribbon tags were used. The ribbon tag is about an inch or two inch piece of plastic, about a millimeter or two wide. It is threaded through the side of the animal. He showed a picture of a tagged lobster with a blue piece of plastic sticking in its the side. The tag is threaded through the side of the animal with a needle, just like sewing.

They have switched to a high-tech approach, which is called passive integrated transponder, or PIT tags. They are similar to the pet microchips put in at the Humane Society, the same size and the same technology. They switched to PIT tags because they noticed some of the ribbon tags were being chewed on by other lobsters over time. Also, they saw the animals molting the tags themselves and the tags were being incorporated into the flesh of the animal. The animal's flesh was growing over the tag, just like when a tree grows over a wire that is stuck to it, the tree will just incorporate the wire, not a good thing.

With the PIT tags, which are basically electronic tags, a wand is waved over the animal and a reading secured. It doesn't matter if they've molted. There is no loss of the tags due to other lobsters, because the tags are internal.

Tag recovery history: Historically, they have only been tagging spiny lobsters at Necker Island. This year they tagged everything, including slippers. The information he was going to show would be species-specific from different banks.

Necker Island, spiny lobsters:

- In 1998 and 1999 they tagged 6,000 lobsters. In 1999, there were 325 recaptures. The fishery was used as the platform for recovery.
- In 2002 they tagged 14,000 animals. Of the 6,000 that were tagged in 1998 to 1999, only 20 were caught.
- In 2003 we tagged an additional 11,000 animals, a total of 30,000 animals tagged up there. They had a recovery rate of 551 animals.
- This year 7,000 animals were tagged with a number of recovery or recaptures of 1,150. So we have an overall recovery at Necker Island, of five percent, which is borderline in terms of the ability to estimate some parameters.

However, for just the PIT tags, the recovery was 10 percent. This shows that the PIT tags really are lasting, and that is the technology to be using up there.

At Maro Reef they tagged slipper lobsters in 2003 with 2700 animals tagged. This year 5200 were tagged, with the number of recovery or recaptures of 457 animals, an overall recovery of 17 percent, which is high. This allows them to get some very good estimates.

In summary, the tagging program was a success this year. While there some hiccups at the very beginning in terms of getting permits and everything like that, they have straightened that out this year and out into the future.

DiNardo mentioned some miscellaneous items:

- All the animals that were recaptured had no scars left on them from the previous tagging. There was no of injury resulting from the tag.
- They did approximately 60 video camera drops for the Coral Reef Program to get information on bottom type and habitat.
- During the videotaping of the release cage device to drop tagged animals back on the bottom, they saw no mortality or no predation from either sharks or ulua, which is also something really nice to see. There has always been a question of whether or not these animals are being predated upon as they're released on the bottom, and that is not the case.

DiNardo said he was ready to move on to the resource survey.

Ikehara asked Mr. DiNardo to hang on, then he asked the group for questions.

Farm remarked that some years ago when they were discussing the releasing of the lobsters, it was mentioned that the lobsters that were on the deck should be brought back. One of the reasons that was presented was because the lobsters get blind on the decks and they would never recover. He asked Mr. DiNardo to comment on whether or not the lobsters were blind?

DiNardo had heard there were papers that said the lobsters were blind, and he disputed that based on his trapping operation. When he has released lobsters at the bottom, he points them in one direction, but they always manage to go back to the closest rock.

He is still waiting for the paper that says they go blind.

DiNardo did recall something a few years ago in terms of the blind issue, he thought there are some papers out, and very few that say the lobsters can go blind.

What they have noticed was the same thing Farm has, that when the animals are released on the bottom, they are caught two or three days later in a trap. So, the catch and release is not necessarily interfering with their feeding behavior, they are able to function just as they had before. As a precaution they have taken steps to make sure to minimize that or get rid of it all together by doing everything under shade.

The blind condition is promoted by direct sunlight. So, everything is in shaded conditions without the direct sunlight. So they have taken all the precautions they can to prevent this from occurring.

He would try and look for the papers for Farm and get them to him, but added that the comments were usually anecdotal. It was not something that was in the forefront of the literature.

Farm said he would appreciate it. This was a personal thing with him and probably wouldn't make a huge difference in the science of the lobster fishery.

He suggested that if the tagging of thousands of animals, putting them back down on the bottom and releasing it continues that it would make an interesting paper on not only how many survive and are recaptured, but there might be a test to see if the lobsters still have their eyesight or need glasses. It would confirm the papers that Mr. DiNardo offered to send.

DiNardo said, right. He continued that estimates of survival will come from the work they are doing. The fact that they were getting a 17 percent recovery rate showed pretty good survival. In fact, it was not uncommon to be fishing on one day, tag 100 animals and release them, and then the next day catch a portion of those same animals that were tagged the day before.

Farm apologized for pushing a personal thing. He didn't think the State enforcement people would allow him to keep the lobsters because they were blind.

Morioka thanked Farm and commented to Mr. DiNardo that as a fishery manager, putting a shade and releasing varied and undersized animals, becomes a suite of options within management regimes. He asked Mr. DiNardo to pursue the issue so they would have a database when the lobster fishery opens again. There would be tools available to determine whether it is a take all or is it a reasonable strategy for the Council to require that fishers release varied and undersized for the future generations of the stock. If Mr. DiNardo would continue with that effort, he would appreciate it greatly.

DiNardo responded that this was something the fishermen had mentioned, at first they were skeptical of the release device. But when they were involved in constructing it, they took ownership. They were critical in the development of this release device and now they see it works. Even the biggest skeptics, like Jerry Ray swear by it now. And it is something they would be looking at as a management option, especially because it works.

Morioka added for Mr. DiNardo to make sure it is part of his effort, because it was an important strategy for the Council to consider going forward.

DiNardo said, yes.

Morioka said thank you.

Ikehara had one more question for Mr. DiNardo, then he could finish and then have more questions after that.

#### **10.B.1. 2004 NWHI Cruise and Charter Plans**

Martin thanked Mr. DiNardo for the way the charter has run the last three years. Mr. Martin thought it has been very well done and proves that the industry and the Service work well together.

Martin noted that an important component of the charter was the interview at the end of the charter. And, that is has become more important over the years. He also was aware that this year Mr. DiNardo was standing on the dock waiting for the lines to come on for both vessels and spent a significant amount of time with those captains. While he knew that Mr. DiNardo got a lot of opinions and probably more from one captain, he wondered how the information from these experienced captains play into the reports and how the future charters are designed?

DiNardo responded that one of the aspects of the survey, when they do the actual choosing of the survey sample locations, was to rely on the fishermen. There were some comments this year regarding the overall design, that some of the areas that they were utilizing perhaps were not the best. Next year when the survey is designed and they start selecting the sampling sites, that information will be used in the decision process.

The interviews at the very end of the cruise are critical. They let him know how well it went from the perspective of the fishermen. He does the same thing with the scientists, to see how it went there. Most of the time his staff is right on. But sometimes he relies more on the fishermen in terms of telling him how the science went, how things were conducted onboard. He uses that information to streamline the process the following year and includes things like are more people needed to help or are there too many, are they getting in the way. So the comments are taken and used in the next year and following year's development of the sample design.

This was the third year and final year for their current contract and they would be opening up for bidding again. They hope to do that in early 2005, January, or December 2004. They are trying to get this thing out the door and everything settled as soon as possible so they can give everyone enough lead time this time to plan. Past efforts have always depended on whether or not they had the money. But since he has been able to secure money for long term, it shouldn't be a problem.

Ikehara thanked Mr. DiNardo and asked him to continue with his presentation.

#### **10.B.2.b. The Pacific Islands Fishery Science Center Resource Survey**

DiNardo noted that the next part of the presentation was the Pacific Islands Fishery Science Center Resource Survey that is conducted every year. He provided some background before showing the results of this year. The survey has been conducted annually since 1984, up to 1989, a year off in 1990, then continued from 1991.

The objectives of the survey are to evaluate the performance of research and commercial gear, to calibrate gear types, to monitor the populations of lobster in the Northwestern Hawaiian Islands and the question of biological and oceanographic data.

Standardized protocol is used for the survey. They use a fixed site design stratified by depth, both deep and shallow sites at each location that were chosen back in 1984 and have been religiously surveyed since that time. Each station was stratified by depth. They had a shallow station where they fished ten strings of eight traps. At the deep sites they fished twenty traps -- two to four strings of twenty traps each. The traps are fished overnight and baited with one and a half to two pounds of mackerel.

Data collection is basically the standard set collected whenever they are out there. The species of the animal is recorded coming over the side, along with the tail width and carapace length, sex of that animal, the reproductive condition, bearing or unbearing, and location of the sampling site.

Sometimes a subsample of the target is taken, as well as, the bycatch, and brought back for fatty acid analysis for monk seal work.

While it is coined as a Northwestern Hawaiian Islands Resource Survey, the sampling is limited to just two banks at this point. They are Maro Reef and Necker Island and have been visited since the inception of this survey. While there have been a few deviations to other banks, it has not been anything substantial.

The time series over the 20 years is basically from these banks. It is not a bad design to go to these banks, because they were at one point the mainstay of the fishery and have given some indication of what has been going on in the population.

His slides showed information on the sites:

- The survey sites at Necker Island were indicated by the black dots. There are two per location indicated by two lines of dots, one for shallow and one for deep stations.
- There is coverage of the entire bank given the amount of time they have. There 12 sites there that are visited.
- They spent six days at Maro Reef and showed where those sites were.
- They do not do much sampling on that side here, basically because of the fact there's really not much on that side. But, these sites have been chosen historically based on the old catch rates back in the '70s.

Some of the preliminary results from the survey with the numbers for 2004 compared to the context of things over time:

- In 2004 at Necker Island 1,910 traps were fished. The catch was indicated on the top part of the slide. Spiny lobsters had the largest catch, 798, with a CPUE of 0.42. A CPUE is just the catch, or in this case 798, divided by the total number of trap hauls, that's gives the CPUE.
- Slipper lobsters, 543 were the catch and a CPUE of .28.
- Ridge-back, 36 animals and a CPUE of .02.
- One slipper lobster and one Chinese slipper. The asterisk just meant that it was less than .001 CPUE.

At Maro Reef 950 traps were fished. The breakdown of the species in the catch is indicated on a slide:

- Spiny lobsters, 338 with a CPUE of .36.
- Slipper lobster, the largest catch, 3,105
- 25 animals with a CPUE of 3.27, very high.
- Ridge-back, four were caught and the CPUE was very low.
- Chinese slipper, 13 were caught with a CPUE of .01.

An interesting thing seen at Maro Reef now and back in 2002, was small spiny lobsters in the catch, small meaning one-year-olds. This is the first time they have seen this in ten years. Whether or not this translated into a change in the conditions or recovery, they didn't know at this point. It's not only in they research survey, but was seen in the tagging program there also. What really matters is whether or not this works itself through the population, to see this change, to see if it is a recovery. They are keeping an eye on that one.

Due to the preliminary nature of the data, he did not have the size structure of the catch.

He then showed a graphic of the CPUE at Necker Island for 2004, relative to other years. At the top of the slide was the CPUE on the Y axis and time on the X axis. A decline shows over time from 1988 on this graph, it shows a continual decline in the spiny lobsters. Then in 2002, it goes down to slightly below one animal per trap. Then in 2004 it goes down to .42.

A medical emergency in 2003 did not allow the sampling of Necker Island.

Slipper lobster really hasn't changed much over time, is shows the same constant catch rate.

For Maro Reef, it was very different. At the top of the graph was the Y axis, the catch per unit effort and on the X axis, the year. The graph only went back to 1987 on some of the plots because of the changes in gear, and other things. It was difficult to be able to put that in the context and look at it over time because the gear was changing so much.

Back in the early '80s the spiny lobsters were the most abundant animal and slipper lobsters were the sub-dominancy. Around 1988 a flip-flop occurs. Now the slipper lobster is the most abundant animal out there, and the spiny lobster, the sub-dominant.

He then showed the time series of the same information. From 1988 on, the slipper gradually increased and seems to have plateaued. Over time it may reach carrying capacity for slipper lobsters. The most current estimate is about 3.27.

Spiny lobsters were very low and have continued low since 1990. There are slight increases starting in 2003 and 2004. That is coming from the one-year-olds he mentioned earlier. They will be watching over time to see if that translates into bigger catch rates. But it was interesting to see and has such a tremendous impact or effect on the time series shown.

DiNardo concluded his report and was glad to entertain questions.

Ikehara asked for questions.

Farm told Mr. DiNardo that in the not too distant future there will be a fear of risk with the other animals besides lobsters and that some of the research could be done with humans at the resource itself. He thought that they were missing a good bit as to the grounds, the habitat in itself, and what kind of animals besides the lobsters are in the cracks and crevices that may never go into the traps.

If those animals didn't, that was great because he thought it was healthy for the resource. He apologized to the commercial guys. He thought it would give a better picture of the resource.

He appreciated the risk and the precautionary approach they took because of the reported number of sharks in the area. Given that he had talked about safety and shark attacks the previous day, he thought it strange that he would want to see more action in that particular area. But, he knew of some pretty courageous but not necessarily too intelligent divers that would be willing to explore the area for the benefit of science.

DiNardo commented that when they are doing their trapping, they do record everything that comes up in the trap, not just lobsters. They do have a running tally of the entire bycatch. That information will be presented in two weeks at the symposium, the actual bycatch associated with that research survey.

There has been a lot of speculation about that and it will be interesting to see whether or not it says something about the demise of octopus or the demise of monk seals. It will be very interesting when people see the results.

With the wire traps, 95 or 97 percent of the catch was the target, lobster. As for the other animals, very small percentages, the next most frequent one was hermit crabs. After that, they were talking about things in the order of one or two animals since the beginning of the survey, 1984. So while there is a laundry list of 300 species that were caught, it was only one or two of these animals over time.

It is certainly very interesting and an eye-opener that this fishery does not have a lot of bycatch associated with it. Of course, the traps that are being used have a closed escape vents, so the catch rate and the animals retained will be higher than the commercial fishery.

There really wasn't a whole lot of octopus caught in the research surveys. That is very informative and will be included at the symposium in two weeks.

Farm asked where the symposium would be.

DiNardo answered that the Northwestern Hawaiian Islands Scientific Symposium was going to be on November 2 through 4 at the Convention Center. It will be a follow-up to the initial symposiums that were held back in the early '80s. There was one in 1980, one in 1983, and this will be the third one. It was a bit late in coming, but it was time.

Farm said that as a follow-up to his thoughts about the lobster work, and everything else, and the human element going down, it should be noted that a lot more activity has been going on with the divers up in that area, in general. So he thought it was a safe risk as long as was not a life.

DiNardo responded, there you go.

Ikehara called on Council Member McCoy.

McCoy said that his question was on bycatch and addressed.

Morioka noted that Mr. DiNardo's studies have been limited to Maro and Necker. The Council's fishing strategy has been bank-specific quotas. He wondered if they were not doing sufficient science to support a bank-specific quota strategy, or did Mr. DiNardo feel comfortable enough just by studying Maro and Necker, that these would provide suitable proxies for bank-specific estimates?

DiNardo responded that while some of these values could be used as proxies for some of the other banks, the survey does need to be expanded. They have put in for that with the 2005 funding cycle to increase this to an archipelago-wide survey. Not only just for lobsters, but to look at it for a number of species, bottomfish also. He felt it was time to really look at the whole archipelago, including the Main Hawaiian Islands, particularly given what they have seen at Maro in the increase of one-year-old spiny lobsters. He would love to find out if that was occurring even further out in the Northwestern Hawaiian Islands. They are seeing it at Laysan and at Lisianski and he would love to see if that was the case out there.

They do not have the resources to do it, although they are discussing it in-house as how best to do that in June 2005; they could go to the other areas that they have never been to. They have put in for additional funding, a huge amount of funding for this area, to start ramping up surveys for species out there.

Morioka had one more question. With regard to the bycatch issue, he asked if Mr. DiNardo would notify the Council in his regular reports on the crustaceans, if there were any changes in bycatch, that information was invaluable and would help them better understand the crustacean fisheries and all of its elements. He thought it might be good for the annual reports to contain these things.

DiNardo said that at the next meeting they could make the presentation on the bycatch paper so the Council can see what it looks like.

Ikehara called on Mr. Martin.

Martin noted that the CPUE during the survey for slippers at Maro Reef looked like some of the higher levels that existed when the commercial fishery was active were being approached.

He continued that this might be a question for Bill Robinson or it might be a question for Mr. DiNardo, but currently the fishery was constrained by the court. Maybe a brief review of where it is at to feed into a harvest guideline established sometime in the near future and then what hoops would have to be jumped through for there to be a commercial fishery again up there, excluding the Executive Order considerations or the Reserve considerations.

Robinson said it was his understanding there would have to be an EIS completed, and there was an EIS in progress, and a biological opinion completed as well. He thought that they would have to notify the court that those were completed and the court order was complied with before they could proceed.

Simonds asked if this had to be done before the quota was announced in the Federal Register, or not?

Robinson responded that it would have to be done before a fishery could be authorized. Whether publishing a quota in the Federal Register –

Simonds interjected that there was a regulatory requirement for the timing, so she was just wondering.

Feder said that he didn't think the Department of Commerce would publish a notice in the Federal Register before the Department was assured that it would be legal to open the fishery again.

Simonds said, okay.

Ikehara was reminded of the chicken-and-the-egg question and asked Mr. DiNardo given the change in the technology of the tags and the change in the return rates, was that going to be an issue for incorporation into a model?

DiNardo said, no.

Ikehara said, great, okay. He thought it would be wonderful to see a compendium document that looks at the report and compiles the information that has been learned on the previous research cruises and surveys; talks about some of the catch rates, some of the technologies that have changed in the meantime; looks at the operational technologies that have been developed over the years, especially in recent surveys; and at that increase of the survivorship of the lobsters. He thought it would be important information that maybe has appeared in spots here and there, but it has never been put together. Personally, he would love to see a report that holds a lot of that information.

He thanked Mr. DiNardo and asked for any other questions. Hearing none he moved on to the next item, the SSC report, SSC recommendations.

### **10.B.3. SSC Recommendations**

Severance referred the Council members to 10.B.3. It was more of a comment than a recommendation. The SSC heard the same reports that were heard this morning. On the back of page 2, the SSC heard the updates on the lobster resource surveys and the MultiFAN stock assessment model and was pleased with the progress on lobster research.

Ikehara asked if there were any questions for Mr. Severance. Having none, he called on the Crustacean Standing Committee report.

### **10.B.4. Standing Committee Recommendations**

Severance told the group that the committee met on Tuesday and heard the SSC report, which contained the lobster charter preliminary results. They have the data in the handout that Mr. DiNardo gave, so he would not go over that.

They also heard an update on the MultiFAN stock assessment then the SSC recommendations and there was no public comment after that.

They did not have any action items for the Standing Committee, but they did note that they were encouraged by the progress made on crustacean research and thanked Mr. DiNardo for the effort that he has been making.

They were also very encouraged and happy to hear that Mr. DiNardo found a more stable source of funding for the research. It was certainly one thing that they have been -- if not harping on, certainly trying to push to get. So that was excellent news. Thank you very much.

With that, he returned the floor to the Chair.

Morioka thanked Mr. Severance. He appreciated Ikehara and Mr. DiNardo's presentation.

### **10.B.5. Public Comment**

There was none.

### **10.B.6. Discussion and Action**

There was none.

Morioka moved to Item 10.A, Precious Coral Fisheries. He called on Committee Chair Frank Farm to begin the process.

### **10.A. Precious Coral Fisheries**

Farm thanked the Chair and called up Josh DeMello, Council staff, to brief them on the black coral and deep-sea management.

#### **10.A.1.a. Black Coral Management Measures**

DeMello thanked the Chair and referred everyone to the briefing document in their book. The issues were discussed at the 2003, 2004 Plan Team meetings and the 83rd, 84th, 86th and the 87th SSC meetings and the 120th Council meeting up to this Council meeting. There was also a working group meeting in August of 2003.

He showed an age frequency distribution from Dr. Grigg's research and noted that they had also heard at past meetings the effects of *Carijoa* at the depths of 370 meters.

The Council asked the staff to put together an options document. The alternatives the staff came up with included:

- The no-action alternative: Divers currently are exempt allowing the harvest of black coral with a minimum base diameter of three-quarter inch or a minimum height of 36 inches by persons who reported harvest with the State of Hawaii within five years prior to April 17th, 2002. The minimum size for everyone else that isn't exempt is 48 inches height or one-inch base diameter.
- The second alternative was to eliminate any minimum base diameter requirement. The exemption would be at 36 inches with no base diameter requirement. The non-exempt minimum height would be 48 inches and no base diameter requirement.
- Third alternative, eliminate the exemption. So everyone harvests black coral at 48 inches minimum height, or one-inch base diameter.
- The fourth alternative was to eliminate the exemption and the minimum base size. Everyone harvest at 48 inches minimum height and sticks with the either/or clause in the exemption and previous regulation.

Farm thanked Mr. DeMello and asked for questions. He called on expert, Rick Grigg, to see if he wanted to present anything at this time.

Grigg thanked Farm and said he was just there to answer any questions.

Farm said that Robin Lee, who is a black coral harvester, was also present and wished to comment.

Lee greeted the group and introduced himself as Robin Lee and one of the few remaining divers left. Of the five or six divers that were exempt, three have already quit. One has moved to Arizona.

Just Henry, Sam and he are the only active ones. He was more of an advisor and knew where the trees were. He does it for fun, to keep in shape.

But their argument was the height requirement brought about by this Carijoa scare. What they see in the shallower coral beds is very little Carijoa. If it was to take over the channel, meaning the Au'Au Channel, it would have taken over already because it is already in Mala wharf, right nearshore in Lahaina. Just outside of that is the Au'Au Channel, and you hardly see Carijoa.

It is in the deep, like Ricky saw in the submarine. He was thinking if not for the submarine, Ricky's studies would probably still say the coral beds were healthy and sustainable.

He brought a tree to show the Council that the base diameter should determine more the age of the tree, not so much the height. Because the taller tree, meaning four, six, ten feet, can have a base of about the size of your baby finger, they don't pick those.

They look for the thumb size, or about an inch, that is marketable and, to him that is an older tree. He had brought a sample of an older tree.

He disagreed with some of the studies that the scientists are doing, as far as reproductive cycles. because the biomass of a tree. There are trees that are 36 inches high and six feet wide, and the biomass is a lot. Those trees are like 10, 15 pounds. Those are old trees and they've been breeding, he was sure. The sample tree he brought was probably breeding too. He didn't think there were any studies showing that this tree didn't breed.

The trees do die naturally. A lot of trees, when they get too big, the currents knock them down. It's like having a tree growing on top of a hill. The trees will grow squatty or they'll fall over and roll down into the deep.

Like when they pick trees a lot of branches break off and those branches regrow, just like a monster.

So he would challenge the 48 inches rule as totally wrong. That was all he had to say.

Farm asked for any questions for Robin. He asked Lee if he observed any Carijoa in the areas that he was harvesting.

Lee said, very, very little. There was very little Carijoa in the shallower depths, meaning 125 down to 200, 220. Carijoa might be seen in underhangs in several spots, but it doesn't seem to be spreading. It spreads more under Mala Wharf, right there in Lahaina, right nearshore where there is no black coral. It is just a fallen-down old pier.

However, out in the channel where they normally harvest, very rarely do they see it. Or if they do see it, it is growing alongside the tree. It can be under the ledge, like say growing under this table. The Carijoa is under this table, but the tree itself is not affected. So it's an incomplete science.

Farm asked Lee if he dived with scuba and just by compressed air.

Lee said they just used compressed air. It might be compressed, mixed gas, meaning NiTrox. If they feel the bends coming on, they carry pure oxygen. But they try to dive as safely as possible. He doesn't see any new and upcoming divers because the business they are in is so scary. He challenged anyone in the room to come and dive with them, and they will get real religious fast.

Farm asked for any questions.

McCoy said that the report was very interesting and asked Lee that when he said the branches break off and regrow --

Lee commented that the branches regrow.

McCoy asked by what observations did Lee --

Lee said that he had seen it grow. He wished that he had brought some samples. The base, one can see a branch that laid flat in a dark area of a reef, and from there it grows out. It looks like a T.

McCoy asked if it was just like transplanting something.

Lee said, yes, "you break this branch and you stick it on a stone, it will regrow." He has seen bigger branches, what they call pines, in the very deep, big trees. When they knock them out they find out it is hard to get up because it was a branch years ago that had broken off and it was buried down in the sand. It was like an anchor. So when they finally get the tree out, there is another branch going this way, and then the tree growing that way. He knows they regrow.

McCoy thanked the Chair.

Farm thanked Lee and asked Grigg if he had a comment.

Grigg said, yes. He asked Lee to remain at the podium so they could talk about this together.

Grigg said that Lee and he went way back. In fact, he wanted to tell the Council how helpful Lee has been to them in studying the black coral science over the years. Were it not for Lee, he would not have been able to get out and do much of the work that they have talked about over the years.

Grigg also has the greatest respect for the black coral divers, Lee, in particular. He's a survivor. Grigg has seen about two dozen of Lee's partners -- because he used to be a black coral diver. Back in the early '60s he worked with Jack Ackerman, who was part of the Maui Divers. Grigg got bent, too, and decided to cease commercial harvesting and he thought it would be safer to study it.

As it turns out, it is also pretty dangerous to study.

It is a perilous occupation. Lee was just telling Grigg that he saw a great white the other day.

Lee said, no, it was seven years ago.

Grigg said oh, seven years ago. It was while he was decompressing after a dive for black coral. Grigg asked that the figure showing the age frequency be put back up, and wanted to make a couple of comments about how things have changed over the years to help clarify the question about the 48 inches here.

Grigg noted that what Lee told the group was exactly right, particularly about Carijoa.

Carijoa is soft coral. It's a pest. It's an alien species that's been introduced from the Caribbean to Hawaii. It's a shade-loving organism. It's a soft coral. It grows in the shallows under piers and wharfs, on pilings in the shade.

It grows down in the deep around in feet, 250 to 320 feet. It's the lower part of the bed where the big trees are virgin, where they've never been harvested. The Carijoa is overgrowing these colonies at a very high rate.

After that slide, he went on to the next one to show the degree to which Carijoa is overgrowing the large colonies. It was at a depth of about 70 to 100 meters, which is below the diving depths. Actually, the divers get down to about 80.

The growth was up to 70 percent coverage. That means 70 percent of the trees are covered with Carijoa. That's not good.

Going back to the slide right before, in 1975, this was the number of colonies and their age. Look how many large colonies there are. He showed a 40-year colony, 36, 34, 32, 30, 28,

and so on. These big trees were three to ten feet high and out in age. They grew about two inches a year.

He showed a picture taken in 1998 of a sample of 200 trees, there were no big ones. In 2001 there were even fewer. In other words, the fishery is harvesting the larger colonies progressively, and the age frequency is being squeezed, being pushed back to the left to smaller and smaller colonies.

He showed the 48-inch size limit and the 36-inch size limit for the exempted divers.

They suggest that be pushed back to 48 because there are so few large colonies left. If this keeps going, they are going to get back to this point where they can no longer reproduce and the fishery will collapse. The other scary thing is that the young ones coming in are fewer. Notice, back in '75 there were much more young ones coming in, the same thing in 1998. In 2001 there is a falloff in the number of young colonies coming into the population. This is called recruitment.

The population is being squeezed from both ends. Recruitment is dropping and the large colonies are disappearing. It's making it harder and harder for these guys to make a living. He keeps trying to pressure the industry to increase the price. Right now it's \$32.50 a pound and should be \$50 a pound.

Lee remarked, tell that to Carl Marx.

Grigg said, right.

Lee said, he won't do it.

Grigg said that the fishery has been sustainable for 40 years. It was discovered in 1958 by Jack Ackerman. It is one of the few fisheries in the world that's been well managed and sustained. It's reaching a point where it needs a little help. He would like to see it go for another 40 years, so would Robin. So that was why they were recommending a larger size limit.

H knew it was going be a hardship for these guys. They'll get less coral. So they have to try to get the price up in order to keep them going, because they support the industry, a \$30 million industry, just this little bit of coral.

They're the only divers. All the rest of them are --

Lee added, dead.

Grigg continued, -- are gone. Lee is like Jack Ackerman, he's a hero, in a sense. They need to support this guy, but they also need to manage the fishery.

Grigg felt like he was talking out of both sides of his mouth. But, they had to protect the fishery, as well as the divers. It was not easy, that's what fishery management was all about.

His recommendation was go to 48 inches, but get the price up. He didn't know how to do that.

Lee remarked that, "You cannot get the price up."

Grigg asked for questions or if the Council had some innovative thoughts about --

Lee told Grigg that his studies are just on a limited scale, just the certain spots. He knew of maybe have half a dozen or a dozen spots, where Lee had hundreds of spots.

Grigg said, correct.

Lee said that he saw a lot more than most people, probably anybody in that channel. So the graph was probably accurate for what he saw in that area that was harvested before Lee started diving. The divers don't even go in that area.

So the graph needed more fine-tuning by more studies. Maybe Tony Montgomery could follow up.

Farm thanked Lee for his suggestion.

Morioka asked Dr. Grigg, with regard to the one-inch diameter, Lee was saying that that might be the other proxy that can be use, and the Council stuck with the 48 based on some of the guidance provided by the science that was presented. Was Grigg open to reconsider that one inch?

Grigg said that they were always open to everything. The problem is that it spreads out pretty rapidly at the base. So even a very small colony has right at the base an area which is one inch. At 200 feet and with nitrogen narcosis, it's kind of hard to look at the base and make sure it's one inch, it would be a hard standard to follow.

Grigg added that the height is a much easier thing to see and to estimate underwater. They were trying to simplify things. That's why they have suggested dropping the base diameter as a measure, simply because it is equivocal, it is measured and the time it is up on the dock it is dead. Whereas the height is clear cut.

Morioka asked if from an economic perspective, Dr. Grigg, it would behoove the diver, especially since there could be a six-foot tree that has a half an inch diameter base. But from an economic perspective for Maui Divers as the buyer --

Lee interjected. they don't buy twigs.

Morioka said, okay, so that answers that question. If there was a short, squatty tree, and a tall skinny tree, a subjective decision has to be made. If 48 is the limit, the diver is put at a disadvantage because he won't harvest a tree that is a twig that's six feet tall, because there's no

economic benefit to him. But there's a two-foot tree that is six-feet wide and has an inch diameter and it may be of economic import to him. So to achieve a point of taking care of the diver and the species, the fishery managers would like to get the kind of science that would be flexible enough to accommodate that point and better understand the options.

Lee asked to add one more thing. The biomass of the tree, it's about three feet. The tree can be six feet wide, and he has seen them grow in 15 years that thick, lots of branches and the tree is heavy. To harvest that would be illegal under what is being proposed. Divers can tell by just putting their finger on it. They just use their hands, if it is bigger than the thumb, pick it. If it is like the baby finger, leave it alone. So there are a lot of trees that are over four feet, and they may be the size of the ring finger at the base. That's why he argues about this. Otherwise, he would be agreeing with Grigg.

Farm said thank you.

Grigg said that it goes both ways. There can be short stubby, tall skinny, and everything in between. They are looking at this as an average. He is not personally cast in concrete, as far as his thinking is concerned about the either/or part.

He did feel that the size limit has to be increased to reduce the effort on the stock as could be seen in the graphic. He did not want to put any more hardship on the divers but did want to see the stock conserved in perpetuity.

Farm thanked both gentlemen.

Ikehara asked if a regulation that incorporated a height or a width limit would be more workable, since there are short, wide trees, perhaps something with a four foot height or a four foot width?

Parrish said, yes. He apologized for interjecting, but there was a set of data that hadn't been seen by the SSC when the recommendations were made. It's pertinent to the discussion about height and width.

The situation is that there is a long set of data from Grigg doing things based on height. Then this height/base/width requirement must be put in place. That's where the last proposed regulations were before this, and it made sense for the reasons that Lee has laid out. Lee has been an invaluable in helping the black coral researchers in this room, this is as good as it gets as far as getting insight.

The set that was used is based on height. That's where it is done and that is how the reproductive size is determined.

Referring to the slide, Parrish said the colonies on the screen were harvested by fishermen. They were brought up, put in a field, dried out and saved in upcountry Maui. Francis Oishi went over and he measured. He measured the height of the colonies and measured the base diameter.

The tic-tac-toe crosslines, the ones going horizontal are the 48 and one-inch base diameter; 48-inch height; 36-inch height. Then the vertical with the base diameter are the two rules there, which provides the distribution.

The only set of data that was missing was, what it looks like on the bottom of the ocean. In going down there and looking at the size of the corals that has been harvested and what is left. That's the next set that hasn't been seen. He asked to go on to those slides.

The slide showed what it looked like.

There are State and Federal regulations and there's exemption for certain fishermen that they can harvest down to 36. Anyone who hasn't been around a long time, they're forced to harvest at 48. Forget that. Doesn't matter. Everybody is harvesting at 36 because everybody is an old-style fisherman.

Another slide showed the distribution of the coral colonies. The base was on the bottom, the height is on the side. Looking at the graph, the only area in that graph that they can't harvest in is up there, three-quarter inch. Right?

What is being proposed is that 48 inches, which is up here. That would be it, everything that could be harvested.

Going back to that site, since the State is running a whole new initiative to do survey work, those trees are now gone. They don't exist anymore.

Three different sites out on the Lahaina Roads area were surveyed with information from Rick. As is shown the base diameter, it doesn't do much. They are already down in the three-quarter inches.

Ikehara said that what he was referring to was not the base diameter.

Parrish said, okay.

Ikehara said he was referring to the stand of the branches, how wide the colony is.

Parrish said that the problem they have is they don't know what that means. All they have is Rick's size structure data to come up with recruitment and aging there. There has been no mass with measurements.

Basically, what everybody has said, on a dive, the height measurement is taken all the way to the top, and the absolute largest base short of this mass that Robin and Rick are talking about. They don't measure that mass. But they would measure that area, which is what Lee said he would measure as well. He just wanted them to see that.

They have had divers go down there, and the State is currently in the process and has gone through and done surveys of this area. The State will continue and probably provide the single best survey ever. He was looking forward to the data when it becomes available.

This is what prompted the SSC to make their considerations. All active fishers qualify for 36 inch and the three-quarter inch base right now. So the 48 inch and the one inch were meaningless. Nobody is using it. The State and Federal regulations are functionally the same even though they are different.

Population monitoring relies exclusively on height. That means that anything that is done is done by height. In using the base, it just adds another variable and actually eats away at what is actually being estimated.

The Carijoa infestation is threatening the deeper black coral, not the shallower stock. Lee said, they didn't see much down there, basically it seems to be all deep. However, there was no longer that reservoir of deep coral that the divers can't reach. That is no longer reproductively viable. That is not something that is going to contribute to fishermen. That is why the SSC brought its recommendations forward. He just wanted to make sure that the Council saw it.

Morioka thanked him. He noted that Dr. Parrish had missed the last SSC where the SSC was now recommending going back to removing the exemption and going to strictly 48. So this is what is being deliberating now.

Parrish said, right.

Morioka asked if he could provide some guidance there.

Parrish said that he was in agreement with that. However, he just saw the debate going around talking about this, and he realized that that whole segment of data wasn't in the presentation.

Concerning the 48, he was completely in accordance. He is comfortable with it. He thought that if adopted, the 48, this fishery is very close to being one of the best success stories that they have going.

Certainly there are not a lot of big trees out there. It's going to be a hardship for the divers. If there are a lot of beds out there that haven't been found, then maybe it won't be a hardship. But he has spent a lot of time dragging cameras along the bottom out there, and didn't find a lot of coral outside the places that the expertise, Lee and others, gave. But the State has currently got a lot of good operations going out there and they're working with Lee and he thought there would be some really good data in the future on this. But this is the best they have right now. So that's where he'd leave it.

McCoy wanted to ask Dr. Parrish and/or Dr. Grigg, if it was their observation that these plants will regenerate from broken off branches?

Grigg said, that's exactly right. Lee gave the straight story there. In fact, years ago he had recommended that observation be taken advantage of. That is, the ability of the coral to regrow should be taken advantage of by breaking up colonies and taking the twigs and affixing them to the bottom.

They break off, roll with the current and end up going over the edge of the shelf into the deep and die. Then they end up covered with sand at 700 feet depth, which is the edge of the channel. He had gone down with a submarine and it's a graveyard. There are all these dead coral trees down there. A lot of money could be made by trawling them up. In fact, that was done on a small scale about five years ago. The shrimper who did it made quite a lot of money. This is out in the flats at 700 feet.

The colonies can be fragmented and fixed. There has to be some cement of some sort. And, it's a very time intensive, labor intensive to go down there and -- it's sort of like Mickey Mouse and the Sorcerer's Apprentice - how he took the brooms and chopped them all up and pretty soon there were 1,000 brooms, 10,000, then 100,000.

The point is, it works, and it grows about two and a half inches a year. It just means that someone is going to have to spend an awful lot of time down there chopping up these coral trees and re-cementing them to bottom.

Farm thanked Dr. Grigg. He asked to hear from Tony from the State of Hawaii and what research they were doing and what they were planning to do.

#### **10.A.2.b. State of Hawaii Research**

Montgomery thanked the Chair. While his slides were loading up he wanted to make couple comments from the discussion that was going on.

As far as a preplan team, and that kind of work, he had some experience in that in 1998, 2001, and actually conducted a series of transplanting experiments. From his limited experience, the transplanting studies he did on South Kona near South Point and off of Maui, didn't show -- at least, scientifically, that it worked that well. However, his conclusion in the paper was that it was a technology that could work and could be used if done correctly.

One of the issues in his experiment was the size of the colonies transplanted were too small to really take place. But with larger fragments being transplanted, it would probably work.

That being said, in his limited experience of diving off the beds of South Hawaii as well as Maui, he has not seen any direct evidence of small fragments actually growing into full-sized mature colonies. That's was his qualitative observation that could very well be wrong, but that was an initial observation.

With that being said, we went on to talk about what has been done since September.

Frank Parrish offered them, the Division of Aquatic Resources and opportunity to take advantage of the SETTE for five days of research off Lahaina. They were very excited to conduct that research to fit under a grant that received from HURL to initiate the State doing some of these surveys and get a more up-to-date assessment of what the resources were really like.

He thanked Frank Parrish and the National Marine Fisheries Service for their gracious offer and tremendous amount of support. It was an extremely successful trip.

He showed the following slides:

- The SETTE: They were there from September 8<sup>th</sup> through 13<sup>th</sup> and had two teams of divers conducting surveys. One team was called the shallow-water team that did surveys up to 130 feet of water. They did two dives a day with a team of three. There was also a deepwater team. They conducted two teams per day in depths of 150 to 220 feet.
- The team here that went out. This is the prime area that kept coming up in the discussion. But, it is not the whole area. There are areas north and south of this that are potential black coral habitats. Most of the surveys done on the submersible are just at the edge of the map being shown.
- Most of the areas surveyed were right along Stonewalls and this east-west ridge that comes across the channel. Following a three-mile zone from shoreline, not the State definition of State waters, this is the three-mile zone this area is federal waters. All the other part here is considered State waters.

Through this cruise there were five main objectives.

- The primary objective was to collect -- measure colonies for age frequency distribution.
- The second was to collect genetic samples for a larger statewide analysis of what is the exchange of genetic material of black coral across the various beds across Hawaii.
- Also to conduct drop-camera work to survey sites to get a feel for more of the right spot to make dives. We documented the trip with photos and videos.
- Given the discussion about height, he wanted to spend more time on a particular slide. They were extremely successful in four days and measured 750 colonies in four days. It was quite successful. They measured height. But maybe the better term for this is length, not height. They didn't measure from the base perpendicular up. They measured the longest fragments of the colony.

He showed a colony that had four branches at the base. But if this colony grew to the side, they would measure that longest branch. That would indicate the longest length of growth that colony has to offer. Therefore, even though a

colony could be three feet high, it might measure longer than that. That's just one example.

With Lee's example, with Frank Parrish's data on height versus base, and their data on height versus base, the data is extremely variable. There's a loose relationship, but there it a relationship. It's not totally independent of each other.

There may be colonies that are six feet high with half an inch base. There may be colonies that are two feet high with a one-inch base.

But Dr. Grigg pointed out correctly, they were looking at the average, and that's overall the best that they can do. All of these can't be exceptions. He believed that the exceptions were few, but they are there and are real.

- On collecting genetic samples. They collected about 35 samples and sent them off to University of Louisiana to do genetic markers for population studies.
- A picture of Carijoa: He had two qualitative observations to make on Carijoa. Two sites had significant colonies with Carijoa. One site was off of Stonewalls where there was a rock outcropping with probably at least two dozen black coral colonies on it. The rock itself was covered with Carijoa. However, there was no Carijoa on the colonies.

It should be pointed out that this is expected. They did not expect to see large colonies overgrown with Carijoa. It's important to point out the issue of Carijoa is in deeper water. Carijoa is not considered a direct issue with black coral in shallow waters. **Only in indirect water** by reducing black coral populations in the deeper habitat.

That's an important characteristic. There was no expectation to see a problem with Carijoa and a problem with Carijoa was not seen.

- The other issue seen was one of the sites near the surface, where it was shallower water, in about 120 to 160 feet. There was a tremendous amount of Carijoa on that site, even with the depth. But the Carijoa was all underneath overhangs. There was nothing in the open. It was all on small holes and crevices, all in the shaded areas.
- The only potential problem, this causes major reduction of black coral habitat. This is the exact area that the black coral will settle out into. But again, no Carijoa growing on the black coral colonies, as expected.
- A final shot showed two species in this fishery. It's important to point out that there are two separate species. The fishery is currently regulated as a single

group, but there may be differences among the two and it would be interesting to tease those out, but they do not have the data to do so.

He thanked the group.

McCoy asked if when Mr. Montgomery took the measurement of the colonies, if he noticed if the topography was affected -- whether it grew up or it grew sideways.

Montgomery said that within the data collected for every colony measured, they measured height, the depth the colony was at, the species and the exact location and habitat of that area. So that could be somewhat teased out.

They didn't record the overall colony, if it was wider or shorter, they don't have base diameters associated with that. They were really going for a larger sample size, so they decided not to look at the base diameter. The reason they went with height was because that's the way Dr. Grigg has done it for 30 years. They wanted to be consistent in comparing the new data versus the old data, and that is extremely important to understand how this fishery has changed.

Number two, there was no reliable way to age the colony in the field through a base diameter. As it was pointed out, the base diameter varies depending on exactly where you look at it. A year difference in a colony may be literally millimeters difference in diameter. It is not practical from a scientific point of view to age the colony from a base diameter. Height based on Dr. Grigg's growth studies in the past and previous studies is the best available tool we have to age the colonies. Is it a perfect tool? Probably not, but it's the best tool we have.

Morioka was thinking of a joke where a telephone pole is laid on its side, and it's the width, and stands it up, it's the height. So when Dr. Grigg talks about the height, is he talking about the longest branch, whichever orientation that it has? Or just the vertical structure of the colony?

Montgomery deferred to Dr. Grigg.

Morioka called on Dr. Grigg.

Grigg thanked the Chair and said he did the same thing that Mr. Montgomery does, the height is the measure of the longest branch. So they are consistent in their methodology.

Morioka asked Lee based on where he was coming from, what he saw as width was actually height, irrespective of orientation, would he be able to support a 48-inch based on that analysis?

Lee asked on one side of the tree, if he was adding the two?

Morioka asked Mr. Montgomery if it would be one.

Montgomery said it would be the longest axis from the base to any point on the circumference of the colonies. So whatever the longest difference is.

Lee explained that he had a wide tree, six feet wide, that tree is big and it reproduces, did he see what he meant?

Montgomery said that he understood.

Lee said that a lot of trees are small but they are tall, they leave those. To pick, that's wrong. They are called sucker plants because they sucker the diver into the deep. But when the diver gets down, they find out the darn base is small and they leave them alone. But they are trying to make it legal where he could pick that tree. He just picks the biomass, the bigger ones.

Montgomery said that Lee made a good point. That's one reason why on one of the slides he pointed out there were two species here. What Lee is referring to as a sucker plant, he believed was *Antipathes grandis*. They don't have a strong understanding of the differences of the growth between the two.

Grigg did do some preliminary work on that, but there are some different growth pathologies, and he couldn't say for certain what they were. Maybe that's a more common phenomenon of *Antipathes grandis*, which is a smaller percentage of the harvest. Maybe it's not.

Morioka confirmed that based on the analysis, from the data being crunched, and from the dialogue that he has with Dr. Grigg, the State is not moving from its 36 and one-inch strategy as yet.

Montgomery said they were not. The State was going to wait until the data is tabulated before developing a management plan. That means that the plan will be more comprehensive after all the data, hopefully within the two to three months the data should have been all collected.

Morioka noted that the fishery's exemption, the Council's management regime called for 48-inch height based on the longest branch being 48 inches. This Council only authorized an exemption for those existing fishers, which numbered six at the time, but is now two.

The State is currently crunching data and he heard Mr. Montgomery twice say that by the March meeting there will be a better dataset set. So his thinking was that they have the proper management scheme in place at the present time and that the Council come back and look at it in March.

Farm asked if Mr. Montgomery had any more on the State's planned research besides just saying by March.

Montgomery said that based on Lee's remark that there are more areas out there that haven't been surveyed. He was very encouraged to hear that, and interested in seeing those areas and measuring them. Currently, the data he had, which is not analyzed, only came from areas

that have been harvested. So bigger colonies are gone from those sites, as expected. Those sites have traditionally been harvested for years.

Next they will spend a solid week doing drop-camera work on all these sites or potential sites to try to get a handle on if there was this entire habitat out there but how much of this habitat had black coral. From their understanding, coral was very patchy in its distributions. For some potential areas of great habitat, a camera would show there were no colonies. They don't know why, but they're not there. So they want to try to better map some of these pinnacles and ridges that weren't the traditional measured sites.

Then they will also spend hopefully two more weeks doing fieldwork data; one is measuring densities and, two, particular surveys to look for small colonies to make sure there has or has not been a drop in recruitment. He thought that was extremely important to establish for this fishery.

Farm had one more question for Mr. Montgomery, Dr. Grigg, Dr. Parrish or Lee, have they ever encountered any monk seals down there?

Lee said he had seen monk seals by Shark Pit right off Lahaina in the reef, the shallow reef.

Farm said was asking about the black coral areas.

Lee said, no, never.

Farm asked Dr. Grigg, no?

Grigg said, no.

Farm asked Frank, no?

Parrish said, no.

Farm thanked the Chair and asked Mr. DeMello to move on to the deep sea coral management?

### **10.A.2. Deep Sea Coral Management**

DeMello said that deep sea coral management became an issue with the Council in the past year or so. This past summer a petition was received that Oceania gave to NMFS for Deep Sea Coral Protection.

Also, two bills were introduced into Congress, one Senate Bill 1953, and the other, House Resolution 4897, both are entitled, the Deep Sea Coral Protection Act. Both, the petition and the bills, come from the Pew Ocean Report and the Ocean Commission Reports previously published.

So Oceania, when they petitioned NMFS, they wanted NMFS to identify, map and list all known areas of deep sea coral sponges and designate known areas with high concentration as Essential Fish Habitat or Habitat Areas of Particular Concern. They would also want to close these areas to bottom-tending mobile fishing gear, gear such as dredges and trawls. Also, to monitor bycatch, identify new areas, increase enforcement and fund and increase research.

When the Council was asked for comments from Dr. Hogarth the Council liked the idea of having research and mapping, and that it was needed for better management of the resources.

But we also let them know that the Precious Corals FMP and Coral Reef ecosystem FMPs are already in place that provide protection defining Essential Fish Habitat and Habitat Areas of Particular Concern and also requiring selective gear for harvest. In the case of the Precious Corals FMP, the Council is already more than 20 years ahead of the game.

Senator Akaka asked the Council for their comments so he could make a decision on whether or not to support Senate Bill 1953. This Bill was to protect deep corals, sponges and monitor bycatch. They propose increased mapping, increased research and increased monitoring.

The management of deep sea marine species will be done by designating coral management areas designated by the Secretary of Commerce and by the National Research Council.

Currently there are no co-sponsors for the bill and it was referred to the Senate Commerce, Science and Transportation Committee.

House Resolution 4897 is in the House now. The co-sponsors are Representative Ed Case, Representative Faleomavaega and Representative Bordallo. So our Congressmen from the Western Pacific Region are co-sponsoring this bill.

Right now it is in the House Committee on Science and Subcommittee on Fisheries Conservation, Wildlife and Ocean Resources. This bill is similar to the Senate Bill, but they go into more in-depth detail on designating coral management areas and they propose coral study areas as a step between no management and a coral management area.

The Council says that the research mapping and monitoring is good. Same as in the Oceania petition, but that the Council is already ahead of the game. It was also noted that the Council opposes both bills as currently written.

He left the SSC for Craig and thanked the Chair.

Farm asked if there were questions.

Morioka said that he had been advised that Congressman Case would be here tomorrow, so perhaps we can think of some questions that we want to direct to him.

He asked Mr. DeMello if copies of our Coral Reef Ecosystem Fishery Management Plan and our Bottomfish, Crustacean had been sent to him.

DeMello said he was not sure but they had copy and could give it to him tomorrow.

Morioka remarked that would be a good strategy and thanked Mr. DeMello.

Farm asked if anyone else had comments on the subject of precious corals. Having none he thanked Mr. DeMello and moved on to Current Precious Coral Research with Dr. Parrish.

### **10.A.3. Current Precious Coral Research**

Parrish said that the only thing that's coming up is HURL dives cleared for Jarvis and Palmyra and Kingman. In this coming July they will be doing surveys, the first surveys of the Line Islands, to see what kind of deepwater corals occur down there. It's part of the general exploration. There are also fish assemblages and other things tied into that.

It should be interesting, because there's very little on those islands at those depths at all. So they are rather excited about that. Otherwise, they will just continue to collaborate with the State and their activities as well.

They are waiting for the National Deep Sea Coral Initiative, which there was an outline on. They are ahead of the game. Everybody else is pretty much focused on protection, so they are really an oddity because they have a Fishery Management Plan. With the rest of the nation focused on protection, they get blind-sided sometimes when the Council comes in with fishery management issues to include. They haven't come to terms with.

What they would like to see happen is a validation of some of the growth rates of some of the corals that are lesser known, like some of the gold coral. They were going to be pushing to try to get some work to do that regardless of whether it's a fishery resource or not, these things that haven't been harvested in the past, and it makes sense for them to pursue this ecosystem-based thinking.

They were seeing growth of black coral, gold coral. The one that they were the most comfortable with was pink coral, that's the one that has been harvested off the Makapuu Bed. So they were waiting for the feds to say how they were going to fund this research. Ocean Exploration has the money through the Coral Program that the State got for black coral research and they were going to try to work with that. But he was hopeful within the next two or three years they would see some real funding.

Farm asked if his trip to Kingman and the other areas, was the initial one? Had he been there before?

Parrish said, no, this was it. This was the first time they had been down there with the submarine. They had been down there and done conventional dives with scuba divers.

However, there was very little written on anything at moderate depths at the Line Islands, Howland, and Baker.

Originally the proposal was put in to do Howland, Baker, Jarvis, Kingman and Palmyra and they were approved for funding of ten dives to do all those sites. Unfortunately, they didn't have the money. They awarded dives that they couldn't fund. So it has been cut back to four dives, which covers Jarvis, Kingman and Palmyra.

So that is what they were going to work on this July, and hopefully in the future they would more money that would support work in the Western Pacific, American Samoa, and CNMI.

Farm thanked him and said it was what he said about Oceania and the fact that West Pac has an FMP in place. He had received paperwork with the petition from Oceania, that listed things but, there was nothing said in that particular area. At first they felt left out, but then they have the FMP.

Parrish said when he brings it up at the meeting there is dead silence. He didn't think that they had anything to think or say about it, and he understood why.

The initiative is protection because they've got goals pending here and it's serious issues. They certainly don't have fisheries. So that is going to be something that the Council needs to take the initiative to stay ahead of the curve on anything fishery-related with deepwater coral, that needs to be Priority 1, and make sure decisions don't put the resource in jeopardy. So that's the focus, that's what the Lab will be doing.

McCoy asked Dr. Parrish what kind of a future time frame he had for doing some work in the area of American Samoa.

Parrish said that was a good question. He had no way of predicting. He has asked them point-blank, so when does the money show up for the Deep Sea Coral Initiative like it showed up for the Coral Reef Initiative. Everybody looked at him and said, there was no money for the Deep Sea Coral Initiative because there is a certain critical mass that has to be met.

The Coral Reef Initiative took well over a decade to get to critical mass, to actually get funding, about 15 years. It took about two or three years once the feds got involved with that initiative at the Panama Meeting. The feds are already involved, so maybe two or three years would be his guess.

And as to whether they would get to American Samoa and CNMI that has a lot to do with whether they get the funds that they need to be able to field the ship time to get over there. It's not so much the time to do the dives, it's the transit time to get over there. Because for American Samoa it was \$20,000 a day to get the ship across the Pacific. That was a considerable cost.

The only reason they have been able to make these dives was that they have gotten an initiative that went down to New Zealand and the ship is transiting back to Honolulu. So they were tagging on that transit.

McCoy asked the Chair, how can some of the funding be secured to expedite some of these resource explorations?

Morioka said if Mr. McCoy made a motion, he would second it.

McCoy put it forth as a motion.

Morioka said he seconded that.

Farm said they would table the motion until Morioka returned to the chair. He thanked Dr. Parrish. He then asked to hear from the SSC.

#### **10.A.4. SSC Recommendations**

Severance referred the group to 10.A.3 in their briefing books. With respect to G, initial action on black coral management measures, they had heard from a group of people this morning.

The SSC reiterated its recommendations from its 86th meeting specifically that:

- The Council removed the exemption allowing harvest of black corals with a minimum base diameter of three-quarters inch or minimum height of 36 inches by persons who reported harvest to the State of Hawaii within five years prior to April 17th, 2002.
- The Council adopt a 48-inch height minimum requirement for black coral colonies, and eliminate any minimum base diameter requirement.
- With respect to H, deep sea coral management. The SSC notes that the Western Pacific Regional Fisheries Management Council effectively and conservatively manages its deep sea coral resources under the Magnuson-Stevens Act and suggests that other fishery management councils do likewise.
- Further, the SSC notes that the Council has prohibited the use of destructive, (i.e., mobile bottom-tending; that would be trawls, dredges, et cetera.) fishing gear since 1983.
- The SSC is supportive of legislation that would provide increased funding for deepwater coral and sponge habitat research and mapping as well as any funding that would provide management guidelines for deep sea coral and sponge habitat that do not fall under the MSA jurisdiction.

- Finally, with regard to precious coral research, both Carijoa research and research that was just described, the SSC was pleased to hear of the progress on Precious Coral research, and commends the cooperative approach of the NMFS, the State of Hawaii and the University of Hawaii.

Farm thanked Dr. Severance and asked Council members for any questions to Dr. Severance? Having none, he turned the chair back to Morioka.

#### **10.A.5. Standing Committee Recommendations**

Farm said that the Standing Committee met the day before yesterday, on Tuesday, and came up with two recommendations. He referred Council members to 10.A.5.

The Standing Committee recommends that the Council defer from taking any action on black coral management until the State of Hawaii research on black corals can be completed and presented to the Council at the next meeting.

He presented that as a motion.

McCoy said, so moved.

(Motion seconded)

Farm turned the chair back.

Morioka asked for discussion.

#### **10.A.5. Public Hearing**

There was none.

#### **10.A.6. Council Discussion and Action**

Farm said that in the discussion there was a lot of input from the State, from the Dr. Parrish and Dr. Grigg, from National Marine Fisheries Service, the stakeholders, Lee, and the other diver. These are the only two divers that are actually actively diving and impacting this resource at the present time. There seems to be a number of good things that can be drawn from the data that seem very logical.

But on the other side of the coin, there seems to be a lot more that needs to be explored and answered i.e. are these the only beds? The question about the monk seals, was asked just to put that aside so it is not an issue. If none of these people, and they're probably the only recent human in the last 15 years down there, have never even viewed one down there, that can be put on the side.

Then, too, there is the question of State and federal waters. It would be an enforcement problem. By trying to manage a size at this time to 48 inches may or may not have commercial value if the stakeholder chooses to take a chance and cut it down, because these people are limited. They're scuba divers. They don't have the mixed gases. Their time is very limited. So they might be forced to take what they see if there is that kind of regulation. So this might work in reverse in that sense. Just human thinking.

It seems that the State is going to wait until they see what their studies or other studies come out with. It is prudent to defer action at this particular time.

In the draft amendment that was presented says that 85 percent, in the estimation of the records in the data, is harvested in State waters. If this was a good figure, that represented 15 percent of a very small resource that is available to two divers.

How much can they pick? If you go to the chart, there is a table on page 74 which shows you the landings. It's not real current, the average for the last three years was 4,100 pounds. If 85 percent of that away is taken away, because it was in the State waters, that leaves 300 pounds.

He thought it would create an enforcement nightmare. He also thought that they didn't have enough information at this particular time to make a good judgment call, but he suggested to wait for the data that the State, Dr. Parrish, Dr. Grigg might come up with.

He suggested that they table it for now and work on it.

Morioka thanked Council Member Farm and asked for further discussion.

Ikehara said Council Member Farm asked what the State thought about this. The State was prepared to support the original action item and preferred alternative initially. But they would also support the motion that is before the Council now that has been put on the table. What is being proposed would take effect in federal waters. The regulations in State waters would not change at this time. As Mr. Montgomery noted, the State will be awaiting the results of the research for a fuller picture of what's going on out there. And with further studies, there may be a little bit more geographic distribution as well. At that point there will be a better basis for a State management decision.

Morioka asked for further comments from the Council members, then for public comments speaking for or against the motion? Hearing none, he called for the question.

(Motion carried)

Morioka asked for further motions.

Farm reminded the Chair of the motion that was tabled.

Morioka called on the gentleman from American Samoa to restate his motion.

McCoy moved that the staff be directed to find money so some deepwater research on precious corals in American Samoa can be conducted.

Morioka added, “that deep sea coral research is conducted in the Pacific insular areas.” They did not want to limit the effort to American Samoa.

He asked where legal counsel was and asked Eric to find Mr. Feder.

Kingma informed the Chair that Mr. Feder was upstairs.

Farm asked for Mr. DeMello to add an additional alternative to the list that would be a one-inch base with no height limit. He did not think that was included.

Ikehara said he had another motion to offer at the completion of this one.

Morioka said, okay. He was also looking for some direction from the SSC representative as to the language here, what would be preferred.

Severance said that he might want to add that funds be sought and to make sure that the Marianas Archipelago includes both jurisdictions.

Morioka requested Mr. Feder’s guidance in formulating language.

Feder asked who the Council would request to do the research, the Fishery Service.

Ikehara had a suggestion for the motion. Instead of NMFS, if NOAA is used then the National Ocean Research Program is included as well.

Morioka said that it now included **Allen (Tom)**. He asked Mr. Robinson if he had any wordsmith to add.

Robinson said, no, it's okay.

Morioka asked the Council members to take a look at the motion. “Council recommends that NOAA conduct deep sea coral research in the Pacific Insular Areas, example, American Samoa, the Marianas Archipelago, Guam and CNMI and funding be sought for such research.”

(Motion was seconded)

Farm called for the question.

Morioka said the question had been called for and called for the vote.

( Motion carried)

Morioka called on the State of Hawaii for their motion.

Ikehara said, yes. He called attention to the Standing Committee report.

At the bottom of page 3, it said, Standing Committee encourages further research on black coral reproductive characteristics and recommends the Council seek funding to support such research.

Duenas seconded the motion.

Morioka said they had a motion and a second. He asked for comments, discussion?

Seman called for the question.

Morioka said the question had been called for and he called for the vote.

(Motion carried)

Farm noted that the discussions at the Standing Committee suggested that the State, Federal agencies and industry might expand their efforts to be further involved. Because with only two individuals from the industry side and limitations with the State and the NOAA because of the type of activity this is, the feeling was that outside of the camera studies with the submersibles, very little of the potential resource has been really explored or seen.

Sometimes fishermen, no matter who they are, have a tendency not to divulge where their best harvesting is taking place. He suspected there might be some good areas out there that only a few people know about that would be valuable for the rest of the people to know about. He encouraged all agencies to work hand-in-hand, as is done with the lobster research and other thing, to work with industry.

Morioka thanked Council Member Farm for his comment and added that his thoughts were well presented.

At this time the Chair recessed the meeting, the 124th Western Pacific Regional Fisheries Management Council until 11 o'clock.

(Brief break taken)

Morioka called to order the 124th meeting of the Western Pacific Regional Fisheries Management Council. Next on the agenda was Insular Fisheries, Item 10.C, Bottomfish Fisheries and Mr. Edwin Ebisui, Committee Chair.

### **10.C.1 CNMI Bottomfish Management**

Ebisui thanked the Chair and asked that the first item, 10.C.1, which is the CNMI Bottomfish Management be deferred. He felt any discussion at this point would be somewhat

unnecessary as there had been a change in plan, which will become more evident when the motion was made.

Morioka said he understood and thanked Mr. Ebisui.

### **10.C.2. Recreational Data Pilot Project**

Ebisui moved on to 10.C.2, Recreational Data Pilot Project, initial action. He asked Mr. Mitsuyasu to present the issues.

Mitsuyasu thanked the Chair. This was the same presentation that he went through the prior evening that many present had heard, so he would provide an abbreviated version.

Work continues from the Stock Assessment Workshop done on bottomfish and the need to close the gap for the Main Hawaiian Islands recreational bottomfish fisheries.

There have been three forums to get input from the public. With this input the following five options were created. The sixth option was the no action alternative and that would not address the need to close the data gap for recreational bottomfish fisheries. The options were:

- The first alternative deals with the MRFSS Program and the fact that it doesn't collect the bottomfish information, at least to the point where it can be used to better assess the status of the resources. The program needs to be improved to do that.
- The next alternative would be something that was heard in a number of public meetings, which is a drop-box program at the dock. Have the fishermen pick up a form and drop it back off after they come back in, filling in the information. Then it is collected and analyzed from there.

Whether it is voluntary or mandatory program can be discussed.

- The next alternative is the federal permit and reporting approach, which they know what kind of information they could get from a program like that. But what is the public acceptance of that type of program. Based on last night, the road will be long to try to implement something like that. But it is a valuable tool.
- The next two alternatives feed off the program that the State of Hawaii implemented with regard to their bottomfish closures and recreational bag limits. They require all fishermen in the Main Hawaiian Islands who plan to target bottomfish to register with the state.

The state gives them a permit. They put a BF number on the side of their boat. But basically what that program does is it defines the universe of who plans to go bottomfishing. A survey program could be tailored to target that smaller

group, or the smaller universe. It can be phone surveys or mail surveys that remain to be discussed and fleshed out. But it is an option.

- Another option would be to take from that subgroup also, look for participants who are willing to participate in a voluntary logbook program. While there was good information there, people who participate in a voluntary program tend to skew results with their biases. That would have to be looked at.

With any of the alternatives or approaches taken, education and outreach will be a huge component.

As was heard last night, one of the main things is making sure the public has buy-in as the process proceeds. So whatever is chosen will have to take that into account.

He referred to the green document in their books. These are the initial ideas that were taken out from the public. There were some comments, but not as many as had been hoped for. But it did show what the issues were that will need to be dealt with besides talking about specific measures.

Ebisui thanked Mr. Mitsuyasu and asked for questions. Receiving none, he moved onto the next agenda item which they had already heard, Mokena Coffman on the Honolulu Restaurant Survey. So the fourth item, which was the socio-economic study of the Northwestern Hawaiian Islands bottomfishing was to be presented by Marcia Hamilton.

#### **10.C.4. Socio-Economic Study of the NWHI Bottomfishing**

Hamilton thanked the Council members. Not being the author of the study, Hamilton was going to provide a summary based on her reading of it.

Elher, conducted in-person interviews with the Northwestern Hawaiian Islands permitted bottomfish fishermen. His survey is at the end of his report. She noted that the report was not on the table for public distribution because so far he has only released a draft. The Council has sent comments in, however, there hasn't been a final report released yet. But he has assured the Council that an update could be provided on the basic contents of the report.

There's a description of Mr. Elher's questions at the back of the report. Most of this socio-economic information is qualitative. He didn't try to tightly quantify the different variables. He also makes the point that each operation is so unique and so different that he isn't able to come up with average or typical values or descriptions.

He didn't do a literature review. He acknowledged that there's other literature out there that this was just intended to supplement. He doesn't refer to existing studies beyond that statement.

What he found was that the time period he studied, 2002 and 2003, the average ex-vessel value from the Northwestern Hawaiian Islands was about \$1.3 million, split pretty much 50/50 between the Mau Zone boats and the Hoomalu Zone boats.

However, in talking to the fishermen and asking them about their operation and their profitability, he concluded that the social values for them, the nonmarket values, of fishing are greater than the profits. It didn't appear to be a very profitable operation in general to him, based on his reviews with them. There didn't appear to be a question where he actually asked them if they made a profit, but they expressed to him that they highly valued their operations and their life style, this was worth a lot to them. He talks about the fact that they're doing it shows that they want to do it.

A couple of major issues he asked them about included fishing caps and Marine Protected Areas (MPAs). The basis for this project was looking at the potential impacts of different measures for a Sanctuary. So he asked them, what about fishing caps, that would be restricting the amount of fish or type of fish that each participant could catch or land.

The fisherman universally rejected this as being a bad idea. This was because it was seen as unfair, the process by which it would be determined. The stocks are seen as healthy. A limited entry, plus a maximum vessel size of 60 feet has kept the stock healthy. Creating catch limits would limit their operating flexibility, and they felt that was very important.

She noted that at that time they weren't talking about caps on a species-specific basis, although it was touched upon. They said caps can also lead to a lot of discards. If you've met your cap on one species but not on another and you want to keep fishing, but if you catch the first species, you have to discard it so that you can keep catching because you are over your cap.

Elher also asked them about Marine Protected Areas, MPAs. They thought these were was not a good idea either. They said there's not enough known about bottomfish to establish these effectively. The objective was unclear.

She thought, more importantly, they felt this would condense their fishing effort. They made the point several times that having the entire area open with so few boats, that they deliberately rotate their fishing effort around the Northwesterns and avoid overfishing any one particular area by this system and they felt that MPAs would limit that.

He asked them about buy-outs and how they felt about a buy-out. Their response was if their only alternative was to be regulated out of existence, they would like to get some money for their retirement.

Hamilton concluded with what Elher mentioned as the two major themes that emerged from his interviews with the fishermen:

- One was don't close the Northwestern Hawaiian Islands because it would force fishing effort to the Main Hawaiian Islands, Northwestern Hawaiian Islands are seen as a sustainable healthy fishery supplying bottomfish to Hawaii markets and

elsewhere, and to close it down will just force that demand to be met from other places. The closure would transfer effort away from a healthier area either to the Main Hawaiian Islands, or even to other countries and effectively creating a marine park for them to enjoy while importing fish from other places and overfishing their areas.

- The other major theme he related is that fishermen feel the Northwestern Hawaiian Islands stocks are healthy, don't close down a healthy area, keep it open, and continue to manage it sustainably.

Ebisui thanked Ms. Hamilton and ask for questions. Having none he moved on to the next item to present the SSC recommendations is Dr. Severance.

### **10.C.5 SSC Recommendations**

Severance read the SSC recommendations. The committee heard a presentation on the amendment and the alternatives. Their recommendations were:

With the caveats below, the SSC supports the Council's preferred alternative. The SSC notes that the nondiscrimination requirement of National Standard 4 might become an issue with respect to fisheries management in the Marianas Archipelago because of differences in the proposed Guam and CNMI amendments.

The SSC strongly urges the creel censuses in both CNMI and Guam be upgraded and made compatible, especially as the Council moves toward ecosystem management. Although it's not bolded there, the SSC is also concerned about the lack of data for the portion of the CNMI fleet 30 feet or less in length overall. It notes that a creel census mechanism exists that with modification and expansion to capture data from vessels returning at night, could provide adequate data for management of bottomfish resources.

With respect to 5.B, recreational data bottomfish pilot project, the SSC supports Alternative E, a targeted randomized survey of bottomfish fishermen in the state vessel registry.

With respect to Alternative B, the SSC recommends that future telephone surveys include questions about whether bottomfish were targeted and the time of vessel return. The SSC further recommends that HMRFSS sampling be expanded to improve catch and effort estimation for all FMP species.

The SSC notes that additional funds will be needed for these important data collection efforts.

Severance provided context to that recommendation. Mr. Sminkey from MRFSS was at the SSC meeting and offered to add questions to the telephone survey, the next wave, due in December. Many members of the SSC thought that a targeted survey of a known universe that could be easily randomized would be an independent check on the HMRFSS data.

With respect to the Honolulu Restaurant Survey, the SSC complimented Miss Coffman on the detail and depth of the analysis and discussion.

Finally, for 5.D., for the record, although it's not a full recommendation, he read the comments. This is with respect to the document that Marcia just summarized for you, and it is a draft copy.

“Nowhere does the document indicate any negative impact from current levels of bottomfish fishing in the Northwestern Hawaiian Islands. While the document briefly discusses the importance of social benefits, these are not elaborated or linked to and supported by the interview transcript data. Social benefits can be characterized and are quantifiable. The SSC does not consider this socio-economic study to be acceptable or substitutable for a full baseline socio-cultural profiling of the Northwestern Hawaiian Islands community of bottomfishers and of the social and cultural value of participation required under the social impact analysis portion of the NEPA process.

The summary comment on the acceptability for a buyout program is somewhat misleading. Here the SSC had some independent data from fishermen, and Marcia noted those concerns, a buyout as an alternative to being totally being squeezed out.

The SSC notes that a buyout will result in significant displacement of effort from the Northwestern Hawaiian Islands.

Given that the restaurant demand for fresh bottomfish will continue, any benefits from reducing Northwestern Hawaiian Islands bottomfish effort may be far outweighed by the cost of the transferred effort elsewhere. A buyout program may be acceptable if it is the only alternative to a complete closure, but a buyout program will not necessarily preclude effort displacement.”

That concluded the comments and the recommendations.

Ebisui thanked Dr. Severance and asked for any questions. Having none, he moved on to Bottomfish Standing Committee report. He referred them to their briefing books and Item 10.C.6.

#### **10.C.6 Bottomfish Standing Committee Recommendations**

The committee met on Tuesday morning. Mark first summarized the bottomfish management alternatives as presented in the CNMI amendment to the Bottomfish FMP. The plan was for the Council to consider final action at this meeting.

The Committee also received the SSC's take and recommendations with respect to the CNMI Amendment. After a discussion it was understood by the committee that the CNMI representatives favored Alternative 2, which was the preferred alternative.

Subsequent to the committee meeting we understand there has been a change. But for the sake of initiating the process, I will so move that Alternative 2 be moved for final action -- for final action, period.

Severance asked for a second.

Morioka asked for a second then opened for discussion

#### **10.C.8. Council Discussion and Action**

Seman thanked the Chair. He stated that the Government of CNMI, along with the AP members of this Council and the on-site coordinator, have put significant time and effort in crafting up the proposed options that are presented to this Council for the matter in the June, 123rd Council meeting and it was since developed out of that.

However, in part, for the Department of Land and Natural Resources and as a Council member, he felt it was to conduct a hearing to present the preferred options to the community that has participated actively in developing it. It is only favorable to all of us that he be given an opportunity to present the preferred options to them, in keeping that spirit of partnership.

He thanked the Chair.

Morioka asked if he was speaking against the motion, to table it, and he would offer a motion at a later time.

Seman said, right. He was asking that the final action be deferred to allow him to conduct a meeting or a scoping meeting, for that matter.

Morioka said thank you and asked to hear from the other representative from the Northern Marianas. He called on Council Member Sablan.

Sablan thanked the Chair. He agreed with Mr. Seman and believed there was a need to disseminate the information to the community, particularly the stakeholders in CNMI. They need to know about some of the changes and he would join Richard with the public scoping to further act on additional information where their stakeholders were concerned. He asked for deferment and they would get back to the Council at the next meeting.

Morioka thanked him and asked for further discussion. He asked the maker of the motion for reconsideration.

Ebisui withdrew his motion.

Morioka asked for a second and opened the floor for a new motion to table.

Seman said, yes.

Morioka asked if he had a second. Then he asked for discussion and public comment.

#### **10.C.6. Public Hearing**

None was heard

Morioka called for the question. All those in favor of tabling this item until the next Council meeting after sufficient public scoping has been conducted in the Commonwealth of the Northern Mariana Island and will report back from the Commonwealth delegation, we'll take this matter up at that meeting. All those in favor, signify by saying aye.

(Motion carried)

Ebisui had one more action item. He moved that the Council staff be tasked with further workup on the randomized survey of fishers in the state registry and that further public discussion take place in future scoping sessions. The so-called randomized survey of fishers is the SSC's recommended alternative.

Morioka asked for a second.

Farm seconded.

Morioka asked for discussion. Hearing none, he asked for public input. Hearing none, the Chair called for the question.

(Motion carried)

Morioka as if there was any further business before this Council.

Ebisui said, no.

Morioka recessed the 124<sup>th</sup> Council meeting until 1:30 p.m.

(Lunch break taken)

Morioka called to order the 124th meeting of the Western Pacific Regional Fisheries Management Council at 1:30. He opened the meeting with Agenda Item 10.D, Ecosystems and Habitat, and Richard Seman, Council member of CNMI, Secretary of the Department of Natural Resources, representing.

#### **10.D.1. Mariana Archipelago Fishery Ecosystem Plan Pilot Project.**

Seman thanked the Chair. He called Mr. Paul Bartram to start with the 10.D.1, Mariana Archipelago Fishery Ecosystem Plan Pilot Project.

Bartram said the Mariana Archipelago Fishery Ecosystem Plan, is a pilot study for certain models, concepts, types of analyses to support fishery ecosystem plans. He was going to focus the time to run through some exercises that involve ecosystem type problems and then possible management responses for the Mariana Islands.

He reviewed that an ecosystem is about interactions in a place. They're not about sets of places. They're about sets of interactions. He used the meeting as an example of an ecosystem. It was not confined to the room. The participants would go back and have some coffee or some juice and before long be looking for the nearest restroom. That would become part of the ecosystem. Even looking around for a place to eat lunch was part of the ecosystem. It is a way of thinking. It's thinking ecologically on all kinds of scales, not just spatial scales but also time scales.

Key points of his presentation:

- He mentioned resiliency. He would use that term later and it was important not only for the natural resources but for human systems as well, which are inter-related under the Council's definition of ecosystems.
- For the U.S. Public Land Management the ecosystem concept was a big deal ten years ago, but there was never any national consensus. So there was never any real national program. However, that opened the door for all kinds of community-driven programs, which are working very well. There are hundreds of successful watershed councils that were doing ecosystem projects using watershed boundaries as a natural boundary.
- The main elements of the pilot project were basically trying to understand things before taking actions. There are lots of actions that are taken without the proper understanding of the whole ecosystem.
- Another element of FEPs was setting the course, setting objectives. Also, defining indicators for being off-course. In setting the objectives, fishermen and other groups want things to be how they were 30, 40, 50 years ago. Basically, that's just saying that they want something that was a previous ecosystem state. There's nothing wrong with having that as an objective, but you to have a look at what it takes. Usually there's restoration to get back to that state.
- To be able to consider resiliency in terms of all the elements and components of the system of the ecosystem. That really means options, the ability to rebound.
- Then if enough is known, it takes a management action to adjust the course. This is all working within the processes of the ecosystem. In other words, judo, not boxing or extreme fighting, trying to overpower the ecosystem, but working with its natural processes.

He would use those to provide the status report. The first step was to develop a different kind of baseline, not just a snapshot of what is going on at the moment. But to go back in to

develop cycles, resource rhythms, human use patterns - try to make the movie, in other words. There was a contract scope written and it would be getting started shortly.

- Setting the course, finding out what people want. And even if what they want is to turn back the clock, they still get a chance to tell you what they want.

There is going to be a lot of work, at least starting early 2005 in the communities out in Guam and the Northern Marianas Islands trying to develop this kind of baseline.

Communities are all about place. Networks of people that have dealings or doing things together in those places, or in that place, and they get together and they do collective actions and they acknowledge leadership. It doesn't have to be a long time, the bar doesn't need to be set too high. It doesn't necessarily have to be a 100-year old community. A hotel association that gets together to restore portions of Tumon Bay in Guam was another example.

- The third and fourth elements are trying to develop indicators, and that's to do that from that historic baseline then test them in specific communities, in Guam and the Northern Mariana Islands, and try to work out some possible management responses to what is going on.

The indicators as defined by Stewart Allen from NMFS Science Center, have changed in the resource base and indicators of human impact. This is where this resiliency concept comes in. Change can be really quick. He used the example of a typhoon in the area starting off slow, then reaching a threshold and speeding up. Or it can be a change from back and forth between cycles, like El Nino, La Nina. This is just some of the cycles, disturbances, out there, on an X, Y scale that causes variability.

Again, looking at what communities get out of the resources. Then looking at what their options are when they can no longer get some of those things.

He ran through two scenarios that include things that probably do happen out in Guam and the Northern Mariana Islands. The first scenario is a sudden change caused by a typhoon, and the second one is a gradual change caused by erosion from poor land management. He just threw in an El Nino to make it more interesting for that second scenario.

First, they constructed a simple bottom habitat quality index, and it's just based on the amount of bottom relief versus the amount of exposure to waves. Both of those scenarios adjust an embayment situation.

The first scenario, in the embayment is a fairly large area of decent coral coverage and a subsistence fishing community. There is reef viewing there for tourism and there is baseline reef research there by scientists. Then every once in 20 years there is enough wave action, a big enough storm, to cause sediment to shift and either cover or uncover that particular habitat.

In this first scenario a typhoon comes in and quickly covers up, buries, that habitat. A community that was getting 30 percent of its food from that habitat suddenly either has to find another area to fish, which let's assume in our example there are no substitutes nearby, or they have to get jobs and earn the money to go buy replacement food. This is what he called low resiliency. In other words, they're in a tough jam. The researchers who were using the area as a baseline either have to start over or possibly they can incorporate the type of damage into their research. This is what he called moderate resiliency.

They were jammed up, but they at least have some decent options. Then for the tourists, all they have to do under the scenario is drive down the road and they can see the same thing. This is what he called high resiliency. So what could possibly be done?

They could always just accept it. Typhoons are a part of the disturbance pattern. It's the ecosystem. It changes constantly. So you can always just do nothing.

But then to respond to the low resiliency, the subsistence fishing community either needs to find a replacement habitat, dredge or clean up the habitat that was buried, help train them for jobs so they can earn the money to buy the food they were getting from fishing, or help them relocate to some place where they can continue to fish.

The second scenario was more gradual. It was in a watershed, same bottom habitat, 10 percent tide pools, and upland erosion that was gradually filling the tide pools. Then to make things worse, El Nino in the Mariana Islands causes the sea level to be several inches lower than normal. So in conjunction with making the tide pools shallow, it makes the water temperatures too hot for juvenile fish. So they move away and move into deeper water and become prey for bigger fish.

During La Nina cycles the water level is several inches higher for average. So the pools are more hospitable for juvenile fish. That is the setup. Then what do we do? Well, every time there is an El Nino, there is higher juvenile fish mortality. Then several years later there's less fish to catch for our fishermen. But at least they have fish part of the time and possibly they can switch to pelagics species during those off years.

They do have some options. They may need to buy new equipment to get out to the pelagics species. They may need income to buy food during the cycles when the catch rates are poor. He called this a moderate resiliency.

He failed to mention that the area was also a great nature viewing area, especially for students. So as these pools fill in, especially during the El Nino cycles, during the day at least, there is not much to see. Water temperatures are too high. So they have to find alternative locations during that part of the cycle. So again, that was moderate resiliency.

So possible responses: Accept the whole thing as part of the ecosystem landscape, even if it is due to upland erosion. They could have had good upland management to prevent or reduce the erosion.

But for the two moderate resiliency groups, the subsistence fishery group and the student marine education, either find them different places and help the fishermen get out to sea to get catch the migratory species and help them fish in other areas possibly.

For the school children and the tide pools, the scenario pretended that the other areas were more dangerous. So cyclically, they have to be ready to go to other places that aren't more dangerous. Of course, they could deepen those tide pools or make new tide pools, doing a little bit of dredging along the shore. So those are also possible management responses.

But, who would select and do those responses. This is the next step, where they try and actually test some of these things based on real scenarios.

There are quite a few real scenarios that people in Guam and Northern Mariana Islands have suggested, most of those centered around shallow-water marine habitat and centers around sedimentation up there. They felt that was already an indicator that was blinking red, and that could be a good starting point for doing this.

This project supports other projects including the planning for an Ecosystem Workshop in 2005 and also the Programmatic Environmental Impact Statement public scoping, which is going to start shortly to try to get peoples' ideas about different alternatives.

He showed them two scenarios from Guam and the Northern Mariana Islands. One of them had to do with shore communities who wanted to take responsibility for their inshore areas. He called attention to the diagram of how the little drop ripples to the top of the mountain. That is mountain-to-the-sea management. That is very traditional in the islands.

Then a second idea that he heard was the boating community wanted to take either full responsibility or partnership, co-management, with the Council on offshore seamounts in the federal waters.

He concluded his presentation and asked for questions.

Seman thanked Paul and asked for questions.

Duenas asked Bartram how soon the program would be going through for the Marianas? When are they going to start?

Bartram said he thought the baseline work would to start fairly soon, possibly even this year. Then after that gets a little bit along for certain geographic areas, then work on the indicators, the community objectives and then actual testing of what people might want to do in terms of responding. Everybody thinks that due to sedimentation the shallow-water habitat, tide pool habitat, is already blinking red, as far as an indicator.

Duenas mentioned that a lot of the community leaders were very excited about this project and what they've heard so far. He just wanted to make sure it got off the ground.

Seman asked for any more questions. Having none, he thanked Paul. He moved on to Agenda 10.D.2, Geographic Fishery Ecosystem Plans and initial action done by Jarad.

### **10.D.2. Geographic Fishery Ecosystem Plans**

Makaiau thanked the Chair. Makaiau referred to Paul Bartram and how he talked about the nuts and bolts of how to go about and test indicators and the on-the-ground work with communities on furthering fishery ecosystem plans for the Western Pacific Region. He was going to speak on a broader scale and the long-term horizon in starting the administrative work in terms of how to migrate from specific fishery management plans and developing what was discussed at the last Council meeting, and even at the 122nd Council meeting, archipelagic or geographic-based fishery ecosystem plans.

He showed the SSC's last recommendation at the 85th meeting of the SSC, which endorsed what the Council said, and was moving forward with the fishery ecosystem plans. At the time it was brought up at the 122nd meeting it was conceptual in approach, but the Council did endorse it.

What he was looking for from the Council at this time was to take an initial action and formally endorse this process and direct the staff to move forward to the administrative part of it.

He outlined the Council's initiatives to date on the fishery ecosystem plans:

- They are in the process of establishing a Fishery Ecosystem Plan Working Group to guide the development of fishery ecosystem plans over the next couple of years and into the future.
- They plan on convening an Ecosystem-based Management Workshop, primarily to facilitate the CNMI pilot project and also to look at other Western Pacific community-based type initiatives. Not just here in U.S. jurisdiction, but also abroad where they really have on-the-ground, community-based initiatives, places like Fiji, and so forth.

An important part of the Ecosystem-based Management Workshop was to identify indicators, if possible, for the Marianas, then the other island areas and to review case studies of where they've been able to do this in the Western Pacific Region.

- The key part from the pilot project is community involvement. Not just in the planning process, but also having communities take part in supporting an initiative and giving them the power to co-manage. In a lot of places, in our region, like American Samoa, the community is involved in not just developing these things, but actually managing and enforcing marine plans.
- The last one is to initiate a Programmatic Environmental Impact Statement to analyze implementing ecosystem-based approaches in Western Pacific fisheries on a broad scale. There are several large issues to consider in looking at the implementation or development of fishery ecosystem plans. The review of the literature from a number of sources like FAO and the MAFAC Committee.

Even NOAA Fisheries is in the process of developing draft guidelines for ecosystem-based management, there are a number of key themes that keep on coming up.

These are not in a particular order, but makes sense is delineating the geographic area of the ecosystem. As Paul Bartram described it, ecosystems are on many different scales. It can be looked at it from a large marine ecosystem encompassing vast reaches of the Pacific or as an archipelagic base, with a large area. But it can also be on a smaller scale, island-specific scales. Maybe even finer than that, north, south, west of the islands, that kind of scale.

- Where we're managing, that is an important part. What is the ecosystem that you are going to be managing.
- Establishing goals and objectives. What is the goal of ecosystem-based management? Is it to protect everything? Is it to conserve everything? This is going to be key in developing sort of management approaches.
- Third is identify and applying specific indicators of ecosystem health. How do we know an ecosystem is healthy? How do we know when the things we are doing to it is affecting it adversely? And to find keys things to monitor and when we see things changing, we need to react appropriately.
- Lastly, is assessing the effectiveness of management and achieving the goals that we set out. How do we know it is working? We need to lay that out very clearly.

What is the ecosystem we are going to manage: Looking at the literature and things that need to consider are:

- Delineation of the geographic area of the ecosystem can be done by ecological metrics, by its biological, physical characteristics.
- The Magnuson Act requirements have to be considered and abided by. Geographic ranges of management unit species within a geographic area would have to be looked at, that is what is the area, and what is the range or species of the ecosystem or the geographic scale of the ecosystem.
- Oceanographic and environmental phenomena that affect productivity: that is an important component in all locations in the region. A set of interactions at various scales. Paul Bartram touched on that briefly.
- The geo-political boundaries of state management versus federal management and how to take an ecosystem approach from the mountains to the sea when there is a number of physical jurisdictions, there's a number of agencies within a jurisdiction that share management.

- Establishing operational goals and objectives: These are going to be dependent on what the scales of the ecosystem are. If you are trying to protect the whole Pacific Ocean, your goals and objectives are going to be much different than if you are looking at just a specific area, an island-specific region. These need to be laid out properly.
- To expand beyond the Magnuson Act goals of, say, overfishing or essential fish habitat, you have to take into consideration, as much of the literature indicates as conserving genetic and biodiversity.
- Maintenance of trophic structure is another key idea that we see throughout the literature. How we go about defining that is going to be something we need to get input and actually studies on.
- And identifying the desired future condition of the ecosystem. Are we willing to balance some level of uses and some level of change in the ecosystem? This has to be carefully considered. Mr. Makaiau mentioned that Paul Bartram talked about the baseline. What is the baseline -- what is a healthy ecosystem? Is it of that we're considering today? Is that something we are considering about 50 years ago? Are we looking to the future to establish the baseline of what is acceptable health. Lastly, assessing the effectiveness. We need to develop mechanisms to establish that type of monitor.

They were trying to get this process formally into motion by the Council taking initial action to begin development of administrative procedures to go about doing it, such as taking these concepts and ideas out to public scoping for public input.

He thanked the Chair.

Seman thanked Jarad and asked for questions.

Robinson said he was trying to understand where the process was going to end. Could Makaiau give him an indication of whether the idea is to develop fishery ecosystem plans that are separate from the current fishery management plans, and overlay them? Or is the concept to take the current fishery management plans and pull them apart and expand them on an ecosystem basis and replace the current plans?

Makaiau answered that in the future and however long that might be, they are looking at changing from a fisheries-specific plan to an ecosystem plan. So in the end they want to see a Marianas Fishery Ecosystem Plan, a Hawaii Fishery Ecosystem Plan and possibly one for Samoa and Independent Samoa, in cooperation with them, for that kind of a fishery management plan, and what management unit species will go into those.

Initially they were going to start with the FMPs. They have discussed how to start, and then possibly setting up the framework of a Marianas Ecosystem Plan, just having the existing

regulations in place. Then they could start moving things out of the, quote, Bottomfish Fishery Management Plan, that applies to there, and tuck it under the Marianas plan.

Robinson said thank you.

Seman said they would continue right into the Northwestern Hawaiian Islands Sanctuary Alternatives, initial action and Jarad would be presenting.

### **10.D.3. Northwestern Hawaiian Islands National Marine Sanctuary Proposal**

Makaiau said that in addition to the proposal, he would be talking about the proposal's possible effect on existing management structure under the Magnuson Act. He would show how the two acts inter-relate with one another and how to address some of the regulatory needs that the Sanctuary brings at the point of designation.

The Sanctuary Act language pertains to the Council's involvement in drafting proposed regulations for a National Marine Sanctuary. It details the Council has the first opportunity to draft these regulations. It also discusses briefly about how the Council goes about drafting these regulations. It is based on the goals and objectives of the purposes and policies of the National Marine Sanctuary Act, and also the goals and objectives of that particular sanctuary.

The Sanctuary Act also makes mention of the Magnuson-Stevens Act when drafting regulations, to the extent that the regulations that are developed for draft fishing regulations are consistent with the proposed goals and objectives of the Sanctuary.

That document was provided on September 20th. It outlines the proposed goals and objectives for fishing. It also provides an alternative for what the Sanctuary considers would be the most consistent with those goals and objectives.

The draft regulations that the Council develops will be incorporated into a Draft EIS for the proposed sanctuary somewhere down the line. The time frame for a Draft EIS is sometime in early 2005, a rough estimate.

There are the Magnuson-Stevens Act regulations that are codified in 50 CFR, Section 660 and at some point the Sanctuary will have also in its 15 CFR Section 920 regulations governing fishing activities of the EEZ in the Northwestern Hawaiian Islands.

There is a potential of two different sets of regulations that may or may not have different things to say. This process will initiate a change in fishing regulations to address the impending designation. The process has been much slower than what the Sanctuary Act provides, which is 120 days to draft the regulations. As the Council goes through its process in drafting regulations, it looks at a number of alternatives and an analysis of those alternatives. So 120 days is a much more rapid time frame than the Magnuson Act guidelines provide. There is a need to get this process underway as quickly as possible with the end goal of amending fishery management plans.

The presentations that will be heard today are a summary of the advice and recommendations to the Council, including Sanctuary goals and objectives and fishery management recommendations. The Council's goals and objectives for fishing will also be heard as well as a range of alternatives for the Northwestern Hawaiian Islands for each fishery management plan to get the process started.

Makaiau said the presentations would be done then input and comments on all the presentations would be taken. Input was sought for all the presentations from the Sanctuary goals and objectives, to fishing recommendations, comments on each of the individual FMP alternatives, and so forth.

He referred to the proposed timeline, which is a much more rapid time frame than they are used to.

Makaiau asked for the Council's approval to move ahead and amend fishery management plans. March 17<sup>th</sup> is the target date for the Council to take final action on the preferred alternative to submit to the National Marine Sanctuary Program.

Seman asked if there were any questions for Jarad.

Morioka had a point of clarification, at one point Makaiau had said the Council was guided by the MSA. He heard NMSA instead of National Standards, and he just wanted to clarify that.

Makaiau apologized and said, yes.

Morioka said thank you.

Seman thanked Jarad for his presentation.

Robinson also clarified that Jarad made the point that the Council recommendations be made to the Sanctuary Program, it was more accurate to indicate that whatever recommendation the Council forwards will be forwarded to NOAA.

Seman said thank you. He moved on to Agenda Item, 10.D.3.a, NOS Goals and Objectives and Alternatives. He called on Allen Tom.

### **10.D.3.a. NOS Goals and Objectives and Alternatives**

Tom mentioned that at past Council meetings he had noted that the Sanctuary Program would be presenting to the Fishery Council their preferred options. Copies of the proposal were located at the back of the room for those who did not have a copy.

He introduced the team of people from D. C. and Honolulu who would be making the presentation. There were: Kitty Courtney, Jason Robinson and Kevin Kelly from Tetra Tech, contractors developing the EIS; Sean Corson, Moani Pai, and Aulani Wilhelm from the

Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve; from the Washington, D.C office, Ted Beuttler; legal counsel, Ed Lindelof; and Michael Weiss.

He invited Michael Weiss, the Deputy of the National Marine Sanctuary Program located in Silver Spring, to do the first presentation.

Weiss greeted the group and thanked the Chair and the Council for providing the opportunity to talk about the 304(a)(5) process within the larger designation process under the National Marine Sanctuary Act to designate the Coral Reef Ecosystem Reserve in the Northwestern Hawaiian Islands as a National Marine Sanctuary.

He thanked Makaiau for covering part of his presentation.

Aulani Wilhelm would assist him with the presentation. He outlined the presentation by saying he would provide some background and talk about the designation process, and then give a little more detail on the 304(a)(5) process, including talking a little bit about the goals and objectives and the model regulations that are in the package that the Council was given. Aulani Wilhelm would then go into much more detail on the fishing -- the analysis in-house of the fishing alternatives that was done in that document. Then they would be happy to entertain questions.

*(Verbatim with minor revisions)*

Background: "The Northwestern Hawaiian Islands is the largest conservation area in the United States. It is a very nationally significant, globally important, the only in tact predator-dominated coral reef ecosystem. It has thousands of marine species, many of which are found only in the Northwestern Hawaiian Islands, at least a quarter which are so. The endangered Hawaiian monk seal is found in the Northwestern Hawaiian Islands. It's nesting ground for 90 percent of all the green sea turtles in Hawaii. There are quite a few more ecological values, and cultural values.

The Sanctuary Program and NOAA are very privileged to have the opportunity to have this special place within the United States and have the opportunity to consider it for Sanctuary status. Through the National Marine Sanctuary Act, we have 13 National Marine Sanctuaries. We are the 14th National Marine Sanctuary. So there are not many, but each one is precious and unique in its own way. So we're very excited about this prospect and about this process.

Again, not only do we look at the natural resources and the significance of the area, but this area has tremendous cultural significance, as well.

It's been used [] by Hawaiians for hundreds of years, and particularly Nihoa and Necker are used for a variety of ancestral sites and sacred sites and used for spiritual purposes and practices. I think it's very important that the National Marine Sanctuary Act recognizes the living and nonliving cultural resources are very important, as important as the natural resources. So we look at this holistically as a tremendous, tremendous area.

Background about the protection for the creation of the Ecosystem Reserve: In 2000 Congress recognized the importance of this unique place and passed a National Marine Sanctuary Amendment Act. At part of that, under the National Marine Sanctuary Amendment Act it gave express authority to the President of the United States to set aside this area for special protection as a Coral Reef Ecosystem Reserve. So Congress recognized the importance and the national significance of this place.

Then subsequently the President of the United States recognized the national and international significance of this area and passed two Executive Orders to create the Coral Reef Ecosystem Reserve to protect this very important and very significant natural and cultural resource area.

One of the things that we are required to do and why we're here today is that in the National Marine Sanctuary Amendment Act and in the Executive Orders we were tasked, we were mandated, to initiate the process to designate the Coral Reef Reserve as a National Marine Sanctuary. Again, it will be our 14th National Marine Sanctuary.”

There was some technical difficulty, so Weiss chose to talk about the National Marine Sanctuary Act while he mastered the technology.

“The National Marine Sanctuary Act, I think it is important to talk about that because there are a variety of statutes that pertain to the Northwestern Hawaiian Islands.

The National Marine Sanctuary Act is unique in that Congress saw in 1972 an opportunity to pass legislation strictly to protect from an ecosystem basis special areas in the marine environment. So the mandate of the National Marine Sanctuary Act is to identify nationally significant areas and to set them aside for protection and to look at it from an ecosystem-based management framework.

That is different from the Magnuson Act.

That is different from the Endangered Species Act, which targeted protecting either the fishery stocks and improving those, or endangered species, protecting them, and ultimately, ideally, the goal was to get them off the Endangered Species List.

The National Marine Sanctuary Act is different because it identifies special places in the marine environment for protection and perpetuity in the long term and then to look at all of the resources and management activities, look at them from a holistic basis.

So it's very important to note that it is -- the distinction between a variety of mandates out there, but it doesn't preclude the fact that these are very complementary as well.

The primary purpose, as stated in the National Marine Sanctuary Act, is resource protection. That is what -- the designation process is the over-arching framework, the purposes and policies are in that context, protecting these special places.

There are three principal steps to designation. You are probably familiar with these, the three NEPA processes that you undergo. There's obviously scoping process, getting public input of what are the management issues that are relevant to protect this place under the National Marine Sanctuary Act.

Then there is issue prioritization. We get numerous issues that come in, but you can't address all of them at once. So you have to prioritize and determine what you're going to work on in the short term and then in the long term.

Then ultimately you develop, you get an environmental impact statement and a management plan.

I will talk a little bit about each of these.

The scoping process. The process to designate this area as a National Marine Sanctuary began with scoping meetings in April of 2002. There were ten held throughout the Main Hawaiian Islands and one in Washington, D.C. As you can see, they had over 1,000 attendees and we received a great amount of public comment. The majority of the comments supported strong protection.

Of course, how do you achieve that is the real question and is the real challenge.

Issue prioritization. We've involved many of our stakeholders and our advisory council to help us look at the issues that came in and decide which issues are priority issues that need to be addressed in a draft management plan, and what strategies need to be developed to address those issues for at least the short and the near and the long term.

The information that we get from this process is compiled and then developed into a Draft Environmental Impact Statement, a draft management plan and draft regulations. That's the process we are in right now.

We finished the scoping meetings. We had the issue prioritization. Now we're working toward development of the Environmental Impact Statement and draft management plan.

The way we do that again is we use our advisory body, the Reserve Sanctuary Advisory Council, stakeholders such as our agency partners, constituency interests, this Council and others to help us kind of refine and develop those strategies and action plans that go into the management plan.

We convened a number of working groups, particularly on fishing issues, which is what we're really here to talk about today, to develop what ultimately got into the 304(a)(5) package that you're looking at.

The third step and the final step is development of the Draft and Final Environmental Impact Statement, which contains a range of alternatives, analyzes the draft management plan, essentially is the implementation of the preferred alternative in the draft, and ultimately the final.

It will have the action plans and management strategies and regulations to implement the preferred alternative.

Right now the time line is what you see there. We're in the process of developing a Draft Environmental Impact Statement, a management plan and, as we indicated earlier, we're expected to have the draft out in late summer 2005. Then followed ultimately in the fall and winter with the Final Environmental Impact Statement and a final decision in early 2006.

Now, the principal reason we're here today is to talk about the development of draft fishing regulations for the Sanctuary. This is what is called the 304(a)(5) process.

Jarad kindly went through the 304(a)(5) process in terms of what the statute requires, and I'd like to kind of reiterate that and talk a little bit more about that.

Again, part of this designation process, we are to provide the Fishery Management Council here, the Western Pacific Fishery Management Council, the opportunity to prepare draft regulations for fishing to help implement the proposed designation. Those fishing regulations are to be consistent with the purposes and policies of the National Marine Sanctuary Act and the goals and objectives of the proposed sanctuary.

The Council has this, as Jarad indicated, is to use as guidance the ten standards in the Magnuson Act, to the extent they are consistent with the goals and objectives of the sanctuary.

Then to end this, I would like to say that Congress recognized that there are special areas to set aside. Congress recognized that in the designation there might be the need to regulate fishing within a National Marine Sanctuary and provide a 304(a)(5) process to ensure that the expertise from the relative fishery management council is participating in that process. So Congress recognized the expertise of the Council, and again, the need that there might need to be Sanctuary fishing regulations as part of Sanctuary designation.

Further on 304(a)(5), the Council has to prepare the regulations or make the determination that regulations are not necessary if you choose not to prepare regulations. We are mandated to accept those regulations and issue those regulations as proposed fishing regulations for the Sanctuary unless they are found to be not consistent with the goals and objectives of the Sanctuary.

One point of clarification here, those regulations would be issued under the National Marine Sanctuary Act.

I know Jarad kind of indicated the time frame, 120 days, typically under a Magnuson Act process is obviously very short. I think Congress recognized that, which is why the regulations would be rolled into the Draft Environmental Impact Statement and the Sanctuary Program would be the ones to do the supporting documentation, the NEPA documentation, and the Administrative Procedures Act.

All that then from what you provide, we would do the rest of the work, if you will, and have it roll into the Draft Environmental Impact Statement that we're currently working on. Then after that, go out for public comment.

One of the key things here is that the benchmark, as the statute indicates, are that the regulations are really to be measured against the purposes and policies of the National Marine Sanctuary Act and the goals and objectives of the proposed Sanctuary. We've gone through a rigorous process to develop goals and objectives for the Sanctuary, which I will talk about in just a moment.

Right now, the schedule for the 304(a)(5) review -- and again, you formally received the opportunity to draft fishing regulations when you received the package on September 20th. Given the 120 days that the regulations provide, the timing actually -- that is incorrect -- would be January 18, 2005.

As we've indicated in our letter to the Council, to advise us if you need more time. We understand most of the work is done during the Council meeting. So clearly, we expect that would come in pertaining to your March meeting.

One of the things I wanted to talk about as well is that in developing the 304(a)(5) package that you have before you, we've had a tremendous amount of help. Working closely with the folks that you listed on the slide, we've held over 90 working group meetings to get input, to get data, to get opinions about how fishing should be addressed in the Proposed Sanctuary, how to put together the foundation, if you will, for the 304(a)(5) document that you have.

Each of these stakeholders, if you will, tried a variety of input. Those inputs range from our Advisory Council, which provided us with recommended goals and objectives for the Sanctuary, they provided us a fishing alternative that is analyzed in your document; to this Council providing data and other information, as well as the fishing alternatives that we also analyzed in the document; then the resource assessment that we turned into a GIS map for information purposes to help us make our decisions and recommendations, and a variety of analyses that also fed into this.

So all these stakeholders participated in this process and we couldn't have done it without that stakeholder input, and that agency input as well.

And the guiding framework as we develop the 304(a)(5) process is obviously the National Marine Sanctuary Act purposes and policies. the goals and objectives statements, which the statute requires us to prepare, which are the benchmark by which the draft fishing regulations will be measured against, and then, of course, looking at it from the ecosystem-based management approach that the National Marine Sanctuary Act mandates.

All right. So that's over-arching, the background, of kind of how we got here and what we looked at and then the design for how we created the 304(a)(5) package.

So let's talk about but what's in it.

The package you have before you has four attachments. Clearly, Goals and Objectives of the Proposed Sanctuary. Again, that's the benchmark, or the yardstick, if you will, by which the Council should consider when developing draft fishing regulations.

Then for assistance and guidance to the Council, and partly in response to a request by the Council, we took a few extra steps in terms of providing an analysis for a variety of fishing alternatives and preparing those against the goals and objectives, and also providing model regulations that we think best meet the goals and objectives, based on one of the alternatives, Alternative 3, in the document. Then we also have the resource and use statistics for informational purposes as well.

Attachment B are pieces of the document that we hope will help inform and guide the Council as it goes through its process in this 120-day period to develop draft fishing regulations for the proposed designation.

The Goals and Objectives Statement: The goals were developed over a year-long period with input from our Advisory Council and other stakeholders, as well as the public. Again, our statute mandates that in our designation package that we provide public comment and, to Congress, that we have goals -- specifically provide and identify the goals and objectives for the Sanctuary. Through this process we created seven goals and objections for the Sanctuary. Number 7 is the one that principally pertains to fishing activities in the Proposed Sanctuary.

It includes a vision and mission of management principles for the Sanctuary. One key point is that the document itself is -- the 304(a)(5) document is not a final agency action.

It is NOAA's goals and objectives that are to be rolled into the Draft Environmental Impact Statement and that informational and recommendations and information provided to this Council to help inform it, and again, as it goes through the process, to develop draft fishing regulations for the Sanctuary. The goals and objectives for the purposes of this process are fine. What I mean by that is that it is very unlikely that between now and the Draft Environmental Impact Statement, the issuance of that next summer, these will change. We've gone through a rigorous process to develop these and that input. NOAA had an internal meeting and this is what the product was, what you see in your document. But those are the benchmark that you could focus on when developing draft fishing regulations.

Again, once this goes out and gets rolled into the Draft Environmental Impact Statement, then we're back in the public process and that goes out for a public comment period on the whole package, everything.

But at this point, the statute requires that what we get from you be issued as proposed regulations. But the goals and objectives, if you will, are akin to kind of the purpose and need document in a NEPA EIS. They kind of set the context for not only the fishing regulations, but also the nonfishing, non-regulatory or regulatory action for us as we develop the rest of the EIS.

They are the framework within which we are working right now as we head toward the Draft EIS. Again, they are very unlikely to change at this point in time.

Also included in your package is a set of model regulations. They're very detailed. Again, they're to inform the Council and they're based on Alternative 3, which Aulani will go into much greater detail about which we think best represents and best achieves -- of the alternatives that were analyzed, best achieves the goals and objectives of the Sanctuary and purposes of the Sanctuary -- for a Proposed Sanctuary in the Northwestern Hawaiian Islands.

We can talk afterwards, the questions about specifics of that, we're definitely happy to entertain that.

Again, it's very specific.

One of the opportunities I see here, and it's presented in the model regulations, is working with the Council and Fisheries and other stakeholders and agencies in developing a true ecosystem fishery management plan in this area, a pilot project for those fisheries that are continuing in the Northwestern Hawaiian Islands, that is a real unique opportunity. We're excited to work with the Council on that.

It's spelled out in the model regulations. It's spelled out in the 304(a)(5) document, as well. We look forward to hearing your input on that particular aspect of both, the whole package.

With that, I'm going to turn it over to Aulani to go into much more detail about the analysis that was conducted in the document on fishing alternatives, and particularly about Fishing Alternative 3 in the document.”

Wilhelm greeted everyone. She realized that this was the fourth day of a five-day meeting and it was after lunch. She really appreciated the attention and opportunity to share a bit more detail.

As had been mentioned by Weiss there are four primary steps involved in the analysis, or Attachment C, in the document. She would refer to some pages and they were welcomed to follow in the document, but given the work done already, she was going to move through the pages quickly.

“So basically, four primary steps:

- Resource assessment. Kind to figuring out what it is we have up there.
- A fishing activity evaluation.
- A development and evaluation of a range of fishing alternatives.
- Also, the identification of the fishing alternative we found was consistent with the purposes and of the National Marine Sanctuary Act and the goals and objectives of the Proposed Sanctuary.

You're going to hear that a lot, the purposes and policies, the goals and objectives.

Okay. We also used basically three evaluation tools. So again, four steps, three evaluation tools. The three evaluation tools we used were:

- First, a compatibility screening. It really helped us to characterize fishing activities and alternatives that helped to meet a set of criteria. I'll talk more in detail as I give an example of how we used it.
- We also used a ranking method. That really helped us to identify kind of hot spots, both for ecological and socio-economic resources.
- The third tool that we used was a spatial analysis, really, used to compare resource protection against kind of economic use per zoning option. We'll give you some examples as we go through this.

So again, the first step was really, you know, before we can determine how you set zoning or management regimes or what kind of activities are appropriate, we have to know what's up there, what fishing activities, what economic, as well as ecological assets, are contained in the area.

Just really in brief, no surprise that atolls ranked overall highest in ecological value; and we found in the lower two-thirds of the Northwestern Hawaiian Islands chain that that was really where the fishing values tended to be the highest.

On page C-18 you find Table 1. What this shows really is kind of representative parameters that were used at least on the resource assessment side. So you'll see in the left-hand column was really the categories, if you will, of resource values. They were adapted from the U.S. Coral Reef Task Force. What we tried to do is to identify based on those categories what were resource values in the Northwestern Hawaiian Islands that we could use that would be representative. So those are all listed.

For example, in the right-hand column you'll see apex predator biomass, living coral reef cover, that kind of thing.

Basically, those parameters were chosen in two general criteria. Basically, what data existed. You know, we had to make sure there was information out there. So we could only use what exists. Then we tried to pick the datasets where we could do a comparison across all the islands and atolls. There is other data that we could have used, but it may not have offered us the comparison that we needed.

Then we plotted it all out. So in your book you also see a resource map. Using GIS, we were really able to overlay these. While there has been lots of data circulating out there about the Northwestern Hawaiian Islands, it's been limited by all the different agencies of how to really overlap that and what would it look like if you represented those datasets spatially.

On page C-19, you'll find Table 2. What that table shows is more in detail various representative parameters, as I showed you on the right-hand column of the previous table. So it shows you how they compared across each of the islands and atolls for things like reef fish, endemism and abundance, et cetera.

As I mentioned, there were three different tools used. In this case, we used the ranking tool. The ranking tool was really used to compare the ecological versus the socio-economic parameters. The ranks were based on the data range, which I showed you in the previous slide. So you will see on this, I guess it shows light yellow or light green on these screens. Those were the ecological ranks.

So we looked at fish rank and it was the average of apex predator biomass rank, reef fish, endemism, and reef fish species richness, had it divided by three. Then the average of those three helped us in the mustard color that you'll see develop the ecological rank.

So it was all of the parameters that were added up and given a ranking system that gave us an overall ecological rank. We also had a bottomfish rank or a socio-economic rank that we used. That was different. We basically used the total pounds landed from bottomfish or commercial pelagic.

On Table 3, on page C-23 you will see how the percentages -- you will see the pounds kept, as well as the percentages that enabled us to develop this zero to four ranking for bottomfish, and really these served as a proxy for socio-economic value.

Again, we had to use the data that existed and we used the data from currently active fishing or fisheries, and that was the bottomfish and associated pelagic fishing or commercial fishing that occurs in the Northwestern Hawaiian Islands.

Does that make sense? So it basically serves as our proxy for socio-economic value.

On page C-29 what you will see there's a number of tables and graphs, but this one, this Figure 4 compares where the ecological ranks fall out compared to the socio-economic. You'll see the diamonds represent the ecological rank and the bars represent the bottomfish rank. What that enabled us to do at a quick glance is to be able to compare where are the places of high ecological value that maybe have a low socio-economic value or a high socio-economic value and a relatively lower ecological value. So you can help figure out how you would develop different zoning methods or how we would compare.

So as you can see, French Frigate Shoals, Pearl and Hermes and Lisianski all have the highest ecological ranks. Maro and Necker have the highest bottomfish ranks. And by comparison, lower ecological ranks compared to the atolls.

So these types of comparisons helped us to guide zoning options, and we also had other considerations that we used.

For example, Kure Atoll had the added value of being the northern-most atoll in the world and other aspects of the northern atoll as having the highest reef fish species richness and endemism value. Those things were all utilized in this comparison.

So again, the first step was, what is up there. What do we have, before you can start figuring out what we want to do or how do we manage.

The second step was, since this 304(a)(5) process is about fishing, to figure out and evaluate the different fishing activities. So we did this by using a screening criteria that determined the compatibility using -- and the criteria were developed using the purposes and the policies of the National Marine Sanctuary Act, once again, as well as Goal 7 of the Goals and Objectives Statement in Attachment A. Goal 7 is basically shorthand for the fishing goal.

Table 6 on page C-33 shows you how we developed that screening criteria.

Basically, listed in the far left column are the purposes and policies. Goal 7 is in the middle from the Objectives Statement. Then a number of criteria or questions, if you will, of how you would measure whether or not those activities were consistent with the other two columns. This is just a graphic that helps to see the process.

So again, the guiding framework that Michael talked about helped us to develop the questions in the middle, and then they were given either a positive or a negative scoring or ranking. This same screening process was used later to screen the alternatives for their consistency as well with the guiding framework.

Page C-34. I know you can't read it, but I just wanted to put it on your screen so you can see that. Table 7 gives you the ranking. A negative score basically indicated that the fishing activity did not meet the screening criteria, therefore wasn't compatible.

A positive score indicated the activity may be compatible, and although it would be deemed compatible, it might not be compatible everywhere. That's really where zoning comes into place. While the activity may be something that could be considered in some areas of the proposed Sanctuary, it may not be appropriate everywhere.

So what did we find when we screened and we looked at the scores?

The scores that came out or the activities that were deemed compatible with the Proposed Sanctuary included commercial bottomfish and pelagic fishing, commercial pelagics trolling, recreational fishing. And like we say, both types, we mean catch-and-keep and catch-and-release fishing, sustenance, as well as Native Hawaiian subsistence.

And these were four that were deemed incompatible; commercial pelagic longlining, precious coral, coral reef species, including shallow-water coral harvest, and crustaceans.

So Step 3, we figured out what we had up there. We looked at compatibility of fishing. So the next step was the development of an evaluation of a range of fishing alternatives or ways to manage fishing.

Seven fishing alternatives were identified or developed. They included an alternative provided by West Pac Council staff since last year, as well as our Reserve Advisory Council, or the RAC. All seven were screened twice, first against the goals of the Proposed Sanctuary, all of the goals, and then against the objectives of Fishing Goal 7.

Table 9 on page C-45 lists them really quickly. In maroon, it shows the types of fishing activity that is allowed at least to some degree, or using some zoning method in each of those alternatives. Then the blue row on the bottom just identifies the different type of zoning tools that each of the alternatives utilized.

Here is where our third tool comes in, spatial analysis. Basically, it compares the merit for each of the alternatives, a spatial analysis where it contrasts the ecological protections and impacts to fishing resulting from the zoning method used.

Does that make sense? It really compared what each of the different physical or geo-spatial zoning methods do for protection, as well as any impacts to existing fishing.

So the first alternative that is a map in your book shows, it really shows the no action or status quo alternative, and that's kind of shorthand for the current Northwestern Hawaiian Islands Reserve or Coral Reef Ecosystem Reserve. So you'll see two zoning methods here are used, one is Reserve Preservation -- well, the Reserve Preservation Areas, the yellow areas, are no take, and the blue areas are limited take.

So what we did was an analysis of what this would do. We found that the existing no-take preservation areas, or the yellow areas, cover about three percent of the total Reserve area, about 9,314 square kilometers. And that we also identified that if these RPAs were fully implemented, these no-take RPAs, under the existing Reserve that our analysis estimated a 20 percent reduction in the average annual pounds kept for bottomfish.

We used this -- we did all of the calculation, which we can talk about if you folks want a that little bit more information about that, combined with looking at habitat and where the lines were drawn and what kind of species were caught there compared to the landing data. Then we compare all the other zoning options against the status quo.

So Sanctuary 1 basically mimics the provisions of the Executive Order, but it changes the Reserve Preservation Areas to Sanctuary Preservation Areas. It gets rid of the limited take RPAs and it changes the no-take RPAs somewhat to incorporate straight line boundaries. Basically, under the RPAs they were fathom or distance-based boundaries. These would be lat/long coordinates for the Coast Guard.

Sanctuary Alternative 2. This is the alternative that was provided by West Pac Council staff last July. We understood this to be the preferred alternative of the Council. We understand now that this something, an action that you folks will be taking for initial

action and have been deliberating on this week. In our quick staff review of the various alternatives you folks are considering for the FMP amendments it appears that 1B, or the one that I think the SSC identified as the Council recommendations to date and the starting point that they recommend the Council look at, that this Alternative 2 is kind of the sum and total of all the 1B.

As you know, since you probably already reviewed the document, Alternative 3 is the one that we consider to be the most consistent with the purposes and policies of the NMSA, as well as the goals and objectives of the Proposed Sanctuary.

Compared to the status quo, this alternative provides four percent of no-take -- SPAs, or Sanctuary Preservation Areas, cover four percent of the total Sanctuary and the no commercial fishing area, these big blue zones here, cover about 47 percent of the entire Sanctuary area. The impact to fishing, again compared to as closed 24 percent, compared to 28.

Alternative 4 is nearly identical to Alternative 3, but it would phase out commercial bottomfish, slash, associated pelagic fishing in the entire Hoomalu Zone over time.

Sanctuary Alternative 5 is really the zoning option that reflects what Sanctuary Program staff interpreted from the recommendations we received from our Reserve Advisory Council. They didn't give us the geo-spatial representation, they gave us a recommendation and we developed this zoning option to do our best to interpret their recommendations for us.

It basically phases out bottomfishing within one year and it limits pelagics fishing, both commercial and recreational, to an area outside of a 48 nautical mile corridor in the middle. So that orange area is where bottomfishing would be allowed for a year, and then after that it would be a no fishing zone for that middle area.

Then Alternative 6 is basically closing the whole area down to extractive harvest.

So I share a few factoids about each alternative and how they compare to the status quo. What this really allowed us to do again was compare them by each zone for resource protection values, as well as impact. This table -- or Figure 7 on page C-67 helps you to see quickly at a glance how these different zoning options protect things like shallow-water coral reef habitat, monk seal foraging ranges, for example.

In addition to the spatial comparisons that we did, again I'd mentioned earlier that we did a criteria scoring for this one, as well -- or for each alternative, and they were screened twice.

On Table 10, page C-60, these were the screening criteria first used to compare each alternative. So they were compared first against each of the goals, and then they were compared later on to the objectives of 7.

Table 11 shows the results of that screening.

On page C-35, Table 12, gives you advance the at-a-glance or, as my colleague Ed likes to call it, the Consumer Reports page in this document. It's a real quick comparison of the alternatives. This is where you can really see in the blue-green here the different ecological values or what is protected in terms of resources compared to impacts to both bottomfishing -- commercial bottomfishing and commercial pelagic in the yellow.

So you'll see, for example, Alternative 3, when you look at shallow-water coral reef habitat is 88 percent compared to the status quo, 41, or compared to Alternative 2 at 11.

You'll see across on the other side, on the yellow side, you'll see the different impacts to the different commercial fisheries; 28 percent, 24 percent for bottomfish and four percent compared to 13 percent for commercial pelagic trolling.

I've already said a couple times, so again, Alternative 3 was identified as the most consistent fishing activity. This one. And basically, Alternative 3 was intended to do the following:

- To basically maximize ecosystem protection by placing the highest level of protection on the areas with the highest ecological value,
- while at the same time minimizing, compared to the status quo, the impact to the commercial bottomfish, slash pelagic fishery, and really an attempt to retain that fishery.
- It also requires an ecosystem standard be used to measure the kind of health of the fishery; that in addition to the traditional ways that health is determined through things like MSY and SPR,
- they also add ecosystem measures to determine what kind of impacts there may be to trophic interactions or the overall ecosystem relationship.

We'll talk a little bit more about that in a second.

Fishing Alternative 3, I should have mentioned this earlier, but it uses two zoning methods that are used in other sanctuaries. It uses Ecological Reserves, the kind of the larger blue areas, and Sanctuary Preservation Areas are the yellow.

So here you will see a program-wide Sanctuary Preservation Area, up to -- they're the yellow areas. They really help to maximize protection of the shallow-water coral reef ecosystems. They're really the most protected areas.

Then the blue are no commercial fishing areas, but those are really helping us incorporate protection for poorly understood pelagic and deep-water resource areas and providing more insurance for management uncertainties, along with the other things shown here.

So just in summary, Alternative 3 -- and you can find also more details of the specifics for Alternative 3 on Table 15 on page C-71. But really, under Alternative 3, no currently active fishery is prohibited; it reduces socio-economic impacts compared to the status quo by allowing four percent more bottomfishing to occur; contains provisions for the

continuation of commercial pelagics trolling, recreational and sustenance fishing, as well as Native Hawaiian subsistence use.

The goals and objectives statement, as you see, on the objectives line, it provides opportunities to reassess prohibitions under the National Marine Sanctuary Act and provides five-year reviews under Section 304(e), not 304(a)(5), of the NMSA. Also, zoning maintains natural habitats and maximizes resource protection by placing 51 percent of high valued areas into protected status. Ecological reserves amount to 47 percent and Sanctuary Preservation Areas amount to four percent.

In addition, 88 percent of the shallow-water coral reef habitat is protected, 43 percent of the monk seal foraging ranges are protected and it also provides a high degree of enforceability compared to some of the other zoning options. And it provides for the development of an ecosystem-based management plan under Magnuson.

So let's talk about that a bit.

Basically, page C-74 through 77 briefly describe an additional requirement under Alternative 3, which would be a mandatory development of an ecosystem-based fishery management plan for the Sanctuary, and it would include the Sanctuary Program in that development. It would require an approach to fishing management that would focus beyond target species to address the impacts to nontarget species, trophic interactions and other ecosystem parameters.

In summary, there would be a multi-sectoral task force co-led by NMFS and NOS. Commercial, pelagics -- commercial bottomfish and pelagic trolling fishery would be allowed to continue in certain area, but under this strategy the task force would have basically a year to develop the strategy and priorities and it would change the goal of fishery management, as I mentioned before, from MSY to long-term conservation and protection for the ecosystem.

Again, given the commercial bottomfish fishery being the active fishery, the efforts of this task force would really focus first on bottomfish.

We know that life history characteristics, long lived, slow growing, low productive capacity, and suggest that they may be highly vulnerable to overfishing, that there is fragmented information that already exists on biology, distribution and abundance. We'd like to be able to utilize and pull together that information.

We know that the Bottomfish Stock Assessment Workshop Panel made a bunch of recommendations that West Pac pulled together and we would like to see that kind of implementation of some of those recommendations as the starting point or points to improve the scientific basis of bottomfish management. We also know more research is needed in the area of life history, spawning ground activities, trophic interactions, and that's the kind of information that we know we would need to utilize in ongoing monitoring programs to really understand how bottomfishing plays into overall ecosystem protection.

Michael mentioned some of these things earlier, but just again as a recap, what is next.

This document initiates the 304(a)(5) process. Again, it was presented or delivered to the Council on the 20th of September. Folks are in the 125-day review period. You see our focus, while you folks are focusing on the regulations, that our program focus is not only on the continued development of both the management plan for the Proposed Sanctuary and the DEIS.

Michael mentioned this, but I just thought that it would be good to reiterate that the DEIS will analyze a range of opportunities from all activities, not just fishing activities, but all activities for the proposed Sanctuary, and it will also contain the draft fishing regulations that are developed.

I'm sure there are lots of questions and we have lots of people from our team here to answer them. So probably if they're technical, we'll lean on our subcontractors. If they're legal, on our attorney. Anything in the middle, we can (do)."

Seman thanked them for the great presentation. He asked the Council for questions.

Morioka asked Aulani, with regard to the socio-economic analysis, the assessment that was provided in this proposed sanctuary fishery plan, was Mr. Elher's report the only document used in the development of that?

Wilhelm deferred to Simonds to speak on that.

Courtney interjected that was a large part of it.

Morioka noted that the Council had not had an opportunity to ask Mr. Elher or Dr. Elher questions as to how he derived his analysis. Morioka was bothered specifically by the misrepresentations, mischaracterizations and analyses that are totally incongruent with what fishers' statements were, and then it is used as a basis of developing this document. He was very concerned about that.

He continued that with regard to French Frigate Shoals that it should be maintained as a preserve. Fishermen all agreed. Then in the text, what the fishermen really said was, "hey, you know, if it is rough, this is the only place where we can go to find shelter and continue to work." What do fishermen do when they work?

Courtney said that she knew what they did.

Morioka said, okay. She knew, so how does she --

Courtney said that while she was not there during the interviews, she knew that the interviews were conducted with the fishermen. She knew there were reports or data that were done in collaboration with the State, and, that the report was one of the documents that they were able to utilize to look at these from a comparative setting --

Morioka said thank you.

Courtney added, you know, the range of --

Morioka said, very good. He asked what effort the contractor made to go and validate any of this information, to verify that this was really good stuff, or rubbish.

Courtney answered that they had discussions with Mr. Elher about the report and information, and they have gotten back to him about various comments that have been made. That was the level of validation. They have also started dialogue with some of the commercial bottomfish --

Morioka asked if that was after they produced the proposal.

Courtney said, yes, absolutely. But, that was where they were starting. This was not the EIS or the NEPA document. She understood his concerns, especially from a Council that has daily in and out work with datasets of this nature.

They are looking forward to working directly with the Council on the process of developing the EIS, which is just beginning. They would like to work with the Council staff to get data and information that would help flesh out any kind of socio-economic analysis, because that would be a very important part of the analysis.

Morioka said that is what really bothered him. They were informing the Council of goals and objectives built on maybe information. He wanted to know if the goals and objectives that were developed have received NEPA analysis so that there was some validation in the process. He asked, has it?

Wilhelm said she knew that Rod and the economic team had done multiple economic assessments in other places. She was not an economist and she was not sure of Morioka's background --

Morioka asked that she remember the representation in the material just covered. She had said socio-economic. Everything covered was not socio-economic, it was strictly economic. He was looking for an SSC representative to comment on that. It is especially important when talking about people's lives in this process, that when socio-economic is said that the "socio" part of an economic analysis is included.

He asked if Dr. Severance had any comments.

Severance: (Verbatim) "If I may, Council members will remember that SSC did make a recommendation regarding the socio-economic study that is under discussion here and we pointed out that while there are comments in that on the social value of participation, they're not documented in any of the interview data.

And when we look at the instrument used, there is an open-ended portion at the end to look at noneconomic data, but there isn't any adequate discussion of things like the social value of participation as opposed to the strictly economic value of participation. The life style values, and those kinds of things, which are quantifiable and should be included in any NEPA analysis, which is why the recommendation we heard this morning suggests that that document is really not adequate in the eyes of the SSC for a substitute for a socio-economic assessment that is needed in the NEPA analysis.

It's one piece of information. We recognize it is a draft document that focuses primarily on the economics rather than the social value of the participation in the fishery.

Morioka said thank you. He continued, having heard that, this proposal is based on a draft socio-economic analysis that has not been peer-reviewed, that has not been subjected to the normal checks, if you will, to verify its veracity, the truth. Has it been grounded in truth? The contractor has utilized this data as gospel, and that concerns me.

Now, getting back to the NEPA question. He wanted to hear a response to that. Thank you.

Weiss: (Verbatim) "I have a couple responses. I appreciate the question and the concern.

This document is not a NEPA analysis. I want to make that clear up front. This is a document that is part of the process in developing the Draft EIS and is not a NEPA level analysis nor did it have to be at this particular point.

That said, the importance of your concerns are -- we take very seriously. Our economist that with the data from the Fishery Service and with the State and had the interviews, and to the best of **our thing (knowledge)**, this is a valid document.

What we are doing, though, is that economist will be out and we can ask him to meet with fishermen to do follow-ups and can directly address some of these concerns. Unfortunately, he wasn't able to come out here for this particular meeting.

The other point I want to make is that one of the statements I heard earlier was that the goals and objectives are based on that. That's not the case.

Goals and objectives are based through an independent process that isn't based on a socio-economic analysis. Those were developed, again, those are again, like the purpose and need, if you will, for the Sanctuary.

But the socio-economic analysis in this document went through the analysis of the alternatives that were looked at, again, to goals and objectives.

Clearly, those are provided to you as guidance and advice. If you have other opinions or other information, for instance, as the SSC has indicated, then please provide that in your response. But that is again for your guidance, and you can take it for what it is, essentially.

The goals and objectives, again, I just want to make that distinction, that they are not based on this type of analysis.”

Morioka said that if he understood the process correctly, the goals and objectives were developed based on stakeholder inputs.

Weiss responded that the goals and objectives were based on a variety of criteria, principally --

Morioka asked if they included stakeholder inputs, was that correct, sir?

Weiss responded, agency input and stakeholder input --

Morioka said, correct.

Weiss continued, -- is part of the process.

Morioka asked if fishermen were stakeholders in the process.

Weiss said, they are.

Morioka said, “Why are they being asked now, after the fact? Shouldn't they have been asked in the beginning of the process as to what is at stake, and do you understand what the heck is going to happen to you?”

Weiss responded, well, again --

Morioka: (Verbatim) “Let me say one more thing. If the basis of your analysis was the genesis of information from the RAC, then you need to know that the RAC did not allow the commercial fishermen that was (were) represented on that to be properly represented.

And one classic example of one meeting that I attended, he was asked not to -- or voted by the chair as being ineligible to vote. Now, this is an advisory committee. I am imagining that you wanted a commercial fisherman there to be able to hear his or her perspective and his or her concerns. When that individual is not able to vote his or her concern, it bothered me that when an environmentalist or conservationist who has similar biases and perspectives is allowed to vote. That was of great concern to me.

The Council recognized that it had no vote. So we had no voice. We sat there and took our lumps, if you will. But that did bother me. And I would like to hear something to -- to respond to that concern, that if you consider fishermen as a stakeholder, then why weren't they equal at the table when such items were being discussed?”

Wilhelm: (Verbatim) “Since I was there, I will take that question. Actually, that's not accurate, Mr. Chair. I know you were there and there was discussion where a lot of the Council

members did raise whether or not the fishing representative, Mr. Dill, was eligible. And a whole discussion did take place. But ultimately, Chair Tim Johns allowed that vote, and we have it on record and we'll be happy to transmit that to the Council.

Morioka believed Mr. Dill was there. He asked, were you able to vote, sir?

Wilhelm said, we have his vote on record.

Dill said that after much discussion and over the objections from a lot of the members of the RAC, the chair ruled that they would -- and after having taken a vote already, and finally the majority ruling, the chair then said, we'll refer this back to the office for final verification, but in the meantime, we'll let you vote, let's take a vote again. That's what happened.

Wilhelm said, and the vote is on record.

Dill said, the second vote, as well as the first vote.

Morioka asked Aulani, was that verified and was that --

Wilhelm said they would be happy to give him the transmit -- or the minutes from the record.

Morioka asked, but did the staff go back and verify that it was allowable for Mr. Dill to vote?

Wilhelm said, the vote stands.

Morioka said, thank you.

Wilhelm said that she didn't know if Michael had more comments, but regarding the stakeholder input, there was a whole series of fishing discussion groups for every fishery and a number of fishermen were represented for each of the fisheries, along with the West Pac staff were at almost all, if not all, of the meetings that were held.

And also, in the compatibility, there were five fishing activities and fisheries that were part of Alternative 3.

Weiss added that in addition to the working groups and the scoping process, the 304(a)(5) process is a process for the Fishery Management Council. The Council was deliberating in a public forum as well, so input would come in that forum. They would get the input and then go out for the formal public process in the DEIS. So this has been a very open and public process, and will continue to be so.

Morioka said thank you. The open and seamless process was a new experience for the Council to be coming in with one hand tied behind its back, because they were telling the Council, they know, they can just do within the realm of the goals and objectives. The Council,

for years, has had fishery management plans in place. He asked if Weiss had reviewed any of the fishery management plans.

Weiss said he had reviewed some of them.

Morioka said, some of them and asked, which ones?

Weiss said he was familiar with the Coral Reef Ecosystem Plan. Not in depth, but it's something that he had read.

(Verbatim) "But let me point out again, as I said in my presentation, we're talking about two different mandates here and two different processes that are complementary but are two different -- in fact, they are two different mandates.

And development of -- in terms of one hand behind your back, I don't think that's the case. I think it is typical with any Sanctuary Designation and management plan review, we've developed very specific goals and objectives. We've worked with other fishery management councils which provided those, very specific with very specific outcomes that we asked them to look at, including model regulations, which again are strictly for guidance, and that process has worked.

As long as you keep the process like this, where it is iterative and open and have these types of discussions, that process will continue to work."

Morioka reserved further comment. He deferred to Ed.

Ebisui said, thank you. (Verbatim) "I have a question. The proposal contains a statement in the Executive Summary that I had a very bad reaction to. That statement was again repeated through the presentation today. That statement has to do with what is perceived to be the goal of fishery management. That statement says -- the written statement and the verbal statement said that the goal of fishery management is to maximize the fishery. I really beg to differ with that characterization.

I think it's a fundamental characterization and attitude that carries out throughout this document, which ends in the analysis and recommendations. I think that mischaracterization has affected the entire process.

I don't believe there is anyone sitting around this table that perceives their role as to purely maximize the yield from any given fishery.

What we operate under is the Sustainable Fisheries Act, MMPA, ESA, the National Standards, everything. I mean, everything is scrutinized.

The fishery plans that came out of this body have been works in progress for not years, we're talking decades. They have been the most studied, scrutinized, publicly debated and deliberated fishery management rules.

So to lightly cast them aside and say, okay, now under the National Marine Sanctuary Act we have to come up with management plans, and then to essentially disregard everything that has been done in light of -- and even considering that your own conclusions are that the activities have had little or no impact on the habitat in the Sanctuary area. Am I not correct in that regard? Isn't that what the conclusions were?

I'm looking at Attachment C, starting at page 8, where you go through each fishery and you say, commercial pelagic longline, none allowed and it's primarily because of the Protected Species Zone for the monk seals that were established by this body.

Commercial precious coral fishing, none. Coral reef species fishing, not commercially harvested in study area.

Crustacean fishing, closed.

Then you go on up about the bottomfish, which is probably the largest fishery in this area. You say that the allowable gear and fishing methods are highly selective, minimizing habitat impacts and unwanted bycatch.

So it goes on and on for every fishery.

So it seems to me, common sense tells me that the fishery plans that are currently in place have not allowed the sort of habitat impacts that the sanctuary is tasked with preventing. They're consistent. So to cast aside everything that the Council has done to this date so lightly I think is a mistake. To me, it flies against common sense.

It seems to me that you are trying to reinvent the wheel. Thank you."

Wilhelm: (Verbatim) "The intent is not to cast aside the FMPs -- the FMP for the bottomfish, slash, groundfish fishery. I think the document in other places actually indicate some of the measures that have been used that have kept this fishery kind of a small, local fishery with continued or, you know, stable catch.

So again, it is one of the fisheries that are compatible and ranked one of the highest compatible scores. So in this case, and I believe you are talking about bottomfish and groundfish FMP, the intent isn't to throw out the FMP, but rather build on it.

And that is what you're saying, and the intent is the same as what we're saying, that this task force process should be a positive one and one that will help continue the mandates that under Magnuson and the ways to measure and manage the fishery, as well as to consider the ecosystem mandates that we are charged with fulfilling under the National Marine Sanctuary Act, and that is what we're trying to do with this task force and building on the plan to include ecosystem-based measures, in addition to traditional fishery management measures.

Not to toss the whole thing out, that's not the intent.

Again, the intent in Alternative 3 is to have a continuation in appropriate areas of bottomfishing in the region.”

Ebisui asked about his concern about the Council being characterized as being driven to maximize the fisheries -- maximize the take in the fisheries?

Weiss: (Verbatim) “And I will go back to that that is clearly not the only. But my point is that there are different mandates and they're not necessarily mutually exclusive. They can be complementary. The Magnuson mandate, broader than just MSY, agreed. And Sanctuary Act mandate, in my presentation, I thought the mandates in terms of protecting special places differ even from the Endangered Species Act, the Marine Mammal Protection Act mandate, all these have specific goals and some are to recover species, some include MSY, but do a lot more than that obviously. Also, the Sanctuary Act is setting aside special places for ecosystem protection because they are special places.

So they're all different mandates. Aulani talked about the different goals, but they're complementary. We're not trying to throw wholesale something out the window if they are compatible and they're complementary.”

Morioka: (Verbatim) “Mr. Chairman. Just having said that, complementary. With regard to Midway Atoll and the U.S. Fish and Wildlife Service, you're granted an exemption in this process. Your current fishing regulations allow a certain amount of fishing, recreational fishing. It allows the capture of pelagic fish within your wildlife refuge. One -- I believe you can take one for consumption, and tag and release the rest or release the rest, if I remember those regulations properly, Don.

Maybe you can help me there, to explain to the Council what kind of fishing regulations exist within Midway Wildlife Refuge. Not to put you on the spot, but I'm just trying to characterize the treatment, if you will.”

Palawski: (Verbatim) “Well, let me say something, is that the Fish and Wildlife Service received this document at the same time the Council did. So our position is we're looking at this as a process.

We have regulations on the books, as we've talked about in these Council meetings that are sometimes not exactly the same as the Magnuson-Stevens Act. So at this point in time, the Fish and Wildlife Service is just looking at this as part of a NEPA process. At some point there is going to be a Draft EIS, we'll have our chance to give agency input. We take agency input during the scoping process, and that is what we'll continue to do.

So at that point, if there are conflicts, those are agency-to-agency issues that we're going to need to work out. So that is where we stand right now.

We have our recreational fishing rules at Midway. They exist today. That is just something that we'll continue to work with National Ocean Services on to figure out how we need make the Sanctuary complement and supplement the National Wildlife Refuge system.”

Morioka said, thank you. “Having heard that, this Council is given 120 days to develop fishery management plans based on goals and objectives presented.

Does it have the opportunity to come back and redo those fishery management plans after the NEPA analysis is completed?”

Weiss said, “let me clarify. We're not asking the Council to amend its fishery management plans. We're asking them to prepare a set of draft regulations that we would include in the Sanctuary EIS ”

Morioka said that he was talking about the draft regulations that the Council was going to be recommending to him.

Weiss said, as am I.

Morioka asked that if the NEPA analysis finds inconsistencies, would the Council be afforded the opportunity to revisit the regulations as we have generated under the current situation -- or current information, and redo them?

Weiss said, “there are two junctures for what you provide to us, in terms of adding additional input. One is clearly once we put out in a Draft EIS for the designation to provide -- that's an open and public process. We get input from everybody, particularly including the Council, and then if the regulations -- [] if it becomes effective, then as Aulani pointed out, we have a mandatory five-year review of our Sanctuary management plan regulations – “

Morioka said, well, he hadn't answered the question. Does the Council get a chance to revisit the regulations that they've developed and forwarded following the NEPA analysis? If there are any changes that occur, the Council ought to be given an opportunity to amend their regulations to complement that NEPA analysis.

Weiss asked, to amend what you provide to us?

Morioka said, yeah.

Weiss said, “well, the Sanctuary Act provides that we are to provide the opportunity to the councils to prepare draft regulations that we will issue as proposed, and we fully expect that through the NEPA public process that we will continue interacting with the Council, as well as other folks, in terms of fine-tuning those if the NEPA input warrants that.”

Morioka said, “I would feel more comfortable if there were some language to that effect, and given to the Council. Because to date, the characterization of processes that have been provided us have not been consistently maintained. I characterized those in a letter to

Admiral Lautenbacher expressing my concerns with the process to date. If we have such opportunities, I would like in the future to have these in writing so that we understand and that there is a common ground from which to work.

One of the things that I mentioned to the Admiral was perhaps a Memorandum of Understanding between the operating agencies might be the vehicle from which we can resolve all of these issues, talk openly, engage all interested parties at a common table to discuss.

I think there is so much more to be gained rather than grenade lobbing and torpedo strategies, if you will, that can occur when parties are kept from talking together and when the strategy is one of keeping a divisive posture to ensure that certain agendas get met, and it just raises a jaundice eye in the whole process. I'm very, very concerned that this is occurring, and I'd like to see it stop.

I'd like to see it ended. I'd like to see an open discussion going across all agencies to make all of those things happen.

Thank you, Mr. Chair.”

Seman said, thank you and asked for any comments.

Duenas asked that the group bear with him since he was just learning this whole process of ecosystem management. But they were about to embark on it in the Marianas. For some reason, they have a human factor included in their ecosystem-based management.

“Apparently that is not a factor in a lot of your area. You mention in one alternative there is no human factor involved with this from the shoreline out to the ocean, and that is it. I'm wondering if there is going to be a change in thinking, that you're going to include human factors, are you going to allow science, you're going to allow other people to walk on these grounds -- sacred grounds?

That was just a thought that I was missing when I was listening to the ecosystem-based management so much from you guys. I didn't hear any human part.

The second thought was I was looking at all the sustenance stuff for indigenous people. You know, the Council, we fought hard to provide for the indigenous people in this island group to have rights to access to economic prosperity, such as allowing them two positions on the bottomfishing permitting. This, I believe it is -- I don't know how is it supported by the indigenous population of the Hawaiian Islands. But it doesn't allow them any economic prosperity. I mean, I'm sure they want to paddle up 100 miles just to catch one fish and then go home. But I don't think that is the purpose of this exercise.

And I think that if you guys had just gone to your letter in your mission statement, on the first three or six pages, and then stopped there, I think the Council would have been a lot more receptive to your ideas.

Because I, for one, am not used to receiving alternatives before I understand the alternatives that are being put before me, and I use the expertise of the people that have been working in this forum. I don't know who the people you used in your forums, but I need the expertise of the people in our forum to understand each of the alternatives presented.

As you know, our Council staff is reviewing everything. We have scientists that we refer to. We have an SSC we refer to. A plan team we refer to get ideas to better understand what is going on.

Because I, for one, am not the smartest person in the world, probably not the smartest person in this room. But the thing is, I have to understand to make a good decision that will protect the future of this environment.

I second what Ed said about taking it personal about us not being good managers, because that's all we do, is tell fishermen something they have been doing for a long time, not to do. We restrict them so much. You can't do this because of turtles. You can't do this because -- they've been doing it for a long time and we're the bad guys because we have to tell them you have to not do that.

We have to find a middle ground, and that's what I'm asking you folks to help us with. You have people that have been fishing up there for so long, their families depend on it.

I wish you would sit down with them and with us and not come up with this list of alternatives. I'm so confused as to the maps. Darned if I don't know my own island, I'm going to look at this and find out -- if I were a fisherman, I would really have a rough time trying to figure out where I'm fishing.

And thank god they have those satellite drones, and all the million-dollar equipment to arrest me. Because like one guy said to me earlier this morning, so much money is being spent for a nine-boat fishery.

So I'm just curious. I guess I'm just babbling on, but I need to understand. Thank you.”

Seman thanked Duenas.

Morioka had one more question about the development of Map 5, Alternative 3, he was curious to learn under recreational catch-and-release, in the two circles, recreational catch-and-release, pelagics, caranx and seriola only, in both of the circles. That means an uku cannot jump on the line. That means any other non-pelagic fish cannot jump on the line and be released.

What is the rationale behind that limitation, caranx and seriola only? Those two species that are mentioned, sir, are not pelagic, okay. They're demersal fish. But they're caught incidentally when you happen to be in that area. And these are not the only ones. There are groupers, snappers, other varieties that also jump on the line. So what is the rationale behind this?

Wilhelm responded that it was the shorthand just on the map as the key the GIS person put together, but it's really to indicate what should be the target species. Obviously, the fisherman can't control everything that jumps on the line, but those would be what the recreational catch-and-release fishery would be targeted for those species.

Seman asked for any more questions? Hearing none, he thanked the presenters and moved into the Council Goals and Objectives and Alternative with Miss Marcia Hamilton.

### **10.D.3. Council Goals and Objectives and Alternatives**

Hamilton thanked the Council members.

The goals and objectives provided in this process are very important. She was going to guide the members through a review of the goals and objectives starting with, as presented in the document on page A-4, the NOS Goal 7 and its objectives.

Goal 7 talked about maintaining ecosystem integrity by controlling fishing activities, remembering that this was the fishing goal and objective, while minimizing adverse socioeconomic impacts and putting in mechanisms to protect protected species and anything that threatens the natural character or biological integrity of any ecosystem of the region.

The objectives were prefaced, these objectives, by this first statement, as appropriate to maintain the natural character or biological integrity of any ecosystem of the region:

- 7A, prohibit non-subsistence crustacean fishing;
- 7B, prohibit commercial precious coral fishing;
- 7C, prohibit harvest of all coral species, live rock, aquaria species, live fish trade species, algae, sponges and other invertebrates;
- 7D, allow recreational fishing for pelagic species except within sensitive habitats;
- 7E, allow bottomfishing to continue except within sensitive habitats;
- 7F, allow commercial pelagic fishing using handline, pole and line, and trolling gear except within sensitive habitats;
- 7G, prohibit subsistence use within the Sanctuary except for Native Hawaiian subsistence use;
- 7H, allow sustenance -- certain kinds of sustenance fishing;
- 7I, prohibit spearfishing with scuba for pelagic species;
- 7J, all fishing not specifically allowed to be prohibited;
- 7K use a precautionary principle.

To be clear, she reminded the Council that there was a scoping in 2000, but these goal and objectives have not been scoped. The Council staff was asked to come up with a strawman of what the Council might view and consider to be more appropriate goals and objectives for fishing in the Northwestern Hawaiian Islands Sanctuary.

This is a strawman for the Council to comment on and get recommendations from the other groups:

The goal is to maintain ecosystem integrity by applying ecosystem-based management and research principles to fishing activities. Very general, it's a goal. The related objectives:

- Objective 7a, coordinating management. A big impetus for a Sanctuary is to coordinate the management of the resource activities. So it was put at the beginning;
- 7b, maintain ecological integrity while minimizing adverse socioeconomic and cultural impacts;
- 7c, this is about allocating fishing rights. When fishing is limited, there's an allocation issue. There is a choice of who gets to fish and who doesn't. The staff added, employ principles of equity and fairness when allocating those fishing rights;
- 7d, protect protected species, control fishing activities in areas where interactions are known to occur;
- 7e, it goes a bit beyond protecting Native Hawaiian rights. Promoting access to the greatest degree possible without damaging the integrity of the Northwesterns. So it is not about controlling Native Hawaiian access. It's about promoting it;
- 7f, protect the substrate of the ecosystem through prohibitions on the collection of reef-building corals and live rock;
- 7g, protect ecosystem integrity by imposing moratoria on the harvest of crustaceans and precious corals until research is completed to determine if harvest can safely continue. It is more of an action than an objective, but the staff drafted it as such;
- 7h, maintain ecological integrity by controlling whatever harvests do go on, consistent with available biological and ecological information;
- 7i, protect ecologically valuable areas from damage resulting from fishing activities. This tries to go a bit beyond the idea that an area is valuable and fishing is happening, so fishing is occurring and it's valuable, we should stop fishing. If the fishing is not damaging the area closing off the fishing isn't going to do anything for the area. An area can be valuable and fished at the same time if we can ascertain there is no damage resulting;
- 7j, promote increased understanding of the ecosystem through comprehensive and coordinated research. There needs to be an increase in the understanding of this unique ecosystem and perhaps apply what is learned to other places in the world. This is unique, but there are some really good lessons that can be learned from this.

That concluded her presentation. She asked for questions.

Seman thanked Marcia and asked any questions?

Morioka thanked Marcia, for that analysis and for the staff's work in helping them perhaps better understand what a true goal and objective for this particular fishery ought to be. This would allow some basis from which to make decisions going forward. He appreciated that effort and was sure that his colleagues here appreciate that effort.

Seman thank Roy. And asked anybody else? Noting none, he announced that there would be a slight change of the particular order on the agenda. They would be moving up the Coral Reef Ecosystem Management Measures at this point, to be presented by Mr. Jarad.

#### **10.D.3.e. Coral Reef Ecosystem Management Measures**

Makaiau thanked the Chair

He went back to his presentation earlier about the Council's need to go through the process in terms of anticipation for regulations governing the fishing in the Northwestern Hawaiian Islands and providing some of the background information for the Council to carry out this process and make decisions. He was going to discuss the management alternatives that have been talked about over the past seven or eight years about Coral Reef Ecosystem FMPs.

The Coral Reef Ecosystem Fishery Management Plan was started over seven years ago, with the beginning of the International Year of Coral Reef in 1997 and assessing whether or not coral reef fisheries in the EEZ should or should not be managed. This was a unique approach in terms of fishery management in the Pacific. The FMP when it was issued, it was a proactive approach rather than a reactive approach. The Council wanted to put into place some structure and management regime that would anticipate fishing in federal waters with coral reef ecosystem resources.

The process to do the plan preceded the Executive Order by at least three years and all of these new initiatives of the sanctuary, the Marine Protected Area Act, and so on.

He began his slide presentation and included the following:

- The goals of the Coral Reef Ecosystem Fishery Management Plan were based primarily on the National Standards of the Magnuson-Stevens Act. The Council wanted to take a proactive approach. So the primary goal of the fishery management plan was to establish a management regime that would maintain sustainable coral reef fisheries, prevent adverse impact to stocks, to coral reef habitat, protected resources and the ecosystem. So this was one of the first initiatives in terms of ecosystem-based management, not just looking at the stocks themselves and maximizing the yield of fish stocks, but also looking at these other ecological parameters, including protecting the resource. The subgoals provide opportunity and maintain opportunities for people of the Western Pacific to utilize their resources.

- This next slide represented what the Council has seen to date. This was nothing new in terms of introduction of alternatives. Alternative 1A, no action, would be if the Council took no action on the fishery management plan, there would continue to be no regulations of the utilization of coral reef ecosystems in place. By "regulations", he meant under the Magnuson-Stevens Act, Section 50 CFR. Coral reef ecosystems in the Northwestern Hawaiian Islands would continue to be regulated status quo, whether it would be a Reserve or Sanctuary. It wouldn't be under Magnuson.
- Alternative 1B, another no action option, was the Council's Preferred Alternative to date. The alternatives have been deliberated by the Council over the past five years, including the no-take Marine Protected Areas from zero to ten fathoms around most of the Northwestern Hawaiian Islands, and extended to 50 fathoms around certain key locations, such as French Frigate Shoals, Laysan and the north half of Midway. He would get into the criteria and parameters of how the closures were established.

Also, low-use marine protected areas would be established for waters 10 to 50 fathoms. The significance of 50 fathoms was, at the time, this is what was provided as the lower limit of coral reef growth.

- There were special permit and reporting requirements that were introduced or proposed on the Coral Reef Fishery Management Plan that would govern fishing for coral reef resources. Anyone who would be fishing in the Northwestern Hawaiian Islands in the low-use MPAs would be required to get a permit and report their catch. But before the permit could be issued a detailed description of the activity, amount of resources the fishermen propose to take, the location would need to be documented and described prior to issuance of the permit by the Pacific Island Regional Administrator.
- There was also a proposal to limit the type of gears that could be used. From background research in coral fisheries, not only in the Pacific but other places, there are a lot of destructive type of fishing gear that are being used. The Council wanted to prohibit those types of gears from being used in the Northwestern Hawaiian Islands.
- It also wanted to introduce a prohibition on the nighttime scuba spearfishing that eliminates fish refuge at night and a prohibition on the harvest of coral and live rock.
- The last one was a vessel insurance requirement when transiting through the Northwestern Hawaiian Islands. It was proposed in the Coral Reef Fishery Management Plan. However per legal guidance, it may not have been legal to implement or impose a regulation for one group of users, such as fishermen, and not impose that same regulation on other groups that are utilizing the same area. This was still being worked out, in terms of maritime law and, while it was proposed, it was not carried forth.

He continued with the criteria for management measures that the Council considered in developing the Coral Reef Fishery Management Plan and specific items for management.

The first was natural resource values. The Northwestern Hawaiian Islands are very unique in terms of its ecology, species and diverse abundance of corals. It also represents the last place, at least in the Hawaiian Islands, where there's a high number of endemic -- particularly the reef fish. So the Council also considered what is being termed now as ecological integrity.

This is a very difficult term to understand, particularly in terms of trying to understand how certain types of fishing activities affect the overall ecological integrity of an area. The definition that was developed was, "maintenance of the standing stock of resources at a level that allows the ecosystem processes to continue. Ecosystem processes include replenishment of resources, maintenance of interactions essential for self-perpetuation and, in the case of coral reefs, rates of accretion that are equal to or exceed rates of erosion. Ecological integrity cannot be directly measured, but can be inferred from observed changes in coral reef ecology."

Now changes and of the effects of fishing could be documented. This included the possibly lower size of fish or a less abundance of a certain type of species. The overall ecosystem effect, how it is measured is still not really known. Until certain parameters of how to measure and understand thresholds of the ecosystem, it was a piece of science that needs to be further investigated.

To summarize the management measures and the rationale:

- No-take Marine Protected Areas, zero to ten fathoms. The Council went to zero to ten fathoms primarily because from the scientific information known at the time. It represented the areas with the highest coral reef development; highest species diversity, highest coral abundance, highest coral cover, primarily in this depth, which is about 60 feet. Some of the rapid ecological assessments that the multi-agency NOWRAMP expeditions note that the 60-foot depth is where the highest coral cover is being observed.
- This area is also considered important habitat for the monk seals and turtles. It was identified as habitat of particular concern.
- The fishery was fairly low in the very shallow waters. It had potentially high impacts not only to the reef themselves, but also to monk seals that use that area.
- Zero to fifty fathoms for Laysan, French Frigate Shoals and the north half of Midway was important, particularly at Laysan and French Frigate Shoals, which are the primary monk seal colonies. Also, Midway was seeing an increase in the number of seals that were birthing there and beach counts were increasing.
- It represented habitats of different types of area. In talking about biogeography, one area is in the part of the Northwestern Hawaiian Islands, one in the middle, and one at the very top. So it covered a range of different types of geography. There are

potentially high impacts, especially to the monk seal colonies. So these were deemed areas that were inappropriate to be fishing and were designated Marine Protected Areas. The low-use Marine Protected Areas is the lower limit of coral reef growth.

- Special permits and reporting: the opportunity to fish on coral reef and understand the impacts in such an area would be very beneficial to science. However, instead of keeping it as a free-for-all, as it was prior to the development of the fishery management plan, the Council wanted to put into place a permit and reporting system that would allow for the collection of fisheries information to make better decisions. This represented a good opportunity, since there was no fishing pressure on coral reef fisheries since the 1980s and to provide a laboratory to collect information and control fishing effort. Thresholds of ecosystems or monitoring of what was appropriate or what was not appropriate could be done, then a connection to tighter regulations.
- Selective and non-destructive gear was self-explanatory. And, vessel insurance had been covered earlier.
- The harvest of coral and live rock was prohibited by the State of Hawaii. So it seemed natural to prohibit this in federal waters, particularly with coral reef being the fundamental core of the ecosystem. Exemptions were allowed for, very tight exemptions, on the special permit conditions for indigenous or traditional and ceremonial purposes and possible aquaculture operations for seed stock.
- Limited opportunities for bio-prospecting. Coral reefs are very diverse and the Council did not want to stymie any medical advancements. So that was considered limited under special permit conditions.
- There are also framework measures that would be quickly implemented as appropriate. Weather buoys, vessel monitoring systems, permits for any and all activities in the Northwestern Hawaiian Islands and, in turn, moves certain species from one list to the other of coral reef activities. This included indigenous use as well.
- A spatial representation of what the Council had considered and approved to date was shown and members were directed to the document.
- Sanctuary goals, this comes from the Sanctuaries Act perspective, particularly maintaining ecological integrity and maximizing ecosystem protection. It comes from a different sort of perspective of providing opportunities to maximize protection. It pertains to the Sanctuary objective for coral reefs, prohibits the harvest of all coral reefs species, live rock, all aquaria species, live fish trade species, algae, sponges and other invertebrates.
- He showed a side-by-side comparison of the Council preferred action to date and the Sanctuary's recommendation.

- Lastly, for the Council consideration, in terms of its fishery management process: Alternative 1A, which would be that the Northwestern Hawaiian Islands coral reef ecosystem resources will continue to be managed under Magnuson. As it was disapproved by NOAA, Alternative B, which is the Council's preferred alternative to date or another consideration proposed to the Council, this option is a modified alternative based on a combination of things, including the goals and objectives of the Sanctuary, the Council's Fishery Management Plans, and the State of Hawaii's Marine Reserve Proposal. He referred the group to a map for elements of the Coral Reef Ecosystem Reserve.

He concluded his presentation.

Seman thanked Jarad and asked the Council for any questions.

Sablan asked Jarad to clarify if when he said no coral taking, if black coral was part of that?

Makaiau answered that it was live coral, living in shallow water.

Sablan asked hard coral?

Makaiau answered, of what we're considering as hard --

Sablan asked, so 60 feet deep?

Makaiau said he was not sure how deep corals grow. From the literature provided, it was most abundance in the shallowest, sort of 30 meters. But yes this did not pertain to precious corals. They were covered under another fishery management plan.

Wilson said that he wanted to express a concern. When he had talked about some areas to be closed and tie those to certain fathom lines, the intent would be to convert those to geographic coordinates?

Makaiau replied that they had some instances in the fishery management plan of those coordinates. However, when it did not get through, they did not pursue it further. They were aware that for ease of enforcement, geographic coordinates are needed. It also complemented existing boundaries of the U.S. Fish and Wildlife Service Hawaiian Islands National Wildlife Refuge, which is for the most part, zero to ten fathoms in most islands, and extended to twenty fathoms at Necker.

Wilson said that Makaiau was right on the mark, that fathom lines needed to be converted to geographic coordinates to be enforceable. To try to enforce something by fathom lines was very difficult. He highly recommended converting those to geographic coordinates if possible, if they want those rules to be enforced.

Seman said thank you and asked for any other questions? Hearing none, he moved onto the bottomfish management measures to be presented by Mr. Mark Mitsuyasu.

#### **10.D.3.b. CNMI Bottomfish Management**

Mitsuyasu said he would be providing an overview of the bottomfish management regime, where they are today, because that was going to be the basis for the alternatives that he would go through.

He referred them to the green section of their books.

The Hawaiian Archipelago was divided into three management zones: The Main Hawaiian Islands, which is from the Big Island, including Niihau, Mau Zone, the smaller zone just north of that, Hoomalu Zone, and the larger zone that goes all the way out to the archipelago.

He summarized that the management regime was as it stands today with two limited entry programs, both in the Mau and Hoomalu Zones. This was in addition to the basic things that the fishery management plan put in place, which included banning of destructive fishing gears, trawls, poisons, explosives, and all those kind of things.

The limited entry zones, the Mau and Hoomalu Zone each have annual landing requirements. The fishermen have to go fishing, make a minimum number of trips, minimum number of landings in order to retain their permit. The permits are nontransferable, unlike other fisheries that they have. While lobsters and longline permits were transferable, these permits were not. The vessel ownership requirements, tie the owner to the boat that they have to go fishing. There was a vessel size limit. The boats that can fish there can't be larger than 60 feet.

Both zones have a target number of vessels. The target number for Hoomalu is seven vessels. The target number for the Mau Zone is two boats. But in the Hoomalu Zone, should the number of boats participating in that fishery fall below that number there is criteria by which new vessels can be added in.

For the Mau Zone, that provision is not yet in place. It is something that the Council went through, passed, but has not gone through the process for approval at this point.

The vessel owners and the permit holders have to go through a Protected Species Workshop also if they go fishing in that area.

He referred to the slide being shown. The first alternative, Alternative 1A was pretty much the no action alternative which includes the provisions that he just explained, what the regulations look like on the books today.

Alternative 1B includes the measures that the Council have passed to date, but haven't gone through and become regulations. Those measures include things such as suspending the use-it-or-lose-it provision which was one of the things the Council wanted to do. Because of the

uncertainty and the number of things that came up when the President created the EO and the Reserve and the Sanctuary Designation process, the Council took that action.

Also in the hopper was the new entry criterion that he mentioned for the Mau Zone that isn't in place. The new entry criteria also needed to have the two CDPP permits added. This was 20 percent of the available Mau Zone permits. That was in the hopper and hasn't gone through.

Included in this alternative was the closure areas that were proposed through the Coral Reef Plan that Jarad just went through. The areas include French Frigate Shoals, out to 50 fathoms, Laysan and then also half of Midway. That was Alternative 1B.

These alternatives tied in with the EIS that was currently in process. In summary, Alternative 2 would be immediate cessation of the fishery: close the fishery, pull permits, everybody stops fishing. Alternative 3 would be phase out. Those with permits continue fishing, eventually retire and the fishery slowly goes away.

For Alternative 4, there was two parts, A and B. Both took zoning approaches. As was in place today, which is 1A plus 4A, this alternative would include the same area closures around French Frigate Shoals, Laysan and Midway, but instead of the 50-fathom closure contour, and it would be based on a larger mileage closure. So, 4A is pretty close to what 1B would be.

4B included zoning taken to the higher extent. Instead of just French Frigate Shoals, Laysan and Midway, it also included closures off Pearl and Hermes, Lisianski and Kure, and special use and ecotourism zones. So those were the ones that were included in the EIS that was passed through. Those are all consistent and haven't changed.

Mitsuyasu showed 1B, which was what the Council has done to date and compared it side by side with the Sanctuary's Alternative 3:

- With regards to no-take zones, they were as mentioned earlier and were listed.
- In the 1B alternative, it would include primarily, the French Frigate Shoals, Laysan and Midway, 50-fathom closures, and also as Jarad mentioned, the 10-fathom closure that would be consistent with the Fish and Wildlife Service Refuge.
- Closures included in Alternative 2 for bottomfish was shown in yellow on the map.
- For the fisheries in the Mau Zone area, State closures are three miles.
- But in the Hoomalu Zone there was a lot more yellow, and the blue areas would knock out maybe half or so of the Hoomalu Zone. The yellow closed areas are fathom-based closures, 75 fathoms. And based on those closures, it will probably impact between 50 and 60 percent for the Hoomalu Zone fishery, in reduced landings.
- The Sanctuary is proposing permits. Whoever had a permit on December 2000 will be eligible to qualify for a permit or 11 people.

- He showed the Council's permit process.
- The Sanctuary is also proposing catch limits, which are based on previous landings from a six-year period, 1995 to 2000. The formula to be used will remove the high and low catches from those years, take an average and generate an individual type quota. There is no type of catch quota based in the system at this time.
- Another provision includes trying to maintain specific species catch ratios including pelagics and various bottomfish. Marcia had mentioned some of the issues with regards to discards or high-grading quotas are applied.
- Indigenous or the Mau Zone has a provision that allows for two permits.
- Notification was put in place in the early '90s.
- Observers were put on the vessels to watch for monk seal interactions. In a three-year period none were observed.
- There are also observers today on the fishery monitoring for monk seals. Because of that, they have to notify National Marine Fisheries Service before they go out.
- Vessel monitoring systems would be required under the Sanctuary Proposal. At this time there is no VMS or area-based closures in the management regime.
- The 60-foot vessel size limit is part of the management regime but is not in the Sanctuary.
- The fishermen who qualify for a permit have to attend the Protected Species Workshop.

Mitsuyasu concluded his comparison and asked for questions.

Seman asked the Council members for questions.

Wilson stated that enforcing contour lines is easier to enforce than the geographic coordinates at Necker.

Duenas asked with regard to the 75-fathom contour map, was there a reason why it was 75 as opposed to the 10 fathoms?

Mitsuyasu responded that with regards to the area-based closures proposed, it was based on the ecological consideration balanced against the socioeconomic considerations. Ecological things included monk seals, impacts to habitat, coral reefs and species diversity. They had been told the primary monk seal foraging area was the 100-fathom contour. So the 75-fathom contour was a compromise as a buffer zone for that.

Duenas asked, how about catch limits?

Mitsuyasu clarified, justification for catch limits?

Duenas explained that once a fisherman brings the catch on board and has a catch limit, the catch is thrown back and will not survive.

Mitsuyasu explained that there are issues with catch limits. In hooking the deeper species, especially onaga, hapupu, ehu, there are fish floating up and at the surface. So releasing fish that are brought to the surface is problematic with regards to the caps.

Duenas remarked that the Council had looked at it before and it didn't work.

Mitsuyasu said, that's right, and that's why they don't have that.

Seman asked for other questions. Having none, he thanked Mark and moved on to the crustaceans management measures to be presented by Josh DeMello.

### **10.D.3.c. Crustaceans Management Measures**

DeMello showed the four alternatives for crustaceans:

- The first alternative is the no action alternative, FMP regulations apply. Fishing is dependent upon the issuance of harvest guidelines.
- Alternative 1B, the Council alternative is also no action, the FMP regulations apply. The Council would implement the pending regulations in the Crustacean FMP Amendment, which are the 10-fathom and 50-fathom no-take MPAs proposed in the Coral Reef FMP.
- He showed a map of the NOS alternative activities.
- Alternative 2 would close the fishery. Prohibition on lobster fishing in the Northwestern Hawaiian Islands, which was the same for Goal 7, Objective 7a.
- Alternative 3 would phase-out of the fishery. Crustacean MUS fishing would be limited to the lifetime of the individuals who have historically fished for lobsters in the Northwestern Hawaiian Islands. The permits would be nontransferable. FMP regulations would still apply. Fishing would be dependent upon the issuance of harvest guidelines.
- Alternative 4 is management through zoning. The difference between Alternative 4A and 4B was the special use zone. In 4A were the Pearl and Hermes, Lisianski, and Kure. In 4B were the preservation zones.

- So looking at a comparison of the two preferred alternatives, Alternative 1B and Alternative 2, the Council Alternative has subsistence fishing allowed, the Sanctuary Alternative would prohibit it.
- The Council Alternative allows for no-take MPAs and for caps on catch quotas, catch volume. The Sanctuary Alternative provides for no-take MPAs. And, while they're not for crustaceans, that is what is proposed for the Northwestern Hawaiian Islands.

Seman asked if there were any questions. Having none, he called on Josh to report on the precious corals.

#### **10.D.3.d. Precious Corals Management Measures**

DeMello said for precious corals the four alternatives were the same:

- Alternative 1A, is no action.
- Alternative 1B, the Council Alternative. In this alternative, they had more recommendations that the Council made that were not applied to the FMP pending Sanctuary designation. These recommendations would affect gold coral. The Council recommended these to protect monk seals. In summary, the prohibition of gold coral harvest, changing quota sizes and establishment of a Northwestern Hawaiian Islands mega-refugia.
- He showed the precious coral beds in the Northwestern Hawaiian Islands and the Main Hawaiian Islands and the Northwestern Hawaiian Islands mega-refugia being proposed from West Pac Refugia to French Frigate Shoals.
- Alternative 2 is to close the fishery, the Sanctuary's Goal 7, Objective 7b.
- Alternative 3 is phase-out of fishery permits, limited to the fishermen who have historically harvested, participation within the qualified period. Permits are not transferable and regulations still apply.
- Alternative 4, management through zoning.

Looking the Sanctuary and Council alternative side by side, the Sanctuary doesn't allow precious coral harvest, whereas the Council alternative does. The Council alternative provides low-use MPAs, no-take MPAs and caps on catch volume.

Seman thanked Josh and asked for questions. Hearing none, he moved on to the pelagics management measures and Dr. Paul Dalzell.

### 10.D.3.f Pelagics Management Measures

Dalzell said this was the last presentation on the different FMPs and it is the one that is very marginal in terms of coral reef habitat and coral reef species in the Northwestern Hawaiian Islands and concerns the Pelagics FMP.

The Coral Reef FMP, when it was implemented, would have amended the Pelagics FMP and would have implemented the no-take and low-take MPAs in the Northwestern Hawaiian Islands.

He referred to the blue section in the briefing book concerning the pelagics options for Alternative 4, Northwestern Hawaiian Islands according to the Council.

- The first one was no action. The pelagics fishery would continue to operate under its current regulations. Non-longline fishing would continue to be permitted in the EEZ waters throughout the Northwestern Hawaiian Islands and longline fishing would continue to be prohibited within 50 nautical miles within the Northwestern Hawaiian Islands.
- He noted that the current Reserve boundaries and the new Sanctuary boundary are the same as the protected species zones implemented by the Council in 1991 to minimize interactions between longliners and monk seals, turtles and seabirds. This law and intended consequences also provides a measure of protection to juvenile swordfish since the Northwestern Hawaiian Islands is an area where there is a high density of spawning swordfish and swordfish juveniles.
- In the Council Preferred Alternative, the prohibition on longlining within the Northwestern Hawaiian Islands will remain in place. No-take MPAs will be established and pelagic fishing would not be permitted in EEZ waters from zero to ten fathoms around all Northwestern Hawaiian Islands, as well as the EEZ waters from zero to fifty fathoms around French Frigate Shoals, Laysan Island and the northern half of Midway Atoll.

With respect to impacts of pelagic fishing on coral reef species and habitats, it is very minimal. Some coral reef species, like jacks or ulua, can be caught by trolling along the reef edge. Other species could include uku, not typically pelagic species, and groupers off the bottom. However, open-ocean handline does not impact coral reef habitat. And the impact of trolling on habitat is negligible, dragging a hook through the water is not going to affect corals.

Closures will provide unequivocal protection for coral reef habitats.

Low-use MPAs under the Council's Alternative will be established in ten to fifty fathoms except for the no-take MPAs. The French Frigate, Laysan and Midway would be accessible by vessels using non-longline pelagic fishing gear, that is trolling and pelagic longlining. But they will need to acquire a special permit for fishing activity.

The intent of this measure is to ensure that all fishing within low-use MPAs is monitored for incidental impacts on coral reef ecosystems that is what is happening in pelagic waters adjacent to coral reef ecosystems, there are permits and reporting requirements.

Vessels are already subject to federal permitting and the reporting requirement would provide catch reports, which refers to bottomfish fishery. He felt that a mixed-line fishery would be a better description of what is typically called bottomfish fishing in the Northwestern Hawaiian Islands.

Any pure pelagics fishing would also have a permit and report. In terms of commercial trollers, they already report on their modified C3 forms that have been produced by the State. This would be taken in lieu of having to develop a special federal handbook. The idea is to have increased data collection from the fishing activities around these areas.

Any recreational fishing would have to be permitted and would be reported from these low-use MPAs.

Dalzell referred to the map with canary yellow depicting the no-take MPAs and the being the low-use MPAs under the Council.

The Sanctuary recommendation involves a more complex system of zones and caps on what can be caught. This also applies to pelagic fishing.

The Sanctuary Preservations Areas provide no fishing of any kind in SPA boundaries. This is somewhat equivalent to the Council's low-use MPAs or no-take MPAs, but more extensive.

Referring to the map, he pointed out SPA boundaries based on distance and other based around contours. Most of them are three nautical miles from the different islands: Nihoa, Necker, Midway and Gardner Pinnacles. Then he pointed out a larger one, 12 nautical miles around French Frigate Shoals, surrounding all banks and also from St. Rogatien and unnamed bank northeast of French Frigate Shoals. The depth contour closures are largely 75 fathoms except for the 100 fathoms around Pearl and Hermes and Kure.

The next sort of zones, the very large blue areas on the maps as presented earlier by the speakers, are ecological reserves for the Proposed Sanctuary. These are contiguous, diverse habitats where limited fishing will be allowed. Limited fishing would include Native Hawaiian, sustenance, and other permitted pelagic sustenance fishing in terms of pelagic fishing. These areas, including a very large one at the top part of the Sanctuary, have the largest species diversity of coral reef species and also species endemism.

Then in the central of the Sanctuary around French Frigate Shoals, the concern is more focused towards the monk seals, the development of fishing caps or total allowable catch.

The Sanctuary would create a task force consisting of representatives from partner agencies and relevant institutions to work together to establish appropriate ecological benchmarks to measure the impact of fishing on the ecosystems. The task force will develop an annual aggregate level of harvest not to exceed catch levels for commercial bottomfish/pelagic trolling and commercial pelagic trolling based on recorded landings for each fishermen operating from December 4th, 1999 to December 4, 2000. The ultimate goal is to have some caps on fishing, pelagic fishing for commercial fishermen, based on that 12-month time period.

In the interim, they will use a formula which will take the five years prior to the issuance of the EO, from 1995 to 2000. The formula uses the five-year period, knocks off the highest and the lowest, and then takes the remaining three years, generates a mean and uses that as a temporary cap on commercial fishing. The caps will also include a ratio of catch by species, which includes pelagic fisheries.

With respect to pelagic fishing, the only place where commercial pelagic fishing would be permitted is the first fifth of the reserve. There will be Native Hawaiian subsistence fishing, that includes pelagics subsistence and subsistence pelagics bottomfishing. This was noted on the map by a catch and consume icon.

Summing up the Council's Preferred Alternative and the Sanctuary Recommendations he said the differences were no-take MPAs, the Council's alternative limits them. Whereas under the Sanctuary there are quite large ones around French Frigate Shoals, 12 nautical miles, three nautical miles around Nihoa, Necker and Gardner, 100 fathoms around Pearl and Hermes and Kure, 75 around Maro, Laysan and Lisianski. Under the Sanctuary are ecological reserves, indicated as two large blue areas on the map, in there would be only a limited amount of fishing: subsistence fishing, either Native Hawaiian and catch and release in the most northerly of the two.

No caps at all or any restriction of any kind for pelagic fishing. And the development of caps based on the one year, 1999 to 2000, with the ultimate goal with an interim cap in between and to maintain the catch ratio.

He had one question with respect to the use of a catch ratio in the caps, how would it work operationally with fishermen. If they reached a cap with one of those species, do they stop fishing? Or are they simply to release the fish, in which case it will be inconsistent with Magnuson, which requires minimizing bycatch. If people continue fishing after they're reached a particular cap and have to release fish as a discard, then that might increase bycatch. Dalzell offered it to the Sanctuary people to take into account when they continue their deliberations on this.

Longline fishing will have to be prohibited both within the Sanctuary boundary under both alternatives.

Seman thanked Paul and asked the Council for questions.

Morioka asked Paul with regards to pelagic catch-and-release fishing within the Northwestern Hawaiian Fisheries under this regime, when it is in effect, will that need review also from a bycatch issue inasmuch as there is no regime right now for that?

Dalzell said, sure. There are no dispensations from the Secretary of Commerce, which some catch-and-release schemes do have in the Atlantic, specifically for bluefin and possibly marlin. All catch-and-release, effectively, is bycatch. For example, while not analogous, fishermen are not allowed to take shark fins and discard carcasses anymore, but by doing so bycatch is increased. So the same is true, if catch-and-release is encouraged, bycatch is increased because the fish are being caught and not used.

With respect to the fishing caps, operationally, how is it going to work? He could not find any details of that in the Sanctuary document. So the fisherman has to shut down fishing when he hits the cap of one of the species or does he just keep slinging away the species, in which case the bycatch has gone up. Our mandate is to reduce bycatch.

Morioka asked that under the Council's analysis of the Northwestern Hawaiian Islands pelagic fishery, has there been to date any indication or any record of recreational skin diving for pelagics species in that area. And was Dalzell aware of where the Sanctuary process might have gotten that as being a fishery that was in progress up there?

Dalzell deferred comment to skin diving expert, Frank Farm. He had never heard of anybody going up there and skin diving for pelagic, but it may have taken place.

The only recreational fishing that he was aware of on record is the Midway operation. There are some charter firms in Hawaii that have the ability to do long-range charters to places like the Northwestern Hawaiian Islands or even the Cross Seamount. But whether those are still in operation, he did not know.

He suggested Dave Itano as a resource for long-range charters.

Farm said he was not familiar with any. It could be happening where charters are going with free divers without scuba that may be targeting pelagic species. He knew that there were charters off Kauai and going by Niihau and the seamounts, but he didn't know if they were going up the Northwest chain. However, it could be with no record if it was people doing it on their own.

Morioka asked Mr. Tom if he would have any idea --

Wilhelm said they understood that it was very limited, that there was some history of a few people in and around Nihoa and Weather Buoy 1 that went up on their own, the extreme skin diving type. Whether or not they were successful, she didn't remember the exact details. But they heard that while taking public comment; that it was just small X-game sport type of activity.

Palawski noted that it appeared the Council alternative does not recognize the refuge boundary at the 12 nautical mile territorial sea boundary. During the Coral Reef Ecosystem

FMP, the idea of low use on the north half of Midway would put vessels very close to the reef in that area. So Fish and Wildlife Service would be concerned with the Council's alternative as it exists right now.

Seman said thank you and asked for further questions. Having none, he moved into the SSC recommendations and called on Dr. Craig Severance.

#### **10.D.4. SSC Recommendations**

Severance referred the members to 10.D.3.G. and asked them to turn to page 4.

The SSC briefly reviewed the document entitled, Proposed Northwestern Hawaiian Islands National Marine Sanctuaries Advice and Recommendations on the Development of Draft Fishing Regulations Under the National Marine Sanctuaries Act, Section 304(a)(5), which was presented to the members during the 87th SSC. A summary presentation was made by Tetra Tech and the SSC notes the following:

- A. The National Marine Sanctuary Program draft document does not provide credible scientific evidence that fishing activities managed under current Magnuson-Stevens Act regulations are detrimental to, quote, ecological integrity, end quote, of the Northwestern Hawaiian Fisheries.
- B. The multi-step screening process as developed by the National Marine Sanctuary Program and Tetra Tech and its implementation criteria are not applied objectively or quantitatively.
- C. The document contains numerous examples of undefined terms, e.g. ecological integrity, ecosystem integrity, biological integrity and natural character, unclear methodologies and unsupported statements:
  - a. For example, on page C-41 the document states, nevertheless current fishery management practices, interactions with monk seals, over fishing of susceptible species and impacts to the coral reef environment have been voiced as ongoing concerns.
  - b. Additionally, on page C-42 of the document, the document states, others have noted concern over fishing for uku and hapu'u because they are reef-related species, as opposed to onaga, opakapaka and ehu, which are deep-slope species. No citations were given for either of these statements.
  - c. By contrast, documented statements which would support a stable fishery are seemingly ignored. For example, page C-40 states, data show that in over a decade of fairly stable fishing operations, Figure 6, the target species populations have remained high based on traditional management measures, including MSY. That cites of course a West Pac document.
- D. In the analyses of fishing alternatives of this document, commercial fisheries are required to meet a, quote, burden of proof, end quote, that fishing activity does not affect

ecosystem/ecological integrity. This policy is not embodied or required in the National Marine Sanctuaries Act or the goals and objectives of this Sanctuary. Further, this requirement can never be realized unless there is a definition of ecosystem/ecological integrity and a quantitative threshold for the level of harm.

Recreational catch and keep requires reporting while recreational catch and release, sustenance and Native Hawaiian cultural and subsistence use do not require reporting, yet they involve fishing mortality. Also, no caps are proposed for these activities nor do they need to meet the same, quote, burden of proof, end quote, required of commercial fishing.

The SSC also disagrees with the statement on page C-40 that, maintaining a closure of the lobster fishery will not create significant additional socioeconomic impact because it is not currently in operation and catch declined 90 percent while the fishery was open, fluctuating dramatically as it dropped.

The SSC notes that Northwestern Hawaiian Fisheries lobster fishery operations are not presently nor permanently closed by regulation. To do so would foreclose opportunities for future harvest by Northwestern Hawaiian Fisheries limited entry crustacean permit holders who are still financially vested in the fishery.

With respect to the National Marine Sanctuary Program goals and objectives for this Sanctuary, the SSC notes that the objectives of Goals 1 through 6 are highly descriptive in nature, as they should be, whereas the objectives of Goal 7 are prescriptive. The objectives of Goal 7 read as very specific regulatory language which restricts flexibility of management alternatives.

In the SSC's opinion, the objectives of Goal 7 should be rewritten to describe the desired state of the sanctuary and not prescribe mechanisms to achieve that state. To that end, the SSC supports the draft rewording of the Goal 7 and associated objectives provided by Council staff as revised by the SSC and encourages the National Marine Sanctuary Program to consider this draft in preparing a revised Goal 7 and objectives for fishing.

The SSC suggested revision of Goal 7 and associated objectives for the Northwestern Hawaiian Fisheries nautical miles is as follows:

Goal 7 would read: "Maintain ecosystem integrity by applying ecosystem-based management and research principles to fishing activities. Sustain ecosystem protection while minimizing adverse socioeconomic impacts.

Then there are the seven objectives:

- 7a, protect ecosystem integrity by applying a precautionary approach and continuing research on crustaceans and precious coral fisheries to determine if, and how, harvest can be allowed without damaging the integrity of the Northwestern Hawaiian Fisheries ecosystem.

- 7b, protect the substrate of the Northwestern Hawaiian Fisheries ecosystem through prohibitions on the collection of reef-building corals and live rock.
- 7c, protect ecologically valuable areas from damage resulting from fishing activities, consistent with available biological and ecological information.
- 7d, protect Hawaiian monk seals, sea turtles, seabirds and other protected wildlife by controlling fishing activities in areas where interactions are known to occur.
- 7e, maintain ecosystem integrity by controlling the harvests of pelagic, bottomfish and coral reef associated species consistent with available biological and ecological information.
- 7f, maintain ecosystem integrity while minimizing adverse socioeconomic and cultural impacts.
- 7g, employ principles of equity and fairness when allocating fishing rights.
- 7h, protect Native Hawaiian cultural rights by promoting access for noncommercial fishing uses by Native Hawaiians to the extent possible without damaging the integrity of the Northwestern Hawaiian Fisheries ecosystem.
- 7i, promote increased understanding of the Northwestern Hawaiian Fisheries ecosystem through comprehensive and coordinated research.
- 7j, apply ecosystem-based principles through coordinated management with Northwestern Hawaiian Fisheries management and research partners.

Finally, on this set of recommendations, the SSC further recommends the Council proceed in developing the regulations to achieve the revised goals and objectives for the Sanctuary, while following the science-based process as required by the Magnuson-Stevens Act.

He noted there was another recommendation at the end of this document on page 10.

The SSC heard the presentation provided by Council staff on the Fishery Management Measures for the proposed Northwestern Hawaiian Fisheries nautical miles and description of a range of alternatives for each fishery management plan. That's the range of alternatives that were just presented to you by the different presenters.

As a starting point for discussion, the SSC recommends that the Council use the alternatives identified as Council recommendations to date for each FMP, all of which the SSC had approved during several earlier meetings. The SSC notes the Council recommendations to date are science-based, were developed and approved with input from the Plan Teams, Advisory Panels, the SSC, the Council and the public, and are consistent with the SSC's revised goals and objectives for the Sanctuary.

Seman thanked Dr. Severance. He asked for any questions from the Council. Hearing none he went on to the Standing Committee recommendations and called on Mr. Ben Sablan.

#### **10.D.5 Standing Committee Recommendations**

Sablan thanked Chairman Seman. Sablan said Chairman Morioka's Standing Committee on Ecosystems and Habitat, in the form of a motion, recommends the Council proceed with further development of Fishery Ecosystem Plans for the Western Pacific region as recommended at its 122nd and 123rd meetings, and initiate the process to hold scoping meetings on this initiative throughout the region.

Haleck said, so moved.

Morioka said, they would hold discussion for public comment.

Morioka asked, additionally?

Sablan said the committee recommended the deferred actions on the Northwestern Hawaiian Fisheries Sanctuary Alternatives to the full Council meeting.

Morioka said he was going to be opening for public comments. On the back table was yellow cards and he asked those that wanted to provide public comment to filled them out and give them to Miss Marcia Hamilton, who would give them to him.

The Chair will recess this meeting.

(Brief break taken)

Morioka reconvened the 124th Council meeting. He explained they were on Agenda Item 10.D.6., public hearing. There were several individual ready to speak and he called on Miss Stephanie Fried. He asked that Ms. Fried identify herself and the organization she represented when she came to the mike.

#### **10.D.6. Public Hearing**

Fried greeted the gathering and introduced herself and that she represented Environmental Defense in Hawaii. She thanked the group for the opportunity to speak and had a number of points:

(Verbatim)

“I wanted to thank the gentleman who raised concerns with the NOS proposal regarding the lack of socio-economic analysis in that proposal. My feeling was that I was shocked with the proposal for a couple of reasons, but one of them was the fact that the economic description focused on nine vessels. The only discussion of economics was about the impact to those nine vessels.

There are hundreds of bottomfish vessels in the Main Hawaiian Islands. There are thousands of people, 94,000 people, have written asking for the strongest possible protection up there. There has been a tremendous outpouring of interest in the socio-economic importance of protecting that region. So I understand that you probably don't live here in the islands, you're probably not privy to all of the tremendous outpouring of support.

Those islands are uninhabited. Nobody lives there. So they're completely different than other islands in the Pacific. So I guess I share your concern about the socio-economic content of the NOS proposal, but I thought it was simply shocking -- why are we focusing on nine vessels? It just seems extraordinary. If I were one of those nine boats I would feel quite lucky to have an entire council dedicated to protecting my economic interest.

I don't know of a council to protect the interest of the monk seals or to protect conservation interests up there. Or the interest of the folks that are depending on industry down here, like the tourism industry. You have got a tremendous tourism industry here in the Main Hawaiian Islands based on showing visitors our sea turtles through scuba tours and snorkeling tours.

Those sea turtles are going to the Northwestern Hawaiian Islands. So the more solidly protected area, the more that is really put off limits, the safer our industry down here is that is built on that. So I agree with that.

I also shared your real surprise at Alternative 6, the fully closed area. The reason I was shocked to see that was because there isn't area, there isn't a single map in that NOS representation that reflects the public input accurately, the public input of about 94,000 people who have written to the State agencies and to the Federal Government agencies asking for no commercial fishing in there since there are only nine vessels that are out there, but for full access for Native Hawaiian cultural and traditional practices. So there really isn't an alternative in there that reflects the cultural aspect and the commercial closure. So that was a concern.

I think that it was interesting listening to this meeting because it's a throwback -- there's been four years of intensive public meetings. There have been over -- I think 32 hearings here throughout our islands. Again, as I said, close to 94,000 public comments specifically on management measures in the Northwestern Hawaiian Islands and the overwhelming public input has been for absolutely strict and strong protection.

So NOS has taken a giant step in the right direction, but it's nowhere near what the public has been asking for in terms of socio-economic demand.

The other couple of points, somebody was asking -- I believe it was Mr. Morioka was questioning the federal officials about their familiarity with the fishery management plans of the Council. I found that a little -- and somewhat strange, because I heard -- you know, there were discussions about science and the scientific basis of the Council plans.

But I'm not sure how many of you folks have been on the Council since the '70s. I know a couple of you have. But clearly, this Council has decided on the absolute wipeout of the lobster fishery. That fishery was devastated. The population crashed. You're not finding spiny lobsters up there. They've been replaced by slipper lobsters. It's an example of completely shoddy management. It's a known track record.

On bottomfish, I would like to draw your attention to the recent Bottomfish Task Force Report, which basically tore apart the current model being utilized for the bottomfish fishery. That report analyzed -- it was a report convened by the Council, by a group convened by this Council. That report assessed the SPR ratio calculations.

You guys have been operating the fishery based on catch per unit effort and zero time. The SPR ratio is derived from a CPUE ratio and then a portion of mature fish ratio. Your CPUE ratio for the zero point of that fishery is using data from the Main Hawaiian Islands in the late 1940s. Your percent mature zero time ratio is using data from the Northwestern Hawaiian Islands a half a century later between 1986 and 1988, which is the peak of the Northwestern Hawaiian Islands fishery. It's not at zero.

So basically your ratio and your formula that underlies your entire fishery management plan, your key indicators there, is based on a mishmashed formula taken from two completely different ecosystems 50 years apart based on the assumption of no technology change over 50 years. This is what your expert panel says. This is what is posted on the internet. This is what their report says. So this is completely junk science.

So I was just surprised to hear you grilling these federal guys that have flown in from far away about your plans when your plans clearly do not meet the straight-face test.

The times have changed. In the past four years there's been a lot of new work and things are moving on. For you to be sitting here proposing now an entirely new structure, it's like an alternate universe. A parallel universe. It's a hallucinatory experience and I deeply resent the use of my funds for this kind of nonsense. Thank you."

Morioka said, thank you, Ms. Fried. He called on Jonathan Hurd.

Hurd bid everyone, aloha and thanked the members of the Western Pacific Management Council for hearing his testimony. He introduced himself as a resident of Kauai for 35 years.

(Verbatim) "My fishing started on Kauai with a commercial license in 1978, a Master Mariners license in 1980. Fishing in the Northwestern Hawaiian Islands began in 1982 with trips to Nihoa and French Frigate Shoals.

Fishing then was good. Those years were regulated by weather, mechanical problems, crew members and fish prices. There were many boats in the fishery at that time. There were nonresident albacore boats that brought in many catches to Honolulu.

The Northwestern Hawaiian Islands grounds were hit hard at this time. In 1993 I took my first Protected Species Workshop on Kauai put on by West Pac. In 1995 West Pac granted me a Mau Zone permit. New regulations, Amendment 5 made use-it-or-lose-it a must in 1999. In 2003 observers were back in fishermen's lives onboard our vessels. West Pac has been regulating laws and enforcing them in the Northwestern Hawaiian Islands successfully.

The future of bottomfishing is good in the Northwestern Islands. Management, long distance and markets have kept and will keep this area for generations of fishermen.

I have a couple comments about the alternative plan. Plan 1B is to modify the current Northwest Hawaiian Islands limited entry permit renewal requirements by suspending the use-it-or-lose-it permit. There's no reason that we should be forced to make the trips into that zone. If we're catching tuna somewhere else or we're doing something else fishing-wise, we shouldn't be required to make those landings.

I would like to extend the time period that I hold on to that permit from 360 days a year to a future of maybe ten or lifetime as other permits are given. See, we do not want any new fishing permits at this time. Until goals are defined for ecotourism and the numbers are mandated into law by the National Marine Sanctuary Reserve. We don't know how many tour boats they are going to put up there. If we bring in more fishing boats and they're going to bring in tour boats, they're going to have more boats in the area. Their boats are going to have diesel motors. Their boats are going to have anchors.

We want to the two permits for community development. We'd like to partner up with the State. We'd like to see the State take three miles around all the atolls and around all the islands. We'd like to see the State work in those areas.

If we're going to phase this fishery or close this fishery, we'd like to see the permit holders be compensated. We've put in a lot of capital, a lot of time and equipment and effort into this fishery and if you're going to close us down we think we should be taken care of.

We think we should have a different management area in those three-mile areas. There's no need for us to go into these State waters three miles around these atolls. We think that's where the scientific research, we think that's where the cultural rights should all take place. There's no reason for us to have ten fathom or arbitrary areas around each atoll. We feel that the State looking at a three-mile area round each atoll and island is a good thing for us.

In conclusion, I hope the Council will consider some of these points presented here by me. Owners of land-based businesses are not given a short period of time to plan and purchase equipment and hire employees. West Pac should give fishermen a chance to plan and work for a good future.

Bottomfishing is a one-hook-one-fish clean fishery. Ecotourism will produce more impact on the ecosystem than fishing boats now working in these areas. Tourism will require more trips to make their bottom line.

Are there any questions?"

Morioka said thank you, Mr. Hurd. He asked the Council members for questions. Having none, he introduced Bobby Gomes.

Gomes bid aloha to the group and introduced himself as a commercial fisherman in the Northwestern Hawaiian Islands and Hoomalu Zone.

(Verbatim) "Been up there about 13 years, seven years in the Mau Zone and six or seven in the Hoomalu, I'm not sure. But this is a very sensitive issue to me because it is my livelihood and it's how I feed my family.

It really irritates me when I open magazines and I read articles that say I'm a high impact boat and I'm up there hurting the environment, or whatever, and taking fish that are supposed to be swimming over here, which is not true. Okay.

I've been chasing bottomfish for 25 years and I think I can read a recorder probably better than anybody in this room. I'll put money on that.

So when I get somebody that has no inclination about fishing, writing articles to the Mainland that people are reading, like Miss Stephanie Fried here, she's a real environmentalist, she's telling them I'm a high impact boat, I'm catching the fish that is supposed to be swimming here and restocking the Hawaiian Islands, which is not true. This onaga that is going to swim 1,000 miles to come over here and restock all the fish grounds. Okay.

But if you feed this information to the locals, sure, they're all going to stand up if they see a Ph.D. at the bottom of the page thinking you're basing your operation on science, which is all bogus. So people -- when she says thousands of people write in, it's because they feed them misinformation about our fishery.

Yet, there's only maybe four of us up there. We don't have a loud voice.

So you know, when you feed the public misinformation and you have a public hearing, obviously they are going to back the misinformation and tell me to stop fishing so they think it is going to get better around here, which is not the case.

We all practice good fishing up there. We all take so much here, take so much here and so much here. That's why we come back with good loads and the fishery is always said to be healthy. If I practice over fishing, I'm not going to fish for my family later on. That's the Hawaiian style, you take what you need from here and you move. Okay. Around the Main Islands, it hasn't been practiced, so a lot of over fishing.

But that kind of stuff really irritate me.

As far as the closures that I see that's proposed on Map 3 or Proposal 3, that's going to kill me big time. Take away French Frigate to [ ] No Name, that's important grounds. It forces

me to drive into gale-force winds when I should be fishing close up or fishing -- you know what I mean? You take away the major part of my grounds. If you're closing -- what the RAC is proposing to close, from Lisianski up, and from French Frigate to No Name, financial wise, that's going to hurt us. It is going to take away our practice of taking a little bit here, a little bit here, and working our way home.

We're already regulated on time. We can't stay out for fresh fish. We're regulated on our boat size. I run a 40-foot boat and I do 2,000 miles a trip. When you see me leave, it's fuel everywhere just to make it up there. It's already unsafe. Now, to force me to go further up when the weather is bad, you're risking my life and my family's income with this making me go far.

So I mean, look at these proposals. Come up with something where you can still do straight line boundaries, where they can enforce it. I'm willing to give up something, but not so big area. I think I can speak for most of the fishermen that fish up there.

The Coast Guard cannot manage these little 30 fathoms here, 20 fathoms here. So that is unenforceable. You've got to go straight line.

I will be willing to give up a little section of French Frigate where they got all their activity going on. I'll be willing to give up where I cannot reach up past Lisianski, that's a lot of grounds, and still leave me the opportunity to fish depending on weather and everything else.

The bottomfish is controlled by Mother Nature, and by people like you. Mother Nature is the biggest one. With no regulations at all, doesn't mean I'm going to make it in this fishery. Mother Nature is the one; currents, weather, breakdowns, all that kind of stuff.

So I guess basically is to look at these plans that is coming out and make sure we can survive. Because if you are going to regulate us out, and I cannot make a living, even though there are only four of us boats, seven of us. Everybody says seven permits here, so many permits here. Look at the numbers who is actually working. There's four Hoomalu boats working -- actually, three real serious, and then maybe three or four Mau boats that is trying to make a living. So there's not big numbers like these guys say, nine, or whatever.

We're all dying out because of the hardness of the fishery. It's just so far to go, fuel costs, and everything. If you don't catch fish, nobody give you any money telling you, that's all right, brah, try again next time.

So the more regulations you put, the harder it is for me to make a living. If I don't feed my family -- I'm born and raised here. I'm Hawaiian. Portuguese. Hawaiian. Haole. Whatever. Poi dog. But I'm born here. I think I have a right to fish these waters. And I don't like it when foreigners come here and tell me what to do, because my Hawaiian grandfather fished all these islands. Nowadays, we don't use canoes, we use boats. Okay. So we're going up there. All my crew is local, local boys.

So for a lot of these environmentalists with good intentions to come here when they already screwed up their mainland and tell me that my pristine area, we're going to fix them for you, I don't need that stuff.

You guys use your head. I know you guys smart. Come up with a good plan where everybody is happy. Aloha.”

Morioka thanked Bobby. He asked the Council members for questions. Having none, he called on Cha Smith.

Smith said that Dave had a transportation problem so she was going to ask him to go first.

Morioka said, okay, Dave.

Raney said, mahalo.

(Verbatim) “Roy, I'm going to try to take you up on your invitation to have kind of a free discussion up here, some different voices.

I think it would help to have a voting environmentalist on your Council table so that the idea is to exchange inside instead of in a more adversarial setting.

The next thing I want to say I want you to take it in good humor. I haven't been here in a while, but when I have come in the past and walk in and hear a lot of the discussion, I kind of feel like I'm in the Republic of Magnuson-Stevens and that you have a constitution which is called the Magnuson-Stevens Act, and that pretty much everything that happens within this country is governed by that constitution in the Magnuson-Stevens Act.

I'm kind of waiting for when you guys are going to issue your own currency.

So that is a perspective of somebody who has observed the Council over some period of time.

Getting to this, one of the things -- again, it seems like maybe you also follow Frank Sinatra, sort of, I did it my way.

There should be no surprise about some of the things we're talking about; fishing caps, the proposal to shut down the crustacean fishery, because all that was in the Executive Orders more than three years ago that President Clinton signed.

Instead of beginning at that point to say, how do we work in concert with something the President of the United States has sent down as an edict and was widely supported, how do we start to get on board -- I mean, for Paul to start talking right now about some very valid concerns about fishing caps, when the RAC had proposed fishing cap suggestions three years ago, this is very disappointing.

I don't hold the Council entirely to blame on that. You folks are all sort of creatures of NOAA. You have NOAA attorneys here. I'm glad to see them here.

But three years ago you folks raised concern. You said these Executive Orders are not clear. We need some clarification on boundaries, on caps. This hasn't happened.

As of now, there is a Coral Reef Ecosystem Reserve, a management plan, operations plan, that still hasn't been adopted. Were it adopted it would set some of those things in motion.

So as I say, I don't hold you folks entirely to blame, but I think it's a shame that we've gone this long with some critical questions that could have been clarified by NOAA a long time ago.

But here we are. So NOAA has sort of taken the other approach, let's work within the Sanctuary process. So we are in the Sanctuary process, and guess what, it is proposing no lobster fishery, no precious coral fishery and caps on the bottomfish fishery, which is all part of the original Executive Orders, which are still binding.

But in the meantime, we see NMFS continuing to do lobster research, 2004, you had another one, which are inconsistent with the Executive Order. Unnecessary.

It may be valuable to do research on lobster populations, because there's certainly a concern about the recovery of the monk seal. But you don't need to know what CPUE is. You don't need to have all the parameters, that as long as you have this idea that some day, some way we're going to reopen that fishery, we can save a lot of money, time and effort to just accept the fact. We could remove the risk forever and the speculation forever of the impacts of removing lobsters from the Northwestern Hawaiian Islands by permanently closing down that fishery.

I think it is sort of a different culture class that we have here -- or clash right now, and that is the whole broader question of what is the best public use, public trust of the Northwestern Hawaiian Islands. I'm a stakeholder as a resident since 1968, at least. A lot of us see it as much broader than just how do we carve up the fishing that might be done there, and the biggest thing, what is the risk to doing the fishing to the monk seals and the other species there.

Clearly, the bottomfish fishery is the thorniest issue. I think there are ways of addressing the socio-economic impacts of that for the people that are involved over time.

What I keep hearing also, though, is that this big impact -- if those vessel were removed, there would be a big impact on the Main Hawaiian Islands. I question the assumptions on that. One of them is, well, are those nine vessels going to come down and fish in the Main Hawaiian Islands? Then you'll have 509 vessels instead of 500. Or -- that's probably not where the impact would come.

But the other assumption is that it's like gasoline, that there's a certain quantity that the State needs and if it stops coming from the Northwestern Hawaiian Islands, it has to come from the Main Hawaiian Islands. I think that would require, presumably, the price of the bottomfish

to go up quite high to invite other people into the Main Hawaiian Islands fisheries. I just don't see that happening.

I go and I eat at the restaurants. I've been getting seared ahi instead of opakapaka. There is mahi. There is ono. There's a lot of other fish that you can have as a substitute for bottomfish. So I'm -- some of these things keep getting repeated and repeated, but I think they really need to be looked at.

So in conclusion, I would suggest and recommend that you folks try to align yourself with the Executive Order, with what is coming under the Sanctuary Program, look at the enormous potential of that area up there as being the largest unfished coral reef ecosystem in the world where you can get some true parameters of what an unfished bottomfish population would be like.

And if you really want to show us your adaptive management skills, clean up the act in the Main Hawaiian Islands. If you are able to get the optimal yield, sustainable yield of the bottomfish in the Main Hawaiian Islands, how many more pounds of bottomfish would that yield if you're willing to do what it takes to get that fishery fixed.

Mahalo.”

Morioka said, thank you very much, Dave. He asked the Council members for questions. Having none, he called on Cha Smith.

Smith bid the group aloha. She introduced herself as the Executive Director of Kahea, the Hawaiian Environmental Alliance.

(Verbatim) “I just have a few points to make about the resource and about the process that is being proposed here.

I feel that there needs to be a much broader lens when you are looking at what the socio-economic benefits are to protecting the Northwestern Hawaiian Islands, that it isn't really just based on the experience of nine people. In fact, the public has weighed in massive numbers on the need for very strong protections there. This is happening globally, not just from -- it's from all over the world that this concern is being raised.

There were over 400 scientists who are premiere coral reef scientists who have indicated the same that their concern is there really be extremely, carefully designed protections for that area because of its fragility, and because there is so much that isn't known about the area. There is much more that isn't known than is known, and that tipping the scale of bringing out too many of one species or another could unravel the entire ecosystem. It's really that fragile. It is not a robust ecosystem. So that's one thing. It's globally important.

There is tremendously broad public support for very strong protections and that there is much more that is not known than is known about the species and the way that ecosystem hangs together.

So when you are weighing the risk of the impacts of a small fishery that self-proclaims to be losing money, and then you're proposing that that fishery be not capped, it's a little bit on the preposterous side.

The process that is happening now and is proposed is really an end run around the process that has been going on for four years. It is, in my opinion, a tremendous waste of public taxpayer money and it really indicates extremely bad faith in the existing process and doesn't bode well for the outcome of the sanctuary when there is a whole parallel process that has been developed. It's just really -- it is unconscionable, really, that there has been this process going on and West Pac has developed its own process because it doesn't want to participate.

How is that going to be coordinated management? What is that going to look like?

The other thing is that West Pac has a history of ignoring the law. Proposed alternatives that are being proposed by this, what I consider to be outrageous and unnecessary process, are illegal. It's an illegal proposal. You're using public money to develop plans that break the law. What's up with that?

So I think that the CREP did the same thing, it's illegal, had illegal aspects to the document. I just feel like, in light of that, it doesn't bode well for the credibility of West Pac.

I think I would really encourage you to participate in the existing process and work toward a broad perspective of protecting that ecosystem. Thank you.”

Morioka said, thank you, Miss Smith. He began to introduce a fisherman, then called on Judson.

Feder had a question for Miss Smith.

Smith said, yes.

Morioka asked her to please come back to the mike.

Feder asked, which aspects of the Council recommendation did you feel were illegal, and why?

Smith said, “The proposed alternatives -- well, proposing that there be no fishing caps, that is against the law. The law indicates that there are fishing caps.

Feder asked, the law meaning?

Smith, responded, “The law of the land, the Executive Orders.

Feder asked, the Executive Orders?

Smith, said, yeah, that's the existing law.

Feder said, so her read of that is the Executive Orders will have permanent effect and the recommendation has to be --

Smith said, "It's the law. Until that law is whatever, yeah. Yeah. And then, you know, two weeks, god willing, you know, it will be fine."

Morioka called on Gary Dill.

Dill introduced himself as Mau Zone permittee, bottomfishermen and troller.

(Verbatim) "I'm here to speak not only for myself, but I've been asked -- actually ordered to speak up for a few of my comrades, mainly Bill Strickland on the FORTUNA, the Tims, Miss Timoney on the LAYSAN, the captain of the IWALANI, a Mau Zone guy with me, and Zenen Ozoa

The reason I've been asked by those particular fellows was that we were the only ones available I guess at the time to join an impromptu meeting with a couple members of the Sanctuary staff and a couple members of Tetra Tech. We met down at Kewalo Basin several weeks ago. In fact, right about the same time this Council got that proposal, that book.

They asked us to join in so that they could explain it. So we got it a day or two before. So then we said, yeah, yeah, yeah, we want to meet with you about this, you better believe it. So we did, we showed up.

As a result of that, my fellow fishermen have asked me to join their comments with mine.

The meeting started off under the trees at a picnic table down at Ala Moana Park with the announcement by them that this was a done deal. This proposal wasn't subject to our input. They weren't really looking for our input to help -- to comment on the data or comment on the alternatives, in a sense. That it was a done deal, it has gone to West Pac and it was over with.

So we kind of said, well, what for then.

Well, we just wanted to explain it to you and show you the alternatives and walk you through it and explain how we got there.

Then also, the Tetra Tech people who did this document that you all have gotten are also the same people who are going to be doing the EIS. Uh-huh. Okay. So that sounded like good sense.

So we got basically the same presentation that we guys got, except our office didn't have a slide show. We were sitting there down in the trees there.

So after all was said and done, and they had done their explaining, we began to talk about what we had read so far in a day or so. We began making comments, some of which is kind of hodge-podge, but I'd like to get it all in for you.

Basically, their Alternative 3, we five, will put us all out of business. Their Alternative 3, which they thought was a marked improvement for fishermen over the Executive Order Reserve, would be enough to allow bottomfishing to continue. Not true, we said. Not true at all. It will put us all out of business. Not as fast, but we're all goners.

We based this on a couple of things. The first one on the nice maps they drew up simply had to do with area closures. What they blocked out as no fishing zones and no-take zones for the existing vessels, as Bobby has said, simply isn't enough if you wish to provide for fishing.

As you all know, West Pac Council knows, the thinking behind the number of permits and the number of vessels that currently exist up there goes back years, decades, and it goes back to data gathering and analysis -- Sam Pooley was even involved in it that came up with the results of what he termed, full-time equivalence. In other words, what the fishery biologically and economically could sustain. This was years and years ago. So this has been going on for a long time.

So the target number of permits was actually allowed by West Pac with the practical understanding that not every fishing boat can go out every day of the year. So a full-time equivalents were toyed with. For the Hoomalu Zone the magic number of seven, seven permitted vessels, were allowed.

In the Mau Zone, through a Mau Zone Task Force closure outfit, we came up again, instead of the three full-time equivalents that biology and economics had sort of indicated, we knew that most of the guys in the zone had small boats, quick trips, fished a lot of tuna, and then the number of allowable permits became eight.

We've proceeded since then and we finally ratcheted it down to those numbers to where the vessels actually met the number of permits that had been planned for years. That was all based upon a totally open zone. There were no closures. Midway, I think, that was about it.

So we could go anywhere, fish any time, weather permitting, and have access to biology, a stock, that was archipelago-wide.

So we tried to explain to these guys that by taking away all of that stuff, we've already analyzed that, we've been there and done that, how can you possibly be suggesting to take anything away, because we now have the optimum number of vessels for everywhere. If you take anything away, the optimum number vanishes.

Well, they took that into consideration finally.

So the area closure just didn't work.

Mau Zone took a body blow. It wasn't a knock-out punch, but the Hoomalu Zone is a knock-out punch. They are out of there.

Then we went on to the next part of this thing that we really seriously objected to, and that was the quotas. You can call them limitations or maximums or caps, as they like to refer to them as, but they're quotas. You know that old fishery management tool which was illegal for a while. Yeah, quotas.

Quotas in and of themselves are going to kill us. They don't need to close any areas down. They don't have to have any no fishing areas. Quotas in and of themselves will kill us.

As Tim points out, before they kill us, they will kill the biology, they will kill the stocks.

You guys know this. I mean, you're fishery manager sorts and you've dealt quotas. You know what high grading is. You know what species quotas can do. I took my quota of opakapaka, so I'll switch over to hapupu, right. Sure. I'll catch hapupu, but I caught opakapaka, what will I do with it. What do I do with it? I throw it back. Do they go down and live again? Oh, no, they go floating off to feed the poor monk seals. It's disrupting their habitat.

So you folks know what happens with quotas. It's probably the most evil thing you could do to this fishery, and it's part and parcel of that.

So we tried to explain this. But high grades are kind of a little difficult to explain to people who are apparently in the conservation business only.

But they did take it under consideration.

Okay. We went on and we met on, and we decided well, maybe we'll try to get together again and talk some more.

But then us fishermen continued to meet and continued to talk. We came up with a few other things that we didn't really bring up at that point in time.

One was, there is no mention of permits. Are we going to go back to the seven Hoomalu Zone permits and the eight Mau Zone permits that were in existence? Or not? Are we going to be able to fill them in the future? Are our grandsons going to be able to fish? Are we stuck with nine, the magic nine? Um, don't know about that one.

Yet, they put together this thing with these alternatives for you folks to draft rules and regulations on. The rules and regulations have to do about permits. They have to do about who fishes and how much they can catch, and that sort of thing. Yet, there's no mention of this. Where are we going with that?

The thing that really bothered us, though, and I don't know who the youngest guy there was, probably somebody that's only been fishing about 15 or 20 years, was the way they phrased it when they tried to talk to us was, look at Alternative 3 and how much better it is than the status

quo. The status quo is the Executive Order. So see how much better it is, you get more fishing here, you get less caps there -- not caps, they weren't talking about that. More fishing areas than there.

Well, we're kind of old-timers, you know. The status quo was what was in existence before Bill Clinton signed the Executive Orders. The status quo was seven Hoomalu Zone permits and 10 or 12 boats in the Mau Zone. The status quo wasn't some NOAA freeze that has kept us from replenishing the fishery with new fishermen. The status quo goes back to '98, '99. That's the status quo.

Let's compare Alternative 3 to the status quo that we know as the status quo.

Then let's go into your rating system and your ranking system. While we're at it, your rating system and your ranking system, let's see those criteria. Oh, if your alternative talks about lobster fishing at all, it gets a minus one. But if you prohibit lobster fishing, you get plus one. Whose idea was that? Ours. Oh, didn't check with us, did you? Oh, no. Oh, no.

The criteria are subjective and the ranking systems are subjective because the criteria are subjective. So the ranking gets back to what are we here for. Are we here to provide fishing realistically? Or are we just here to pay lip service to providing a system while we kick the fishermen out? Faster or slower, but kick them out.

By the way, we got into the data a little bit and there's a lot to be said about -- I'm going to keep it real short for you. That document they gave you, in the words of Ed Timoney, is based on bogus data.

They said, wait a minute, it can't be bogus data. It's the same data that West Pac has got. Tim pointed out, yes, it's the same data, but you're using it wrong. He whipped out an example, which he told me, go ahead and make public.

In that table, in that document they gave you, upon which they base their rankings, is a number from North Hampton Banks, so many pounds caught, 449, 469, something like that. That's the official data.

Well, Ed Timoney pulled out of his computer, his own vessel's catch at North Hampton over the same period of time was over 8,000 pounds. That's 20 times more than the data they showed on their table that they base all this on, this how important is this bank for fishing, and so forth.

Well, the answer, as you probably know, which they tend to not -- have not uncovered yet, is that the nature of the data doesn't lead itself to that kind of breakout. The data for the State is confidential unless there are enough boats on a bank, or in an area that they can publish the data.

So if Ed Timoney was fishing North Hampton by himself he couldn't be reported that way because there weren't enough boats there.

Yet, they didn't understand this and they didn't bother to think about it or ask us about it. Instead, they went out and they ranked the banks based on this kind of faulty data. Not that the data is faulty. It's their use of it that is faulty. How are you guys going to handle this? We don't know. We couldn't handle it.

We did suggest to Ron Elher, upon whose data they based it, that he doesn't take year-to-year based data because it hides this kind of stuff. Instead, go bank to bank, go over the whole period, and while you're doing that, Rod, go all the way back to the '80s, will you. Geez. Why did you start at '96? I mean, that's a short time. 1996 to 2002, that's all the data they've got -- that's all they're using.

But we know nature works in bigger cycles than that. We fishermen have seen blooms, yeah. Uku blooms in the late '80s and again recently. Even annually, we've got paka is much better in the winter. Every fisherman will tell you that. And uku is in the summer. Every fisherman will tell you that.

So nature has got her own swings. When you use an arbitrary cutoff date like this, you don't incorporate those kind of swings. You can't understand the biology of the fishery by looking at a really short snapshot.

I think the table talked about pounds when they showed how many pounds from each bank and how they ranked banks. Necker you'll notice is way up there. Well, I fish Necker. The pounds are way up there because I catch an awful lot of uku. I catch an awful lot of uku because in the last couple of years the fish have really been going crazy. They're all over the place. Also, I'm getting about a buck or two bucks a pound.

Opakapaka is getting five or six bucks a pound. They didn't take this into consideration.

There's no question of the value of the banks. It's a question of pounds, it seems to us, in their percentage rankings. So there are all kinds of data problems, more than these that I've just given you that seem to have been overlooked in this proposal that you've got. How you can handle it, we don't know. But we hope you figure out a way.

One little thing. It's indicative. It's just so indicative. They've got a definition for bottomfish for the Northwestern Hawaiian Islands. They leave out butuguchi and pake ulua. It is like, do your numbers that you are using include butuguchi, because it is not in your definition. Who is hallucinating?

I guess that's about it.

On socio-economic value. Yeah, socio-economic value. Lady asked who. Well, there are nine of us. There's nine of us now, but there were a lot more of us before NOAA froze the permits. Wasn't the lobster fishery used to bringing in a couple million a year? What about them, and the people who handled those? How about the ika shibi boys? How about the tuna

trollers? How about the mahimahi and ono guys? That's not in there. So there's a lot of socio-economic value that has also been left out of the report.

We also questioned the goal. How did you get to the goal? How did you write this goal and these objectives? Well, through the public process.

Well, okay. It seemed to us it's the same sort of process that leads to the ranking criteria. A very subjective one.

I guess that's it.

Alternative 3. There's only one alternative in the package before you that provides for fishing, truly provides for fishing. That, of course, is the West Pac one.

But I was assured, we were all assured by these folks after the meeting that that alternative wasn't even on the table. It wasn't even being considered because it had a minus five.

Thank you for your time.”

Morioka thanked Mr. Dill. He asked Mr. Ohai and Mr. Aila and Mr. Ho if they would mind very much if he let the gentleman from Kauai, Mr. Lanning, precede them in providing testimony? Would they object to that? He has to catch a plane. Morioka thanked them and called on Mr. Troy Lanning.

Lanning said, hello. He was representing his dad, **Harold Lanning** who has a Mau Zone permit.

(Verbatim) “Basically, everything that was said had to be said.

If you guys do shut us down from fishing out there, it will ruin my career. That is all I do, is commercial fishing. How can I -- if you guys take that away, how would I be able to continue paying for my house, supporting my three kids. I wouldn't want to do anything else besides just fishing.

Furthermore, I feel that I'm a Native Hawaiian. It's my birth right to be there. I do not need a permit to actually even be up there. My ancestors came from up there, so.

Furthermore, also the seals and stuff that you guys are worried about, you guys should be worried about Kuala Rock. Airplanes are bombing the seals and the birds over there. That's where you guys should be concentrated on also. Not just on the Hawaiian Islands up there.

That's basically it. Thank you.”

Morioka thanked Mr. Lanning. He appreciated all the others for allowing Mr. Lanning to provide testimony ahead of them. He introduced Mr. Leo Ohai.

Ohai thanked the people in charge of this meeting tonight to give them a chance to express their opinion.

(Verbatim) "I am a commercial fisherman. Since everything has been focused on the Northwestern Hawaiian Islands, I would like to talk. I remember way back, we used to fish there in the early '50s. There were no rules or regulations too much. You buy your fishing license, they say you fish wherever you want and whenever you want. I remember when we used to fish down there we took a little boat down there. It was deep there. We took a boat down there to fish for akule. Then there were lots of akule down there. Tons and tons of fish down there.

We go that whole 19 miles to French Frigate Lagoon. We fished there for small fish, things like that. Like I said, there were no regulations.

Today, you know, everything has changed. You need a permit. You have everything closed to fishermen like us. Not only these boys, I understand their problems. We've been there. I have been a longliner. I've been a deep-sea, a lobster fishermen.

I remember when we first went for lobsters over there, there were only two boats. And there was no season. You could fish lobster all year long during that part of the year. There was no regulation where you can only fish for so many months. But today it is a different ballgame.

It's good to have conservation and have people take interest in what is being done here. But in doing this, they're ruining so many fishing grounds. I can attest to that. Not only in the Northwestern Hawaiian Islands, but even here in the local, the Main Hawaiian Islands.

Way back then, if you remember, we had the small boat loan program. One of the requirements was they wanted to update the fishing fleet from being obsolete. One of the requirements on the loan program was that your boat would have to be able to do multiple fishing. Otherwise you would -- to be granted a loan. So when we build our boat, we build it so we can do any kind of fishing.

Okay. So we went to longline fishing. We did longline and akule. I don't think there is any boat in our islands now trying to do this. But we did this. You can ask Mr. Gomes. We never did come back with only ahi. We come back with -- well, back then, you know, when you say you have 100 ahi, it was 100 ahi, 100 pounds and up. They don't count anything below 100 pounds. Today, you know, 20, 30 pounds, they count it as one fish.

But then, after we got that going, they passed all these rules, you need a license for this. And like the gentleman said, they started allowing us to fish and put all the efforts into catching fish. Now these regulations come along and say, well, like the gentleman said, you have to catch a certain percentage of that fish, otherwise you cannot be granted a license.

I lost my lobster license. I lost my longline license because our main fishery was akule fish. But we eat all these other fish.

With the lobster, you could talk to Mr. -- he said it's all right for me to mention his name, we set the lobster traps and then we do deep-sea. If we had more deep-sea than we had lobster, we just pick up the gear and come home.

Then there's other kind of fishing. We fished shrimp -- I mean, deep-sea shrimp. We fished crab. We fished Kona crab. It was always two or three fishing in the same vessel at the same time. We don't have that today because of all these new regulations that we have.

A lot of these regulations, according to people like these people who are conservationists, environmental people, you know -- an example, we fished on Lanai for years and years and years. And then, I don't know, they're going to close that area, made it into a conservation area a couple years ago.

We tried to get the place opened after they actually closed us up from fishing in that area. I spoke to one of the people in charge, I don't want to mention his name, but I could. If you want the name, I'll ask him first for permission. I spoke with him about this conservation area, how they stopped us from fishing in there. He told me this, and I quote him. He said, you know, Leo, akule is a fish that just comes and go. When the fish is there you should be able to harvest it. So when you see another school of akule in there, you let me know and I will let you go in there.

About two months after that we were fishing off the Big Island, no fish. You can ask a lot of the fishermen, there's times in the year where you can't actually fish, only in a certain area you can fish. Well, we never saw any fish on the Big Island. We never saw any fish on Maui. But there was this school of fish in Manele. So I got on the cell phone and I called these people up in Honolulu, this man who told me I could fish. He was right next to the governor. Then he wouldn't take my call.

But the bad thing was, while we were sitting there in Manele Bay, here is this bunch of tourism boats going in there. They're making trips into the conservation zone, 365 days of the year. We asked the people in charge of this conservation area, we asked them for three days, three days of the year. Until today they never granted us that. We were fishing there long, long before these people stopped us fishing there.

I know a lot of you, most of you, don't know that conservation area on Lanai. They don't give us a lot of input by them doing that. But the real reason why they put it under the conservation area is because they have all these rich people with nothing but money that came down there every summer, and we see this because we sport fish every day just about. During the summer they park right at the white sand beach on Lanai. All that crap that comes out of the boat ends up on the beach. I know, I have friends who live there. People for years and years have been trying to stop these guys, you know. But because of -- I hate to say, but because of these people like that, you know, we got caught between a rock and a hard place. They close it.

What I cannot understand is how can they close us out, cannot go still today, three days of the year, and allow these boats to do commercial business in a conservation area when, we here are fishermen, born and raised here, you cannot even get three days. Until today -- a couple

months ago we asked for that. Same old thing, we cannot get it. Conservation people ruined a lot, a lot of fishermen.

A lot of you don't understand what it takes, but they encourage us to update our fishing ways, and it costs big bucks. It costs a lot of money. Then when we do go and catch fish, they put an observer on your boat. And the observer looks at you, and says, you're catching too much fish. And these are the guys that report, hey, this guy catch -- close that area. See. It's happened to a lot of our good friends. Fishing areas like that.

Fishing today, you have fishermen where that certain fishery is dead. It's there for you to see, the boats are the same, and people are taking shore jobs. It is mostly because of these environmental and -- I can't think of the word now.

There are areas they've been closing down, closing down, closing down. We have areas like this on Kauai and Maui and every island where they close certain areas.

Now, it is not only that. I applaud the gentleman when he brought up this thing about Hawaiian rights. I'm Hawaiian. I've fished all my life, going back to the late '30s.

A couple years ago, it was in the Advertiser newspaper, where they said, well, you know, it's a great step forward. OHA and the Governor, they were going to set aside Nihoa and Necker for the Hawaiian to fish. And in the same article it says, but the more lucrative fishing, like lobster and precious corals, the Hawaiians can't fish there. They cannot take it.

Yet, the other boats that have a permit to fish there, they could go in there and take that fish. You could check the Advertiser, I'm sure you will find that document.

Like the gentleman said, they give the Hawaiians two permits to fish down to Leeward Islands, down in the Northwestern Hawaiian Islands. But it's not a commercial permit. You tell me what crazy Hawaiian is going to go down there, like he said, just to catch fish to eat.

You can do it here. You can go back to the late '20s and '30s, I remember the Hawaiians going down on the beach and they used to have these imus. You don't know about these things. But the imu is something -- not the imu that you dig in the ground. The imu for the old Hawaiians was they build the imu on the reef. They break the coral and they pile it up, you know. The fish pass by -- and this is a flat reef, like this floor here. The fish pass by, and you put it back up here. Then night would come, and you just throw the net on there. There would be a lot of fish. It was more than enough fish to live on. They don't have to go all the way down there, when they can do it from over here. They did that way, way back.

There are so many more things people have done. It really hurts.

And I don't know, I'm sure the fishermen would remember this. But I remember way back in the '80s there was no akule for four years. It was my -- we were catching akule right up to the certain reef. Then for four years there was no akule. The only reason we survived was we had other kinds of fishing we could go and do.

But then in '88 the akule came back and when akule came back in '88, the weather changed. The whole weather system changed in Hawaii. We have it down. We keep a log every single day of our fishing. With that change, we lost a lot of fishing grounds because we had the southern winds and southern swells. We have it now almost every week. So we lost a lot of grounds. With that much fishing grounds that we lost because of the southerly swells, it changed a hell of a lot of our fishing seasons, you know.

On top of that, we have all these new regulations, and they haven't stopped. If we don't go over to the legislature and have some political friends try to help us in our fishery, we will be out in the street. That is how bad it is, as far as fishing goes.

Another thing I wanted to touch on is, when the scientists and experts came up with this idea that -- I think you will remember this, when they had also mentioned this, all these cap things that came up a couple years ago. That's something that comes and goes. It goes away. That's from back in the late '30s, and over four or five years, no, no problem. Then we get this thing. But then eventually it goes away. I don't care what you say, but we've seen this from way, way back. I have seen this many, many times. And now endangered species. I have no qualms about that.

My biggest objective here is to try to impress on a lot of the people here that fishermen today have to be encouraged to get out there and update your boats and put in all your equipment and not to be penalized for this.

You know, the observer, this guy is catching too much fish over here, close that area. They close our fishing like how we're closing these other fisheries. It's harder to get out of there and catch fish. It has gotten to a point where right here today we have big problems, as far as our fishery goes. It is not only these other people who have done all this kind of fishing. All these boys have -- these gentlemen here, we've been through that. We've seen it from way, way back until today. There was no problem then. But it's a big problem today.

That's all I have to say. I thank you all. Thank you."

Morioka thanked Mr. Ohai and said he appreciated his comments. He then introduced William Aila, Jr.

Aila provided a disclaimer. He said he was a RAC member and also an employee of the State of Hawaii. But he was there as a fisherman and a proud fisherman from Waianae today. So that's where his testimony comes from.

(Verbatim) "If you'll bear with me, I'd like to use a little metaphor to help explain why I'm here and what the real problem is. The real problem is that we're entering uncharted waters. West Pac has never had to co-manage something this big before. So it's uncharted waters. Everybody is unsure of what needs to be done.

But you've been given a steering paddle by this agency that we all report to, called NOAA. In that steering paddle you have the direction of making recommendations for fishing regulations to NOAA in compliance with this process that is created by law.

And the upper tier of this process is called the National Marine Sanctuaries Act. This process deems that West Pac make fishery management recommendations for rules, but that these rules, these recommended rules, have to comply with the policies of the National Marine Sanctuaries Act and the goals and objectives of the Proposed Sanctuary.

You've heard Mike Weiss earlier that those goals and objectives are probably and highly unlikely to change. So here is your paddle to help you steer through these uncharted waters. Now that you've got a paddle and you've got uncharted waters before you, you've got to rely on your past experiences and the lessons learned to help you navigate these uncharted waters.

Well, we have kupuna. The kupuna that have been up there that have fished have testified many times in many settings. Like **Uncle Walter Palu** Uncle Ed **Kahanana**, Uncle Buzzy Agard. They've been there, they've done it. They also have the wisdom of 70-plus years each as individuals about knowing what the impacts of doing things in the Northwestern Hawaiian Islands are, as well as fishing in the Main Hawaiian Islands.

The recommendation is real clear, real steady. The Northwestern Hawaiian Islands are so important that we need to protect them with the strongest level of protection because it is clear to them in those 70 years of each one of them having that knowledge, it's clear to them from some of the science that is coming out, that bottomfish do swim across banks. That juvenile fish do cross large sections of pelagic waters.

I myself have caught juvenile white weke and red weke and moi and palani 30 and 40 miles offshore. So nobody can tell me that currents do not carry fish across these archipelagic distances.

However long that fish can stay in that pelagic stage and survive, he will survive. If fortunate, he is able to settle in an environment that is conducive to the next stage of development that will happen. That's evolution. That's life. That's how things go.

So you have that one down. We have the mana'o of the Executive Orders.

Again, the recommendation is the strongest protection possible, but allowing bottomfish and allowing those things in the Executive Order. The devil is in the details, which in the next couple of years is going to be worked out.

But again, this is uncharted waters that we're traveling, that you have this paddle at your disposal by which to steer.

We have experiences. Not all of them fun. Not all of them pleasant from past Council actions.

We have, for example, portions of Amendment 7 of the Bottomfish Fishery Management Plan. Amendment 7 of the Crustaceans Fishery Management Plan. Portions of the Amendment 5 of the Precious Coral Plan. That the answer from the National Marine Fisheries Service, which is part of NOAA, came back, and I will read the quote:

“That all measures proposed in the Coral Reef Ecosystem FMP that would have applied to the water surrounding the Northwestern Hawaiian Islands, including Midway, were disapproved because of a possible conflict and duplication with the management regime of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, i.e., the Presidential Orders and the Proposed Reserve Management Plan.”

So we have lessons that we've learned in the past. We have the paddle by which to steer. These lessons from the past are your compass. If you don't pay attention to your compass, you are going to steer in the wrong direction. So you know where not to go. It told you don't go there. Don't go there. Steer in the other direction.

So some simple recommendations. Because in reality, I'm just a simple fishermen. You know that.

Get a grip on that paddle. It's simple. Okay. Understand the process. The process is the National Marine Sanctuary has control of the system. You make recommendations to it. Those recommendations have to be consistent with the National Marine Sanctuaries Act and the policies that are included in that act and the goals and objectives that have been proposed and are highly unlikely to change. It's as simple as that.

Finally, I further recommend that in March '05 -- that was put up there earlier with the '04, but we all know that was March '05 -- that you approve rules that are, and I underline are, to highlight, consistent with the National Marine Sanctuaries Act and the goals and objectives that are proposed and are highly unlikely to change.

This I said three times now because I went to an NGO meeting on the Mainland one time and they told me, you got to say it three times so that people get it. So I've said it three times. You heard it slightly different. I hope you get it.

We're in uncharted waters. You've been given a paddle to steer. You know what the destination is. Use the paddle. Put out the hand, try to kupa, kupa, talk story how can we arrive at something that is mutually agreeable that does what the National Marine Sanctuaries Act is hoping to do, that is compliant with the goals and objectives, because the failure to do that means that the boat that you guys are steering is headed for **hapapa** and the boat that you're steering has a very thin hull, and we all know, as people who hang around the ocean and go fishing or hang around with fishermen, what that means.

So my recommendation to you, Chair, is to grab that paddle and steer. Mahalo.”

Morioka said, Mahalo, thank you, William. He introduced Bryan Ho.

Ho said that Mr. Ohai wanted to make a comment which could be taken.

Morioka said if he was willing to yield to Mr. Ohai, the Chair was and would take his comments. He asked Mr. Ohai if he had something to say.

Ohai said he had a lot of respect for Mr. Aila. (Verbatim) “But in this instance, I feel that I disagree about taking a paddle and paddling uncharted waters. These fishermen that are going up there, they are not going -- it could be fishermen, Mr. Aila, and environmental people that haven't been there.

All of these reports that are gathered by you people here, mostly are coming from fishermen. They get out there and they fish for years and years. You cannot tell me that when he leaves, he don't know where he is going. He knows exactly where he is going. You cannot say that he is entering uncharted waters. These people have been up there for years and years, and that is how you collect all your data on where it is good to fish and where there is no fish.

So I disagree with Mr. Aila on that. You cannot say where you have fishermen going up there for years and years, and he does not know exactly where to go, what to do and all that. Thank you.”

Morioka said, thank you, Mr. Ohai.

Aila said he just wanted to that Mr. Ohai –

Morioka said thank you, William, we did not miss your metaphor. Okay?

Aila said, no problem.

Ho thanked the Chair and members of the Council for giving him this opportunity to speak.

(Verbatim) “When I got up here -- by the way, my name is Bryan Ho. I'm a former Council member.

I'm concerned about the environment. But I'm mostly concerned about fishing, and I don't see how you can be concerned about one without being concerned about the other because in order to have sustained fisheries you have to be concerned about the environment. Because if you kill the environment, you kill your fishery, and that just seems basic common sense.

At this point, what I have heard is that we have two polarized groups and we need to get in the middle. I was talking to Dr. Severance, it seems like the scientists provide us with that middle ground, with that point to start going forward.

But when I first wrote my notes on my paper I had two plans; one was to make a few comments and the second was to ask the NOS presenters a whole series of questions, which I

don't think I can do at this point. But what I think I will do is list those questions and hope that the Council will transcribe them for NOS, and we'll get an answer back.

So let me start off with my observations and comments.

As far as the Sanctuary process is concerned, and the Executive Order, the Executive Order provides a guideline for us. It's not a mandate. It's not a rule. It's not a dictation of what has to be. In the course of establishing the Sanctuary, we were always told, at least when I was on the Council, that fishing was going to be allowed, and I believed that.

What I see developing now is contrary to what I was told and what I was led to believe. I guess one of the biggest conflicts that I see is that the Council is charged with managing the federal fisheries that exist in the Northwestern Hawaiian Islands. They have all the scientific information. They have, through the course of developing these FMPs and managing the fisheries, looked out for the stocks. They've looked out for the ecosystem. They've looked out for the seals and their habitats.

I mean, like I said before when I first got up here, you can't do one without the other. That concern or that awareness I thought was heightened around the time that we had these lawsuits filed under the ESA where something that was already incorporated into the thought process suddenly was given greater emphasis.

So what I see in the development of the Sanctuary process is perhaps not enough deference or jurisdiction being given to what I consider the experts in fisheries. So what I would like to suggest is that unless somebody in NOS feels like they have more experience, more knowledge, have a better education in determining what impacts these fisheries and fishing has on the ecosystem that is the Northwestern Hawaiian Islands, please pay attention to what they're telling you. Please give greater deference to the science and the reports that they're putting forward in coming up with what rules are allowed for fishing or to govern fishing.

The other thing that kind of strikes me as odd is we litigated a lot of these issues -- was it three years ago -- particularly, the bottomfish fishery. Scientific evidence both in documentation and testimony was presented to the Honorable Sam King when the plaintiffs in that case sought to shut down the bottomfish fishery. After hearing all the evidence presented by all parties, which included the environmental groups as the plaintiffs, the government and the Bottomfish Fishermen's Association, the judge said, one, the bottomfish fishery did not have the negative impact on the monk seals, their habitat or the ecosystem in the Northwestern Hawaiian Islands and he refused to shut the fishing down. I thought that was the proper decision based on reliable scientific information.

We seem to have gotten away from that. We seemed to just have cast it on the side and are ignoring it, and it is not right.

As far as the lobster fishery is concerned, I think to not allow lobster fishing and just shut it down completely, I don't understand how that decision comes about, or the justification supporting that. That just doesn't make sense. I've read the report and the conclusions are

nothing more than conclusions, they seem to me, and are not supported by reliable facts or reliable science. We need to look at that more closely.

Some concerns about comments that were made earlier -- and I'm sorry my fellow concerned environmentalists aren't here still, but they talk about the public and 94,000 comments being put forth for strong and strict restrictions and protection for the environment, but they in the same breath admit that only 400 of those 94,000 people were scientists. We don't make decisions about an ecosystem, about the fisheries, about the Northwestern Hawaiian Islands on a majority vote. That's voodoo science. We don't do that.

The other thing that concerns me is that the people who advocate no fishing, closing fisheries, are doing so on a blanket, knee -- I won't say knee-jerk response, but that is their personal opinion. They just want to shut things down.

There's no middle ground. Why don't we study the problem? What don't we try and see if there is an alternate solution. I don't understand why we have to go straight to just shut everything down. That is no good.

The last comment I have is, I read all the alternatives. I read the recommendations. I read the change in the rule. I'm a lawyer. I've been practicing law for 20 years now. Maybe I'm just a little old country lawyer, but the rules are very difficult to follow in actual application for the fishermen. Don't make them have a law degree to understand what the hell they have to do to fish. We've got to keep things simple. Otherwise the people who are going to be charged with enforcing the same regulations, the Coast Guard, NOAA Law Enforcement, there's just going to be so many problems.

The questions I had that I would like NOS to respond to are actually in handout 10.D.3.G, which is the report to the Council from the SSC, and Dr. Severance ran through them. They are the comments are on pages 4 and 5.

I thought that as far as Paragraph A is concerned, that Dr. Severance's request for NOS to provide an actual definition of, quote, ecological integrity, was an excellent point. I think it's important for us to know what that means to better understand the rationale supporting their conclusions.

Also, I was interested in trying to understand how you would support the finding that is set forth in that paragraph.

Then in Subsection C, there were questions regarding what are the definitions for biological integrity and natural character. I think it is important that we get responses to those definitions. In that second paragraph -- or second paragraph of Part C, he talks about a quote where it says, nevertheless, current fishery management practices, interactions with monk seals over fishing of susceptible species and impacts to the coral reef environment have been voiced as ongoing concerns.

With respect to that particular quote, I want to know what fishery you are talking about that is interacting with monk seals, because we haven't fished lobsters since 1999. The evidence as found by Judge King is that the bottomfish fishery doesn't interact with monk seals.

And then the general question, as far as those two quotes and that second paragraph of Subpart C is, what scientific data is relied on to support these statements. Is it just somebody off the street expressing an opinion. Or is this based on statistical data that is reliable. It's unclear. It would be a crime to rely on something that is not reliable.

I thought Dr. Severance's comments for the SSC to the Council in Paragraph D were key, where it seems that NOS is creating legal burdens of proof on the industry to prove that they should be allowed to continue to operate under the Sanctuary when that is not the proper procedural protocol. I think the West Pac Council's mandate of sustained fisheries is the proper standard to apply as far as what fishing is allowed within the Sanctuary.

Again, like I said, not to beat a dead horse, but careful management of fisheries is equivalent to protection of the environment.

Then, on page 5 there was a second paragraph talking about the lobster fishery, and there was a quote that says, "Maintaining a closure of the lobster fishery will not create significant additional socio-economic impact because it is not currently in operation and catch declined 90 percent while the fishery was open -- fluctuating dramatically as it dropped." What the hell does that mean? I don't understand what that means, and I would like somebody to provide an explanation.

Than one last comment on Goal 7 on page 5, it talked about maintaining ecosystem integrity by applying ecosystem-based management and research principles for fishing activities. I don't see there is a difference between those two things. They're independent of one another. The comment didn't really make sense to me.

But anyway, that's pretty much it. Like I said, I'm going to be brief. So appreciate your time and the opportunity to speak."

Morioka asked for questions

Feder wanted to say something that maybe is obvious, but he just didn't want to leave one of Bryan's statements hanging there, and that is that in this instance the Council is operating not just under the Magnuson Act, it is charged with developing fishery management regulations that conform with not only the National Standards to the extent that they comport with the goals and objectives of the Proposed Sanctuary, but also the Sanctuaries Act. So the Council in this instance is operating in a slightly different mode than it usually does.

Ho said, yes, he understood that and didn't mean to suggest otherwise.

Morioka asked for further comments or questions. Hearing none, they were at a point of clarification requested by Gerard DiNardo.

DiNardo asked for a point of clarification on the testimony just heard. One dealt with Dave Raney and his questioning of why they collect CPUE. He went on to explain that is important because one thing needed as input into a stock assessment is a measure of relative abundance or abundance, and CPUE is that measure. It is a critical element of any kind of a stock assessment, whether it be single species or multi species, or even an ecosystem assessment. Some kind of measure of abundance is needed.

The other comment he had had to do with Stephanie Fried's comment in particular, the task force report and the fact that authors of the report said that the SPR calculation was in error.

He realized that he was part of that report and noted that at no point in that report did they say the SPR calculation was wrong. In fact, what was said was that given the information that was available to use, it was a very valid approach that was taken. It was not only reviewed by the expert panel back in February when they had this workshop, but it's also been reviewed numerous times by other experts.

Morioka thanked Gerard and said his comment was part of the record, and he appreciated his clarification.

Morioka added that Mr. Raney's recognition and compliment to this Council that it has been executing its MSA fiduciary duties as appointees to the Western Pacific Regional Fisheries Management Council was recognition of the diligence and the seriousness to which the Council takes its appointment. So he viewed it as a compliment, though Mr. Raney may not have. He wanted to share that with his peers.

He asked for further questions and comments. He called on Council Member Ebisui.

Ebisui said, no. I'm tired.

Morioka said, we all are tired. He added that they were at a point in their deliberations where they have from the public, the staff, and from the National Ocean Service. He thought they needed to sleep on it, a better feel, and think the process through. Perhaps in the morning they would have a better dialogue and discussion on the subject.

Ebisui asked, will the NOS people be here also to entertain questions?

Morioka asked, if anyone from NOS would be available tomorrow at 8:30?

Weiss said, some of them would be.

Morioka said, some of you. Thank you. He believed they were at the point of functional disability.

Ho asked, can I ask one more thing?

Morioka said, sure.

Ho said that when Aulani was up here and Mr. Morioka had asked her about the vote involving Mr. Dill. It was unclear what the result was. Supposedly there was subsequent verification on whether or not Mr. Dill's vote counted or didn't count, and she said, yes, she validated that the vote was confirmed.

Morioka said, yes.

Ho said she didn't say which vote. She didn't say if it was the vote with or without Mr. Dill's participation.

Morioka responded that Miss Wilhelm indicated to him that she would provide that document so they would know which vote was affirmed. Thank you.

If there are no objections, the Chair would entertain to recess the meeting of the 124th Western Pacific Regional Fishery Management Council until 8:30 tomorrow morning. Hearing none, they were in recess.

(Meeting adjourned for the day)

Morioka reconvened the 124th Western Pacific Regional Fisheries Management Council at 8:37.

He introduced Congressman Ed Case, who had come to share some of his wisdom and mana'o and some of the things that are happening in Congress that directly impact the Council. Morioka went on to explain that Case was a life-long resident, born and raised in Hilo, graduated from the Williams College in Massachusetts, went on to the University of California Hastings College of Law and served in Senator Spark M. Matsunaga's office. He has had a brilliant career as an associate partner and managing partner of the law firm of Carlsmith Ball. He served on the Neighborhood Board of Manoa. He was elected to the Hawaii State Legislature and served two terms and served also as its House Majority Leader in 1999 and 2000.

He received the honor of Legislator of the Year by Honolulu Weekly in 1995, and Legislator of the Year by the Small Business in Hawaii in the year 2000.

Congressman Case was elected to office in a special election on November 30, 2002 to complete the remaining term of the late Congresswoman Patsy Mink. Then on January 4, 2003 he won a second special election to fill the full two-year term left vacant by Congresswoman Mink.

In the House, he is a member of the Committee on Education and Workforce and the Committee on Agriculture and the Committee on Small Business.

Congressman Case and his wife have four children.

Morioka bid the Congressman good morning and welcomed him to the Council meeting.

Case greeted the Chair and said it was a pleasure to be there. He could only spend a few moments this morning, but would definitely come back to spend more time assuming he had the privilege to continue to represent Hawaii in the U.S. Congress.

Case went on to say that his district, the Second Congressional District of Hawaii, actually includes all of the Northwestern Hawaiian Islands. He didn't know that when he was first elected and on a plane flight, he saw a map and wondered. So, one of the first things he had his staff do when he got to Washington, D.C. was find out who represented the Northwestern Hawaiian Islands. The report back was, well, Congressman, you do.

He has taken that responsibility very seriously.

Of course, besides representing the Northwestern Hawaiian Islands Case said, he represented virtually all of the fishing grounds in the State of Hawaii. In fact, he represented most of the Island of Oahu and all of the other islands.

Fishing and marine resources are a tremendously important part of his district, just as important as any other district in this country, and much more important obviously than most of the districts in the country. And there are many different issues.

In government sometimes things come all at once and they were definitely at one of those points where things are all coming together at once. We are all going through a long and sometimes difficult discussion on the future of the Northwestern Hawaiian Islands and other resources of the Pacific.

It was very clear to him that the 109th Congress that was starting in January of '05 was going to be a marine resources fishing congress. There were two major reports that came out in the last two years having to do with national and international policy with respect to our marine resources. And there have been a number of bills introduced in Congress that seek to implement recommendations of those two committees. What has been surprising to him is that the two commissions came out with essentially the same observations and the same conclusions. They could disagree and match up details on it, but the big picture was about the same.

Those reports were provided to Congress and were certainly noticed by the Congress, by the Administration, the Council and the people in the field trying to deal with these problems. And while the bills were introduced to implement, Congress didn't have enough time nor was there particularly a focus from the committees of jurisdiction on doing much about it.

But he would be willing to bet that in 2005 a major effort in Congress, in the committees of jurisdiction to dig into those commissions and ask the big question of whether they were doing the right things with national, even international policy; whether there is a need to change the way things are done, or whether the system is working and is the best alternative of all.

He certainly intended to be a part of that debate, not only because of it involves his my district and what the effect will be but because this is an area that he is just as interested in as anybody else.

What he wanted to leave with the Council was:

- one, let's get ready for a good solid national discussion, he thought that it was going come up in 2005, that it would be the year to come back and relook at the basic foundations;
- two, if he was going to be a part of that Congress, he was certainly going to be part of the discussion and wanted to have that discussion with the Council. He wanted to be part of the workings of the Council, as well as everybody else that is here and represented here.

He thanked them for the brief amount of time he was able to spend with them. He asked them to let him get out from the next couple of weeks and see what his future was, and depending on that future he would check back with them in November and December and move on from there.

Morioka thanked him very much for taking the time to join the Council. The Council was looking forward to engaging with him in his investigation of all of the issues that he mentioned that are before the next Congress. Morioka hoped that he would engage the Council and see what has been done to date to provide background as to what energies have been committed and sacrificed.

Morioka extended the Council's best wishes for Case's re-election and had a small token of this visit. It would be presented by the Delegation from Guam on behalf of the Council members.

Morioka thanked the Congressman.

Case said, thank you very much, all of you.

Morioka said, picture opportunity. He then began the business of the day.

#### **10.D.7. Council Discussion and Action**

Morioka said the Council members heard a lot yesterday and asked them to sleep on it and mull the great task before them. They heard some guidance from the public, got their mana'o or their thoughts and feelings with regard to the Northwestern Hawaiian Islands. The task before them was to develop draft fishing regulations for that region. He wanted to hear from all the members about yesterday's presentations and hearing from our public. He called on Ed.

Ebisui said, okay.

Morioka said, not to put him on the spot, but –

Martin said, you're on the spot.

Ebisui said that throughout this portion of the agenda the conclusions in the proposal indicate that the fishing in the Northwestern Hawaiian Islands has had very little impact on the habitat. So the question in his mind was, why is it necessary to come up with some other regulatory scheme when what is already in place is not adversely impacting the habitat. The presentations showed that the major plans and fisheries are consistent with the Sanctuary Designation. This underscored his concern as to why it was necessary to reinvent the wheel.

Morioka thanked Ebisui and asked if the representatives from the SSC had additional comments.

Severance greeted the Chair.

Severance began by saying the SSC was fairly critical of the proposed document. It was also fairly critical of the previous report by SRG. One of the major concerns of the SSC was they didn't feel that either of those documents would lay a foundation for proper socio-economic impact assessment as part of the EIS process and they were concerned that either of those documents might be promoted as such during the EIS process.

In general, the SSC felt that the existing regime was sustainable, did not impact the resource negatively, and that the devil was in the details. It was clear that what was proposed would have a more negative impact on the Hoomalu Zone fishermen than one is led to believe when one looks at the percentages of change and percentages of loss of socio-economic income.

He thought it unfortunate that it turned out that way; had someone with fishery management experience been working with Tetra Tech or with the Sanctuary, they might have had a better understanding of the fishermen's pattern of being able to rotate from bank to bank, place to place on a cycle that allows each of those to recover. In other words, there is a bit of self-management, community-based management in terms of the fishermen so that they are aware that if they hit a bank too hard the stock is going to go down. Which means if spatial or zoning management is used, it needs to be done in such a way that the fishermen would have a bit more flexibility.

So what he hoped as an individual, was that there would be some give-and-take between the two sides in this discourse, and that more flexibility be given to fishermen who have access to areas where they have traditionally fished, particularly in the Hoomalu Zone.

Morioka thanked Dr. Severance. He asked for comments from the island areas, in particular from Mr. Secretary.

Seman thanked the Chair.

Seman said that the issue in the Northwestern Hawaiian Islands, the process that they are going through, was something that can directly affect the Northern Marianas Islands. The

Council process is the only process in which they have a direct voice and have participated in managing their resources. That participation and deliberation has led them to trust the system, the science, the studies, and the instrument, with NMFS as a partner in this.

It would be impossible for them to manage their resources alone given their limited resources. They were accustomed with and able to work with the current process and felt another management decision system would undermine the process. He felt somewhat threatened by what he saw happen. If someone can make that kind of decision in the absence of a council process, then they could be affected out there and not know where it is coming from.

For some people, the Council may not be the kind of agency or entity that was effectively managing the resources and the Council may receive all sorts of criticism for the way it's been handling it, but for him, the Council is their only hope at this point because it's the only entity that allows them a direct involvement, direct participation and a voice to be heard. It allows them to see what is happening in different regions, in Hawaii and American Samoa. It teaches ways to co-manage it and teaches how to be dependent on the tools that are available.

To just kind of wipe that out and allow other voices to come in and disregard anything else is a direct threat to them. He thanked the Chair.

Morioka thanked him for his comments. He called on Council Member McCoy.

McCoy said he shared the view that Richard just brought up. He felt they were producing another process. It went back to the old thought process that somewhere, somebody signed something or introduced something, and a week later a letter is received and this is it.

Washington seems to find it very hard to come down and talk to the people that are affected by their decision. He found that very sad.

These resources have been used for many thousands of years. Conservation has been practiced, they were watching each other in this process and policing what was promulgated.

He thought it was unfair and to undermine the process or add bureaucracy on top of everything else just to create an effect. He found that wrong.

Morioka thanked Council Member McCoy. He called on Council Member Duenas for his comments.

Duenas thanked the Chair. He had a couple of comments

First, the Council was in the business of managing people, nature takes care of the resources, and that is one thing they had a very difficult time with. It was difficult to separate people from the resource because most of the people have been using the resource, like American Samoa said, for thousands of years. There was a way of doing things that has evolved. If evolution is wanted it has to be allowed to occur.

He was proud to say that the management measures from Guam came from the fishermen. They didn't come from the NGOs or from the government. The fishing community on Guam decided it wanted to implement management measures and asked the Council to approve those management measures. And while some of them have taken a long time, as in the case of American Samoa, they asked for the protection of their resources because they knew they were not the only users.

And now they were the only victims, because they were the only resource left in this world for fish.

What was done in the Atlantic, everybody is turning their face away from it and looking at the Pacific and saying, well, it's done, let's go see what they can do to protect the resource. But for who?

Duenas continued, "I am sorry, but we have to live here. We live here. We practice our cultural activities here. Nobody asked people from Guam or the Pacific Islanders whether sea turtles should be protected. We've been protecting them for so many years. We protect their nesting areas.

But in order to make money, we have to build hotels. You get rid of the nesting areas for beaches, because we want tourists to come to our island. We want to be the same as Hawaii. We want to be the same as California. We want to have the nice cars. We want to have the nice things.

It is just like the way they treat people in South America with the rain forests. We don't want them to cut the rain forest, but we don't give them anything to compensate them. We let them live like animals down there.

They want the same thing that you have. The western way has always been the best way, but that is not always the case in our situation because we have to share our resources."

He remarked that a comment was made that none of those sitting at this table are NGOs. They are all NGOs. Those at the table all care about the environment because without the environment there is no future. He felt they were saying, "We don't need a Council. We don't need NGOs. We are NGO partnership with you guys."

Duenas used as an example the newspaper from Guam on the table in the back. It was from a fishermen's vessel. The reason Guam made marlin tuna burgers was that they are pelagic. They wanted to encourage the public to develop a taste for this fish so the other fish like the parrotfish could help the reef. So if they were not NGOs, then why were they doing all this, making all this effort?

The partnership with the Fisheries Council, University of Guam Marine Lab, Department of Agriculture, and the Division of Aquatic and Wildlife Resources, Jerry Davis was in charge of that. He's the greatest NGO you could ever have.

Guam Coastal Management Program works with the high school kids, the 4H Club.

So felt that he was a greater NGO because he didn't talk the talk, he walked the walk.

He continued that they if appreciate that, and appreciate that he was there also to protect the resource, then they didn't consider him a human being because he was a Pacific Islander. He was proud of his culture and they shouldn't take culture away from him.

“When you guys come up to speak, you say "aloha" and all these other fancy Hawaiian words. But yet, the same people you took those words from you're trying to suppress, like the old gentleman that made a speech last night; I'm Hawaiian, I want to fish. Why do you want to punish me. Thank you.”

Morioka thanked Council Member Duenas. He asked Adrienne for comments.

Loerzel remarked that seemed like there was a lot that has been going on in the different presentations they have heard. It was almost set up to be an adversarial relationship and she didn't think that would further anything. It was putting people at odds with each other and they were moving away from the ability to negotiate and work with a set of standards and regulations that everybody can live with.

She thought they needed to come back and try to make this manageable for everybody. There was one side or the other, and nobody is moving towards a middle ground they can work with. She thought it was important for everybody. People had passion about this. That was heard last night.

And if they don't take into account all the viewpoints, and particularly the ones from the people that are most impacted by this resource, they will not move forward.

Morioka thanked her and said it was a great observation. He called on Council Member Martin.

Martin said he thought one of the testifiers last night made an impression, and he said it three times; highly unlikely to change. That theme was introduced yesterday afternoon by the Sanctuary folks in their presentation. The theme followed through with at least one commenter last night who was a member of the RAC. He was disturbed by that particular comment.

He was also disturbed about the way that the small group of bottomfishermen was treated by the Sanctuary folks, basically under a tree in a park. But to begin the discussion by making the statement that this was a done deal and that their input wouldn't have any bearing on this document, but they were there to listen, was somewhat contrary to common sense.

Martin said that another presenter last night, or a commenter, said that they were given a paddle to guide this fragile canoe through a sea of change. He suggested that they really don't need a paddle if they believe the line of thinking that was presented yesterday, they just needed a rope or a nose-ring. They were asked to just comply with the direction that the Sanctuary folks

have given and it was implied that the expertise that they possessed as fishery managers has little or no bearing on the direction that the Sanctuary intended to take.

It was quite troubling to him that a group with limited fishery knowledge speaks to fishery managers, and basically discounts their input. He was disappointed in the Sanctuary folks and the way they've approached this. He thought they needed to take a step back and get on the same page.

Martin thought they had something to offer to this process and he didn't feel that at this point the Fishery Council was being asked to meaningfully participate in the process. They were being asked to follow along and be good soldiers. This Council has never, in his experience over 15 years, been a good soldier and marched to the drum of somebody. They've been resource managers who have, in his opinion, done an exceptional job on developing and implementing programs that look out for the resource and look out for the social implications that management decisions will make.

Morioka thanked Council Member Martin. He called on Council Member Farm.

Farm shared observations of what was happening, which was in line with what was previously said. He had two concerns, one a more immediate concern and the other a long-range concern of the Sanctuary people and the West Pac people working together in the long run.

His immediate concern related to what was being affected in the near future, primarily the bottom fishermen up there. He got the impression that it was take it or leave it. Their input was, okay, but there was not going to be any change, and it was said several times in many different ways.

With regards to the immediate concern, the fishermen spoke last night and there are a few others that didn't appear. The bottomfish resource has been researched quite thoroughly throughout the years. For the size and the magnitude of the area out there for bottomfishing, those small numbers of seven or nine or fourteen is just so minuscule for the large resource that is out there.

While the development of the Sanctuary was going on with the RAC he firmly believed that these people were going to be doing their job. They were going to get all the research done, or enough information that would relate to such an action on the bottomfishermen.

It struck him yesterday that he was wrong. It was hardly sensible or reasonable to think that with the conclusions they came up with and wanting to cap certain areas. All while these few bottomfishermen are rotating their areas so they do less harm. And, now they are going to narrow it down. Who was thinking about this? Do they have the real expertise input of the fishermen.

He was certain that they had the input. However, now he had his doubts. He knew some of them had bottomfished. He had bottomfished for a number of years with other types of

fisheries, and the impact of the bottomfishermen dropping a hook and line down to catch the species that they are targeting is so small.

It blew his mind that something would be developed that would put these people at high risk of giving up their life style, their livelihood.

And to hear someone say, 94,000 people did this and that, he bought that. But, given the resources he could get 94,000 people as well.

Martin continued that those few bottomfishermen, their families and the thousands of people they feed are real. They were not cards that come in. That 94,000 when reduced, he just wondered how they compare. He was trying to say that the few bottomfishermen give more to society, do less damage than capping those areas would.

He had done both bottomfishing and diving. He was trying to give them the feeling that he had gone down to see what is on the bottom while the hook is going down and the line is there and how the fish comes to it. So he knew what kind of destruction does not happen with bottomfishing to that resource. Bottomfishing was one of the best ways to get those deepwater species that supply society to some of them. He couldn't imagine how they can look at that for so few people.

One would think something could be developed and justified to at least take care of these people, their life style, their livelihood, their families, protect their mortgages on the house, et cetera, et cetera. But the way it was presented yesterday was it was a done deal and that they should put their money in something else because it's done. It just doesn't seem right. Then having them come and present in such a manner, why wasn't that money saved as well?

For the long-term concern, he thought they all had an obligation to have more dialogue and interchange of ideas so that they could come up with something that is beneficial to everybody after good research, good looking into it, and everything else. He felt this had gotten off in a very negative way.

Part of the job was to protect those bottomfishermen or do something else because he believed it would hurt the resource and the communities if they didn't. The second item was to develop a better exchange between the two agencies. Everyone needed to open their minds.

Morioka thanked Council Member Farm. He asked Council Member Sablan for his comments.

Sablan thanked the Chair.

Sablan began with tradition and culture. In the Islands of Saipan, Rota and Tinian they have always resolved differences; be it natural resources or some terrestrial issues, birds.

His observation was that both the Sanctuary people and the West Pac have fiduciary duties. They're governed by certain laws; the EO. The Council was governed by the Magnuson

and had their duties. The Sanctuary people have theirs. He thought they could resolve this by working together.

He thought that the law mandated both the Council and the Sanctuary and they could get this done with their expertise, sentiments, cultures and traditions. When one thinks as Pacific Islanders, he believed they could work with the Sanctuary.

The stakeholders, such as those fishermen yesterday aired their views, some very strongly. Sablan was not accustomed to that, not into antagonism, and whatnot.

He was not appointed to be softhearted. He thought that he was appointed because he was very radical back home. They thought he should bring that to this Council. Based on his observations and listening to everyone, he thought there was a way to work together.

Morioka thanked Council Member Sablan. He called on Council Member Haleck.

Haleck thanked the Chair.

He echoed Council Member Sablan and what was just said. Listening to the thoughts and opinions and feelings that were shared yesterday, this Council was treading in new waters. As Council Member Sablan has just said, working together they can accomplish this. It is not something that they want to just get right into and come up with the answers to this area. There is science and the tools to be able to rely on, and information being received.

In listening to the different fishermen that were there and their comments, it reminded him of the fishermen back home. It was not the intent of this Council to hurt anybody or to be able to impose anything, with the two agencies that were there. By sharing information, being able to lay everything out on the table and working together, together, they can accomplish the goals and be able to manage these fisheries for the future.

Morioka thanked Council Member Haleck. He asked to hear from the partners. He called on the Fish and Wildlife Service for observations, comments that he would like to share this morning.

Palawski appreciated the dialogue and felt there were two other parties involved in the dialogue, one being the State of Hawaii and then the Fish and Wildlife Service, in terms of their trust responsibilities for managing the Hawaiian Islands National Wildlife Refuge and Midway Atoll National Wildlife Refuge.

He agreed with the comments that have just been put forward. He has been to every Reserve Advisory Council meeting and has tried to make every Western Pacific Fishery Council meeting, they have tough work to do. But, he thought it could be done. He thought they needed to respect one another, what their responsibilities are and make sure they educate each other on what those are so good decisions can be made in the future. Thank you.

Morioka said, thank you. He asked to hear from their partner, the State of Hawaii, and then he would ask the partners from the NOAA Fisheries.

Izu apologized for not being present yesterday. She was just very briefly apprised earlier this morning as to what has happened.

She said basically the State's position, as far as the science and what regulations we think are appropriate have not changed. However, listening to what has gone on this morning, she totally agreed that it seems like the problem with this issue is a matter of process and dialogue. It definitely is not the State's intent to want to shove anything down anybody's throat. If what it takes is more dialogue to better understand and educate themselves to everybody's interest, they were definitely in favor of that.

Morioka said, thank you. He called on the Regional Director, Bill.

Robinson said he certainly didn't have a long association and knowledge of the area and the fisheries and the tradition and culture that all of them had. However, he has been very impressed at the two meetings he has been privileged to be at as a Council member, with the knowledge and passion that the Council has and the common sense and conservation ethic that this Council shows. He was very pleased to be a member of it.

He was also very impressed with the public testimony last night. On both sides of the issues, people spoke with compassion and intelligence. He sensed that the island way was to try to find the solution for these difficult issues without having to face the difficulties involved in confrontation.

He provided a little bit of advice that they may or may not take relative to the deliberations this morning, and on into the future. He agreed that if the Council chose to develop a recommendation that is not the same as the Alternative 3 and model regulations that NOAA has provided that NOAA believes best meets the goals and objectives, at least working from that Alternative 3, using it as a frame of reference, would be a good way to go.

Second, he felt that people thought the goals and objectives being highly prescriptive. He wanted to call the Council's attention to the objectives that basically said, "That as appropriate to maintain the natural character or biological integrity of any ecosystem in the region." That provided all of them some flexibility to consider what fishing regulations are consistent with the goals and objectives.

Robinson provided a third point that had to do with the goals and objectives. In both the presentation from NOAA and commented on in the public testimony, it was said that the goals and objectives may not change a lot. It certainly was within the Council's authority and purview to comment on those goals and objectives, and even recommend revisions or changes or new ones, if the Council so desired. However, keep in mind in crafting fishing regulations that they may not change. So the fishing regulations that you craft, take care that they do meet the goals and objectives, that you can make that argument and substantiate that argument. He thought that was very important.

Whatever the outcome of this morning's deliberation, he hoped it would be a reasonable outcome that allows reasonable people to work through the process and come up with a final recommendation next March that would be satisfactory. Whatever the outcome of that is, that certainly all in NOAA Fisheries, and he thought he could speak for his colleagues in NOS, pledged to continue to work with the Council and the local community to develop fishing regulations that are not only consistent with the goals and objectives, don't threaten the natural character or integrity of the ecosystem and to the extent practicable or possible, meet the needs of the fishermen and the people that use this very sensitive area.

Concluding, he thanked the Chair.

Morioka said, thank you very much, Bill.

The Chair was warmed, by comments made this morning by his peers and fellow Council members and partners. He thanked Yvonne, Don, and Bill.

Morioka said that he thought they could do it and in the spirit of the Pacific way.

They had all heard yesterday from fisherman William Aila and his metaphor urging the Council to use its steering paddle, to steer the Council toward its important destination. He was warmed by Mr. Aila's recognition that this Council's role in guiding interested parties, engaging its various communities and fellow agencies to paddle the MSA canoe toward its many destinations.

However, for this particular journey he was reminded that this Council needs to recognize the importance of engaging the impacted communities and agencies in forming a navigating committee. The Council can't steer it by themselves. They are going to need everyone in the process on this journey through uncharted waters.

He was hopeful that they would be able to collaborate, commit resources and set the best course in developing optimal fishing regulations for the Northwestern Hawaiian Islands, fulfilling individual, collective and big NOAA's objectives.

They have received guidance that Alternative 3 as a baseline is the way to go and that we need to be mindful of the text providing some flexibility in their thinking. He also reiterated the need for respect, the need for dialogue, the need for discussion. But most importantly, the need to work together, together, together, three times, toward a reasonable outcome.

Morioka said, "I think we can do it and I charge my fellow Council members and our partners that we embark upon this effort.

The Council staff, under my direction, has met with the fishermen, taken a look at the NOS alternative and provided us with some guidance as to what they can live with and what they feel is appropriate as we move forward towards a reasonable outcome."

He called on Council staff, Jarad Makaiau, to lead them in this journey of discovery.

Makaiau thanked the Chair.

Makaiau said that the Northwestern Hawaiian Islands fishermen's comments and concerns about the Sanctuary Recommendation 3 reflected their concerns about potential impacts and the need to maintain a healthy ecosystem and what is here in the Northwestern Hawaiian Islands. The fishermen iterated that fishing has been going on in the Northwestern Hawaiian Islands for over 100 years continually, that is domestic and foreign fishing fleets have utilized that area since the early 1800s.

When the Tripartite studies went around in the late '70s and early '80s they found the area to be near pristine condition; an abundance of reef, inshore, offshore and these demersal resources were in abundance. They stressed to us that they've been operating in the Northwestern Hawaiian Islands during that time and before that time.

The multi-agency NOWRAMP expeditions found that the areas were still pristine.

Coming back to the Sanctuary alternatives, the fisherman couldn't get a real grasp of what the need was in terms of closing vast areas to fishing for a concern that over the past 50 to 100 years hasn't been realized, especially for them. They iterated they wanted to work together with the Council and with the Sanctuary Program to protect some of the key places that the conservation community and NOAA felt were the primary areas in need of precautionary protections.

This is one of the alternatives that they provided, Alternative 1A, which is a modification of the Council Recommendation 1B.

- The French Frigate area was a special concern for a number of reasons, primarily because of the monk seal populations there. The fishermen felt that they were willing to give this place up to fishing. Although, in some of the reports including the Elher report and the document provided by the Sanctuary, this area represents the fourth highest bottomfish catch in this region. But they were willing to give this place, setting specific boundaries by a lat/long coordinates of 160 degrees and 165 degrees.
- What is different in this alternative from the Sanctuary Alternative 3 is that these areas of Brooks Banks, St. Rogatien, and No Name Banks, the fishermen felt were a very important spots for them, particularly because there are only four fishermen. Although there are a lot of places that seemed open, to individual fishermen, that would kill them right off the bat. They agreed that French Frigate Shoals would be something that they could live without, and putting these boundaries right around them would be a no-take closure area.

- Also, up in the far north region is Kure and Midway Atoll, the fishermen said, the distance to go from Lisianski, up to Pearl and Hermes, and all the way here and making it back to the market was a very tight schedule. However, they didn't want to relinquish this area all together, but offered to give up Kure and Midway.
- The fishermen's recommendations did not include the State of Hawaii jurisdictional boundaries, nor does it include Midway Atoll National Wildlife Refuge. This would not be applicable to the jurisdiction of those entities.
- For the rest of these Northwestern Hawaiian Islands fishermen understood the concerns to protect coral reef ecosystems. They agree that coral reef ecosystems should be protected.
- In discussing with them of their experiences of where coral reefs are located, what depths did they think they observe when they're fishing there, they felt that, first of all, they didn't want to be anywhere near the coral reefs. Secondly, they thought that 15 fathoms was the limit of live coral that they had seen. Below 15 fathoms you have sloping dropoffs. But the highest productivity and the highest degree of coral coverage is shallower than this depth. So they offered in all these other places 15 fathoms as the break.
- The Coast Guard has an issue with sort of fathom depth boundaries, but hopefully we can work out a lat/long coordinates system for that.
- The reason why they offer this is because uku and to a certain degree hapu'u is a key component of the catch. In some of the years it's made up to 20 percent of their landings, as a fleet together. Most of it comes from here, but there are also places where the fishermen said -- they wouldn't point it out to us -- primarily uku has also helped them make or break their trip.
- Regarding the lobster and precious coral fishery, they understood the concerns with lobster and the monk seals, and also precious coral as a potential feeding area for monk seals. So they proposed that a moratorium be placed, continuing on with the closed fishery now implemented by NOAA Fisheries until the research on monk seal diet fatty acid studies are completed.

As a second alternative, the primary change was the area Northwest of Lisianski:

- They understood that this was a key point for both the State of Hawaii and the U.S. Fish and Wildlife Service, with both refuges, the State at Kure, Fish and Wildlife Service at Midway. So they offered another break here, which is 174 Degrees. So it begins on the bank west of Lisianski.

The reason why it starts on the bank west of Lisianski is because that was a fishing area for one of the farther-reaching Hoomalu Zone fishermen, keeping in mind there are only four guys fishing in here.

- It will maintain the French Frigate and the 15 fathoms throughout the other areas and a moratorium on crustaceans and precious corals until research is completed.

That was the gist of what the fishermen had offered as a discussion point for the Council to consider.

Morioka said, thank you. He remarked that this was an open kimono kind of thing for them, they're willing to show how far back they would be willing to pull back, given the guidance that was given them. He asked the Council members for comments, in particular, Mr. Robinson.

Robinson did not have any immediate thoughts, Mr. Chairman. It was different from the Alternative 3 proposed by NOAA.

Morioka asked the other Councils members for thoughts.

Ebisui asked on this proposal, or could he comment on –

Morioka said, either one.

Ebisui said he had comments on some of the public comments last night.

Morioka said, okay. Go ahead.

Ebisui asked, shall we do this first?

Morioka said, no. No.

Ebisui said addressing the Chair's theme of working together on the Sanctuary. He thought it was important to address certain perceptions about what the Council is, what it does and how it does it. In order to do that, he thought it might be helpful to take a look at some of our fishery plans and also to look at some excerpts from the objectives.

- For example, the Crustaceans Plan, which was effective 1983, one of the objectives was to prevent unfavorable impacts of the fishery on Hawaiian monk seals and other endangered and threatened species;
- Precious corals, 1983 was to provide for the establishment of refugia, i.e., beds completely protected from exploitation, to encourage the development of new information concerning the distribution, abundance and ecology of precious corals;

- The bottomfish fishery, which was effective in 1986, one of the stated objectives was to protect the stock and habitat from environmentally destructive fishing activities and enhance habitat, if possible. Another objective was to avoid taking protective species and minimize possible adverse modifications to the habitat.

He thought that in people's understanding and perceptions about the Council, including the perceptions of their sister group, the Sanctuary group, it was helpful to visit these things, look at it and then come to some conclusion as to what this Council is, what it does and how it does it.

Morioka thanked Council Member Ebisui. He was reminded that this activity occurred 21 years ago, and that is how far ahead thinking was happening in this process.

The Chair's guidance yesterday with regard to the representative from NOS on whether he had read the Council's FMPs were in that vein, that there were these worthy goals and objectives that were established many, many years ago as guiding principles, and perhaps those should be embraced in the process.

Morioka asked Council Member Duenas for his comments.

Duenas said that he appreciated the fishermen coming out and showing what they are willing to give. He thought over the last 40 years the Council had managed to reduce their size and through attrition succeeded after all the squabbling.

He preferred the one with the narrow boundary, but was confused. He wanted to know why one section so narrow.

Makaiau said that relative to the Reserve, it is very narrow. But the area was French Frigate, and they're taking the outer boundary of the slope area by the long coordinate of what they felt would be beyond the scope or the range of the deep slope areas near French Frigate.

There are some banks here. There is also a bank immediately on the east and immediately on the west that they depend on. So taking as much of the coral reef environment and not to encroach upon those two banks immediately east and west of it, that sliver, captures most of the area of French Frigate Shoals.

Duenas asked of the bottomfishermen were required to have VMS.

Makaiau said, no.

Duenas asked if they would be putting VMS on these vessels.

Simonds said she thought that to enforce the closures they would have to carry VMS.

Morioka called on Council Member Farm.

Farm needed to go to the bigger chart so he could see some of the areas. He asked to be asked later.

Morioka said it was worthy that as a collective effort, that all look at the various alternatives. He wanted to hear dialogue across agencies and Council members as the various options that have been presented are reviewed.

He directed them to a handout that summarized all of the things they had been talking about.

Morioka asked the State of Hawaii for comments. He didn't want to put them on the spot, but would appreciate any comments.

Izu echoed the Chair's comment about being appreciative that the fishermen would be open enough to come forward with what they would like to see. She also echoed Bill Robinson's comment that it is different from Alternative 3. She thought Robinson had earlier said maybe as a starting point of discussion, that Alternative 3 would be the starting point. She appreciated and supported that.

Certainly, considering what the fisher's group came up with the different alternatives, that would definitely be something that should be considered.

Morioka said, thank you and asked for further discussion, in particular Madam Executive Director, Having none, he looked toward the Standing Committee Chair for his recommendations from the Standing Committee.

Seman thanked the Chair.

#### **10.D.5. Standing Committee Recommendations**

Seman said, with regard to the Geographic Fishery Ecosystem Plans, the Council recommends Council staff proceed with further development of fishery ecosystem plans for the Western Pacific Region as recommended at its 122nd and 123rd meetings and initiate the process to hold public scoping meetings on this initiative throughout the region.

Sablan made the point that this has been resolved.

Morioka said, thank you. The Chair stood corrected. He asked, with regard to the second agenda item, that also was discussed yesterday?

Sablan said that he didn't believe so.

Seman said regarding the Northwestern Hawaiian Islands National Marine Sanctuary, the Council concurs with the Scientific and Statistical Committee that the objectives of Goals 1 to 6

are highly descriptive in nature, as they should be, whereas the objectives of Goal 7 are prescriptive. The objectives of Goal 7 read as very specific regulatory language which restricts flexibility of management alternatives.

Therefore, the Council adopts the rewording of Goal 7 and associated objective of the Northwestern Hawaiian Islands National Marine Sanctuary as revised by the Scientific and Statistical committee as follows:

Under Goal 7, maintain ecosystem integrity by applying ecosystem-based management and research principles to fishing activities. Sustain ecosystem protection while minimizing adverse socio-economic impacts. Objectives:

- A. Protect ecosystem integrity by applying a precautionary approach and continuing research on crustaceans and precious corals fisheries to determine if and how harvest can be allowed without damaging the integrity of the Northwestern Hawaiian Islands ecosystem.
- B. Protect the substrate of the Northwestern Hawaiian Islands Hawaiian ecosystem through prohibitions on the collection of reef building corals and live rock.
- C. Protect ecologically valuable areas from damage resulting from fishing activities consistent with available biological and ecological information.
- D. Protect Hawaiian monk seals, sea turtles, seabirds and other protected wildlife by controlling fishing activities in areas where interactions are known to occur.
- E. Maintain ecosystem integrity by controlling the harvests of pelagic, bottomfish and coral reef associated species consistent with available biological and ecological information.
- F. Maintain ecosystem integrity while minimizing adverse socio-economic and cultural impacts.
- G. Employ principles of equity and fairness when allocating fishing rights.
- H. Protect Native Hawaiian cultural rights by promoting access for noncommercial fishing uses by Native Hawaiians to the extent possible without damaging the integrity of the Northwestern Hawaiian Islands ecosystem.
- I. Promote increased understanding of the Northwestern Hawaiian Islands ecosystem through comprehensive and coordinated research.

Morioka said there was one more on the next page.

Seman said he was sorry.

The final one is J. Apply ecosystem-based principles through coordinated management with Northwestern Hawaiian Islands management and research partners.

Morioka asked, do you offer that as a motion?

Seman said, yes, I do.

Duenas seconded the motion.

Morioka asked for discussion.

McCoy said he found this to be the way to go we find better cooperation and communication.

Morioka asked the Council members for further discussion.

Sablan said that he has stated earlier the Council could work together with the Sanctuary folks. He assumed these objectives would be used to go back to them and work with this group so that we can have a placement of rules and regulations in the Northwestern Hawaiian Islands fishery.

His concern was that once the Council passed these objectives, they should be negotiable with their partners. He asked that the Council and the staff, particularly, to work with these objectives with the Sanctuary folks, to get the fisheries going.

Morioka thanked Council Member Sablan for his comment saying that was always the case.

He believed what was being shared and what the Council was voting on is their perception of what the goals and objectives ought to be, and bring them from that perspective, as the Council's guiding principles toward development of fishery regulations, and that they are mindful that there may be some different positions.

Morioka said he would be asking the Council to develop a working group to fulfill what had been discussed. He had asked staff to work on that at this time.

For this particular motion, he believed they were deliberating on what the Council's perspective of the goals were as recommended and modified by the SSC.

Morioka asked if everyone was clear or if further clarification was necessary. Hearing none, he asked if that was satisfactory for Council Member Sablan.

Sablan said, thank you. That is very satisfactory. Thank you very much.

Morioka called for the question.

Robinson said, abstain.

Morioka said, we have one abstention.

(Motion carried)

The Chair called a five-minute recess.

(Brief break taken)

Morioka reconvened the 124th meeting of the Western Pacific Regional Fisheries Management Council.

They were still on Council discussion and action. Morioka asked for any further business before this Council.

Seman asked to proceed with the additional recommendations.

Recommendations 3, the Council further recommends the establishment of a working group, consisting of staff from the Hawaii Offices of the National Ocean Services, National Marine Sanctuaries Program, NOAA Fisheries, the State of Hawaii and the Council to determine shared goals and objectives for fishing in the Northwestern Hawaiian Islands Sanctuary to develop a working group preferred alternative for the Sanctuary and to develop an alternative management regime for the proposed Northwestern Hawaiian Islands Sanctuary that will be analyzed before the March 2005 Council meeting.

Seman offered this as a motion

(Motion seconded)

Morioka asked for discussion. He stated that the Council Chair was warmed by this recommendation as it fulfills his goal and objective. He spoke for the motion.

There being no further discussion he called for the question.

(Motion carried)

Seman read, recommendation four, the Council recommends that a comprehensive analysis of the cost benefits and impacts on the human environment of the range of the alternative fishery management regime be analyzed, preferably in the Draft EIS in time for consideration at the March 2005 Council meeting. The alternatives to be analyzed should include among other things:

- Council Alternative 1B, Council recommendations to date.
- Council Alternative Modification 1.
- Council Alternative Modification 2.

- Sanctuary Alternative 3.
- Working Group Preferred Alternative.
- Closure of all federal waters to bottomfishing in Northwestern Hawaiian Islands and 56 Main Hawaiian Islands.

If the working group cannot reach consensus on developing a preferred alternative the Council directs staff to complete the EIS process in compliance with the Magnuson-Stevens Act and the date of the public comment ends on February 18th, 2005.

Seman offered this as a motion

Morioka asked for a second.

Duenas said, second.

Morioka asked for discussion. He asked Bill to comment.

Robinson said his only comment would be that if this motion was adopted he thought the agency might have some problems with a separate EIS on fishing regulations, separate from the EIS that is planned through the Sanctuary process. It was a concern he had.

Morioka said, comment taken. He asked for further discussion.

Izu had a question. She was a bit confused. From what Bill has said, this was an EIS for the fishing regulations as opposed to the Sanctuaries Act, was that what this was?

Morioka said, correct.

Izu asked if someone could explain what this process would be. The Sanctuary EIS and this EIS, what kind of process are we looking at here. What is the interrelationship?

Morioka asked Eric if he heard the question.

Kingma said he heard the tail end of the question.

Morioka asked Izu to restate her question.

Izu repeated that she was confused. There is a Sanctuary EIS, and she understood that this was an EIS that is being proposed for fishing regulations. What her question was, if someone could just explain what the process is and what the interrelationships are between the EIS for this fisheries regulation and the Sanctuary.

Morioka asked Judson if he would like to take that.

Feder said that Kitty and he have discussed this. He envisioned that this EIS would be useful if the process ends up with fishery regulations under the Magnuson Act, because the

Sanctuaries Program, as he understood, was going to go through a full NEPA process, including a Draft and Final EIS, and that process. They've gone through scoping, but the Draft EIS will be finalized and issued only after the NOS received from the Fishery Management Council its proposed fishery management regulations.

So maybe Kitty could speak to why the Draft EIS might be useful at this stage prior to the Council making recommendations for fishery management regulations.

Simonds said the way the Council makes recommendations on any fishery management change or regime was to go through the EIS process. So the Council always has before them all of the alternatives that are embedded in the EIS process before it makes a decision. In this case, there are a couple of options in terms of approaching how these recommendations are done.

So they would like the working group to sit down and decide to see how they end up doing something.

But the EIS process is always done.

Duenas said that was his concern also, because we wanted to have transparency in the decision-making process and the EIS provides for that.

Morioka asked if her question had been answered.

Izu was still a little confused about the interrelationship with the Sanctuary EIS. Are they totally separate, unrelated to each other? Will one affect the other?

Simonds said their was and that whatever analysis, all the analyses after completing this EIS or this management regime of analyses, would be offered to the Sanctuary as well when the Council gives them a recommendation in March. At that time they will have a lot more information than they have at this time.

The Council also needed this information to make a decision.

Morioka said he thought there could be further discussion afterwards. Having no further discussion, he called for the question.

Feder suggested that the last paragraph on the screen, should say "complete the DEIS process", not the "complete EIS process", you wouldn't expect the Final EIS by February 18th for the comment period to end.

Morioka said, so noted. It has been changed. He asked the maker, Council Member Seman if he accepted the modification.

Seman said, yes.

Morioka asked the second if there was an objection.

Duenas said, no objection.

Morioka called for the question.

Morioka said there was an abstention, Pacific Islands Regional Office and the State of Hawaii.

(Motion carried)

Seman said, Recommendation 5, the Council recommends completion of a Draft Environmental Impact Statement, including the public comment period, by February 18th, 2005. If the proposed goals and objectives for the Sanctuary are changed based on public comments or for other reasons the Council recommends the National Marine Sanctuaries Program provide the Council an additional 120 days to develop draft regulation.

The Council further recommends that any regulatory changes be included in both the National Marine Sanctuary and Fishery Management Plan regulations.

Seman offered this as a motion.

Morioka asked for a second to this motion.

McCoy said, second.

Morioka asked for discussion, in particular from Judson. Hearing no discussion, he called for the question.

Morioka said there were two abstentions for the State of Hawaii and Pacific Island Regional Office.

(Motion carried)

Seman read, Recommendation 6, the Council recommends that the Sanctuary Advisory Council for the Northwestern Hawaiian Islands Sanctuary include federal scientists, a balance of interests and voting privileges for all members. He offered this as a motion.

Morioka said thank you and asked for a second.

McCoy said, second.

Morioka asked for discussion.

Simonds explained the voting privileges. It differed with all of the Sanctuaries. So for the Humpback Whale Sanctuary, they were all voting members. They would like to have the same requirement for the new Sanctuary, that all members of the SAC be voting members.

Morioka asked for further discussion. Having none, he called for the question

Morioka noted two abstentions.

(Motion carried)

Morioka thanked everyone for all of their energies and input to this process. It's been a trying two days. Chair, particularly noted that he appreciated the staff going beyond the call on this particular issue.

He thought they were at a place where the Chair was comfortable that there was a workable alternative, or recommendation to go forward and the Chair would request that the Executive Director coordinate the dates for the working group meetings, should that evolve.

Morioka called on Mr. Richard Martinson, the president of Guardian Marine International, LLC, a marine marketing and manufacturing company, whose signature product is an 85-foot Guardian fast patrol craft. Mr. Martinson would be giving a presentation and a brief video.

Martinson greeted the group and thanked them.

He appreciated the Executive Director inviting him to make this presentation and the Chairman working it into this very busy agenda.

He explained that the reason he was there was the fact that NOAA is looking to put security craft in the various sanctuaries. The Northwestern Hawaiian Islands figured into that plan.

NOAA has identified the craft the he was going to talk about as potentially filling their requirements for a general security craft. They suggested whenever the opportunity presented itself to go to communities where the vessel may be employed and introduce the craft.

The 85-foot-by-23-foot, 40-knot craft that is designed not for a particular U.S. Government agency, but for the general world's naval and maritime law enforcement communities.

He had a five-minute video that would introduce the craft and a lot of the technical stuff will be explained. Then he had a short presentation afterwards to fill in the blanks.

(Video playing)

Martinson said the craft had been geared to be a military craft, but they had such diverse customers, as U.S. Navy, on the one hand, and the University of Washington on the other. Actually, it was the University of Washington boat that was firing the missile.

The Guardian has four characteristics that make it unique in this type of craft. First is the fact that there are 40 knots of speed available, that's sustained speed, not burst speed.

There was a high-end speed and a low-end speed. Trolling valves, a standard part of each reduction gear gives speed at the lower end of one and a half to two knots.

Secondly is the amount of square footage that's available in that boat. He doesn't know who the end-user is going to be, doesn't want to redesign the boat every time for a new customer. So the design characteristics call for a lot of usable square footage on deck, an unobstructed deck, and a lot square of square footage in the hull that remains unused and available to any customer.

Thirdly, and probably most importantly, is sea-keeping. On the one hand, the vessel is extremely stable, eight of these hulls have been sold to companies that are hauling passengers in both Alaska and Southern California. But along with sea-keeping is where is the vessel going to be employed and how will it function in a variety of ocean conditions.

They had no idea where the vessel would end up, so they had to think about a vessel that could be used almost anywhere. He sat down with architects some 13 years ago and discussed this craft that had to have 40 knots, and also had to be able to operate in places like the Bering Sea and Gulf of Alaska. Not so much at 40 knots, but at fourteen, twelve and ten and eight knots, either continue to prosecute a mission or get guys home.

This vessel handles very well in those kinds of conditions. There are six hulls in Southeastern right now and one of the reasons they were chosen was this sea-keeping stability and the ability to handle the ocean environment.

Some years back they were delivering a vessel to the Navy. The vessel got underway from Grace Harbor, Washington, went through the Panama Canal, and up to the Chesapeake. In getting underway, it was wintertime and we could not find a window of opportunity with decent weather to get away. So he finally told the skipper, go when you want to go.

The skipper chose a day when it was blowing in excess of 40 knots and ocean swells of anywhere from 16 to 20 feet. Transit speed would be 22 knots. He crossed the bar at Grace Harbor, put the throttle at 22 knots and just kept going. The vessel handled that kind of situation, with that kind of speed very nicely. They were in those conditions for three days.

I also want to tell you that the vessel is very, very dry. In other words, you can operate in that kind of environment and not expect to have swells coming back on deck. In that story, after two and a half days of operating and not taking any water on deck, they finally decided to see what it would take to bury the bow. They did bury it, but they had to work at it.

The final characteristic is our choice of construction material and the construction technique employed. The company is not in a position that they are locked in to one way of building a craft. Four boats are being delivered in aluminum, and they are currently building a steel tub. They are interested in the best material for the application.

The best materials, as far as our engineers and our vessels are concerned is fiberglass for this construction technique, which is sandwich four construction. This is the cross-section of the actual hull. There is an outer skin and inner skin separated by two inches of closed-cell foam. Closed-cell foam simply means it will not absorb water. The foam has general insulating qualities, as well as sound and vibration qualities in vibration. Something that is unique about this foam is that you can compress it to 80 percent of its volume and it will reshape itself to exactly the original form that it was molded to.

One of best examples was the boat that was sold to a commercial outfit as a ferry, wrapped around a rock in Southeastern Alaska and put a 60-foot gash in the bottom of this boat. Four hours after the accident we got a panic call, can you meet us in Sitka and help us repair this boat. We were there within about six hours after the accident. The hull had already started to come down. We worked on the boat for 16 hours, and through all that time this hull just reshaped itself until all we were dealing with is a 60-foot long crack. The boat was in full operation 24 hours after the actual operation. This was our repair work and recertification by the Coast Guard, and away it went. Full cost for that was \$25,000.

Had this boat been a single-skin fiberglass or aluminum boat, you would have had a lot of collateral damage because the energy would have gone not only from the impact area, but all through the boat. The foam localizes something like that and the damage is limited just to the area of impact.

Those are the four things, though; speed, square footage available, sea-keeping and then the construction material we feel makes this boat somewhat unique in the high-speed control world. He asked how this vessel would be employed, if it is employed, in the Sanctuary in the Northwestern Hawaiian Islands. He couldn't address that directly.

Hauling supplies, including additional fuel, diving from this craft, doing search and rescue, any number of a variety of things that the vessel might be asked to do, this vessel can pretty well meet that challenge and meet it well. The vessel is easy to handle. The U.S. Coast Guard has discovered that it only takes two people to effectively run this craft. He was not suggesting that you don't need more people to run a mission, but in fact it doesn't take a large crew to man the craft.

From the standpoint of maintenance, because of the fiberglass construction, your annual average maintenance cost, not including the main engine, will be under \$5,000, and that's with a haul out

One of the unique things about this boat and the fact it is high speed is, you can clean the bottom in about ten minutes by just running out to sea, putting the throttles down and do a couple left and right turns, and the dynamics and the force against that hull are such that it will just clean everything right off. There's your bottom job for the year. So it's low-maintenance and low-cost of maintenance craft as well.

As to service life, we have been building fiberglass boats for over 40 years. We're up to something like 1700 boats. Every one of them is in service today. None of them has had a skin or structural failure.

The bottom line is I don't know how long this boat will last, if you want me to put it in writing, I will say 30 years. But it's going to be around a long time, and without a lot of rebuilding to keep it functional.

As a builder, we hope that NOAA in fact will be able to scrape together the change to buy one of them. I'd dearly love to see them out in the Hawaiian Islands because it gives me an excuse to come visit you folks. Hopefully, if there's some assistance NOAA requires from the community it would be forthcoming.

That was his presentation, he asked for any questions.

Morioka thanked Mr. Martinson and asked for questions.

Duenas asked, the cost?

Martinson said they were on the GSA schedule at \$4.4 million, for a complete boat, ready to go.

Morioka quipped, you can afford the left propeller. He thanked Mr. Martinson.

Morioka moved to the next agenda item, Pelagic Fisheries. He asked Committee Chair Frank McCoy to facilitate this one.

## **11. Pelagic Fisheries**

McCoy thanked the Chair and welcomed everyone. He began with Item 11.A in the briefing books and called on Tony to address 11.A, Pelagic Squid Management, on which the Council may take final action.

### **11.A Pelagic Squid Management**

Beeching thanked the Chair and greeted everyone.

He reminded Council members that the Council may take final action on this issue. He would give a brief recap before moving on to the alternatives.

The U.S. has currently four boats jigging pelagic squid on the high seas. They target *Ommastephes batramii* and the potential non-target catch of *Thysanoteuthis rhombus*, that's the large diamond-back squid. There's also a small local jigging fishery based in Kauai, which targets *Stenoteuthis oulaniensis*.

There's been a little interest in CNMI where a group applied for a grant to do some squid research. That grant hasn't provided money at the moment, but the interest remains.

Historically, the Japanese used to fish in the Northwestern Hawaiian Islands close to what is now the EEZ. The current operator uses converted U.S. hulls. He could have bought Japanese boats at a much lower price, but he chose these hulls because he expects they will be fishing within the EEZ. He is investing in a fifth U.S. hull.

Currently, he has been fishing in the South Pacific because fishing hasn't been too good in the North Pacific. But he anticipates a change in ocean regime and he thinks there's a very good chance he will be fishing in the U.S. EEZ around Hawaii next year.

He's modified his hulls to some degree. He's invested in subsurface lights so he can jig during the daylight as well.

Most people have an impression of squid jigging as being a squid comes up here, a squid comes up there. Actually, squid jigging can be very intense and very effective. He showed two pictures he took in the South Atlantic: At this time the squid, filled the troughs alongside of the boat and below deck. The below-deck tanks were full. Earlier I couldn't back to get my camera because the decks were just covered with squid, too. The crew was working right through the daylight hours just to clear it. There were 50 boats fishing equally efficiently in that area at that time.

The objectives for this action were to establish appropriate management monitoring machinery. At the moment the boats in the high seas fishery under the High Seas Fisheries Compliance Act are really inadequate. The permitting system has room for improvement and the reporting system is poor.

They have located data for the first year of fishing and the third year of fishing, and that took a lot of doing by the Lab. But they still haven't located the second year's data.

Lifting up this alternative into two sub-objectives:

- The first sub-objective is to establish appropriate management mechanisms for the harvest of squid within the Council's jurisdiction;
- Second sub-objective, B, is to establish appropriate management measures for the harvest of squid on the high seas by vessels not subject to any Council jurisdiction.

He said he would briefly go through all of the alternatives. He referred them to a full description on page 24 of the large document you received earlier and a full description of the impacts on page 170.

He did not know all the details of the non-impacts. An example of that would be social impacts. Virtually all of these alternatives don't have a significant social or economic impact, except one.

- The first alternative under Council jurisdiction, no action. No action, there would still be a situation where they don't have good data collection or monitoring, and there will be potential for poor management and negative consequences for the fishery. The workload is unchanged.
- Alternative 2, this is non-mandatory data collection, monitoring and voluntary placement of federal observers. The current operator is very, very cooperative. The didn't anticipate any problems if voluntary mechanism were added. But situations change. If he becomes uncooperative or other people join the fishery that may no longer be the case.

Impacts for the non-mandatory data collection and monitoring, it's likely to be inconsistent compared to a mandatory data collection, and there's potential for poor management and negative consequences for the fishery. There will be some additional administrative costs to process voluntary logbooks, deploy and support observers, and subsequent data analysis. He mentioned that E-logs could make reporting simpler and more accurate. The reason he mentioned that was because the company that's currently operating uses E-logs now.

It's a voluntary action so there are no associated enforcement costs.

Bycatch interactions will be monitored. There will be no direct impact on bycatch interactions, but at least we would know what they were if they were occurring. The sort of interactions you might anticipate, in the South Pacific there have been entanglements with blue shark. I've seen birds, penguins brought onboard in the South Atlantic very rarely, and they were released the following day. I've seen a tuna come aboard. So there is a potential for interaction.

The current operator says he doesn't experience any whatsoever.

- Alternative 3. This was the Council's preferred alternative. This was the preferred alternative of the SSC with one modification. This was monitoring, including the squid in the Pelagics Fishery Management Plan, developing squid jigging logbooks and sampling by observers.

The SSC recommends adding the sentence, require vessels to carry observers if requested by NMFS. It says that rather than the mandatory use of observers because that implies that every boat that fishes for squid should have an observer onboard. There are some inshore fisheries, and that might be onerous.

The three species: bartramii, rhombus and oulaniensis were suggested would be appropriate to include in the Pelagics Fishery Management Plan.

As mentioned before, bycatch and interactions would be monitored. Mandatory data collection and monitoring facilitates effective long-term management. The incremental reporting costs associated with a custom logbook are expected to be minimal. E-logs make reporting simpler and more accurate.

If squid are included as a pelagic management unit species under the existing FMP, that seems like a good way forward. They are included with all the other pelagic management unit species. However, if squid are listed as a pelagic management unit species, that triggers administrative actions, such as SAFE reports. So it would be an additional workload.

The advantage of regulatory changes would be expedited by having these species included as PMUS. There will be some additional administration costs to process logbooks and subsequent data analysis. Enforcement is limited to ensuring data submission.

- Alternative 4, mandatory monitoring, create a Squid FMP just for squid, develop squid jigging logbooks.

Bycatch and interactions would be monitored again. Mandatory data collection and monitoring, facilitates effective long-term management of the fishery. There will be some additional costs again, to process logbooks and subsequent data analysis. Again, E-logs could make reporting simpler and more accurate.

Squid, as a pelagic management unit species, would be more effective in terms of management of the fishery. But the difference is now it has its own FMP. Under a separate fishery management plan it would be discreet and separate from the other pelagic species under the Pelagics Fishery Management Plan. So if anything, it would hinder a move towards ecosystem-based management.

It's also expected to impose the highest administrative costs. Preparation of a new FMP under Magnuson-Stevens Act and establishment of a new plan team to produce annual reports associated with a separate FMP is not helpful.

Enforcement, once again, would be limited to ensuring data submission.

- The final alternative under Council jurisdiction is developing international management measures. This is exclusive of the earlier alternatives. It would establish domestic and/or international mechanisms for quickly implementing control, if necessary. Administrative costs are difficult to predict.

The sort of commission organization might be as it is in the New Commission on Highly Migratory Species in the North Pacific. They don't have an interest in squid, per se. But they have expressed the importance of ecosystem-based management. So they may be interested in looking at keystone species at some point.

The second group of alternatives, the second sub-objective B, were listed and a full description could be found on page 25 of each of the alternatives. They included:

- Alternative 1, no action, this is similar to no action in the previous group. There will be a lack of consistent data collection and monitoring, potential for poor management and negative consequences for the fishery. The administrative workload would be unchanged.
- Alternative 2, this was an alternative that was moved by NMFS representatives on the fishery management action team. So this is a very possible alternative. Cease issuing High Seas Fishery Compliance Act permits.

The consequence of this was there are just four U.S. domestic boats fishing on the high seas for squid. Compared to the numbers of foreign vessels it is minuscule. So removing those boats simply because they weren't issued new permits will be a very small impact on squid stocks, pelagic management unit species, seabirds, turtles, marine mammals. It really depends on what use the boats change to when phased out. If they are put to a different use it may be that they could impact different fisheries management unit species, seabirds, turtles, marine mammals, et cetera. But that is an uncertainty.

It is expected to have a significant adverse impact on the economic viability of the existing participants and would deny the entry of new participants of the fishery.

The social implications: Well, there would be a loss of existing fishing opportunities, loss of income. It's estimated there's some 45 people working on those fishing boats. I'm not sure of the economic composition of those people, but it's anticipated if they are a low-income group, they could be disproportionately affected.

There would be an initial reduction of administrative costs. But, of course, if the vessels move to another fishery, then those effects are merely transferred.

- Alternative 3, develop an optional squid jigging logbook and voluntary use of federal observers. Bycatch interactions would be monitored. It is non-mandatory, so as before, the collection of data would be inconsistent compared to mandatory data collection and there's a potential for poor management and negative consequences for the fishery.

There will be some additional administration costs to process voluntary logbooks, and deploy and support observers plus subsequent data analysis.

As a voluntary action, there are no associated enforcement costs.

- Alternative 4, this is the preliminary preferred alternative of the Council and it's the current preferred alternative of the SSC, with the addition of one sentence, require observers to be carried if requested by NMFS. This would require the mandatory use of squid jigging logbooks and revision of the High Seas Fishery Compliance Act permits for more details.

The High Seas Fishery Compliance Act as stands, is very loose. It asks what the intent of the fisherman is. So the fisherman could get a logbook and then do something because he changes his intentions, changes his goals.

Bycatch and interaction would be monitored under this alternative. Mandatory data collection and monitoring facilitates would create a more effective long-term management of the fishery. Incremental reporting costs associated with a custom reporting form is expected to be minimal.

There would be additional administration associated with development of new logbooks and permit application forms, their distribution, data management and analysis requirements. Once again, E-log could make reporting simpler and more accurate.

- Now Alternative 5, put high seas jigging vessels under Council management. Well, depending on which Council action is adopted, that would affect the impacts the action would have here.

If more than one council is involved, there may be additional costs in coordinating their efforts.

Why would it be a good idea for the Council to manage a high seas fishery? Well, in essence, that is what is done now for the Hawaii-based longline fishery. They have experience in the region. Why would you want to manage a fishery to 199 miles and then not manage it to 201 miles? It seems strange that you would just have that divide. It would save on administrative costs. It would make collection and administration of data far simpler and effective.

- Alternative 6, develop international management measures. As with the first seven alternatives, this isn't mutually exclusive. This is something that can be done in parallel with any other selected alternative. No social impacts were identified. Administrative costs are difficult to predict.

Beeching asked for comments and questions.

McCoy thanked Tony. He asked the Council Members for any questions or comments for Tony.

Palawski asked given the limited data that's been collected, was there information on how much activity in this fishery might be occurring around Palmyra and Kingman Reef?

Beeching said that for this North Pacific fishery, it's not near any islands; they are offshore. They have been involved in a study in the South Pacific. They were asked by the New Zealand Government to join a study to look at bycatch issues. They said in that study, and he has asked for a copy of the report, the birds kept outside of the area of light. So they were not impacted at all by the squid jigging operation. But clearly, the Council would like to have its own observers onboard and have our own unbiased observations.

He said that when speaking to people from the Lab, they've experienced the presence of huge numbers of birds around boats fishing close to the islands, sort of 15, 25 miles. But outside of that, the numbers dwindle very quickly and they don't anticipate any serious problems. But observers are the best way to characterize any new fishery that we're not familiar with.

Palawski said, thank you very much.

McCoy asked if there were any further questions for Tony. Having none, he called on Paul for Item 11.B, seabird measures.

## **11.B Seabird Measures**

Dalzell thanked the Chair. He said was going to provide the range of alternative seabird bycatch mitigation measures for the Hawaii pelagic longline tuna and swordfish fisheries.

The Council took initial action at the last meeting on implementation of a measure which would introduce side setting as the preferred method for seabird mitigation in the Hawaii longline fishery, at the same time crafting a recommendation that would provide an alternative for those vessels that either did not wish to side set or couldn't side set.

He showed a pictures of the conventional position of setting longline on the stern of the vessel, but side setting, as the name implies, is setting the longline from the side of the boat. He pointed out a curtain that is used in association with side setting to minimize any interactions or contacts with the branchline. The branchline is held off the back, it is set thrown forward and then drops down, sinks down on side of the boat here. This curtain also acts as an additional deterrent for keeping birds from trying to strike at the baited hooks. He showed a schematic of the side setting.

At the 86th SSC, the last SSC made a recommendation that all vessels in the Hawaii longline fishery adopt side setting with 60-gram weighted branchlines where possible, wherever they fish. If side setting is not technically feasible for some vessels, the SSC recommends that

the vessels employ the currently required suite of mitigation measures, or any other more effective technologies as they become available. The SSC recommendation was:

“Over the past two or three years the Hawaii Longline Association, in association with Blue Ocean Institute, has continued to test mitigation technologies. In the past, they have looked at towed deterrents, tori lines, blue-dyed bait, offal discards, night setting, and weighted hooks. Out of these we crafted a suite of measures in 2000/2001, which was used to implement mitigation measures on the longline vessels. But subsequent to that, there has been more research on things, such as side setting and also underwater setting chute, and additional work looking at the efficacy of blue-dyed bait.”

The Council then made an initial recommendation, which was to complete the amendment to the regulations implementing the PFMP to mitigate seabird interactions in the Hawaii-based longline fishery and selected as preferred alternative, in all areas shallow-setting boats use current mitigation measures excluding the requirement to use blue-dyed bait or use side setting or underwater setting chute, or use a tori line. The example given was paired streamer lines, which apparently have been very effective in Alaska. For the boats that are deep-setting targeting tuna, the requirement would only be north of 23 Degrees North, and again, similar to the recommendation above, excluding the comment of blue-dyed bait, or to use side setting, underwater setting chute or tori lines.

The business about blue-dyed bait is that with squid the blue dye is taken up very readily. They have information on the effectiveness of blue-dyed squid. In this fishery they are no longer allowed to use squid for purely a fish bait fishery. The performance of fish bait seems to be much variable. There has been less research on this, but there has been some done by HLA and Blue Ocean Institute. They found that the performance of fish bait has been more variable than squid. The same information seems to be apparent from New Zealand.

The Japanese have had some success with blue bait. It seems that fish with small scales or smooth skin, like mackerel, behave more like a squid, as opposed to sardine or sanma, with hard, relatively impermeable scales in taking up the blue dye. He showed a comparison of the various performance characteristics of the various measures that looked at. For most of them is the setting chute.

The underwater setting chute was kind of interesting because when the results were first previewed, it looked very effective. People thought it held a lot of promise as an additional tool for mitigating seabird interactions in the longline fishery. That was in year one. In year two some performance characteristics became apparent with underwater setting chutes, particularly when they were damaged and then repaired, their performance was severely impaired. The reduction in capture rates in the experiments that were conducted ranged from 38 to 88 percent. So it has a poor low-end performance.

Blue-dyed bait ranges from 63 to 95 percent. Again, this reflects the additional work done by HLA using fish bait, and 95 percent would directly reflect how good it is when you are using squid bait. Streamer or tori line, not bad, 80 percent. Towed buoy a variance of the streamer line is about 90 percent. Strategic offal discards, which is using fish waste and bait to

actively attract birds behind, and the boat steams on while the birds are left behind. Night setting is setting an hour after sunset was very effective.

Dalzell showed a line shooter with a 45-gram weight. He left this in so they could see the operational and compliance enforcement and cost. But this represents the standard method of fishing for the tuna fishery. Using a heavier weight, again, work that Chris Boggs did, is very effective.

Night setting with blue-dyed bait, not so much work has been done on this. But this was some work done again by Chris Boggs actually looking at stealth gear for turtles, but they were able to collect some information also on seabirds. That seems to create an additive effect there of using night setting and blue-dyed bait. It was very effective, indeed.

Then there is side setting using 60-gram weights, you have this almost 100 percent performance.

One of the things that's important to remember, too, is once you get to about 80, 85 percent effectiveness with any of these measures, trying to say whether something is 90 percent or 80 percent, the confidence limits are fairly wide. So it is a moot point as to how effective one is more than the other once you get to those levels of performance.

These were tried in a non-quantitative manner, there is a need to assess what the operational difficulties might be with these measures and also their compliance and enforcement performance.

If the vessel rigs for side setting the only operational difficulties that they have heard about are that some fishermen are not so happy with the use of such a heavy weight on the line, and there was a safety at sea issue. They received that from one fisherman about this, and he was sure there are others that would vocalize the same thing.

In terms of compliance and enforcement, once a vessel is rigged for side setting, it's unlikely to go out to sea, steam over the horizon and then rerig for stern setting. It's just not a practical or reasonable option. So in a lot of ways, the side setting obviously seems to be a very attractive option for use in mitigating seabird interactions in the Hawaii longline fishery.

The Council members have received the Draft EIS associated not only with this measure, but also with the squid measure. There were several letters received on that for public comment and were in the briefing books, which criticize some of the numbers in the analyses in the EIS.

What they have done to look at the impacts is to do an additional analysis using figures that people have signed off on both at the Lab and the Pacific Island Regional Office, to allow some quantitative handle on what are the impacts of the various mitigation measures in the longline fishery. What they first did was to look at the take rates of shallow sets and deep sets north and south of the current 23 Degree line. This line was implemented after the 2000 BiOp for short-tail albatross.

The Council initially set it at 25 Degrees, but Fish and Wildlife Service shifted it down a couple degrees to 23. They have used this as the default option, and they looked at what are the take rates for setting shallow and setting deep north and south of that line.

The data used was from the unconstrained fishery in 1994 to 1999. The back end of 1999 was when they first started to bring this in, in December. But this information has come from the Lab, so they have these take rates.

In looking for shallow-set longline fishing, north of 23 Degrees North, a bird is caught every two sets. Of course, south of that line, out of the bird zone, the bird rates drop quite markedly. For tuna fishing north of that line, there's still a higher interaction rate than south of that line.

To build up the simple model, they looked at the current fishery, which just until this year was purely a tuna fishery. They looked at the total volume and average of sets and that that fishery had in 2002 and 2003. It's just over 14,000 sets. So that represents the total of sets that will be made by boats in a given year. There are a limited number of swordfish sets, 2,120. So assuming that all those are used and some boats don't go tuna fishing and elect to go swordfish fishing, the number of swordfish sets would be taken from the total to end with the number of tuna sets. So in this exercise, instead of 12,000 deep-setting tuna sets, there are just over 2,000 shallow sets.

So they knew that some of these sets would be north, some of these sets would be south. And there would be some shallow sets done north and shallow sets done south.

Looking at the historical information, the greater proportion of swordfish sets is going to be north of 23 Degrees North, almost 90 percent. Just over 10 percent are going to be done south. So a north/south break can be given to the 2,120 sets.

The same exercise can be done for deep sets, where the majority are done south versus the minority, which are done north. He showed how this was broken it down. Then looking at the impact of a given measure, simply use the number of sets times the take rate, north and south, times the efficacy factor of the mitigation measure, that is one minus the percent reduction. So if the strategic offal discards is used, it is 80 percent effective. Then the efficacy is one minus .8 or .2. In effect, it is really a measure of how it reduces the take of seabirds. He used offal discards in the example simply because there was a point estimate for that measure. Most of the others had ranges. The point estimate makes it simpler to follow along and made it easier for him as well.

So north of 20 Degrees North, looking at shallow swordfish sets first, the model is run using the number of sets north, times the take rate north, times the efficacy, which is .2, you get so many takes. Done south, using the number for south deep sets. The result is a total number of takes north and a total number of takes south of the 23 Degree line. All areas, you get the sum total there, then look at what the impact is.

He showed the various mitigation measures north of 23 Degrees North, or in all areas.

The present fishery is using the current measures, all vessels must use offal discards, and all vessels must use blue-dyed bait. If deep setting, they have to use a line shooter and weighted hooks. If they're shallow setting, then they must use night setting.

Using the formula, above 23 Degrees North, he worked out what the fishery would take if there were the 12,000 tuna sets and the 2,160 swordfish sets, what the take of birds would be if all the boats were using offal discards, or all the boats are using blue-dyed bait. So, the formula would tell what would happen if all boats did this or all boats did that or all boats used another measure.

The SSC suggested there may be some additive effect of using more than one measure together. What was suggested was to multiply the efficacy of rates together. So if something reduced seabird takes by 90 percent, another one did it also by 90 percent, then you'd have two efficacies at .1 and .1, multiply those together, it becomes .01.

When that was done the numbers were very, very low. That concerned him a little bit. He thought they were better off just showing these individual numbers the more conservative, worst-case scenario.

But with the current range of measures in place right now, the seabird take is expected to lie somewhere from a low of 20 to a high of 351 seabirds, that's a mix of black-foot and Laysan albatrosses. Looking at the information from the last couple of years, the number of seabirds taken lies somewhere between 200 to 350 seabirds.

The Council working with Pacific Island Regional Office, with the Lab and with U.S. Fish and Wildlife Service, has developed what is called the Fisheries Management Team. Over the last few months they have developed a number of alternatives. With a committee there are a lot of different perspectives and quite the range of alternatives.

The key to the alternatives is to take the current measures, and then look at three additional new measures. That was underwater setting chute, tori line or side setting. The alternatives were run through various permutations, from either using the current measures or side setting, current measures or tori line, current measures or setting chute, and then current measures and then a combination of tori line, setting chute and side setting.

He showed a slide so the group could compare and see what the current measures of the estimated take rate would range. For current measures or side setting the rate was very low, above 23 Degrees North or in all areas. It had a very low expected take rate, almost zeroed out.

For setting chute there was a very high low-end and very high high-end take rate. That reflects the poor performance of the setting chute. Tori line was low and comparable to the setting chute, but its high end was much lower. For all three, side setting, setting chute and tori line, they ran various permutations of those different choices.

So by the time Alternative 5 exists with Alternatives 1, 2, 3, and 4, which are current measures, current measures or side setting, current measures or setting chute, current measures or tori line, there is the more complex stuff.

He showed what would happen if everybody used:

- current measure. He showed the range;
- side setting, there was a very low rate;
- a setting chute and not the current measures or side setting or tori lines, there would be a much higher take rate;
- a tori line as opposed to current measures or side setting or setting chute, there would be an intermediate range of takes here.

At the last Council meeting the preferred alternative that emerged was this shallow setting swordfish boats should employ mitigation measures wherever they fished because of the much, much greater risk they pose to seabirds. The recommendation said, swordfish boats use night setting or side setting or use underwater setting chute or use a tori line, paired streamer line in all areas. So they could use the combination of the four things; night setting, side setting, underwater setting chute or a tori line in all areas. He showed the range of take with the lowest being side setting.

For tuna boats, it was to use the current mitigation measures, which would be minus blue bait or use side setting or a setting chute or a tori line. He showed those take rates.

Even with the much lower interaction rates of deep setting tuna vessels, it's still getting up into the high end of the setting chute reflecting its very poor performance. But, they would only be expected to do that above 20 Degrees North.

Dalzell then said he would go back and finish off what was seen at the last Council meeting and then come back to finish the above discussion and add one more wrinkle to support what came out of the Standing Committee a couple days ago.

So the other alternatives were:

- To use the current measures, plus side setting, really a more draconian sort of alternative. Again, side setting is going to be very effective;
- Or use only side setting, disregard everything else and simply deploy side setting;
- Then use a slightly more generous measure, to side setting unless technically infeasible, in which case, use current measures;
- Then a more generous option, which is to use side setting unless technically infeasible, the setting chute, tori line, current measures, without blue bait or strategic offal discards. So shallow setting vessels set at night, deep setting vessels use line shooters with weighted branch lines.

He showed the three new measures and the modified, and the range of expected take with the modified current measures.

Then Number 12, which was the voluntary measures, had mitigation purely on a voluntary basis, which was currently not done. This was what emerged from the SSC last week. All shallow setting longline vessels, wherever they fish, be required to either use side setting or to use all of the following measures simultaneously; night setting, blue bait, offal discards and tori lines. So what it did was give fishermen a choice, but providing an incentive really to switch to side setting.

For side setting vessels, according to what emerged from the last Council meeting, shallow setting vessels need to employ mitigation everywhere. Then deep setting longline vessels that are fishing north of north of 23 Degrees North, similar to the initial recommendation, use side setting, use all of the following measures, or use all the following measures simultaneously; line shooter with weighted hooks, blue bait, offal discards and tori lines. So, side setting seems to obviously merge always as the best bet.

What the Standing Committee said effectively, was their recommendation to modify this and to the same thing except to say that night setting and tori lines, line shooter with weighted hooks and tori lines, and to do away with blue bait and offal discards. The reason for this is again, although the offal discards work relatively well, and it has about 80 percent effectiveness, there has been a lot of angst and comment from seabird biologists about conditioning seabirds to expect a free meal from fishing boats, and the effect thereon.

With blue-dyed bait there has been the variable performance with fish as opposed to squid. Tori line, it works. It has been tested with swordfish fishing, which is the one that has the highest take rate. The tori line poles work, it has 70 to 80 percent effectiveness, but used in conjunction with night setting for the shallow boats and deep setting for the tuna boats.

The Standing Committee recommendation would be done later in this session. He stopped and asked for questions.

McCoy thanked Paul and asked for questions.

Robinson said it appeared to him that looking at the deep setting north and south of 23 Degrees, that although the rates were different because there was a lot more effort south of 23, the actual takes weren't that dissimilar.

Dalzell said, yes.

Robinson said he had seen some other data to that effect. It led him to the natural question of if they were trying to minimize the take of seabirds, why not require these measures for deep setting vessels everywhere?

Dalzell asked if he wanted him to say yes or no. It was not his place. But simply, Robinson had raised the point and the Council could discuss it.

Robinson asked, wouldn't it result in the take of less total numbers of seabirds if you did apply the --

Dalzell said, yes. But they would also have to balance cost effectiveness versus conservation. They are dealing with the element of the fleet, which presents the greatest risk to seabirds. South of 23 Degrees North, the take rates for south were – he asked if Robinson was talking about 20.3? That is the impact of offal discards, he begged pardon.

Doing it from a Council Magnuson-Stevens perspective, it's a question of looking at more than one. If imposed seabird mitigation is imposed across the entire fleet, there would be fewer birds taken. Whether that would be the most equitable solution to this problem was another question. That would be applying seabird mitigation to three-quarters of the deep tuna sets, that's a very low take rate. But as Robinson had said, because it was the larger volume of effort, even with that low interaction rate, it has a measurable number of seabird takes.

One more point he made was that Robinson was talking about the Laysan and black-foots there. But in terms of short-tail albatross, the distribution of short-tail albatross was almost exclusively north of the Hawaiian Islands. So that was another wrinkle to add into the analysis.

Palawski said he appreciated the presentation. It was the first time had seen it because other folks in the Fish and Wildlife Service had been involved in this effort.

But to follow up on Bill's question, and just looking at the slide, Paul had a slide about what it cost to put the things together. The best value was it wasn't going to cost a whole lot more for side setting, it appeared, from what he saw, compared to doing these other combinations.

Dalzell said, no, no, that was right. That was the high-end cost, too, as he was sure Sean will bear out. Also it related to Bill's question, basically when a vessel turns to side setting, most of those -- if there was any vessel side setting, then those things would be academic.

Dalzell had one more point. There was some question about which boats could convert to side setting. It seemed that the smaller the vessel the less room for altering the configuration of gear, less options for the way the gear can be configured.

He showed a table of what the annual number was for small vessels fishing above and below 23 degrees north in the years 1999 to 2003. The average was only a very small number of boats. In terms of deep setting, it was a higher number. In terms of medium vessels, the size range was just shy of 60 to shy of 75 feet, it was higher. For deep setting, it was a much larger number because this is basically predominantly a tuna fleet.

McCoy asked if that clear it up.

Palawski said, yes, thank you very much.

Martin had a couple of broad comments regarding the operational aspects of side setting and some of the other mitigation measures. The work that had been done so far on side setting obviously has been very promising and they continue to think that it's a very good thing. However, there were still some uncertainties to side setting, for work that had been done and gathered aboard one large vessel. So Paul's comments about small vessels and the ability for them to be able to configure to side setting was still unknown, although there was a reasonable expectation that most boats in the fleet could employ side setting.

There was the unattended consequences aspect of it. There had been a limited amount of work. To date, there was probably a dozen boats or so that were actively side setting. So that information continues to be gathered on those vessels when there were observers onboard. When there were not observers aboard, the only information that was gathered was held by the vessel operator and crew. Although he has yet to see anybody who has stopped side setting. He thought it was important that they recognize that there was more work that should be done from not only a scientific standpoint but from a practical standpoint so that they could better understand the benefits.

In looking at 7D, which was the SSC's recommendation on the scene, in reviewing a couple of the items in there, the blue-dyed bait, Paul has done a good job of explaining the problems that exist, were related to the fish or bait which they were required to use now was not as accepting to the blue dye as some of the squid. Certainly, the fishermen aren't thrilled by using blue dye. Just from an operational standpoint, it was a mess.

The offal discards, although effective, Martin thought Paul did a good job of explaining some of the concerns within the Draft EIS, and the effectiveness of the offal discards and that the practice was somewhat problematic. Martin noted that there have been observer reports that indicated that the boat wasn't doing offal discard correctly or properly. That was an observer's opinion, but he was not sure what real benefit the offal discard brought to the table when they have come so far on some of the other mitigation measures and how successful they are.

The setting chute, in his opinion, although the work that was done was valuable, had been overrun by side setting with the cost, the operational aspects of putting it on any vessel and, as experienced in one of the chutes, the failure puts a potential problem on the burden of the vessel operator. If he was out and using a setting chute and the chute fails, they're really probably not capable of initiating the required repairs to use it. So there is a high degree of risk, in his opinion, in using the setting chute. The setting chute was probably right for being removed from the suite of potential measures for consideration.

Tori lines or streamer lines were basically the same thing. Martin didn't think there was any operational aspect of both, whether they are capable of using it or not, they were high on the list of effective tools. The tori lines probably should remain in the suite of mitigation measures that were required as they moved forward.

Martin said he would encourage the Council to consider strongly suggesting side setting as the way to go, but was reluctant to make it the only way to go at this point. There were some

unanswered questions. And there may be other mitigation measures that haven't been thought of that may develop as well.

He thought they were going in the right direction and had come a long ways. He encouraged further work with side setting, but also keeping in mind there may be operational or consequences that haven't been thought of and they needed to keep the door open for some period of time when they had a higher degree of confidence where, number one, vessels of most sizes or all sizes could use it; and, number two, that there wasn't something else.

Martin said there was one other problem that was discussed in some of the descriptions was that somebody had to make the determination, in requiring side setting, if it was technologically infeasible. He didn't think it was something that could be put in writing for an individual to make a valid judgment on the capability of the vessel, whether they can or can't side set. It was going to be a subjective opinion. He was not sure who would be capable of making an informed accurate decision.

He suspected nobody in the room could say whether it was or wasn't possible, because there was a limited amount of expertise in the fishing process. He was leery of requiring it unless someone else said it couldn't be done, the vessel was physically incapable.

McCoy thanked Sean and asked for further questions. Having none, he asked Paul to move on to sea turtles.

### **11.C.1. Sea Turtles, Hawaiian Green Sea Turtle Delisting Workshop**

Dalzell referred the group to item 11.C.1(b) which was a letter from Executive Director Simonds to Bill Robinson. The letter brought to Bill's attention the fact that they recently had a publication and presentation by Milani Chaloupka and George Balaz on the status of Hawaii green sea turtle, and the population seems to be recovered. Because of that, they [NMFS] should be looking at what would it take to delist this species under the Endangered Species Act.

Paul reported on a meeting he had with the new head of Protected Species at the Pacific Islands Office, Tamra Faris. They discussed at some length, what would be required to go through this "delisting" exercise.

This discussion also brought into play another aspect of the whole issue, which is the Pacific sea turtle recovery plans. NOAA and Fish and Wildlife Service have developed these plans for the various sea turtle species. But although turtles occur in both the Atlantic and Pacific, sea turtles are listed globally. There is no differentiation between, for example, Atlantic leatherbacks and Pacific leatherbacks or Atlantic greens and Pacific greens. It is the same for Indian Ocean, for loggerheads and for olive ridleys. Yet there are considerably different metapopulations, and there is no explicit listing of these species by different metapopulations.

All the information to date on the Hawaiian green sea turtle indicates that they are effectively isolated to primarily the Main Hawaiian Islands and they're a self-recruiting

population from the breeding sites in the Northwestern Hawaiian Islands. Infact, the reduction of harvest of adults and eggs have lead to this long-term recovery over the past 30 years.

So the initial step to look at delisting would be to have a formal revision of the recovery plans. In that formal revision process, the recovery team would need to be reconvened. This would take two or three years.

### **11.C.2. Update of Recovery Plans**

Dalzell has served on the Monk Seal Recovery Team, and is in the third year of his “tour of duty”. The team has come to the point in October where they will be signing off on the revised Monk Seal recovery plan. The green sea turtle workshop that has been proposed would be to outline the steps needed in recovery; such as that which is being done for the monk seal. NMFS has only delisted one species, which is the Pacific gray whale. So that would be one of the case studies to model the green turtle workshop after.

Subsequent to Paul’s discussion with Tamra, they wrote a letter to Bill soliciting support to holding a workshop to go through what would be the steps involved in the delisting process.

Paul has also been in contact with Tina Fahy of the Southwest Region, and she made him aware of the fact there had been a meeting in May of this year which had looked at what needs to be done to update the recovery plans. In discussion with Tina and also based on the information she sent him, the general conclusion is that there doesn’t needed to be a full-scale revision of the recovery plans, but a status review. In this status review, there would opportunity to bring more focus and description of metapopulations for Pacific sea turtles.

To provide an example, Dalzell used the loggerheads in the Pacific, which have a northern population that nests in Japan and a southern population that nests in Australia. These populations tend to move laterally. So the northern population nests in Japan, migrates across the Pacific to Mexico, where they feed and forage. Then they migrate back again to nest. Similarly, there is an analogous migration across to Latin America from the southern population.

There has also been quite a spectacular recovery of the olive ridleys, the Eastern Pacific olive ridleys now in Central America. That population needs to be looked at in relationship to other populations of olive ridleys in the Pacific.

Additionally, there is beginning to be some very interesting work on leatherbacks. There is an Eastern Pacific population that moves up and down the coast of the Americas and nests in Mexico, but forages along the American coast. Similarly, foraging on the American coast is the southwest population that nests through the New Guinea Islands from the Indonesian side of New Guinea down to the Solomon Islands, and possibly even further south down to Vanuatu, which are the prime source of animals that interact with the Hawaii-based longline fishery.

To look at species recovery, one needs to have a greater degree of precision with what the different populations of turtles are and how they interact with the fisheries. In talking with the Protected Species people, they were very positive about the fact if a workshop were held it

would allow them to bring together people who could bring more precision to describing the various metapopulations in the Pacific, which then would feed into the status review. So, the Council will be holding this “delisting or reevaluation” workshop sometime next year in conjunction with several other turtle meetings planned for next year to get the most bang for the buck.

The first part of the meeting would be to look at the various metapopulations in the Pacific, what the criteria would be for recovery under the recovery plans, look at those populations that have either met some of the criteria or about to meet those criteria, and what additional requirements would be needed to go through a delisting exercise.

To summarize, Dalzell said they have written to Bill and asked him to seek support from the Protected Resources people in Silver Spring. The status review, which would feed nicely into that, was planned for sometime in 2005.

Duenas thanked Paul and asked for questions. There were no questions.

### **11.C.3. Turtle Fibropapilloma Workshop**

Dalzell detailed that some of the workshops planned includes one on the north Pacific loggerhead turtle and one on fibropapilloma (FP) that would feed into the status review. Although the population of green sea turtles has achieved a recovery benchmark, in terms of numbers of animals, it is still subject to chronic morbidity from fibropapilloma, this warty disease that gets around their flippers and their head. A recent modeling exercise that has been conducted by George Balaz and Milani Chaloupka suggests that FP doesn't have an appreciable influence on population recovery. The plan for the coming FP workshop is to look at it in detail and the factors that cause it. Because such a huge volume of data exists on the Hawaiian green sea turtle, they will hold a Bayesian Belief Network Workshop. Dalzell had no idea what that was but thought it was going to involve a lot of modeling.

McCoy thanked Paul and asked him to move on to number two, update on recovery plans.

Dalzell said he had already done that. He asked if Tamra had anything more to add about the recovery plans.

Faris said Dalzell had covered it completely.

McCoy called on Bill Robinson to speak on marine mammals.

### **11.D.1 Marine Mammals, False Killer Whale Workshop & List of Fisheries**

Robinson thanked the Chair.

Robinson said that prior to the false killer whale workshop, which was held in June, the agency had proposed to recategorize the Hawaii longline fishery from Category III to Category I under the Marine Mammal Protection Act.

During the period of time that the comment period was open, the agency held a scientific workshop on June 1<sup>st</sup> and 2<sup>nd</sup>. He recalled it was his second or third day on the job, at the Council offices. They were looking at a lot of the science surrounding the false killer whales and other toothed whales, such things as not only the biology of the animals, but the population assessment methodologies and the scientific information on interactions with fisheries. The workshop provided a lot of very interesting and helpful information, a summary of which was provided in their briefing book, 11.B.1.A. The workshop did not go into the issue of whether the 2002 survey, which produced a population assessment upon which the proposal to recategorize was based, was a reliable survey or assessment..

On August 10th NOAA Fisheries published a 2004 List of Fisheries that did recategorize the Hawaii longline fishery from Category III to Category I. One of the consequences of that recategorization was for vessels to be authorized to fish in the fishery they need to obtain an authorization under the Marine Mammal Protection Act.

They have been working to make that authorization as painless and seamless as possible by linking it to the obtainment and renewal of the Hawaii longline permit. They would be issuing MMP Authorizations to all the folks that have their annual permits renewed at the end of the year. If anyone new applies when the new fishing year starts in March, they will be providing the new authorizations. So there shouldn't be any extra burden in the fleet in obtaining these permits.

McCoy asked if there were any questions for Bill.

Morioka reiterated the Council's concern that the science used was not the best available science in terms of how it was conducted. The limited experience that other fishers have had with these animals, and the Council appreciated this effort that was being conducted, and he hoped there would be a scientific regime developed that would be complementary of specifically addressing false killer whales, short-finned whales, et cetera.

Martin said that he thought that the science was sparse. He asked if Robinson would tell them if there are any plans in the works to conduct different types of surveys that might give the folks a better base of science to work from in the future deliberations on categorizations.

Robinson deferred to Dr. Pooley to answer that question. But he wanted to point out that observers were being equipped with better cameras, digital cameras as opposed to the little Kodak cardboard cameras so that opportunistically they'll be able to better document interaction with the animals.

Pooley said that at the moment they were looking at the FY 05 budget and making proposals for the marine mammals section of it. A cetacean biologist, the first one in the Center, has been hired and would be coming onboard in January. One biologist doesn't buy much, but at

least it's a start. They have developed a plan that will involve several more cetacean researchers, as well as chartered ship time. However, they did not have funding for these at the moment. Nor did they have a real clear avenue for doing so, except they would be making requirements known to the Protected Species Budget Coordinator and others who might be interested in that subject. They were going to make progress, it was just not going to be quick progress.

There was a second issue that related how they do their work. The approach that had been taken before, called large vessel transect surveys, which was used to make the original estimate of marine mammal populations in the Hawaii EEZ, was a well established approach. What you would like to have, of course, over time is to cover all seasons in a variety of years and a variety of ocean states. Since it was one survey, they haven't covered different seasons of the years, and they tried to make that point as well.

The LaJolla Center remains the center of doing that kind of stuff on the West Coast and in the Pacific. They have scheduled a cruise for 2005, which primarily will be in the Palmyra area. His unofficial understanding was they didn't have the funding to staff the cruise at the moment. So they have the vessel and they've got the fuel, but they don't have the staff required to actually conduct the survey. They presumably are making the same pitch to Protected Resources Budget Coordinator as Pooley was for that side of things.

The third part was that they would be talking about using different approaches at the Marine Mammal Commission in two weeks' time. Bill initiated the discussion about that. One of the more promising approaches is to take advantage of the swordfish and tuna observers and do photo I.D. of as many of the cetaceans that come up as possible, either as interactions or just passing by and visiting the boats, as a sort of tag and recapture study.

This is an approach that has been used elsewhere. The University of Hawaii researchers doing nearshore work are interested in getting a long-distance airplane that can do wider aerial surveys, and there are some other approaches using both classified and non-classified acoustic technology. They were beginning to look at this issue, but they are neophytes in this and don't have a lot of resources to throw at it.

But at the same time, they realize this is a very significant problem and it was one that is out of their transition, which is what funded a new research center. Cetaceans were one of the relatively few program areas that have funding.

Martin volunteered that this was an opportunity for some collaborative research if someone could devise some kind of a methodology where the industry also could participate in photo I.D. without an observer, because there is 20 percent observer coverage, or 100 percent in the case of the swordfish fishery. But there was 100 percent participation in just fishing boats going fishing. So that may also give researchers an opportunity to do some stock assessment if the industry could work hand-in-hand with the Science Center to observe and photo I.D. for future reference, working with the Center.

Pooley told Sean that was a good idea. In fact, that was one of the things that was also raised in the workshop, and he would follow up on that. They were going to explore a variety of techniques and cooperate research, with the industry was going to be one of them.

McCoy thanked Sam and asked for further comments or questions.

Robinson wanted to follow up on the discussion of the blue-dyed bait and offal discharge. Some of the effectiveness of those deterrents have been called into question. In the Standing Committee report there was a recommendation to not continue those.

He said that they had just received the biological opinion on short-tailed albatross, the supplemental biological opinion, from Fish and Wildlife Service. Just looking at the cover page, which was 11.B.7 in their books, at the end of the first paragraph, it says that therefore, that the supplement was primarily for the purpose of evaluating the effects of the reopened shallow-set sector of the Hawaii longline fishery on the short-tailed albatross.

Therefore, the November 1, 2002 biological opinion of the deep-set sector of the fishery remains in effect, and he thought that requires blue-dyed thawed bait and strategic offal discards. So to not continue to include those as current measures, at least for the deep-set fishery, may not be consistent with this opinion.

In the opinion itself, as it addresses the shallow-set fishery, it talks about the proposed action, including these same measures, when the shallow-set swordfish fishery is reopened, and goes through the same sort of questioning that Sean just went through in terms of the jury is not entirely in on side setting, and there needs to be a little bit more scrutiny of it.

It concludes that until that scrutiny is done and until new regulations are issued, this is page 70 under the terms and conditions for the shallow set, the seabird deterrents currently included in the proposed action will remain in place. And the proposed action was reopening the fishery with those current measures in place. He just wanted to let the Council know and was uncomfortable given the language in this biological opinion from the Fish and Wildlife Service of removing anything from that current list of measures.

McCoy asked if they had any comment on that. Having none, he moved on to Council advisory committee on marine mammals and Paul.

#### **11.D.2. Council Advisory Committee on Marine Mammals**

Dalzell thanked the Chair.

As Bill has pointed out, the Hawaii longline fishery had been elevated to Category I in the Hawaii longline fishery under the Marine Mammal Protection Act. One of the things that could happen after that was that NMFS convenes a take reduction team to try to minimize interactions with marine mammals between the fishery and marine mammals that are interacting with it. He understood that at the present NMFS had no plans to put a team together but may do it in the future.

In the meantime, it behooved the Council to be proactive with this issue. What they would do in the interim was something analogous to our Turtle Advisory Committee, which has given great mileage, a lot of advice and moved the turtle conservation program along significantly over the last two years.

In the document 11.C.1(b), were the letters to Bill and when Dalzell met with Tamra and talked about such a committee. Tamra gave advice on who would be a good person to contact, this included John Bengtson, who is head of the National Marine Mammal Lab in the Northwest region based in Seattle. They were waiting for response on a letter sent to him.

The idea would be to put together a team that would look primarily at what can be done to minimize interactions, and to use expertise from elsewhere. This would include hopefully nominees from NMML, folks from the Science Center here, the Regional Office, from Southwest Region where the abundance estimates were done, and Karin Forney, who came to the List of Fisheries Workshop. He also thought it would be foolish to ignore the expertise of people who were working on the very issue of the medium sized toothed whale interactions with longline fisheries. He was referring to Geoff McPherson, who came to the List of Fisheries Workshop in June.

In the letter they were asking PIRO to solicit support for this initiative from Silver Spring. Once they hear back from NMML, they will put together a committee and would hold the first meeting in the New Year.

As the take reduction team becomes more of a possibility, it was likely that some of the members from the committee would form with some of the members of the reduction team.

McCoy thanked Paul and asked for questions. Hearing none, he moved on to the update on the monk seal recovery plan and Tamra Faris.

### **11.D.3 Update on Monk Seal Recover Plan**

Faris thanked the Chair. She said that her report was brief, but that there would be more action occurring in the near future. The plan was promulgated in 1983 and has been undergoing a revision now for three years and was scheduled to be completed before the end of this calendar year.

It will contain an implementation plan and it will contain information about the future role of the recovery team. This was going to be a big topic at the Marine Mammal Commission meeting, which was the week after next in Kona.

The recovery planning team will be getting together for a three-day meeting following the Marine Mammal Commission meeting. They're going to be taking the draft that's been coming together for three years, and putting it into a final. That final then needs to go to the public for public comment, a 30 to 60 day public comment period. So it was all timed so that

those comments and the plan would be completed by approximately the end of this calendar year. Then when the final plan is issued, it's a done deal.

It will contain current information on the population dynamics, the threats to the Hawaiian monk seal and the condition of the stock in the Main Hawaiian Islands and the Northwestern Hawaiian Islands and recovery criteria so that when people talk about if the status of the species was reconsidered, they would have criteria for evaluating if it is recovered or not.

There was going to be two separate addendums to this plan that will be quite farther out in the future coming together. This was the management plan for the Hawaiian monk seal in the Main Hawaiian Islands and the Northwestern Hawaiian Islands. So that part of the recovery plan, the team has decided it was not going to be in this final recovery plan coming out this year, but will be worked on and developed and published as an addendum to the plan in the future, maybe as much as a year or year and a half into the future.

The people who were team members in the recovery planning team at this time will probably be invited to serve another three-year term even after the plan was finalized. If those members decline, then the PIRO Regional Administrator will solicit replacement members and invite them to join the team.

Morioka asked Tamra, with regard to the monk seal fatty acid analysis, if there was a target out there for getting some kind of results as to the analysis?

Faris responded she needed to defer to someone at the Center to answer in terms of time. They had received preliminary information, and maybe Sam could guess when the first peer reviewed paper would come out.

Pooley said that this turned out to be a project that lasted a lot longer than any of them, including the principal investigator, expected. Like any new technique, which it was, it proved to be more difficult to accomplish in reality than it was in theory.

On the theory side, the methodology was published this year in a paper that was just released, so that side has been done. They have collected hundreds of species and literally thousands of samples of potential prey for the Hawaiian monk seal. One of the things that was not anticipated early on was what a broad suite of species they would need in order to do a quantitative modeling of how important any individual prey species to any individual seal, to say nothing of how important it is to seals as a group and over time.

He has been reliably informed that there will be some new quantitative results early in 2005. But those will be preliminary in indicating where the study is going. It won't be the final results. Given the issues of seasonality, interannual variation, and so forth, he would not bet the ranch on this research being the silver bullet for any particular question. Although if it did turn out that way, it would be great. But they were doing a lot more different kinds of foraging and prey studies rather than just this particular type.

McCoy asked if there were any further questions.

## 11.E. ESA Jeopardy Workshop

Faris continued with the item 11.E. the ESA Jeopardy Analysis Workshop that the NOAA Fisheries Protected Resources Office held in August. She referred to section 8.C.2 which included a report of the meeting that was submitted by Jim Lynch, who also attended the workshop with her. She represented the PIRO at the workshop. There were also representatives from pretty much all NOAA Fisheries Offices and Fish and Wildlife Service in the audience.

The purpose of the project was to respond to legal challenges to specific consultations, which PIRO as an agency have been struggling under for some years. While not specific to any Hawaiian issue, they would feel like it was.

While in Alaska she felt like some help was needed to understand how to determine jeopardy and how to stand behind those decisions when some other component of the decision-maker group differs with that opinion. The controversy over how to properly interpret the jeopardy standard has been building throughout the agency for years and Dr. Hogarth and others in leadership positions have been promising that they would try to come to grips with that and develop a repeatable transparent justified method of coming up with jeopardy so that it's not a matter of opinion, it's something that other people can see and follow.

The methodology to come up with a jeopardy determination was now considered a project. The workshop was just one component of the project. The analytical framework will make the consultation process the premises, the evidence, the analyses and the decision-making progress, transparent, replicable and supported by a complete series of well-reasoned arguments. That was the deliverable when all this was done.

This workshop was the first in that series. It was a two-day workshop in Bethesda, Maryland, called by NOAA Fisheries. The Fish and Wildlife Service was very much a partner and collaborator in this workshop.

The mission and the purpose of the workshop were to solicit individual comments from scientific experts in the discipline of conservation biology, population ecology and risk assessment. So these people were invited individually based on their expertise, the choice of who they were left to NOAA Fisheries, Craig Johnson.

And when they went into the workshop there were a series of handouts. One of them was an assessment framework for conducting jeopardy analysis under Section 7 of the Endangered Species Act. It is a background paper that Craig Johnson drafted. It was handed out to the participants in the audience, and it is available to anyone who hasn't seen it.

There was quite a bit of controversy, or disagreement, as to whether this background framework represented anything currently being use, ever used or will use. It was a compilation of things across the board from all different kinds of consultations. It was a work in process of what they might hope to do, and if it was ever economically and physically possible, could do.

There was also a bibliography provided with that background that shows almost everything that has to do with demography, population decline and extinction work and risk assessment work. So everything that scientists have to draw on is listed in this bibliography.

The workshop was opened to the public. It was announced in the Federal Register. Ground rules were established before the meeting and during the meeting to clearly state what the role of the participants was, those were expert participants, what the role of the observers was, which was anyone who was in the audience or not invited to be an expert participant, and the role of the facilitators, which happened to be the same two members of Concur. She showed the name of the participants:

- Dr. **Patricia Serone (phonetic)**, who is from EPA, an expert in risk assessment;
- Dr. Jean **Cochran (phonetic)**, the Fish and Wildlife Service expert in the Marine Mammal Protection Act and Endangered Species Act, across the board expert;
- Karin Forney, from the Southwest Fisheries Science Center;
- Dr. Dan Goodman. He wasn't there physically because of a recent operation he had, but he connected by telephone conference call several times during the meeting and provided quite a valuable perspective because of his long experience with controversial opinions that the agency has produced. Her familiarity with him was from the stellar sea lion biological opinion. He kept reiterating that there's no such thing as a gold standard in knowing jeopardy is or getting there.
- Dr. Timothy Reagan from the Marine Mammal Commission was onboard. He also has extensive experience working with stellar sea lions and controversial opinions;
- Dr. Michael **Runge (phonetic)** from U.S. Geological Survey was one of the experts;
- Finally, Dr. Nate **Schultze (phonetic)**, who is from the Northwest Fisheries Science Center.

The facilitators, Scott McCreary and Eric Poncelet from Concur, took notes and kept the meeting on track. Any comments from the audience were taken in writing if people wanted to give them, or just verbally, and they put those in the record.

The opening remarks by Laurie Allen, the Director of the Office of Protected Resources, affirmed that they were trying to come up with the jeopardy analysis and the agency was on track to produce this.

Craig Johnson was the teacher or the moderator for some of this because he has the extensive experience with Section 7 and helps teach them how to prepare analysis and stay in compliance with the Endangered Species Act.

The next steps in this process were they promised there would be a draft report given to the expert participants within 30 to 45 days. She said it was about Day 46 and they still haven't done that, but are very close. The participants will have an opportunity to make sure that was

what they said and agreed with it. Then it will go back. After that, it's a public report of just the proceedings of this workshop.

The next step of taking it to a jeopardy analysis and coming up with that published method was a long ways off into the future. There may need to be additional meetings or workshops, none of which have been scheduled. When people figure out how to take that and convert it into an actual analysis, it would be published in the Federal Register for comment, because that would give much more of a standing, to go from being a policy internal document to almost a guideline, but not a rule. PIRO will be watching this process to let them know whenever there was further development.

Morioka asked if there were parallel workshops or analyses being done to address issues such as applicant status, to review the processes that exist today that seem to be rather archaic and self-serving in the mind of this Council, in terms of limited participation on the analyses processes that go on.

Faris responded that she was pretty sure that at this time there wasn't a parallel process to reconsider that. However she recalled that she had suggested to the workshop that they needed to factor in the decision-maker from the beginning. Those that were working on the criteria for deciding what jeopardy is could be thinking how they will report out on that process to the decision-makers. It appeared that they were approaching it almost as if the scientists would go in and do a jeopardy analysis. Once that was all done and they knew their answer, yes or no, jeopardy or no jeopardy, then they would then go tell the decision-maker about it. That does not work. The decision-makers need to be in it from the very beginning.

She knew that doesn't directly answer his question, but the applicant and the decision-makers are closely connected and need to be part of the decision-making process.

Morioka said he appreciated her sensitivity to that, and would direct another question at the proper time. He thanked Tamra and asked if he might interrupt her and call for a lunch recess for one hour.

Hearing no objection they recessed for one hour.

(Brief break taken)

Morioka reconvened the 124th meeting of the Western Pacific Fisheries Regional Management Council. He called on the Standing Committee Chair for Pelagics, Frank McCoy.

McCoy thanked the Chair and introduced Item F, and American Samoa and Hawaii longline fisheries, quarterly reports with Russell and Paul.

## **11.F. American Samoa and Hawaii Longline Fisheries**

### **11.F.1. Hawaii Longline Fishery Quarterly Report**

Ito thanked the Chair and introduced himself. He noted that his presentation would be long because he had incorporated a lot of the suggestions and requests from the Council and the SSC.

Ito referred the group to 11.F.2 of their document for the second quarter longline logbook report. The report summarized the vessel activity, effort and catch by the fishery and the catch per unit effort. There were also annual summaries in the report so they could get a feel of what the long-term catches and long-term trends in the fishery.

He showed the following slides:

- Hawaii-based longline landings from 1987 when they started monitoring it at the auction, up to 1991 when the logbook data was incorporated as a way of estimating longline landings.
- Landings in 2003 were 17.5 million pounds and a dark blue section indicated two-thirds of it was attributed to tunas. Bigeye accounted for about half of the longline catch last year.
- The revenue, it pretty much looks similar except that the tunas make up a larger proportion. Last year an estimated 38.7 million dollars generated by this fishery, 80 percent of it attributed to tunas. Bigeye tuna alone makes up about two-thirds, about 26 million dollars revenue from the fishery.
- The last two years showed a decline in the gray-shaded area, which is swordfish. That was primarily attributed to regulatory changes and not biological or fishing phenomenon.
- The number of vessels from 1987 showed a rapid increase in the earlier years. It leveled off thereafter, with 110 vessels in 2003, ten more than the previous year. That's attributed to some of the vessels from California that were targeting swordfish, relocating back to Hawaii.
- Number of vessels operating by quarter showed the seasonality of how the fishermen run their boats. There were 106 boats in the second quarter of the year, nine more than the previous year. Usually vessel activity is the highest in the first and second quarters and lowest in the third quarter.
- Number of trips reflected the targeting strategy by the fishery, 1,216 trips that data was collected for last year, all of it directed towards tuna. Over time, there hasn't been much change in the overall effort, as far as number of trips.
- He showed the targeting strategy, shift from shallow sets indicated in the red diamonds and the green squares, which was swordfish and mixed trips, to tuna-targeted trips indicated in the dark blue triangles.

- Seasonality by trips showed data for 330 trips in the second quarter of this year, all of it directed towards tuna. The seasonality of the fishery, typically is lowest in the third quarter was reflected by dips and highest in the fourth, first and second quarters. For the shallow sets, the highest number of trips occurred in the first and second quarters, whereas tuna trips were highest in the last quarter of the year, into the first quarter of the year.
- Number of hooks set showed a different picture than the number of trips where the number of trips was level over time. The number of hooks has increased to a record 29 million hooks last year. A lot of the increase, was due to the shift in tuna-targeting strategy. That type of trip tended to set more hooks per day fished than shallow set or mixed and swordfish trips.
- The fleet operated last year predominantly outside of the EEZ on the high seas indicated in these dark blue triangles. There were 15 million hooks, followed by the Main Hawaiian Islands EEZ. So despite an area closure in the Main Hawaiian Islands EEZ, and the outer boundary of the 200 mile limit, it was still an area where a lot of effort was exerted by the fishery. There were three million hooks set in the Northwestern Hawaiian Islands, indicated in the light green squares, and less than a million in U.S. Possessions, such as Kingman, Palmyra and Johnston Atoll.
- The effort by area of the longline fishery last year ranged from 5 Degrees North up to 35 Degrees North, as far as east as 145 West and as far as west to 175. The highest effort was set east of Johnston Atoll and as shown, there considerable effort in the EEZ of the Main Hawaiian Islands last year.
- Hooks set by the fishery for the second quarter of this year totalled seven and a half million hooks set. That was the second quarter record, seven percent of the effort exerted on the high seas. The seasonality of that shows it is highest in the fourth quarter, lowest in the third quarter.
- Ito noted that before the closure of the swordfish fishery, the second quarter in the past three or four years had been a period in which the least amount of effort had been exerted by the longline fishery, as well as some of the tuna longliners traveling further up north when seas are calm to fish for bigeye. Since then effort on the high seas occurs in the first and second quarter, indicated in red triangles. Outside on the high seas, the blue diamonds indicated that the effort was high in the first and the second quarter. Conversely, effort in the Main Hawaiian Islands EEZ was highest in the fourth quarter. Different areas were being fished at different times of the year. The fishery tended to stay close to the Main Hawaiian Islands in the last quarter so they can turn around and provide fish during the holiday season, such as Christmas and New Years. They tend to venture out further when the seas are calm in the third quarter of the year.

- Results of all their catch: The dominant component of the longline catch is bigeye tuna, indicated in the dark blue triangles, 106 fish caught last year. That is followed by yellowfin, in the yellow squares, 27,000 fish caught, and 21,000 albacore.
- The general trend for tuna catches, as far as bigeye, over time has been increasing. Whereas albacore shows a peak in 1997 at about 70,000 fish, and has been on a downward trend since. Last year was the first year the albacore catches were actually less than yellowfin. Yellowfin, in general, has been low in proportion with a slight increasing trend.
- The bigeye catch by area in 2003 resembled the effort block where the highest catches occurred east of Johnston Atoll and very high catches as well in the Main Hawaiian Islands EEZ.
- Bigeye tuna catches for the second quarter of this year were 23,000 fish, and 70 percent of that fish was caught on the high seas. Usually bigeye catches are highest or peak in the fourth quarter and are lowest in either the second or third quarter.
- The highest bigeye catches occurred inside of the EEZ of the Main Hawaiian Islands. But in the last couple of years higher catches of bigeye have been coming from the high seas.
- CPUE on tuna-targeted trips showed a lot of variation all the way up to 1999. For some reason it just seems a little lower and a lot more stable thereafter. Three fish per thousand hooks caught in the second quarter of this year and highest area of bigeye CPUE was Kingman/Palmyra, EEZ of Kingman/Palmyra, 6.6 fish per thousand hooks.
- Bigeye quarterly CPUE resembles the bigeye tuna catch last quarter, where CPUE was highest in the last quarter of the year.
- The albacore catch fell to a second quarter low of 1,500 fish in the second quarter of this year, about two-thirds of it on the high seas. Albacore catches are usually highest in the second quarter. The overall catch trend resembles the annual catch trends where you can see a peak in 1997 from an exceptionally high catch, and a slow decline thereafter.
- The next slide resembled the last slide because it was the same slide. It was actually albacore catch, not the quarterly CPUE. The quarterly catches of albacore and the CPUE are highest in the second quarter of the year. The Y2 axis was changed from zero to twelve rather than zero to forty.
- In the second quarter of this year 3,000 reported catches of yellowfin tuna were observed, about 60 percent of it came from the high seas. Yellowfin tunas by the longline fishery showed the highest catches occurred during the first quarter of the year.

- Yellowfin tuna CPUE on tuna trips was pretty low early on, and then it stabilized. Two years of exceptionally high CPUEs, probably from effort being exerted in the Kingman/Palmyra, and falling down thereafter. Only four fish per thousand hooks in the second quarter of this year. But there was no real clear long-term trend with this particular species.
- Annual catches of billfish was predominantly marlin, indicated by gray triangles. The regulatory measures have created a drop off to 3,000 fish caught last year. Now it is a smaller component of the billfish catch.
- Striped marlin is the largest or most numerous billfish caught by the Hawaii longline fishery, 25,000 fish caught last, followed by blue marlin, about 6,000, as indicated in light blue diamonds. The highest catches for striped marlins occurred in the Main Hawaiian Islands EEZ, and the high seas catches of blue marlin and swordfish were highest in that area.
- Reported catches of swordfish, when there was a swordfish fishery, usually peaked in the first and second quarter, was lowest in the third quarter of the year. Negligible catches in relative terms when compared to when the swordfish fishery was in full swing. Most of the highest catches were swordfish from the high seas.
- Swordfish CPUE for tuna trips by quarter has been pretty stable over time, but the thing about this particular catch per unit effort is that tuna trips were used. It doesn't look like there was much seasonal variation or much change over time because it was the only continuous time series throughout the logbook period. Whereas swordfish trips actually had catch rates that were 100 times higher than tuna-targeted trips. So what shows is some of the peaks of close to .3. The swordfish trips actually would have some quarters where they have 30 fish per thousand hooks instead or two magnitudes higher than the tuna-targeted trips.
- Striped marlin catches by the Hawaii longline fishery for the second quarter of this year was 2,070 fish caught, 60 percent of it coming from the high seas. The seasonality of this particular species is highest in the fourth quarter where there is a lot of effort directed towards bigeye tuna, and lowest in the third quarter.
- Striped marlin CPUE by tuna trips appears to have a lot more variation in the earlier years, up to 1996. It seems depressed thereafter, with a lot less variation over time. It was .4 fish per thousand hooks in the second quarter of this year, and catch per unit effort for striped marlin is highest during the fourth quarter into the first quarter of the following year.
- Blue marlin catches totaled 4,400 fish in the second quarter of this year, 80 percent of it coming from the high seas. Seasonality of this particular fish is highest in the second and third quarter of the year. So blue marlin and striped marlin catches complement each other. Blue marlin is highest in the summer months and striped marlin catches highest in the fall and winter months.

- Blue marlin CPUE is like striped marlin where there is a lot of variation and higher CPUEs in the earlier part of the logbook time series, and less variation and a lot more depressed catch rates thereafter. Only 22 fish per thousand hooks in the second quarter of this year. CPUE of this particular species is highest in the third quarter.
- Shark catch by the Hawaii longline fishery is predominantly blue sharks indicated by dark blue triangles. 60,000 fish were caught last year, most of it on the high seas. The overall decline is attributed to the closure of the swordfish fishery that fished up far north, which had high catches of blue sharks.
- Catch of other shark species, such as makos, threshers and miscellaneous species, was a magnitude less than blue shark catches. The Y2 axis was used to show relative composition of the other shark species, which was a lot lower in catches. 4,000 threshers were caught last year. About 3,000 miscellaneous and mako sharks caught last year also. Blue shark catches included 10,600 fish caught in the second quarter of this year, 70 percent of it on the high seas. There is no real seasonal pattern to this particular species.
- The CPUE pretty much resembles quarterly catches with a lot of variation, going up and declining thereafter, with one peak. The peak is probably attributable to the jump from 40,000 blue sharks in 2001 and 2002, up to 60,000 in 2003. Blue shark CPUE is slightly higher in the third quarter of the year.
- The last group of species, the miscellaneous pelagics is as requested by the SSC and the Council. Predominantly mahimahi indicated in these light blue triangle, 55,000 fish caught last year and stayed pretty stable for the last four or five years. Earlier in the time series there was quite a bit of variation in the catch there.
- A general increase for the other miscellaneous species, such as pomfrets, indicated by black dots, 38,000 fish in 2003. A record high of 18,000 ono was caught last year, and 12,000 moonfish as indicated in the red diamonds.
- Quarterly catches of mahimahi show a lot of variation. Typically higher catches in the first and second quarter of this year. 5,000 fish were caught in the second quarter of this year.
- Mahimahi catch CPUE on tuna trips, again, shows a lot of variation, only .7 fish per thousand hooks. Catch rates were highest in first and fourth quarter of the year.
- Ono catches for the second quarter of this year were 6,000 fish caught. The seasonality of this particular species, predominantly second quarter catches, was highest in the 13 of the 15 years of monitoring the fishery, a strong seasonal component.

- It's the same with the CPUE for ono, very strong in the second quarter and pretty much very low in all the other three quarters, .8 fish per thousand hooks in the second quarter of this year.
- Moonfish catch for the second quarter of this year was 1,000 fish. Catches for moonfish coincide with the bigeye tuna, highest in the fourth quarter. That's pretty consistent with this particular species, as far as seasonality is concerned.
- Moonfish CPUE on tuna-targeted trips is a little different than the quarterly catches because the CPUE for moonfish is a little more spread out. It's high in the third and the fourth quarter or the latter part of the year rather than just seeing high catches when a lot of effort is being exerted.

Ito thanked them for their patience and asked for questions.

McCoy asked for questions.

Morioka started by referring to the decline in CPUE over time. Very little was known about these fish which was the reason the SSC asked for the breakouts, to better understand what was happening to the various stocks. He really appreciated Russell putting the data together.

He was a little concerned about the trajectory and asked that if the next time around someone could provide some information as to what might be happening. In particular, he referred to the CPUE on the albacore, it went up in the middle then came down. The catch rate was similar. He was curious if this was a decadal shift. What was characterized was these fish are rather prolific, so maybe it's boom and bust. But then this was only a 20-year time series.

Ito said that what he saw when going through the data was since the swordfish fishery was shut down, and he was not sure it was an efficient fishery for vessels that actually made the transition from shallow sets to deep sets, was the reason. That was just speculation on his part. But it just seems like when the swordfish fishery was closed the fleet became a lot more efficient as far as targeting, catching bigeye tuna, and not so good at catching the other tuna, marlin and miscellaneous pelagic species.

Morioka said, thank you.

McCoy asked for further questions. Having none, he thanked Russell.

Ito said, thank you.

Morioka told him to keep doing the good work.

Ito said he forgot to acknowledge Walter, who was at the meeting for the first time. He was always down on the docks. And he wanted to thank fishermen like Scott, who are out there and the collectors of data. They always give us the insight on the fishery. There were a lot of people that actually put a lot of effort behind this.

Morioka said, mahalo.

Ito said, thank you.

### **11.F.2. American Samoa Longline Quarterly Report**

Dalzell continued with the American Samoa second quarter longline report. It was done with quarterly points but has since shifted to the way that Ito was presenting, which was in the summary. However, American Samoa was still lagging behind. So, he quipped they would have to go back to the old ways to show the same as Russell.

- He showed the number of vessels in the American Samoa fishery. It's a very different longline fishery compared to the Hawaii longline fishery. It was equivalent in terms of volume of catch, but it targeted principally one species, albacore tuna.
- It started off as a small-scale artisanal fishery. Then turned more principally into a fishery using similar sized vessels to the Hawaii fishery. In fact, there are fishermen who are fishing both fisheries in American Samoa, and the Hawaii fishery.
- The information for the third quarter was incomplete and the graphs he would show came directly off the West Pac FIN website. Dalzell does not do any of the analyses that Russell does to generate this kind of information.
- The number of boats this year is down from the first quarter of 2003. But it is still above the long-term average, and the same is true for the second quarter.
- The number of sets effort is down a little bit in the first and second quarter, and not as high as in 2003.
- Number of hooks set was equivalent in the first quarter. A little bit down on the second quarter.
- Total catch of all species has been a little bit lower than both the first and second quarter of the previous year, but significantly higher than the long-term average. But in many ways this is kind of meaningless because the averages for the first few years of this fishery were based entirely around catches of the outboard alia catamarans.
- The albacore catch was significantly high in the long-term average, but came down in 2003.
- The CPUE showed that the last two years have not been a happy two years for the American Samoa fishery or for most of the longline fisheries in the Southern Hemisphere. Catch rates of albacore have been down significantly from the long-term average. In the last Council meeting he had presented some information

- provided by the Secretary of the Pacific Fisheries Oceanic Fisheries Program which suggested that oceanic conditions have indeed created this downturn of CPUE.
- The CPUE was very low in the first quarter of this year almost at the limit of the lower end of the long-term range, and almost the same in the second quarter, too.
  - Conversely bigeye CPUEs have been quite good both last year and this year. But there's not much you can do with the bigeye except sell it fresh in Pago for a pretty low price, or sell it to the cannery. He believed some longliners actually release some of the bigeye, recognizing there's no point in bringing them in, being an invaluable fish like that that could grow bigger and be more valuable later on. But there still remained the problem of how to market a non-albacore catch in American Samoa given that the main market outlet was the cannery.
  - Skipjack catch CPUE. Again, that's been down from the long-term average. It is lower than 2003.
  - There are very low mahimahi CPUEs, down as low as the lower range of the long-term average, much lower than last year.
  - The wahoo CPUE is down from the long-term average in the first quarter and also in the second quarter. It was higher in the first quarter of last year and about the same as the second quarter.
  - Billfish, predominantly blue marlin, had very high CPUEs in the early years of the fishery. This reflects a very high first quarter CPUE. The fishery then was predominantly around within about 20 miles of Tutuila, and is now spread out more over the EEZ. But the CPUEs for the billfish have been quite low in the first and second quarter of both years, 2002, 2003.
  - Shark CPUE were much higher in the long-term average. This perhaps reflected the greater range of the fishery spreading out over the EEZ, not only over the American Samoa EEZ, but also fishing in the EEZ of countries such as Cook Islands, where a number of boats have also fished.
  - The long-term CPUE by year trend for albacore. The low CPUE in '02 and the downward trend in '03 were not atypical of the fishery, even though it's a relatively short time series. In 1999 there was a low point in the CPUE.
  - From the Plan Team meetings it was found that in both this year and last year, the alias was a pulse in troll fishing, although trolling has almost disappeared in terms of commercial fishing in American Samoa. During these low periods there was an upswing in trolling and in bottomfish fishing. This reflects the fact that the alias are easy to convert to other methods of fishing.

- Whereas for the larger longline vessels, they have to find other grounds elsewhere. Now the larger vessels there have access agreements with other countries, or in some cases, returned back to fishing in the Hawaii fishery.
- Looking at the long-term trends for yellowfin, skipjack and bigeye, there has been a general upward swing of bigeye CPUE throughout most of the years of this fishery.
- Yellowfin has been more variable.
- Skipjack although variable, seems to have basically a rising trend.
- Of particular interest was the mahimahi trend that has been slowly turning downwards. This is actually the reverse of the trend of CPUE for mahimahi around Hawaii, which was generally positive.
- The trend for wahoo, although variable, tended to be flat compared to the Hawaii fishery that had quite a stark upward trend.
- Sharks and billfish were hard to comment on. Although the trend tends to be downwards and may reflect some localized depleting around American Samoa.

McCoy thanked Paul.

Dalzell asked the Chair, since he was more familiar with the conditions in this fishery and had a vessel there, how was the fishing down in American Samoa?

McCoy said it was up and down. Weather has been a factor. There were a lot of variables: fuel has been expensive, markets have been low and fluctuating quite a bit, shortages of necessities to keep the fisheries going, bait and stuff like that. Those are all variables that they did have any control over it.

Dalzell noted that the limited entry amendment for this fishery, the final rule for that was published just a few weeks ago. So the process of putting that in place would begin.

McCoy thanked Paul and asked for any other questions. Having none, he noted a change in the agenda. Under international issues, they would go right to the bottom, Item 8. Items 3, 4, 5 and 6, would not be visited today.

Morioka noted that they had already been discussed and reported on.

McCoy called on Eric Gilman to do International Issues, IFF3.

### **11.G.8. IFF3**

Gilman noted that the Third International Fishers Forum was tentatively planned for the week of September 19<sup>th</sup> next year, 2005. The meeting will be hosted by the Organization for

Promotion of Responsible Tuna Fisheries, with support from the Japan Fisheries Research Agency, Federation of Japan's Tuna Fisheries Cooperative Associations and the Western Pacific Regional Fishery Management Council.

OPRT is a Tokyo-based international nongovernmental organization. It was established in the year 2000. Its membership was comprised of tuna longline producers from Japan, Taiwan, Korea, Philippines, Indonesia, China and Ecuador, as well as trade organizations, distributors and public interest organizations from Japan. The meeting venue will likely be Tokyo or Sendai. Sendai may be selected because of its proximity to the major fishing fleet port where a large proportion of the Japanese longline fleet is based.

In the Year 2000 the New Zealand Department of Conservation hosted the First International Fishers Forum and it focused on methods to solve the problems of bycatch of seabird in longline fisheries. The second forum was hosted by the Fishery Council in Honolulu in 2002. It built on the efforts made by participants in the First Forum by continuing progress to minimize the bycatch of seabirds. In it, it introduced discussions on sea turtle biology, behavior and reducing and minimizing the harmful effects of interactions with sea turtles in longline gear.

The goal of the third meeting is to build on the progress made in the previous two forums, towards minimizing bycatch of seabirds and sea turtles in longline gear. There will be a discussion group on marine mammal bycatch after the forum ends for a half-day workshop.

So the planning continues and they hoped to have more updates for the Council in subsequent meetings.

McCoy thanked Eric and asked for questions. Having none, he moved on to 11.G.1 bigeye tuna management measures and Keith.

### **11.G.2 17<sup>th</sup> SCTB & SCG**

Kleiber said that Keith and he would be switching positions. He was Pierre, not Keith and he was asked to report on the 17th SCTB and the SCG meeting that occurred in Majuro in August back-to-back.

Rather than dwell on what the acronyms SCTB, SCG and so on, the meetings of these groups have been leading up to the formation of the WCPFC. It stood for the Western and Central Pacific Fishery Commission, which was short for Commission for the Conservation and Management of Highly Migratory Fish Stocks the Western and Central Pacific Ocean. Over the last several years, there has been an effort to put this commission together for the Central and Western Pacific, which has been a blank spot in international fisheries monitoring and management.

The WCPFC has now come into force. It will have its first meeting in December of this year in Pohnpei.

One of the first critical issues that this commission will have to deal with is growing about bigeye and also yellowfin tuna. Much of the focus of the deliberations of the two meetings, SCTB 17 and SCG, had to do with this issue.

The SCTB considered the results of the last stock assessment, which were prepared this year prior to the meeting for bigeye, yellowfin, albacore and skipjack tunas. Much of that SCTB meeting had to do with the presentation of those results and ruminating about them. The following SCG meeting considered those results, as well as possible management measures. While this was not the only thing the two meetings dealt with, it was the major thing.

He showed the region that they were assessing for bigeye and yellowfin, in the five regions here in the Western Pacific. That was not to say bigeye or yellowfin wasn't being caught in the Eastern Pacific. It was just that this year they did a Western Pacific assessment. The previous year they completed one in concert with the Inter-American Tropical Tuna Commission, which operates in the area. They were hoping to do that again next year to have a basin-wide assessment.

The fisheries that they were dealing with were, first of all, longline fleets operating in all regions. There are several countries involved in that; Japan, U.S., Korea, Taiwan. Then the purse seine fleets, which were divided up into three different kinds; those that are setting on FADs, those that are setting on logs and those that are not setting on anything. They were called unassociated sets. They were operating primarily in the equatorial region of that area.

Then there was marine net, handline gear operating in the western part of the equatorial region, the Philippine fisheries. And various other gear, mostly Indonesia, that were also in the western equatorial region. So they were considering catches and effort statistics from all of those fisheries.

He showed the results of the two assessments for yellowfin and bigeye. Showing in the black lines were the estimate of the abundance of these stocks from 1950 up through the present time. Then past the dotted lines was a projection for a few years. That was under an assumption that the recruitment remains equal to the average of this whole time.

One reason it dropped in the projection, in most of the cases, was that the recruitment has been estimated to be higher than normal in the latter years. Projections based on the average over all time, result in a recruitment that is lower than what has been going on in the last few years, which was reflected by the black line.

He showed the yellowfin on the side and bigeye on the other for five different regions, then all five summed together. The red dash line was an indication of what they estimated the abundance would have been if there had been no fishing. The difference between the red dash line and the black line was an indication of the impact of fishing, or an estimate of the impact.

He noted that for yellowfin, there was a big difference in a particular region, Region 2, which was one of the westernmost equatorial regions and where the primary impact was. Some of the others had very low impact. For bigeye, they had quite a high impact in that region, as

well as in Region 3, an equatorial region more to the east and then the northern region, Region 1. Overall there was quite a big impact for bigeye, perhaps somewhat less for yellowfin.

They estimated recruitment as well. For a lot of these areas, in particular for the total, they seemed to have a regime of higher than average recruitment in the later years, in some cases increasing over the later years. This wasn't true for all regions. Some seem to be going down, but primarily the total effect was of rising recruitment.

Other than just looking at their estimate of abundance over time, they also wanted to look at how the fishery was doing with respect to a benchmark, which is called MSY, maximum sustainable yield. They were interested to see how the biomass, the abundance of fish, has been in relation to what the biomass should be if they had been managing the fishery at the MSY point, the magical point.

The red horizontal line was called ideal. That would be biomass exactly at the biomass at maximum sustainable yield. The different assumptions about details of the model were for yellowfin, an estimated biomass of well above B at MSY. That would be a good thing they wanted to be above the red line.

For bigeye, which has been declining over time, was beginning to get close to the red line, but it was still above.

For fishing mortality there was a boundary line at one, representing the ratio of fishing mortality that is happening compared to the fishing mortality that would be ideal for maintaining the fishery at MSY. In that case, below the line is the place to be. Above it would be overfishing.

For yellowfin, the history has been a rise in fishing mortality, but it is still comfortably the F at MSY level.

With bigeye, there was also this increase, getting close to the line. The fact that they were getting close to the line was the primary indication, the primary source, of the concern that they have.

The F to FMSY ratio was a critical thing. It is an indicator of overfishing or not. So they were interested in the uncertainty with which they were estimating that. He showed the estimate of a probability that this ratio, F over MSY, was the probability of any one level.

Now one, the boundary between the green and the red, it would FMSY. The green part was okay. The red part was overfishing. So what they were showing was the relative probability of overfishing or not overfishing.

For the yellowfin, two cases were included, one a base case and then an alternate one. Even with this investigation of uncertainty, there was uncertainty, the picture changes a bit. But basically for yellowfin, the best estimate of this ratio was at the peak. There was a lot of the

green area , but still about 15 percent of the area in the curve was in red. So that would say, in spite of this being their best estimate, there was a 15 percent chance that they were overfishing.

In the alternate case, it changed a bit, somewhat dramatically. But they were still showing the best estimate was in the not overfishing zone. There was a 40 percent chance that they were overfishing.

Bigeye showed a paradoxical situation. The best estimate showed that they were overfishing. Yet, they were showing a probability of greater than 50/50 that they were overfishing. So even though the best estimate was that they were not, a betting man would say that they probably were. That paradox is due to the fact that this thing was shaped in a skewed way.

So putting all those together with the conclusions, they summarized for yellowfin the Western Central Pacific stock was not currently overfished, that the biomass was above BMSY and overfishing was not occurring. So the fishing mortality was below FMSY. That was good news.

Nevertheless, there was a high impact to fishing in localized areas in the western equatorial zone. They noted it was the surface fisheries, the purse seine and the Indonesian and Philippine fisheries, were causing the greatest impact, generally in the smaller fish.

If they were going to keep the critical biomass and yield up, it would depend on higher than normal recruitment that they had been seeing, a little bit of a tenuous situation. But, recruitment has been higher than normal lately.

There was uncertainty involved in the whole thing due to not only the formulation of the assessment model, but also there were problems with incompleteness of the data, particularly traditionally Philippines data were under-represented.

For bigeye, they were saying the stock was not overfished, biomass was near BMSY. They were saying overfishing was probably occurring. A betting man would say it probably was, even though their best estimate of that ratio was in the non-overfishing zone.

So they noted the high impact of fishing both in the equatorial zones and in the northern zone. They have also found in playing with the results of the model that longline, the deep fishing, shares significantly in the impact on bigeye through the surface fishery. So they couldn't blame the surface fisheries for the bigeye situation.

They noted that if recruitment were to fall down to average levels, it was quite likely that the current catch levels would probably drive this stock down definitely below the BMSY level.

As with yellowfin, there was uncertainty due to the incompleteness of data. They did do a couple presentations in the SCTB about plans to improve fishery data, particularly in the Philippines and Indonesia.

They also hope to conduct another tagging study. There have been a couple of very successful tagging studies, in that area, one that he participated in 20 years ago, and another one about ten years ago. It was about time for another to help reduce the uncertainty.

Kleiber showed a list of most of the agenda items for the SCG meeting. The first one was to review the updated stock status statements for the major target species. So they took basically the information that he just went through and deliberated what to do about it.

For yellowfin, they said to reduce the risk of yellowfin stock becoming overfished the SCG recommends that further increases in fishing mortality, particularly juvenile yellowfin, in the Western Central Pacific Ocean should be avoided. For bigeye, the SCG recommended that as a minimum measure there be no further increase in fishing mortality for bigeye tuna.

The SCG also noted the recent increase in bigeye recruitment in the Eastern Pacific Ocean. So they did look at the results from the IATTC in their latest efforts and so noted that they have seen a decrease in recruitment. So there was a need for more stringent management action if such a decrease would be mirrored in the region in the Western Pacific. So these recommendations or statements have been issued for about the last four years by the SCTB and SCG. Unfortunately, over that time the effort has continued to go up.

The next item on the SCG agenda was a thing that occupied the bulk of the time of the SCG, which was to respond to a request from an earlier Preparatory Conference, one of the conferences preparing for this formation of the Western Central Fishery Commission. They asked the SCG to evaluate technical feasibility analyses. They were talking about the analysis of management measures to show how to carry out an analysis in a timely and effective manner. They were interested in an analysis of a range of possible management measures that could be undertaken to reduce or at least limit the growth in fishing effort in the region.

They were presented with a whole bunch of alternate measures. Keith Bigelow would go into those in his presentation. This took up probably 80 percent of the effort of that SCG.

The rest of the time was spent in a discussion of the major and extended work required to develop management scenario models, the details of doing stock assessments, provisions of ecosystem, bycatch and other scientific issues.

There was a bit of worry about what was going to be done with the databases. A lot of this was worrying about the Philippines and Indonesia.

Identification of special working groups had to do with the structure of the Scientific Committee, as a way to avoid confusion. Along with the logistics, the real meat was that the Commission will have to address this as its first major issue. Not to say there aren't other issues about the budget and so on, but this was an important one dealing with the kind of stuff that this Commission was put together to deal with.

Kleiber asked for questions.

McCoy thanked Pierre and asked if there were any questions. Having none, he called on Keith Bigelow.

### **11.G.5 Prepcon 7**

Bigelow thanked the Chair and greeted the group.

In Prep Con 7, there was a paper presented there entitled, Management Options for Bigeye and Yellowfin Tuna in the Western and Central Pacific. At Prep Con 7 they tasked the SCG, the Scientific Coordinating Group, for evaluating the feasibility of these various measures.

He emphasized that this was the scientific feasibility of analyses for management consideration and not the feasibility of these management options. There were 17 different options in the document for Prep Con 7. The SCG's approach was to identify the data requirements and likely analyses that could be used to evaluate each management option. The feasibility of such analyses was based on the availability of data and the scientific achievability of the analyses. Some were judged to be not feasible because they didn't initially have the background baseline data to conduct such analyses.

They did not consider operational or implementation issues related to each management option because that was a management duty rather than a scientific duty. The 17 different management options were examined in three different categories based on feasibility. One would be where the analysis was feasible, that's just essentially the status quo; they were not going to constrain fishing mortality. The second one was the analysis was feasible, but it was contingent on management advice; seven of the seventeen were in this category. The last one, which made up the bulk of the category, was analysis was not feasible due to data limitations, but may be feasible in the long term; there were nine of those options.

Bigelow showed a table of the 17 different options. The little icon on the left indicated the feasible ones, denoted by the scientist with his trusty graph:

- The first one was the status quo; there were no controls on fishing mortality, and the analysis could be done adequately any time;
- The second one was output controls, and output controls aimed at constraint of the total catch by usually setting an upper limit of catch, or TAC, total allowable catch. Three were three of those. All of those are judged to be feasible analyses to be conducted in the near term. Most of them were based on the competitive quota or an allocated quota or perhaps a vessel limit quota, which was the first two of three possibilities, is the vessel limit quota. After that was input controls, which was when more and more groups of inputs are restricted, such as the vessels or the gear or fishing time, which in combination changes the total effort and also the total catch.
- The first three of them were based on capacity, the capacity of vessels. Those were judged to be not feasible in the near term because they didn't really have a good understanding of the capacity of the fisheries in the Western Central Pacific. Ones

that were feasible included: total effort limits, setting the measure of effort, such as days at sea; or the actual effort expended by the longline fisheries; or the number of sets with the purse seine fishery, that was feasible. Also feasible was an analysis of area or seasonal closures.

- The last group of methods was technical measures. They were used to regulate the output that can be obtained by a specific amount of effort. Such measures influence the way people fish. It could be either gear specific or vessel specific. By and large, most of the technical measures were not feasible in the near term, such as changing the longline configuration or restrictions on the operational efficiency of vessels or even FAD restrictions. There were only two that were judged to be feasible. One was size restriction, restriction of the size of fish landed. Lastly was FAD restriction, prohibiting all FADs in general. Other FAD-related topics, such as changing the configuration of FADs, were not really feasible, nor were a limit on the number of FADs. They don't have a firm idea as to the number that are deployed.

So in conclusion, this was the scientific analysis of the 17 options. There were also other things to consider, but in the interest of time he did not through that.

These would probably be discussed in the December meeting of the Prep Con and the first meeting of the Commission. One point would be that 17 different options were too many, and even eight feasible options were probably too many. What they're going to have to do, given the severity of the bigeye stock and perhaps the problems with the yellowfin stock also, is to develop a work plan as to how these scientific analyses might be done in the near future.

Bigelow thanked the Chair.

McCoy thanked Keith and asked for questions. He then asked Keith to do the Plan Team recommendations.

Bigelow said, sure.

Morioka said, Chris Boggs.

McCoy apologized. He called on Chris Boggs, then Keith.

#### **11.G.7. Fishing Experiments Workshop**

Boggs said that he and Ms. Simonds have been promoting a joint experiment between Hawaii researchers and researchers in Japan on seabird and sea turtle bycatch for a variety of international fora. In September scientists were brought over from the Far Seas Lab and met with himself, the Council staff, HLA members and John Watson, who has led the NMFS research in the Atlantic Ocean on sea turtle bycatch.

This was their second chance this last year to compare notes with the scientists and to try to iron out some ideas for how to work on the same topic in their two areas.

When designing experiments they to try to consider some things that affect the results of the experiments on bycatch. Where there were lots of turtles was an important factor when doing an experiment. But fishing depth was a problem because of the shallow and deep fishery and there were different take rates. They couldn't always tell if that was because they also fish in different places, whether it was the place they're fishing, the style of fishing or where the turtle was a problem. So they were trying to consider all these things.

Area A and B represent two core areas of the kind of fishing here, the swordfish fishing up in Area A, which is shallow, fishes at night and catches a lot of turtles, may be because there are more turtles up there, as well as the style of fishing. Then Area B where there is tuna fishing, which fishes in the daytime deep, catches few turtles, and that may be because there are fewer turtles down there. Then Area C, where it was hypothesized and then got confirmation from their Japanese colleagues that there are more turtles caught. They fish both shallow style and deep-style fishing up in that area.

A lot of progress was made toward defining how each could do things in these different areas to find turtle bycatch reduction methods that might be effective for tuna fishing, as well as the swordfish-style fishing, about which a lot has been learned and have management measures which would be in place for the model fishery.

It was a very good meeting. They found out a lot from their colleagues about what they've have been up to. They have been doing turtle bycatch reduction research for several years now, and they brought some results to show that showed bait type makes a big difference. In their experiments, fish bait has really reduced the bycatch of turtles.

They've tried a whole lot of hook types, six or seven different hook types. What they found was not surprisingly that they didn't have enough data to have tested so many hook types.

So the plan this meeting was set up to determine what to do next, and one of the things needed was in any further experiments to try to limit how many things would be tested, because only a few things can be tested with the actual amount of turtles caught.

McCoy thanked Chris and asked for questions.

Martin had two comments. First he wanted to compliment Chris; Chris ran the meeting and it really went very well. From an industry perspective, they were very excited about the collaboration with the Japanese. People have been working on it a long time.

The other thing was to make sure people recognize that Eric Gilman from Blue Ocean was also very active and a valuable contribution to the group as well.

Simonds said that she wanted to thank Chris in public. He has been working very, very hard on this. She and Chris were going to go to Bangkok and he's going to report on the work that he has been putting together.

Simonds asked Chris if they were going to have a Japanese scientist coming over to work with him on the experiments in November, December.

Boggs said that he had not heard anything back from them, but it was time to start rattling the cage.

Simonds said another wonderful thing about proceeding with these experiments as soon as possible was that they were going to be helping to host that IFF3 in Japan. So that was the place to showcase all the work that our fishermen and scientists have been working on together. So that's --

Boggs added that they have been working on getting Shelley Clarke here, but I haven't heard any more about that.

Simonds asked where PD was and should they send an e-mail before they leave town.

Morioka echoed the compliments and thanked Chris very much for his efforts.

Morioka thought the key to the process was the respect that was shown across the table, and thanked Chris for keeping that high level of professionalism in the process. That facilitates the exchange, it was greatly appreciated. He also thanked Kitty for her support of this process.

McCoy called on Keith for the Plan Team Recommendations.

#### **11.H. Plan Tem Recommendations**

Bigelow said he would be presenting.

The Plan Team met about two weeks ago and made two recommendations. Each recommendation, not surprisingly, deals with the bigeye tuna in the Pacific: the first recommendation for the bigeye in the Western Central Pacific and the second one dealt with the Eastern Pacific Ocean.

As Pierre had mentioned, there was over 60 percent risk of overfishing of bigeye in the Western and Central Pacific Ocean and also the Eastern Pacific Ocean, probably even the population was in more dire straits, such as overfishing was occurring and the stock was overfished.

Given that, the Plan Team recommended that the Council, pursuant to its responsibilities under the Magnuson-Stevens Act, request the U.S. Delegation to the newly-formed Commission to take action to reduce overall fishing on bigeye and yellowfin.

The yellowfin was added because there were also additional concerns about future overfishing for yellowfin.

The second recommendation dealt with the IATTC resolution of this year, which essentially capped the nation's longline quota for 2004 and 2005 at the level of 2001. They also

had various seasonal closures for the purse seine fishery, but that doesn't really affect the Western Council. The problem with that was for the Hawaii-based fishery the 2001, bigeye catch was relatively low given the various regulations in 2001; the southern area closure and also the demise of the swordfish fishery. So the Plan Team recommended that the baseline used to establish the quota for the area east of 150 West be based on a multi-year average rather than a single year's catch of 2001.

Furthermore, they recommended that a formal process should be implemented by the Pacific and Western Pacific Councils for considering the need for allocating any future IATTC established catch quote between different longline fishing sectors and for formulating such allocations. There potentially could be problems with the seasonality of the two fleets that are based off of California and the Hawaii-based fleet. So they encouraged that allocation process be developed.

Lastly, they recommend that NMFS should investigate potential for using the VMS for reporting bigeye catches in real-time for both California and Hawaii-based fleets.

Bigelow thanked the Chair.

McCoy thanked Keith and asked for questions. Having none, he moved on to SCC Recommendations and Craig.

### **11.I. SSC Recommendations**

Severance referred to 11.I.1 in the briefing books.

The first item was the SEDAR review process, general comment there. The SSC noted with approval the rigor and meticulous detail that comprised the SEDAR Stock Assessment Review Process and recommended that a similar stock assessment review process be pursued in the Western Pacific Region contingent on funding availability.

There was a note on HMRFSS. He asked the Council members to recall the recommendation to beef up the HMRFSS survey on bottomfish.

So he moved on to the Squid Amendment, this was an action item. The SSC recommended adding the sentence, require vessels to carry observers if requested by NMFS.

**For each of the Council's preliminary preferred alternatives, the SSC recommended that the Pacific Islands Fishery Science Center be given adequate resources to conduct additional analyses for Pelagic Management Unit Species.**

**This would mean that the preferred alternatives would read as follows:**

- **Improve mandatory monitoring and establish mechanisms for management by including pelagic squid in the Council's existing Pelagic Fishery Management Plan;**

- **Replace High Seas Fisheries Compliance Act logbooks currently used with logbooks specifically designed for squid harvesting and require operators of squid vessels permitted under the High Seas Fisheries Compliance Act to also include any EEZ fishing activities in this logbook;**
- **Require vessels that harvest pelagic squid solely in EEZ waters to either use this logbook or to participate in State reporting systems;**
- **Require vessels to carry observers if requested by NMFS. Centralize this data into a database easily available to resource managers;**
- **Improve mandatory monitoring by replacing the High Seas Fisheries Compliance Act logbooks currently used with the required logbooks specifically designed for squid harvest;**
- **Centralize this data into a database easily available to resource managers. Require vessels to carry observers if requested by NMFS;**
- **In addition, revise the High Seas Fisheries Compliance Act permit applications, indicate the specific fisheries, including both gears and target species, in which permittees anticipate fishing on the high seas, for example, jigging for pelagic squid.**

Moving on to D, final action on seabird measures: at the top of the page, unbolded, there is a paragraph. It was a recommendation on data analysis rather than a formal recommendation to the Council, but he thought he should read it:

**“The SSC recommends the calculation of the cumulative efficacy and a combination of measures is employed as a product of individual efficacies, which is based on the assumption that the measures are independent factors. Only a limited amount of data has been collected on a combination of measures and it supports the independent assumption.**

**Then the Council goes on to recommend that the Council adopt its preferred alternative, all shallow-setting longline vessels wherever they fish be required to either use side setting or to use all of the following measures simultaneously:**

- **Night setting, blue bait, offal discards and tori lines.**
- **All deep setting longline vessels fishing north of 23 North are required to either use side setting or to use all of the following measures simultaneously: A line shooter with weighted hooks, blue bait, offal discards and tori lines.**

He directed them to turn to page 7 of their document. Plan Team recommendations were repeated there. Then down at the bottom, the last three:

- **The SSC agrees with the first Plan Team recommendation, but suggests that justification for reducing effort on yellowfin tuna should note recent information that Philippine tuna catches are not well documented and may be substantially higher than have been reported.**
- **A concise document on the status of pelagic fisheries in the Pacific Ocean should be prepared annually for the Council at its October meeting.**

- **The SSC agrees with the second Plan Team recommendation, but suggests that the Council should be informed in advance of the IATTC annual meeting and provide input to the U.S. Delegation to the IATTC.**
- **Further, the U.S. Delegation needs to be informed of the position on the level of bigeye tuna catches that the Council believes to be appropriate for U.S. longline vessels in the Eastern Pacific Ocean.**
- **Further, the U.S. Delegation to the Western and Central Pacific Fishery Commission needs to be made aware that Western Pacific Fisheries have limited entry programs in place for the Hawaii and American Samoa longline fisheries and thus, they are not responsible for the recent large increases in fishing effort on yellowfin tuna and bigeye tuna.**

McCoy thanked Craig and asked for questions. Hearing none, he addressed the Chair to notify him that the rest of the Council, the Standing Committee met on Tuesday and heard a report from the Plan Team and the SSC. They have come up with the following recommendations, he would like to present them to the Chair in the form of a motion.

Morioka said they would hold on the motion and come back to that.

#### **11.J. Standing Committee Recommendations**

McCoy said he withdrew that last one. He continued:

**Recommendation 1, concerning squid fisheries: The Pelagics Standing Committee recommends the adoption of the SSC recommendation for pelagic squid fishery management in the Western Pacific Region.**

**Recommendation 2, concerning seabird mitigation in the Hawaii longline fishery, the Pelagics Standing Committee accepts the SSC recommendations, except one, to remove the regulatory requirement for strategic offal discards and blue bait imposed on both shallow and deep-setting vessels; two, to maintain existing minimum weight limit, 45 grams for weighted branchlines.**

Going on to **Recommendation 3, concerning the Pelagic Plan Team recommendations on the IATTC annual bigeye quota, the Pelagics Standing Committee concurs with the Plan Team and the SSC recommendations to limit all fishing mortality on bigeye tuna, but noted that Council should be cognizant of the aspirations of Guam and the Commonwealth of the Northern Mariana Islands to develop their own longline fisheries. It was also noted that should such fisheries be developed they would almost certainly be limited entry fisheries in line with Hawaii and American Samoa longline fisheries.**

#### **11.K. Public Hearing**

Morioka said, thank you. He asked for any public comment on the recommendations heard and those matters before the Council. Morioka said, yes and asked the individual to come forward and identify himself.

Scott Barrows introduced himself and said he was there as a boat owner. He has two longline vessels and wanted to comment on the side setting issue.

He had a couple concerns but first wanted to say that he thought side setting was a great thing. But after listening today and hearing that someone may be making a decision on who can side set and who can't, he thought it should be left up to the vessel owner to see if it's technically feasible.

He has one longline vessel that was about 70 feet long that does side set right now, and it's a great thing. It was a schooner-rigged vessel, and it's actually a benefit to the laying out of gear. The other one was registered at 48 feet and he was having a problem figuring out how he was going to have to rereg the whole deck scheme to do this. The diagram shown today with the different positions of the line shooters wasn't quite accurate because the deck isn't clear like it showed in the diagram. He knew it was just showing position of where things would be, but there were a lot of things missing from that diagram, like a hatch cover.

Most fish boats have a large hatch cover and you can't put anything there. So moving line around, which are quite heavy then some boats are going to be harder to do than others.

He had heard some thought of maybe marine surveyors qualifying boats to not side set. He was a marine surveyor, and he thought there were only two in Hawaii that have actually fished on large vessels, and he didn't think that would be adequate because most surveyors aren't fishermen.

The only other thing, he would recommend that the Council leave options in place, at least for now, if they weren't going to side set to use the other regulations in place.

Morioka thanked him and asked for further public comments. He asked the Council if they had any questions of Mr. Barrows. He called on Robinson to ask for thoughts on the matter.

## **11.L. Council Discussion and Action**

Robinson said, notwithstanding the fact that he wrote a letter suggesting that side setting should be made mandatory to the Council, having listened to the testimony and looking further into it, perhaps it might be premature to make it mandatory as well. He supported the recommendation for the general motion that was on the table.

However, he did want to ask the Council to consider the fact that they currently have a black cloud of litigation over their heads regarding seabirds and seabird mitigation measures, and in light of the new BiOp only applying to the shallow set fishery in the existing opinion, still requiring the current management measures for the deep-set fishery, that perhaps it was a little premature to remove the blue-dyed bait and strategic offal requirements from the current measures.

His suggestion would be to hold off on that and leave current measures current measures for the time being.

Morioka said, thank you and asked for further comment.

Martin asked Robinson if he was proposing then that all boats continue to be required to use blue dye and offal discards regardless of whether they side set or use different methods.

Robinson said, thank you for the question. He was defining current measures in light of the option of if the vessel chooses not to side set, then all the current measures would apply, including the blue-dyed bait and the strategic offal discharge.

The motion provided a choice, side setting or the list of current measures. So what he was saying was the list of current measures probably should be, for the time being anyway, the same as it has been, or as it was currently.

Martin asked, for the shallow set fishery? For the entire fishery he missed it.

Robinson said he might have. But he meant whatever the current regulations were in both the shallow set and the deep-set fishery, if the deep-set fishery north of 23 chooses side setting, fine. If not, then all the current measures would apply. He asked, is that right?

Martin verified that it was south of 23 Degrees, whatever the mitigation measures were, remain.

Morioka asked, even deep set north of 23 Degrees, right?

Robinson said he was trying to keep it simple. He was suggesting that they remove from the motion the proposal to remove blue-dyed bait and strategic offal discards, leaving everything the same as it was today, if the vessel chooses that option, not to side set.

Morioka asked, the SSC's recommendation was to remove strategic offal discards and blue-dyed bait, right? So he was suggesting that they remove that portion of the SSC's recommendation, which was based largely on communication they received from him and from Mr. Winegrad, from the Ocean Conservancy. Morioka asked, so that is all Robinson was saying, right?

Robinson said, yes.

Morioka asked Marcia for clarification.

Hamilton said she was confused. The whole process has been a little chaotic. There have been so many different ideas, so much different input.

She said in the discussion, besides removing strategic offal discharge and blue-dyed bait, the SSC and the Standing Committee both suggested adding tori lines. So she was not sure of Robinson's position on that, he could come back to that.

Ms. Simonds had asked her speak briefly about what the BiOp says. Robinson mentioned this earlier, about it saying not changing the current regulations until an appropriate time. Upon review of it, what it said was, "don't change the regulations until you do your action on side setting." That was this action.

Robinson's comment to that, he was not saying the BiOp said you cannot remove these things. He's suggesting that it would be prudent perhaps not to remove them with the threat of litigation.

Hamilton explained a little bit more about the process. This was a BiOp on circle hooks and mackerel bait. At that time Fish and Wildlife Service said, well, these seem basically okay, but since they were reopening the swordfish fishery, although the Council put in night setting as a requirement because now the Council heard of side setting, they would like that to go in. So the BiOp on the circle hooks and mackerel bait says, "you will put in side setting or other appropriate measures by next August."

There was a Fishery Management Action Team that included people from Fish and Wildlife on the team and they did try to craft something that would not trigger another formal consultation on this measure, which was indirectly supporting the previous formal consultation, but they have not been able to get feedback on whether what form they would have to take to avoid a second formal consultation.

Hamilton said that was just one small part of the story. So if they were confused now, this is how she felt.

Hamilton clarified that it doesn't say that you can't change it. Robinson has correctly stated that it may be prudent not to take those things away, and they really didn't know whether it would trigger another formal consultation or not. But that possibility exists.

Simonds said she thought one of the major points was that they have been waiting for Fish and Wildlife Service to respond to their many requests to give some guidance and advice on this particular thing. They have not heard from them.

Then there was the BiOp that just arrived. She asked, so where does that really leave it.

Morioka asked Mr. Palawski if he would like to comment.

Palawski said he would like to try to respond, although he had not been part of the team. If he understood what he saw in the preferred alternative, and what this recommendation was, that for the short-tailed albatross, there were still two other biological opinions that were in place. They have not gone away, so those terms and conditions in those biological opinions apply. While a recommendation could be made, it may be in conflict with a term and condition of an

existing biological opinion for the Hawaii-based longline fishery. He thought that was where they may be treading on some light ground in terms of potential conflict in a biological opinion that existed from the past, not the one that came out on October 8<sup>th</sup> because that was a piece of several in a row.

Palawski could understand the issue of not wanting to go through another one. He appreciated Sean's description of some of the problems that exist, and this was just him today, trying to understand the situation. That if in the process of developing a side setting chute, they can work towards designing some data collection in terms of when the boats are out with the side setting chute, they get to understand what happens when the bird comes near it, what are the wind conditions, how the birds flying by, all of those kind of things to verify that it is working, or a combination of things are working, or something you could leave off doesn't matter, then he thought they have a one or two year effort. He didn't know what it would take to design it.

He said, collect the data. Like was said earlier, 100 percent of the fishermen are out fishing, collect the data and then hopefully the Council avoids having to do another opinion. But if they don't have all the data, then there will be the questions of does it work, does it not work, type thing.

That was all he had to offer today. But if there were specific things they wanted him to go back on – He also tried to check on the status of the Department of Interior's comment letter on the Draft EIS. His understanding was that it didn't get released today or has not been released in a day or two, but it should show up on Mr. Robinson's desk hopefully in the next week.

Unfortunately, sometimes those things take time to get through the process. He apologized to the Council for it not getting before the Council meeting. But at this time, just what he was hearing today, he suspected that those might be some of the things that may come up in that letter, in terms of what the issues are that have been identified today.

Simonds asked, so even if the Council votes to remove this, that won't happen for -- how long will that take, before that would be implemented, because this was going soon be the beginning of the swordfish season. He could do his research over the next several months while the measure was going through the process.

Martin clarified that if the process started today, but it was not going to be implemented within the next --

Simonds said that it took a while to do the amendment. That was all she was saying, if they wanted to avoid having to come back and take another vote on something. But they could begin the research. That was not a problem because that was really what they wanted to see happen anyway. So they could actually say that side setting was the way to go.

Martin said, well –

Simonds said to just talk about those two things, blue-dyed bait and offal discards.

Martin thought that they needed to hear about tori lines and streamers as well, because that was part of their recommendation from the Standing Committee.

Simonds said, right, exactly. Put in tori lines, which was an extra thing.

Morioka called on Marcia and then Bill.

Hamilton said she was raising her hand to say this most current BiOp mandates that by August 2005 NMFS will implement and monitor side setting or another appropriate seabird deterrent or combination of deterrents that the Service agrees is at least as effective as side setting at reducing the risk to short-tailed albatrosses.

She knew these things could happen simultaneously. But to keep to that schedule, they have to take final action today. They could wait for more research to move forward -- again, it could be changed along the way, but this sets up a timeline that they would do this and they have been committed. That was a term and condition of this BiOp.

Robinson said he was not objecting or asking that the Council delay taking action on the motion at all. To stay with the timeline, the Council needs to move forward and offer side setting and phase into the side setting. Whether it becomes mandatory in the future or an option, He didn't know.

He was not trying to do that and hadn't mentioned tori lines because he was only focusing on measures that were being removed from what was currently being required. He supported everything else in the SSC's recommendation and in the motion.

His real concern was that the process. Usually when people ask about a regulatory amendment and timing, he usually says, figure six months. Sometimes it's faster. Sometimes it's longer.

But what he really wanted to avoid was getting three months down the road and discovering that, well, gee, this was inconsistent with Fish and Wildlife Service's interpretation of their opinion so they need to reconsult and ask for another formal opinion. He would really like to avoid that, because that would hold the whole package up.

That -- and again, they had this other black cloud over their head. He was being cautious and precautionary here.

Martin said, as we should be.

Morioka said the Chair had a thought. The Council could approve the motion as it was with the caveat that should indicate that if this was not working, that the Council would need to backfill or reinstate strategic offal discharge and blue-dyed bait, and that would leave the door open to do that, and that says that they recognize that these things could happen and anticipate if it does, this is what can be done.

Also it gives them a position to say, “this is what we think it is based on guidance provided by the PIRO Director and from Mr. Winegrad, Nature Conservancy, that these measures were perhaps not as effective.” He just threw that out for Council member's consideration.

Martin said he appreciated the cautious approach that they were all attempting to take. He did not have a problem leaving that door available to go through if that was where they need to go.

Morioka said he appreciated that because they have to do it today. So it was no worse than what they have to do today, he thought that would be reasonable. Morioka said that this complicated the motion for Paul.

Dalzell asked, what do he needed to add to this?

Morioka asked for a three-minute recess to have legal counsel and Council staff muster around Paul to give him guidance on language.

(Brief break taken)

Morioka reconvened the 124th Western Pacific Regional Fishery Management Council.

Morioka said that up on the board were recommendations and asked if the Chair of the Standing Committee would read through them.

McCoy read, **“the Council adopts as its preferred alternative for additional seabird mitigation measures, all shallow-setting vessels wherever they fish be required to use either side setting or to use all mitigation measures simultaneously; night setting, blue bait, offal discards and tori lines.**

**All deep-setting longline vessels when fishing north 23 Degrees be required to either use side setting or use all measures simultaneously; a line shooter with weighted hooks, blue-dyed bait, offal discards and tori lines.**

**The Council will use the period of the regulatory process to collect supplementary data on bird behavior and coordinating with the Fishery Service, remove the requirement for blue-dyed bait and offal discards, if appropriate.”**

Morioka clarified that would be the U.S. Fish and Wildlife Service. He asked, do you make that as a motion?

McCoy said, I so, sir.

Duenas said, second.

Morioka asked for discussion. He called on Bill.

Robinson thanked the Chair for his indulgence. He said he was satisfied with that motion, and would work with the Council to do the evaluation and hopefully they would be able to make an informed decision.

Morioka said, thank you. He called on Don.

Palawski said he certainly appreciated the Council's flexibility. They will send the message back to the people in the Fish and Wildlife Service that were involved in this project and make sure they're aware of what has been decided on today and get the operation going.

Morioka thanked Don. He also thanked him for his attendance and participation in the process and the constructive advice given. The Council really appreciated that, and has enjoyed this working relationship.

Palawski said, thank you.

Morioka told Mr. Robinson that if he hadn't said it before that he enjoyed working with him and the Council enjoyed working with him.

Morioka continued that as he could see from his brief tenure with them, it was a collaborative effort, it was an open-door effort. They try to be seamless and to accommodate everyone's concerns. He appreciated his indulgence in the process. It was a little different, perhaps, but this was the island way. They have grown up, and thanked him for recognizing it and indulging them.

Morioka asked for further discussion. Hearing none, He called for the question. All those --

Ebisui said he was not sure that the last sentence was constructed properly. Should it not be, and coordinate with; instead of, and coordinating with, and coordinate with the U.S. Fish and Wildlife Service be removed.

Morioka said thank you. That was why this thing was up there. He appreciated the review. He asked the maker of the motion and the second if they accepted those changes.

Duenas said, no objection.

Morioka said, thank you.

(Motion carried)

Morioka moved on to the next item on the agenda.

Dalzell said they had two more recommendations.

Morioka said, precisely. He asked if Dalzell would put them up.

Dalzell read the recommendations:

**The Council notes that the Standing Committee on Tuna and Billfish have expressed concern over the past four years about the level of fishing mortality of yellowfin tuna and particularly bigeye tuna in the Western and Central Pacific Ocean and has suggested that effort should not increase.**

**Nevertheless, overall fishing effort has increased and the most recent stock assessment shows greater than 60 percent overfishing for bigeye tuna in the Western and Central Pacific Ocean. In the Eastern Pacific Ocean, bigeye tuna is judged by the Inter-American Tropical Tuna Commission, IATTC, to be in an overfished condition because of the high fishing mortality and recent low recruitment.**

- **Consequently, the Council recommends that pursuant to its responsibilities under Magnuson-Stevens Act, that the U.S. Delegation for the Western and Central Pacific Fishery Commission request that the Commission take action to reduce overall regional fishing mortality on bigeye tuna and yellowfin tuna;**
- **The Council recommends that the bigeye tuna quota estimation for the area to the east of 150 Degrees West should be based on multi-year averages rather than on a single year's catch;**
- **The Council recommends that a formal process should be implemented by the Pacific and the Western Pacific Councils for allocating the bigeye tuna quota between different longline fishing sectors;**
- **That the Council recommends that NMFS should investigate the potential for using the vessel monitoring system for reporting bigeye tuna catches in real-time for both the California and the Hawaii longline fleets;**
- **And that the Council should also be cognizant of the aspirations of Guam and the Commonwealth of the Northern Marianas to develop their own longline fisheries. It was also noted that should such fisheries develop, they would almost certainly be limited entry fisheries in line with the Hawaii and American Samoa longline fisheries.**

(Motion moved and seconded)

Morioka asked for discussion and called on Mr. Martin.

Martin said, yes and thanked the Chair.

His comment was related to the recommendation that NMFS investigate the potential for the use of vessel monitoring for reporting bigeye tuna catches in real-time. He wanted to inform

the Council that currently, although VMS is required in all vessels fishing in the Hawaii fishery, the majority of the vessels don't have real-time reporting capabilities, or don't currently use real-time reporting equipment. Although he didn't have an objection to the investigation of the potential, he wanted to caution folks that that was the reality of it, at least today.

Morioka said, so noted. He called on Bill.

Robinson thanked the Chair.

He pointed out that with respect to the IATTC annual bigeye quota, the recommendation that came from IATTC was that quotas be based upon the year 2001. 2001 was an oddball year that was originally calculated as 100 metric tons, and with the help of the Science Center folks, it was changed to 150 metric tons, using the proper average weight for those tuna.

For this year, that may have gone forward too far to change. He suggested changing from 2001, which was the IATTC recommendation, to a multi-year average, but he didn't know if the agency would consider that consistent with the IATTC recommendation or not. They could certainly go forward with the logic behind that. That in fact the U.S. longline catches were a drop in the bucket of the total.

Robinson said the whole recommendation was designed to address the proliferation of longline vessels coming countries that expanded their capability after 2001, and they did not. So he understood all those factors.

Morioka said he thought that was in the spirit that they were offering this motion.

Simonds added that this was discussed with Rick DeRiso, who is an SSC member from the IATTC. He said that the Council should be ready with a new recommendation for the June '05 meeting. So the SSC needs to work on something, on a recommendation, to give to the Council. Then that would go forward to the U.S. Delegation to the June IATTC meeting.

Robinson thanked Kitty. That was really what he was trying to say. It's probably too late for this year, but it's perfectly appropriate to take it forward next year as a recommendation.

Morioka said, thank you. He asked for further discussion from the Council members. He called for the question.

(Motion carried)

Morioka asked for Paul to read the next item.

Dalzell read: With respect to the recommendation for squid, the Council recommends adding the sentence, require vessels to carry observers if requested by NMFS to each of the Council's preliminary preferred alternatives.

**The preferred alternative for squid management under Council's jurisdiction would then read as follows:**

- **Improve mandatory monitoring and establish mechanisms for management by including pelagic squid in the Council's existing Pelagic Fishery Management Plan. Replace High Seas Fisheries Compliance Act logbooks currently used with logbooks revised to add data fields covering squid harvesting, and require operators of squid vessels permitted under the High Seas Fisheries Compliance Act to include any EEZ fishing activities in this logbook;**
- **Require vessels that harvest pelagic squid solely in EEZ waters either use this logbook or to participate in State reporting systems. Require vessels to carry observers if requested by NMFS. Centralize this data into a database easily available to resource managers;**
- **The second part of this: Improve mandatory monitoring by replacing the High Seas Fisheries Compliance Act logbooks currently used with required logbooks specifically designed for squid harvesting. Centralize this data into a database easily available to resource managers. Require vessels to carry observers if requested by NMFS;**
- **In addition, revise High Seas Fisheries Compliance Act permit applications to indicate the specific fisheries, including both gears and target species in which permittees anticipate fishing on the high seas. For example, jigging for pelagic squid.**

**The Council recommends that Pacific Islands Fisheries Science Center be given adequate resources to conduct additional analyses for pelagic management unit species.”**

(Motion moved and seconded)

Morioka asked for discussion.

Robinson thanked the Chair.

Robinson said that he was trying to think this one through. The authority for most of these actions will be the High Seas Fisheries Compliance Act, therefore you're not really going through the Magnuson Act process.

He asked if he understood correctly that the Council is recommending that NOAA Fisheries take this recommendation back and look at their regulations that they promulgate for the whole country under the High Seas Fisheries Compliance Act as it would apply to the Pacific and consider making these changes.

Morioka said that was his understanding. He asked for further discussion. Hearing none, he called for the question.

(Motion Carried)

Morioka said they had several others. He asked Paul to read them if the Chair did not mind.

McCoy said, no, no, fine.

Dalzell said that the first one is regarding the conservation of sea turtles, **the Council reiterates its recommendation to request NMFS that it be granted a seat on the Pacific Sea Turtle Recovery Team and participate in the updating of the existing sea turtle recovery plan.**

(Motion moved and seconded)

Morioka asked for discussion, comments. Hearing none, he called for the question.

( Motion carried)

Dalzell read: **The Council also recommends that it be granted a seat on any marine mammal recovery or take reduction team to participate in the development of any marine mammal recovery or take reduction plan.**

(Motion moved and seconded)

Morioka asked for discussion. He remarked that Paul dropped “also” after “The Council recommends”.

Ikehara asked the Chair if this recommendation applies to the Pacific. Or the Central and Western Pacific? Or anyplace in particular?

Simonds responded that it was their fishery because their fishery is Category I.

Morioka said that his understanding, and he asked Mr. Feder to confirm, was that there was no differentiation of a species in whatever ocean it appears. So that was how those animals are characterized, as he understood it, so wherever these things happen.

Feder said, no, he thought the marine mammals are managed on a stock-by-stock basis. So it depends on the species and it depends on the stock, as opposed to say green sea turtles that are listed under the Endangered Species Act throughout the world, not all species are --

Morioka asked if endangered Species was the one that was universal.

Dalzell said, yes. However, doesn't have to be, but for the turtles it was, it's global.

But for the marine mammal, they go by strategic stocks in the Marine Mammal Protection Act. The false killer whales around Hawaii, for example, are designated as a strategic stock.

Morioka thanked him for the clarification. He asked for any other comments?

Feder said that even turtles are divided into stocks for some species, and some purposes. For example, green sea turtles are listed as endangered if they nest on --

Dalzell said they were, however, under the recovery plans they're just viewed as a homogeneous lump.

Morioka said that was why they wouldn't consider our --

Dalzell interjected that it was interesting because it becomes schizophrenic in some ways. In the BiOp, they do talk about individual metapopulations. But under the plan they're listed just as globally at the moment.

Feder said, correct.

Morioka said, thank you. He asked for further discussion. Hearing none, he called for the question.

(Motion carried)

Morioka asked for the last item.

Dalzell read: **Given the data on marine mammal populations around Hawaii the Council recommends the participants in the Hawaii-based longline fishery be trained and encouraged to take photographs of marine mammals scientists need that can be used to identify and count individuals present in the area.**

(Motion moved and seconded)

Morioka asked for discussion.

Robinson thanked the Chair.

Conceptually, he thought this was a great idea, utilizing the fishermen to collect data. His only concern was that it be done in such a way that it was in a sampling design that produces scientifically-credible data.

On that issue, he would defer to Dr. Pooley as to whether -- how that might be structured or whether that can be pulled off or not. He supported it conceptually. However, he didn't know whether it can be put into effect quickly or not, without the Science Center.

Morioka said he understood, an element of training was needed. He thought that embraced all of that.

McCoy said that his concern was the harassment issue. That may create some interaction that may be considered harassment.

Morioka repeated, harassment.

Martin thanked the Chair.

He appreciated Bill's comments, and how the data could be incorporated into some kind of a model that was usable. He recognized that scientists think in different ways than fishermen sometimes.

He appreciated Frank McCoy's comments as well, that it could be perceived as some kind of a creation of, driving closer to a whale to try to get a better picture. He thought those were valid concerns.

In his comments earlier to Dr. Pooley, he was trying to say there was a resource of fishermen who spend more days on the water than any scientist or data-gatherers, and that if effective ways could be implemented to use that resource. He was just volunteering the industry as being more than willing, but actually anxious to help where they could and fill in some of these data gaps that were really the tough ones. This was a real tough one.

As they have learned doing these transects and looking for pods whales and spending 19 days and seeing one pod, was a graphic description of how hard it is. He was just offering the industry up as another resource wherever somebody might see it fit.

Simonds said that this recommendation was mainly for those trips where there are no observers onboard, the tuna trips.

Martin said, that's correct, because they have 100 percent coverage on the others. So it was to fill in that gap, that 80 percent of the deepset gap that exists in the fishery.

Morioka said he asked Paul to insert some language there to address the issue of a scientifically supportable regime. The insert was, "in collaboration".

But in collaboration with the Pacific Islands Fishery Science Center, you train and encourage the taking of photographs, so that there's some scientific validity to the process, if there is a regime.

He looked to his SSC colleague to help with language. He asked Dr. Severance if it was collaboration or under the guidance of?

Severance said he would prefer the term "collaboration" than guidance. Fishermen can make scientific observations. So working together, rather than one being held above the other is perhaps more appropriate for this.

Morioka asked if they saw a place for the NMFS, Fishery Service to participate in this effort. He asked Bill for his thoughts on that.

Simonds said that this was the NMFS Fisheries Service.

Morioka said, right, under Pacific Islands Fishery Science Center.

Simonds said, right.

Morioka said, but there was a concern --

Simonds asked, the region?

Morioka said, yes, the region.

Robinson said certainly, if collaboration with the Science Center produces a role for the Regional Office's observer program or any other of its functions, they were more than willing to participate.

Morioka said that if the maker of the motion and the person seconding the motion would look at that phrase and see if that was agreeable, he would request a motion to modify.

Duenas said, no objection.

Morioka said, no objection.

McCoy said, motion modified.

Morioka asked Paul to remove the parentheses. He asked for further discussion. Hearing none, he called for the question.

(Motion carried)

Morioka said, sorry, go ahead Bill.

Robinson said he was just making a joke. He noted that it is now time for lunch.

Martin said that was better than what he had to say.

Morioka said, more like dinner.

Martin said that there was one activity that the Council has heard and worked on in previous meetings that maybe slipped through the cracks in this meeting both here and through the SSC, and that was as related to PFADs, [ ] paluahi handline seamount fishery. As they have seen from presentations earlier this afternoon, bigeye tuna and yellowfin stocks were really becoming of critical concern to all in this room. The current PFAD seamount fishery that exists, at least in the Hawaiian EEZ takes significant numbers of juvenile bigeye tuna and yellowfin.

He knew that Dr. Severance has been active in working and trying to understand this fishery. They have had discussions about identifying PFADs as fishing gear. There was also a reporting gap for the seamount fisheries, and he would like to get that back up on the screen as they start talking about potentially dividing up a bigeye and yellowfin resource that appears to be in decline. He thought it was important that they be diligent in addressing all of the fisheries that within the entire purview of the Council that have impacts on those bigeye and yellowfin stocks.

Morioka said he believed there was an action in the books.

Simonds thanked Sean. She asked Eric to please come and address this, because any action that was provided to him would also be provided with a status report.

She added that the first thing they did was sent to Bill Robinson a letter and asked him to address this in the Supplemental EIS. But both staffs have had meetings since that letter of July 1, but they didn't know what happened after that.

Kingma said originally PIRO had a contract. They consulted to analyze several issues, including PFADs, seabirds and squid, and to fast track the seabird and squid EIS the measure were separated out. So the SEIS that they were just discussing only contained seabirds and squid.

Subsequently, in this August 20th meeting they discussed that any of the other issues that were to be analyzed would be dependent on Council action and they would decide who was going to analyze those in any NEPA documentation. So it was not decided.

Depending on Council action, they would take necessary steps to do a NEPA analysis. But at this point it was undecided who was going to do that, as far as between offices. However, it was likely to be a collaborative effort, and depending on Council action, just exactly what you are planning to do with --

Morioka asked what kind of action he needed to facilitate this activity.

Kingma asked, to list that as a fishing gear?

Morioka said that the Council took action and directed him under 10.G, whether or not an EIS will be needed to be drafted for Private FADs to become a federally regulated activity. So --

Kingma said they did scope some of these issues when they went around the region last year. At that point he thought it was still not determined because it was still relative to Council action. If the recommendation is to designate it as fishing gear, they still need a little bit of time

to figure out really what that means as far as the NEPA analysis and documentation, whether they can do that in an environmental assessment or an EIS.

Simonds said that the Council voted to move forward with defining FADs as a fishing gear. What they were doing was trying to work with the Regional Office to decide whether or not there should be an EIS or an EA. That was the part that hasn't been completed with the Regional Office. So the Council has already acted. Bill needs to answer the July 1 letter.

Robinson said, so noted.

Morioka said, thank you very much.

Martin said he wanted to remind everyone that although they talk about PFADs and FADs themselves, in his vision they were talking about much more than that. They were talking about the seamount fishery and the paluahi fishery. He cautioned them not to be limited to just FADs or PFADs.

He would expect that it was a relatively small number of boats that participate in his vision of the fishery, it might be 15 or 20 vessels. In pieces of fish, although he didn't think there was any accurate record, the number of fish those vessels take was most likely higher than the number of the entire Hawaii longline fishery takes of bigeye and yellowfin. So it really was an issue and of the utmost urgency that they be attentive to it, post haste.

Severance seconded Sean's note here that it's broader than just the PFAD fishery, that the other fisheries are also important. There was a real lack of data and information. As he noted at the previous meeting on the PFAD fishery, there was a lot of secrecy, a lot of misinformation, a lot of misdirection, and it is going to be pretty sensitive.

But the contractor who did the squid work is well networked into that community. He's even been offered an opportunity to do some research on some of the boats.

On other boats, that will not be possible at all. It will be very difficult to get information from some of the other boats.

In addition, there's a PFRP project starting up to assess the decline of the ika shibi fishery on the Big Island and the focus is going to be on Hilo and the Kona side. The contractor for that project is appropriate in terms of culture sensitivities and ability to work with fishermen that's needed in that kind of project.

But he suggested that it was very important to move forward, but not put PFAD at the top of the flag, put tuna handline of all forms at the top of the flag, especially because now the winter fishery is going to be increasing again. There have been reports of some additional incidents, including one person taking a GPS off another person's boat to get the coordinate, and then the other boat being there waiting for him to show up.

Morioka said, ugly.

Severance said that it could get a little bit ugly again.

But there is a natural attrition, too. They were pretty expensive if sonars are put on them, and people are losing them fairly regularly, too.

Morioka said, thank you.

Severance said he would appreciate, with all respect to whoever commented, he was merely helping in this and on the edges.

Morioka said, thank you.

Severance said that he would rather not have a public role.

Morioka said, appreciate.

Severance said he said that for the record.

Martin said his comment was that Severance was familiar with it. He left it at that.

Ikehara said they have been getting reports that there was increasing use of the short line as opposed to longline. It was shorter than one nautical mile longline that was permitted, and it was not defined as a longline under State and Federal regulations. However it was defined, there seems to be no cap on how many short lines a boat can set. So some of these boats are setting multiple short lines as opposed to a float line, which is vertical. These are short pelagic longlines.

This was not an unknown technique, it's been used before. But they understand it is gaining avid popularity and they are catching a lot of fish and they're using it in the offshore areas and around FADs. So it is not just handline. It is associated fisheries that are basically nonlongline, nontrolling kinds of fishery.

Martin said he would concur with what Walter said. He knew of at least four boats that operate out of Oahu in that direct fishery and in that direct fishery is short lines. In some cases, multiple reels, but putting out less than one nautical mile, which alleviates them of permit requirements. In at least two of the cases the vessels were former longline permit holders who do not hold longline permits anymore, but actually have reconfigured and are doing it a different way.

Morioka said, thank you. He begged the indulgence of the Council inasmuch as this language is being formulated and they had several more agenda items to cover, He called on Council Member Ebusui.

Ebusui said he was signaling Mr. Farm.

Farm added that the former longline people are now able to fish within the 75 mile or 50 mile restrictions in the State waters, whereas, the permittees have got to be outside. So they're competing with the small boat recreational subsistence fishery.

Morioka said, points well taken.

Martin said by regulation, he believed that was true. He was not under the impression that that was the regions they were working, but certainly they could be and may be. He thought they were more focused on weather buoys and seamount.

McCoy said he was going to say the markings and all this, if the float gear was found, then –

Martin said that by definition, they're not longlines. So the longline rules and regulations, including the reporting, are not required.

Severance said they are short surface lines with multiple hooks.

Morioka said why not use, alternative gears not addressed in current FMPs. Not specifically.

Morioka said the Chair wished to recognize one of the founding Council members of the Western Pacific Regional Fisheries Management Council in attendance, Mr. Peter Fifian. He asked Peter to stand up and take a bow.

Fifian said he will keep coming back for another few years. He told them to keep going, he could hear a lot of brainpower working here.

Morioka thanked him for his interest.

Simonds noted that he was the grandson of the Peter Fifian of 1976.

Fifian said, thank you.

Morioka asked Marcia if she had a comment.

Hamilton said that she and Mr. Feder were trying to remember the definition of longline in the Code of Federal Regulations. Unfortunately, neither of them remembered exactly how it refers to the length.

However, she wanted to clarify one small thing about regulating in NEPA, if they talk about declaring PFADs as a fishing gear, Judson saw they don't need to do NEPA just to declare the fishing gear. However, to regulate them, they will.

So, maybe that was a good reason to do a NEPA analysis, to look at the broad range.

Morioka asked Paul to read the motion.

Dalzell read: **The Council recommends that an assessment of the impact of tuna handline fisheries, including paluahi and PFADs and other nontroll, nonlongline gear, for example, one nautical mile in length, on bigeye tuna and yellowfin tuna resource. Currently there is little known about the true level of catch and effort in these fisheries.**

McCoy asked if it was one nautical mile, or their definition was under, or less than.

Morioka said it says less than up there. Resources. Thank you.

Ikehara wanted to point out that the first sentence has no verb.

Morioka said, thank you.

(Motion moved and seconded)

Morioka asked for discussion. Hearing none, he called for the question.

(Motion carried)

Morioka requested a three-minute recess.

(Brief break taken)

## **12.A. Program Planning, Update on Legislature**

Morioka called on Manny Duenas for Program Planning

Duenas thanked the Chair and called on Ms. Simonds for the Update on the Legislature.

Simonds thanked the Chair. She thought all of them had the legislative report. She asked if the had any questions and remarked that this was the second year of the Congress so all of these die if nothing happens to them, and thank god for some of that.

Duenas asked for any questions for Kitty? Having none he moved on to Item B, Status of Hawaii \$5 Million Disaster Funds and Walter.

## **12.B. Status of Hawaii \$5 Million Disaster Funds for Federal Fisheries**

Ikehara asked the members to refer to the report of the committee, he thought there were a couple paragraphs that should suffice.

Duenas said, thank you, Walter, for such a comprehensive report. He moved on to Item C, West Pac FIN, and Dave Hamm.

## 12.C. WpacFIN

Hamm thanked them for staying. He explained the status of West Pacific FIN. He prefaced his report with the fact that whenever they have made site visits they do all of the hardware, software repairs, updates, all of those sorts of things.

In American Samoa, one of the major topics worked on this last time was implementation and design of the new Tutuila and Manua inshore creel surveys. They do have, as Alofa said on Tuesday or Wednesday, a new biologist hired, Sabrina Mainer.

They worked on new sample designs and strategies for implementing that system on Tutuila. They wanted to do both day and night surveys, which they've started. Some of that, they were still working on the sampling strategy that was going to work with the staff that they have.

They have a new processing system under development.

Market sampling has started. There is so much import fish coming in and so little local fish, especially in the reef fish area nowadays, that they were investigating ways to come up with a good sampling strategy for the market size frequency sampling that they would be doing down there.

On their last trip he brought the division GIS programmer. They were working on that cooperative arrangement with Ray's new GIS programmer, Frances Riolo. She will be coming up for a week to work with them. Mike Seki has agreed to pay for that because he has hopes of getting into the oceanographic stuff. She's a real sharp lady that is well respected in the community and some really neat products already.

They have implemented the improved vessel activity tracking system at the PIRO office down there, in Gordon Yamasaki's office. Gordon tracks all of the vessels coming and going, and they are using that in Ray's office to improve the monitoring of the longline fishery.

In Guam, at the Division of Aquatic and Wildlife Resources, staff changes were a major impact. First, the PIRO has stolen their chief and now has Jerry Davis working in their PIRO office here in Honolulu. Trina took over as the acting chief and has since, as of early October, departed and now works for Nature Conservancy. Tom Flores is acting as the Fisheries Supervisor. Tino, the wildlife officer, is now acting as the chief. While he was there, they discussed some reassignments for plan teams to make at least the participation on one of those or two better and some other reassignment of duties within the office in this transition time.

They have a new design and also designed a Coral Reef Monitoring Program for them. This is primarily geared towards their MPA monitoring systems that they are doing, also some work at the other Guam agencies that are doing reef surveys there.

The offshore creel survey was migrated. Phase 1 of the data entry side of things is in the data test phase.

Bureau of Statistics and Plans have moved. They're now at the Governor's Complex. They were operating out of boxes and had a couple of computers working. But the main thing that's going on is the international trade permit that is coming through, and statistical documents for bigeye tuna, swordfish and bluefin tuna. The final rule is going to be published in November and they are working with Adrienne, the Governor's office, and Bill and Gerry, who laid some increased acknowledgement of this problem that is pending. They need to improve the monitoring of those foreign-landed pelagic species.

In CNMI, major upgrades to the offshore creel and the document imaging and archiving system. Inshore creel survey was being designed. They have had preliminary discussions and scoping of the methodology that may be used. Implementation and the finalizing of the design were pending until they get some additional funding and hire staff. They plan to hire one biologist and two data technicians dedicated for that new program.

This is supposed to be both a day and night survey, focusing on the leeward or lagoon side of Saipan, out to 100 meters. This is going to require extension of the offshore creel survey, as well, and the boat-based creel survey.

They modified and installed the Guam's inshore creel survey on a computer there so they have an idea of what's coming up.

Hawaii: mostly upgrading and modifying their main systems of the document imaging and archival system, fishery reporting system and dealer reporting system. One of the new projects that was significant was the replacement of the Northwestern Hawaiian Islands bottomfish fasttrak system, which was converted to Visual FoxPro. That system is for the limited entry bottomfish in the Northwestern Hawaiian Islands.

HDAR is eliminating in the near future, the trip sales requirement for that fishery. They're replacing that with the fishermen just having to say what dealers they sold to and a list of license numbers. This will in theory give a direct link from that fisherman's reports into the dealer data so that we can use new integration algorithms to integrate those two datasets to put the value in the rest of that.

In theory, this is going to reduce fishermen's reporting burden because they don't have to tally up all the data themselves. It should increase the data quality. The caveat being that integrating two data systems and bringing those two datasets together has a whole new bunch of challenges with it. But they are working on that with Walter's division, Reggie's group, for all of the fisheries. So this is a simple test case because this is a small fishery and it's federally-managed. They have the force of federal law carried behind the enforcement and the reporting side of things. So they were hoping that this is going to work out well.

They are continuing major programming for the other data integration algorithms. That's a difficult and complex procedure. This is taking dealer data as the major source for the sales information, fishermen logs from various forms that HDAR collects, and then federal longline laws, putting those catch data together with the sales data to make estimates of the fisheries, by

fisheries, the value of the fisheries and where fish are being caught. It is a significant undertaking.

They also have one programmer working on automating the Plan Team reporting modules for the State of Hawaii. That should improve and they are making good progress. So hopefully by this next go-around, that will be a lot easier process for Plan Team members.

One of the biggest problems is vessel level reporting in the State of Hawaii. All of the State data are collected on fishermen reports. Fishermen license level. Not vessel level. Most of the data requests from Headquarters and for fisheries of the United States and other things, require vessel level reporting. It's been difficult to go from fisherman license to vessel. So he encourage work with the State of Hawaii to replace or augment their fishermen license system with a vessel permitting system and reporting at vessel level, that would simplify things considerably.

There is an ongoing historical data quality control project with Reggie's shop for all historical data, that's being done under contract.

The website has a new address. The old one should point to this new one. The old one is going away. The new site is now under the PIFSC, NOAA, and West Pac FIN website. There is a new look which standardizes the pages to look like the rest of the header information for all PIFSC Divisions. They are modifying all the West Pac FIN member island agency pages as well for a standard look. As time permits, they will solicit comments and suggestions. If there is some other data report or graph they would like to see in there, they just have to ask for it and they will put it on the list of things to do, and eventually it will get done.

Plan Team support: He just checked the website and was pleased to see that all of the Plan Team annual modules are in for the bottomfish and only Hawaii is missing for the pelagics. West Pac FIN has given support to the islanders to get their modules in.

They also provided to the Council staff a significant amount of summarized coral reef data they will be using for analysis, putting in to trophic levels.

He has attended a number of meetings; SCTB, the National FIS meeting, Fisher Information System meeting, in Seattle where he submitted six abstracts for project funding. It's possible they provide some funding and they would be able to attack some of the unfunded needs that we know we have here.

Budget status: All of the cooperative agreements were awarded for '04 and '05. They will probably need to get proposals in some time in the first quarter so those can be allocated. They should expect either an FDCC meeting or else they will have to work out budgets via e-mail.

They were under a continuing resolution, and should expect level funding. And his centralized shop central took some extra hits last year because of rescissions that came after the allocations. That was the second year in a row that they ended up short, and it is impacting them.

Duenas thanked Dave and told him that was 22 minutes.

Hamm said there were a few things he forgot.

Duenas asked if there were any questions for Dave.

Ebisui asked with respect to the report on American Samoa, he spoke of the imports or import reef fish coming into American Samoa. Where do these imports originate from?

Hamm replied primarily Western Samoa now. In the past there was a lot from Tonga. But he thought it was mostly Western Samoa coming over on the ferry.

McCoy said their immigration allows for a certain amount of Western Samoans to come over and work. Some of them have established themselves to the point where they own businesses, small stores, bush stores. They have a family. So it's actually part of an extended family effort to build the business up in American Samoa and the revenue probably does go back, but there are a lot of cultural exchanges there. He didn't know what could be done –

Hamm said he didn't think it's a bad thing. That means the fish are coming from someplace else and he was not depleting his own resources.

One of the problems ten years ago was the scuba spear and then the influx of a lot of the Tongan fishermen that came in and really started expanding that. So scuba spear, banning that has significantly reduced the amount of local fish that's available. So some of those same folks are still doing nighttime spearfishing, but not scuba and it has reduced the amount of, quote, local fish that are being harvested.

Duenas asked for any other questions for Dave.

Simonds asked about the status of work being done on a trade issue. The purse seiners were exempted and they said the longliners should be exempted too. So what's happening?

Hamm said the final rule has been reviewed. The final rule is supposed to be published in mid November. The State Department agreed to this. It's an IATTC agreement that's being implemented worldwide, regardless of --

Simonds said, right. She asked him to recall his work with Ray and discussions with a person on the East Coast, who was dealing with this.

Hamm said, yes, for two years almost now. It's been a tremendous amount of work that we have recently --

Simonds asked, so were they getting the exemption?

Hamm said that earlier this week they sent in final comments from PIFSC on the description, and that's going to go into the Federal Register and what the final rule is going to be.

Simonds asked, so what happened?

Hamm said that the rule is being implemented, and for Guam, they are -- it's hard to see, but --

Simonds asked, frozen only? She said he could talk to her later.

Hamm said that there is an exemption for fresh bigeye tuna.

Simonds said, fine. Okay. That's good.

Hamm said, frozen bigeye tuna only: any bluefin tuna, which there's already an international rule for tracking bluefin tuna, any swordfish. There's also currently written into it an exemption for transshipment fish, although Japan, which is where that fish is going, may still require the statistical documents, and everything, for that. There will still be a trade permit required for the agents or whoever is sending the fish out. So we have to work on improving the monitoring system for that.

The reject fish is going to be a real problem. That's a touchy situation, as both Manny and Adrienne will recognize. The reject fish that stays on Guam is the problem where we have the biggest puka in the monitoring program.

That fishery is gone -- that part of the industry has gone from almost nonexistent to over 50 percent of the rejects are staying on Guam, not being shipped out, according to the statistics. But there are problems with the quality of some of those statistics.

He thought they had six months after the final rule to implement how it would be tracked.

Simonds said, thank you.

Duenas moved on to Item D, NEPA activities with Eric Kingma.

### **12.D.1. Fishery Ecosystem Plan Scoping**

Kingma said they were planning for the Programmatic EIS Part of the NEPA requirement is to do scoping. But they were still thinking the Programmatic EIS will be used as a planning tool, a broad-scale analysis to analyze the implementation of an ecosystem-based fisheries management. Still thinking that subsequent tiered analyses will follow the Programmatic EIS for whatever delineation of the ecosystem they will follow.

The pilot project in the Mariana Islands and the information gathered was going to be useful in the baseline of the ecosystem. Scoping meetings will be conducted throughout the region. He would provide the schedule later.

These are the categories for preliminary alternatives:

- One, of course, will be the actual delineation of the ecosystem, how are we going to define those boundaries. Those are just examples, of archipelagic, seamounts or the EEZ jurisdictional.
- Management unit species: that would be an important category for alternatives. What exactly are they going to manage and how are they going to manage those species, and how they interrelate in the ecosystem context.
- Environmental indicators and management response: The Mariana Pilot Project is gathering this type of information. Response mechanisms related to those indicators is also an important thing to analyze, such as for each situation, how are you going to adapt with management.
- Community involvement is a very important issue with ecosystem-based management. The community is going to be involved in, monitoring, research and cultural use.
- Council advisory bodies: This Programmatic EIS at a program level, it's important to analyze how they were going to conduct the Council process in the future. That's just an example.

It was good to leverage the opportunity to talk to the public, they were going to talk about bigeye tuna, yellowfin marlin management, marine mammal mitigation and rec, which was going to be changed to just general recreational fishery data collection, all the issues they have talked about this whole week.

He presented the revised scoping schedule starting in about a week and a half around the region.

### **12.D.2 Upcoming Actions**

Other NEPA activities were discussed this morning: Bottomfish FEIS, Crustaceans and Precious Corals, the last two of which were drafts. The draft has not been reviewed by the public but bottomfish has. They were awaiting publication of all three. In mid September all three were transmitted to NOAA Headquarters, they're still being reviewed by NOS.

The Northwestern Hawaiian Islands Fishing Regulations Working Group was going to be a planning activity of NEPA. The first meeting would likely be the week of October 25th. Some of the major tasks would include developing a reasonable range of alternatives and an appropriate timeline.

NEPA training for staff with PIRO and the Science Center and Council would be conducted on November 8th through the 10th. The training was going to focus on alternatives development and analysis, something that was important to a lot of the respective offices.

He asked for questions.

Duenas asked if there were any questions.

Simonds added that they were considering hiring a facilitator for the meeting to be held on the week of October 25<sup>th</sup>.

Kingma added with regard to the Private FADS that the analysis that was mentioned in the recommendation was not going to be a NEPA analysis. That is a separate assessment to gather information, and depending on Council action after that, they would determine the appropriate NEPA analysis.

Duenas thanked Eric and asked for any further comments or questions. Having none, they moved on to the next item, E, Programmatic Grants Report and Kitty.

### **12.E. Programmatic Grants Report**

Simonds directed their attention to 12.E.1. There they would find a list of all of the cooperative agreements and all of the projects that are being paid for. If they had any questions, they could ask her.

Duenas asked if there were any questions for Kitty. Having none he moved on to Item F. Scott Bloom was supposed to do this, but he's not here today, so he moved to Item G.

### **12.F. NOAA Omnibus Grants**

Simonds called to their attention 12.F.1. She said the reason they put this in was that NOAA has really gotten organized about all of its grants so that they could review it and there might be something that they or their community would like to do. It's all in here, deadlines, projects, whatever. It's really great.

Duenas asked if there were any questions for Kitty. Having none, he moved on to item G, Joint Pacific and Western Pacific Council Meeting.

### **12.G. Joint Pacific and Western Pacific Council Meeting**

Simonds said this was already discussed in the pelagics session. Don McIsaac and she were working on putting together this meeting. They will start with a small working group from both councils. Of course, they want to meet in Hawaii and the Council wants to meet in Seattle. So they will have to decide what happens.

Ebisui he thought it was cheaper for them to go to Seattle than to bring all of them to Hawaii. He was serious. Guam, American Samoa and CNMI have to come to Oahu, so she could compare transportation costs.

Simonds said, thank you, Ed.

Duenas said, no questions. He called on SSC recommendations and Tony Beeching.

### **12.H. SSC Recommendations**

Beeching asked, for?

Morioka said, the Ocean Commission Report. This had been covered under 5.C. This was the SSC recommendation with regard to the Ocean Commission Report. The recommendation of the SSC was that the Council adopt these. He asked if they had a chance to take a look at it. He believed it had been circulated. He asked for a motion to adopt the SSC's recommendation?

(Motion moved and seconded)

Morioka asked for discussion. He called for the question.

(Motion carried)

Morioka asked if there were any Standing Committee recommendations.

### **12.I. Standing Committee Recommendations**

Duenas said there were ten Standing Committee recommendations.

Beeching said that there were 12 in total now. The action memo was the best thing to refer to because that includes the table with the proposed items.

Duenas asked him to put it on the screen and go from there.

Morioka said it had been recommended that they do the administrative matters portion. They have no public and there was no need to request public comment.

Duenas said, no objections.

Farm asked if they were going to handle the shark issue.

### **12.J. Public Comment**

None taken.

### **12.K. Council Discussion and Action**

see 13.H. Council Discussion and Action

Morioka said they would come back to that. He said they would deliberate all of the Council actions at the end to make it simpler. Morioka called for the financial reports.

### **13.A. Financial Reports**

Simonds said they have read them all. They also had the Council's proposed budgets for '05, '06, '07, '08, and '09. Also attached was the budget process that they all went through, the NOAA budget process. They based our budgets on those figures.

It was the three Pacific Councils that have asked for most of the money. They felt they were growing and needed to have funds to do different kinds of things.

Morioka thanked Kitty and asked for any questions. Having none, he moved on to Item 13.B, Administrative Report.

### **13.B Administrative Report**

Simonds said she meant to say that all of the reports, both financial and administrative were attached and she knew that they had read them all.

### **13.C. Meeting and Workshops**

Morioka said that everyone had received a copy of the meeting and workshop lists. Their desires could be made known to the Executive Director for consideration.

Simonds said she wanted to highlight two meetings: the one that they were going to next week, and then they all may be called on to speak next week. So be ready.

Morioka said he had been called on.

Simonds said thank you. The other meeting was the Second U.S. Managing Fisheries. It was going to be in March in Washington, D.C. at the same hotel. She had already volunteered some of them for this, including the Chair. It is going to be handled like a Council meeting. So there was going to be Council Members, SSC, Plan Team, and AP. Bill Robinson, Sam Pooley, and she have submitted some names. But Morioka was the guy as the Council Member. She said that there were going to be tough issues.

Morioka said thank you very much.

### **13.D.1. Advisory Group Changes, Council Advisory Group on Marine Mammals**

Simonds said that Paul Dalzell already reported on the progress.

### **13.D.2. FED Advisory Groups**

Morioka said, thank you. He asked, FEP Advisory Groups, had Tony report on this?

Simonds said the Chair had a draft list of potential members. Both Sam Pooley and Bill Robinson recommended two people so far. They were going to meet again and complete this list by the end of December so that this group could get going.

Morioka said, thank you. He asked for Advisory Panel Appointments and Mark.

### **13.D.3. Advisory Panels Appointments**

Mitsuyasu said they had the matrix and that they would be voting on it in a few minutes.

Morioka appreciated all of the vice-chairs and, in particular, Vice-Chair Farm's efforts to facilitate this. He asked if Council Member Farm had the list and what the document number was.

Farm replied, 13.D.3.

Morioka asked if he would make it as a motion to accept.

Farm said, so moved.

Duenas said, second.

Morioka asked for discussion.

Farm called for the question.

(Motion carried)

Morioka moved onto the American Samoa appointment to Coral Reef Ecosystem Plan Team and Jarad.

#### **13.D.4. American Samoa Appoint to Coral Reef Ecosystem Plan Team**

Makaiau said they needed a member from American Samoa. At the last Council meeting it was recommended that Fatima Sauafea be appointed, but she has been hired by National Marine Fisheries Service, Pacific Islands Regional Office. They had requested that Ray appoint someone else to the Coral Reef Ecosystems Plan Team. He spoke briefly with Alofa and he indicated that he discussed a selection with Frank McCoy, who has a list of people.

McCoy said he was sorry that he didn't know who.

Simonds said maybe Alofa didn't speak with Frank McCoy.

McCoy said, no, he didn't.

Simonds said they would have to deal with this through e-mail.

Morioka said they would table this matter and have staff handle it. He called on Kitty to do the Turtle Advisory Committee.

#### **13.D.5. Turtle Advisory Committee**

Simonds thanked the Chair. She referred the Council to their briefing book and a CV for Nicholas Pilcher, who they would like to add to the Turtle Advisory Committee because he brings in the rest of the Southeast Asia part of the world that is missing from their TAC.

Morioka said, thank you. They had a motion to accept Mr. Pilcher's nomination to this Turtle Advisory Committee.

(Motion moved and seconded)

Morioka asked for discussion. He called for the question.

(Motion carried)

### **13.D.6. CDPP Panel Recommendations**

Morioka said that they all had the CDPP Panel Recommendations in front of them and asked Charlie to identify the folks.

Ka'ai'ai explained that the CDPP Advisory Panel was an ad hoc committee that reviewed and ranked the applications for the Demonstration Project Program. They also establish criteria. They serve a two-year term. There are two members from each island area, and some of the island areas elect to have an alternate, which helps in getting people in to do the work with the CDPP. They were:

- From American Samoa, Anthony [] Lankit (phonetic) is the alternate. Samuel McGill and Sabrina Mariner are members of the project panel;
- From CNMI, Mike Fleming and Maria Pangelinan are the members. Nino Lolopai is the alternate;
- From Guam, Judith Amesbury and Terry O'Brien are members. Mike Dowell and Judith Guthertz are the alternates;
- From Hawaii, Luna Halinia and Clement Kanuha are members.

Morioka said, thank you. He asked for a motion to accept the CDPP Advisory Panel membership.

(Motion moved and seconded)

Morioka asked for discussion. Hearing none, he called for the question.

(Motion carried)

### **13.E. SOPP Changes**

Morioka called for the SOPP changes and said they needed to come back to Advisory Panel appointments.

Simonds said, you voted.

Morioka said, okay. Thank you. He called for the SOPP changes.

Haleck said just the spelling, it was L-A-U-L-A-O.

Morioka said, thank you.

Simonds said okay. They had a couple changes to their SOPP. Following a grants meeting in Massachusetts on SOPP, they were removing the phrase that reads, up to 26 percent of total compensation, because that has been moved to 36 percent. They were just removing that part of it.

The other thing they wanted to add in, in terms of compensation under the Council member heading, was to add meetings with the Executive Director.

The MPA policy they had just voted on would be attached to the SOPP.

The SSC wanted to have a broader explanation of their duties. So they were going to work on something, because they thought the little paragraph that's in the SOPP now doesn't really reflect what they do. They would like to see it broadened. They will work on that for the next Council meeting.

Morioka thanked Kitty and asked for questions. Hearing none, we'll move to Standing Committee recommendations. They are all on this one list of 10 items on their document.

Simonds asked Tony to be sure they have the correct copy.

Morioka asked Tony to put them up.

### **13.F. Standing Committee Recommendations**

Morioka said that the first item up there from the Standing Committee, was to recommend to the Council to have staff use D-ring binders instead of the current O-ring binders. He asked if they needed discussion on this one.

Farm said it was further recommended in this same area that they can leave it up to the Executive Director. However, if they had something that's as large a volume as they had this particular meeting, that perhaps they can break it down into three binders, one for each day, type of thing. So in front of the Council they would have that day's binder and in the back the backup stuff.

Simonds said they would try to do that. However, did they realize how many of these documents came in late? But they would try to do that.

Morioka said, thank you. Appreciate that. He was going to ask for approval of all of these at one time.

The next one was to approve travel and per diems for community representatives to attend major turtle meetings as observers. He called for discussion.

Farm asked if there was any limit to this or just leave it up to the Executive Director? He noted there could be 100 people come in.

Simonds said, Frank, no discussion.

Farm said, okay.

McCoy said, Director's discretion.

Morioka said the Council approves who's going to be going and know who the representatives will be. So it would be controlled in that manner, Council Member Farm.

Number 3, approving the appointment of Island Representatives Risa Grace Oram, John Gourley and Jay Gutierrez to the Council's Marine Protected Area Working Group. He asked for any discussion.

Next, the approved appointment of – he said they already did this. He asked Tony to drop number 4.

Recommend the Council's Executive Director will work with the Pacific Islands Fisheries Science Center Director and the PIRO Administrator to establish the Council's Fishery Ecosystem Plan Working Group by the end of the year. Morioka asked for discussion.

Next, recommend the Council direct staff to draft a mariculture and aquaculture policy document for approval at the March meeting. He called on Council Member Ebisui.

Ebisui was wondering if someone could tell him the difference between mariculture and aquaculture.

Morioka explained that mariculture deals with marine environment and aquaculture has traditionally involved land-based -- like fresh water. He asked if that was sufficient.

Ebisui said, yes.

Morioka continued saying: "Recommends Council to approve compensation for Council Chair's Meeting with the Executive Director being included in the SOPP.

Next was the Council approved inclusion of the Council MPA policy in the Council SOPP.

The Council approve the change of page 4D4 of the Council SOPP removing the total benefits exclusive of FICA shall not exceed 26 percent of salary. He asked for discussion.

Council approves the change of page 17 of the Council SOPP and number five -- is that properly Executive Council -- Executive Director Council, he asked. On number 9, the last one, after the word Executive Director.

Morioka called for order. He asked Judson if he had a comment.

Feder asked, that's number five?

Morioka said they had taken action on Number 10, and on Number 11. He omitted number 9. Since they had been through 1 through 8, he called for the question on those items.

(Motion moved and seconded)

### **13.G. Public Comment**

None taken

### **13.H. Council Discussion and Action**

Morioka asked for further discussion. Hearing none, he called for the question.

(Motion carried)

Morioka noted that they would complete unfinished business, while waiting for Number 9 to be formulated. He called on Council Member Farm for the item he had to discuss. He thanked him for his speedy response to his request to sign up for the various committees. The Chair would review them and then it would be circulated to them. He asked Ms. Simonds about the additional piece of unfinished business.

### **14.B. Approval of the Guam MCP**

Simonds said it had to do with the MCP. Judson wanted to make sure that Sea Grant was included because it's in the legislation. They have checked the MCP and actually it was there. So they could go ahead and approve the Guam MCP as presented. That's what needed to be done, so they could send it back to the Governor and the Governor can send it to NOAA Fisheries. That has to do with the Marine Conservation Plan for Guam.

(Motion moved and seconded)

Morioka called for the question.

(Motion carried)

Morioka then called for the next item, shark tours.

#### **14.C. Shark Tours**

Frank Farm, Hawaii representative, reminded council members that at the 123rd meeting, there was discussion about the shark tours off the North Shore of the Island of Oahu. The discussion centered around shark viewing activities and how they seem to affect fishermen in other fishing areas. There are also safety concerns for surfers and there have been more frequent sightings of shark activity in the area by divers. The Council had requested a legal opinion from Judson Feder.

That legal opinion says that the shark viewing operations do not fall under the Magnuson-Stevens Act (M-SA). Mr Farm did not agree with the legal statement, which he noted is an opinion.

Farm stated that the problem still exists, and said that if the Council can't act under M-SA, then they should recommend that the State of Hawaii should take action.

Farm stated that he had spoken to and recorded the comments of half-dozen fishermen from the area. The (primarily akule) fishermen said that in the area of the shark viewing, their operations were experiencing increased frequency of interference by sharks. In their view these particular sharks are conditioned because just a little further out they are fed almost on a daily basis and they remain in the immediate area. It was noted that divers too are concerned about shark sightings, and Mr Farm reminded everyone that last week there was a shark diving incident on Molokai where a diver's shoulder and part of his face were bitten, and before that, there was an incident on Kauai where a girl lost her arm. It was mentioned that on the Skin Diver program, Channel 16, there are pictures of divers in the company of half a dozen or more sharks. These divers also report that they are seeing sharks more often.

Farm added that during the reports of the island areas, there is more concern about sharks, and he observed that at the last three social events he attended, there was a moment of silence for those who were killed or lost at sea.

Farm's opinion is that shark viewing does somehow affect the fishery because it is, for example, altering the behavior of the akule fishermen and dive fishermen in the area.

Ed Ebisui, Hawaii representative, who was with Farm during fishermen interviews, added that he had seen a Hawaii Goes Fishing video, detailing the release of opakapaka, noting that the same program filmed a video on the shark tours, and most of the sharks were trailing lines, had multiple hooks in their mouths, indicating a lot of interactions between shark and fishermen.

Ebisui said that regulations would be good for the sharks, because if government action isn't taken, then local fishermen are likely to cull the sharks; he added that it's possible that a shark fishery might develop as it already has on the mainland. Therefore, in Ebisui's opinion, regulation would protect people (in general), fishermen, and sharks. Therefore the Council should follow the example of the State and prohibit this kind of activity. Finally Ebisui stated that with all due respect to Mr Feder, the Council should move forward, and Washington should advise the Council if their actions don't fall under the M-SA.

Judson Feder, NOAA Legal Counsel, explained that whilst he understood the view of Council members, and recognizes that there is a problem, he nevertheless stood by his opinion regarding how the Magnuson-Stevens Act can be used to regulate that activity.

Frank McCoy, American Samoa representative, asked if action could be taken if there is a clear and present danger?

Council Chair, Roy Morioka, following Ebisui's comments, reiterated that there may be a potential for shark fishing in Hawaii, and in that case there would be fishery management considerations which would fall under M-SA.

Ebisui agreed and mentioned that sharks are already a management unit species under the pelagic plan.

McCoy agreed too, saying that since anti-shark finning regulations were introduced there are now too many sharks.

Morioka noted that the Council recognized that certain species of sharks were very slow growing, with a low fecundity. So impacts on shark habitat and potential shark fishing opportunities should be considered by the Council.

Ebisui stated that he wished to see the activity stopped, as has happened in state waters; the State was looking for complementary regulations in the federal waters. He pointed out that there are currently two shark viewing operators, and that the operation could expand because the current operations are working to capacity. He believed that the current rates were approximately \$75 per person, and since this is a lucrative business there is likely to be an expansion of these sorts of operations.

Ebisui tabled a motion saying that Council should direct staff to make any necessary studies and continue toward promulgation of regulations, that would prohibit the activity and be consistent with State action.

Manuel Duenas, Guam, seconded the motion.

Walter Ikehara, Hawaii Department of Aquatic Resources, supported the motion.

Feder asked Ikehara if the State regulation stop at the outer boundary of the State?

Ikehara explained that the law unfortunately defines it as an activity within State waters.

Feder observed that although it currently extends to three nautical miles, it could be extended to beyond three nautical miles.

Ikehara agreed saying that the Council might recommend that the State amend its law removing the limitation of 3 nautical miles. He also suggested that the Council could express its concern over this particular issue, concurs with the State in that there is a potential safety and marine resource issue, and recommend that the State take action to obtain the authority to regulate these types of activities in State waters and beyond through issuance of permits and other regulatory measures. Ikehara understands that the Boating Division, which handles permitting of activities, does not have the specific authority to regulate or limit shark viewing activities; the division only issues permits to allow use of State facilities, but it has no authority to either limit or to manage them in any particular way.

Ebisui stated that his personal preference was to deal with the problem directly rather via a circuitous route of encouraging the State to act. He said let's just shut them off in the State water, let's shut them off in the federal waters, that's it.

Ebisui remarked that in Haleiwa there is a hard-core group of opelu and akule fishermen, with individuals fishing four or times a week when the moon phase is right.

Morioka suggested that the shark viewing operations must impact kona crab and the white crab fishing too.

Ebisui agreed that it would. He said that you can go to the area of the shark viewing operation, stop your boat, and within 2 or 3 minutes sharks will be swimming around the boat, and it would be easy to catch them.

Farm agreed that there is a hard-core group of fishermen, who might apply a number of solutions to this problem. One possible solution is to remove the sharks.

Seman asked if the shark viewing companies, when applying for a State permit, had to complete an Environmental Assessment (EA).

Ikehara replied that the permit doesn't require an EA.

Richard Seman, Commonwealth of the Northern Marianas, noted that there are usually requirements for businesses that operate in the marine environment – Army Corps of Engineers requirements etc. So could the state require the operators to conduct an assessment.

Ikehara explained that the State would have to change their regulations.

Sean Martin, Hawaii Islands representative, asked if shark viewing within the state only took place in Haleiwa?

Ebisui replied that at this time Haleiwa was the only site for shark viewing.

Morioka observed that there are less interactions with sharks on the FADs.

Ebisui tabled the motion to direct staff to further investigate shark viewing activities in federal waters adjoining the State of Hawaii, e.g., off Haleiwa, and develop regulations as appropriate.

There was a unanimous vote in favour of the motion.

#### **14.A. Election of Officers**

Ebisui said, thank you. There was one last piece of business, election of officers. There was a committee appointed to develop a slate of officers. He waited to hear that committee's recommendation.

Duenas thanked the Chair. He was asked by the committee to represent the committee's recommendations. They had two candidates interested in becoming chairman for next year. In the spirit of cooperation, the island way, one candidate bowed out. So the only candidate they had on the slate right now is Roy Morioka.

Morioka asked for further nominations from the floor.

Farm moved the nominations be closed.

Morioka called for the question.

(Motion carried)

Farm said, congratulations, Mr. Chairman.

Simonds said, congratulations, Mr. Chairman.

Duenas said representing the vice-chairs, from American Samoa, the nominee is Frank McCoy; State of Hawaii, Mr. Frank Farm; Commonwealth of the Northern Mariana Islands, Ben Sablan; for Guam, Manny Duenas.

Morioka asked for a second.

Martin said, second.

Morioka asked for discussion. Hearing none, he called for the question.

(Motion carried)

Morioka thanked the Council Members. He said he was honored to have this privilege of representing you. It is a formidable task and he needed their help in the process. He asked that every opportunity that they had, if they would delve into their respective Standing Committee areas and give it the attention necessary to look very sharp in front of their public when they address these issues.

He was very, very impressed this morning when they addressed the issue on the Northwestern Hawaiian Islands Marine Sanctuary Proposal. He commended them all for a job well done.

Additionally, their efforts would pale if it weren't for the efforts of their Executive Director and her staff, and he truly, truly appreciated it. Mahalo.

Morioka called on Council Member Ebisui.

Ebisui said, they all promised to pay attention.

Morioka said it was appreciated.

Farm said he would like to echo the work that the staff and Kitty have done. They all recognize that they work long hours on very short time frames, especially before the meetings and during the meetings. He hoped they were able to enjoy themselves following the meetings.

McCoy said that American Samoa joins that.

Ebisui said he thought it was always a trademark of this Council not to travel the road most taken. So about venturing into new waters didn't scare them.

Morioka said, thank you. Points well taken. He would be remiss if he didn't thank Miss Doy Farwell for her outstanding efforts and her patience and her contributions to this Council's efforts. Mahalo, Doy. Much appreciated.

Morioka welcomed Adrienne. He didn't know if this had been a positive experience for her but would know if she attended the next meeting.

Martin reminded everybody that there was an Open House tomorrow afternoon, 4 o'clock to 7:00. There will be some special guests that are traveling a long ways to be with them tomorrow. Everybody was invited. It's at Pier 38, the New Fishing Village. There's tons of parking. They would have Amy and maybe Willie K, and some very good entertainment. And some people from Hapa, some of the fishing community who are calling in some markers for having donated fish to some of the entertainers over the years. So it should be a lot of fun, please, everybody, try to make it.

Morioka said, thank you very much. Adrienne, welcome. Aloha.

If there are not objections, the 124th Council meeting of the Western Pacific Regional Fishery Management Council was adjourned.

(Meeting adjourned)