



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

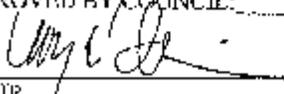
MINUTES OF THE 127TH COUNCIL MEETING of the
WESTERN PACIFIC REGIONAL
FISHERY MANAGEMENT COUNCIL

May 31-June 2, 2005

Ala Moana Hotel
410 Atkinson Dr.
Honolulu, HI 96814

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

APPROVED BY COUNCIL: _____



CHAIR

Western Pacific Regional Fishery Management Council



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TABLE OF CONTENTS

I.	INTRODUCTIONS	1
II.	APPROVAL OF AGENDA	1
III.	APPROVAL OF 126 th MEETING MINUTES	1
IV.	ISLAND REPORTS and ISLAND ENFORCEMENT REPORTS	1
	A. American Samoa.....	1
	B. Guam.....	3
	C. Hawaii	4
	D. Commonwealth of the Northern Mariana Islands.....	7
V.	AGENCY REPORTS	8
	A. National Marine Fisheries Service.....	8
	1. Pacific Islands Regional Office	8
	2. Pacific Islands Fisheries Science Center	12
	B. National Marine Sanctuary Program.....	14
	C. Department of the Interior.....	18
	1. U.S. Fish and Wildlife Service	18
	D. NOAA General Counsel	20
	E. Department of State.....	23
VI.	ENFORCEMENT/VMS ISSUES	24
	A. United States Coast Guard Report	24
	B. NOAA Office for Law Enforcement	26
	C. Status of Violations	27
	D. Public Comment.....	28
	E. Council Discussion and Action	28
VII.	PROTECTED SPECIES	28
	A. Olive Ridley Sea Turtle BiOp.....	28
	B. Report on Marine Mammal Advisory Committee	29
	C. Report on Turtle Advisory Committee.....	32
	D. Public Comment.....	34
	E. Council Discussion and Action	34
VIII.	PRECIOUS CORAL FISHERIES	35
	A. Black Coral Management.....	35
	1. State of Hawaii Black Coral Research	35
	2. Management Options (Initial Action).....	39
	B. Advisory Panel Recommendations	40
	C. Plan Team Recommendations.....	41
	D. SSC Recommendations.....	41
	E. Standing Committee Recommendations	42

	F. Public Hearing	42
	G. Council Discussion and Action.....	50
IX.	FISHERY RIGHTS OF INDIGENOUS PEOPLES.....	52
	A. CDPP AP Recommendations (Action Item).....	52
	B. SPC-Council-FAO Community Based Workshop	53
	C. SSC Recommendations	54
	D. Standing Committee Recommendations.....	54
	E. Advisory Panel Recommendations.....	55
	F. Public Hearing	55
	F. Council Discussion and Action	56
X.	BOTTOMFISH AND SEAMOUNT GROUND FISH	60
	A. Hawaii Bottomfish Overfishing Plan (Initial Action).....	60
	B. Plan Team Recommendations	62
	C. SSC Recommendations	64
	D. Standing Committee Recommendations.....	66
	E. Advisory Panel Recommendations.....	66
	F. Public Hearing	67
	G. Council Discussion and Action.....	67
XI.	PELAGIC FISHERIES.....	70
	A. Bigeye Tuna Overfishing Plan (Final Action).....	70
	B. Swordfish Season Report	78
	1. Industry Perspective.....	78
	2. Swordfish Effort and Landings.....	79
	3. Swordfish Certificates and Turtle Interactions to Date	81
	C. Stock Assessment Status and Process	81
	D. Plan Team Recommendations.....	83
	E. SSC Recommendations	85
	F. Standing Committee Recommendations.....	87
	G. Advisory Panel Recommendations	88
	H. Public Hearing.....	90
	I. Council Discussion and Action	90
XII.	ECOSYSTEMS AND HABITAT	102
	A. MPA Policy Objectives and Goals (Action Item).....	102
	B. Fishery Ecosystem Plans.....	103
	1. Strategic Level Alternatives for Marianas FEP	103
	2. Fishery Ecosystem Plan Workshop	105
	C. Shark viewing impacts on North Shore Community	106
	D. Plan Team Recommendations.....	113
	E. SSC Recommendations	113
	F. Advisory Panel Recommendations.....	115
	G. Standing Committee Recommendations	115
	H. Public Hearing	115

I. Council Discussion and Action	116
XIII. PROGRAM PLANNING AND BUDGET	118
A. Hawaii Data Collection and Reporting Options	118
B. Update on Legislation.....	118
C. Magnuson Act Reauthorization	118
D. Advisory Panel Recommendations	121
E. Public Comment.....	121
F. Council Discussion and Action.....	121
XIV. ADMINISTRATIVE MATTERS.....	121
A. Financial Reports	121
B. Administrative Report.....	121
C. Meetings and Workshops.....	121
D. Advisory Group Changes.....	122
E. Standing Committee Recommendations	122
F. Public Comment	122
G. Council Discussion and Action.....	122
XV. OTHER BUSINESS	123

Roy Morioka, chair, formally opened the 127th meeting of the Western Pacific Regional Fishery Management Council (WPRFMC, or Council) on May 31, 2005.

I. INTRODUCTIONS

Morioka welcomed all the participants and asked each member of the Council to introduce him/herself. Members in attendance were Kitty Simonds, Executive Director; Don Palawski, US Fish and Wildlife (USFWS); Judson Feder, Southwest Regional Counsel, National Oceanic and Atmospheric Administration (NOAA); Bill Robinson, Regional Administrator, Pacific Islands Regional Office (PIRO); Craig Severance, Scientific and Statistical Committee (SSC); Cmdr. Bob Wilson, US Coast Guard (USCG) 14th District; Francis Oishi, Hawaii Department of Land and Natural Resources (DLNR); Adrienne Loerzel, Guam; Manuel Duenas, Guam; Richard Seman, Commonwealth of the Northern Marianas Islands (CNMI); Stephen Haleck, American Samoa; Ray Tulafono, American Samoa; Frank McCoy, American Samoa; Roy Morioka, Chair, Hawaii; Frank Farm, Hawaii; Sean Martin, Hawaii; Edwin Ebisui, Hawaii.

Morioka announced that Frank McCoy, Manny Duenas, Richard Seman and Ed Ebisui were selected by the chair to head the Nomination Committee for Council chair, as this meeting would be his last official meeting.

II. APPROVAL OF AGENDA

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

III. APPROVAL OF 126th MEETING MINUTES

Morioka asked for a motion to approve the 126th meeting minutes. The motion was moved, seconded and approved.

IV. ISLAND REPORTS

A. American Samoa

Tulafono reported that under Pelagic and Bottomfish Fisheries, their Department and WPacFIN had worked hard to finalize the annual reports which were distributed at the bottomfish and pelagics plan team meetings. The data collectors continued to collect biological data during the creel surveys for bottomfish growth parameter assessment as recommended by the plan team. A few modifications were made to the bottomfish species profiles. Their Department recommended that WPacFIN provide bottomfish species identification training for the technicians.

Regarding enforcement, NOAA Office of Law Enforcement agents confiscated 8,000 pounds of shark fins from a fishing vessel in American Samoa on March 5th, 2005, and NOAA intended to seek forfeiture of the shark fins administratively.

Regarding Marine Protected Areas (MPAs), the MPA Coordinator assisted with a Fisheries Workshop in three of the villages under the community-based program. The MPA working group met to discuss guidelines for focus group participation, implementation plans, the MPA designation process and the public awareness program. MPA personnel were currently writing the MPA plan and needed to conduct a detailed planning effort for the enhancement and expansion of the community-based fishery management program and its effort to create no-take areas in the next five years.

Regarding the coral reef program, the coral reef coordinator completed writing the American Samoa Coral Reef Management Plan. The plan had been reviewed by staff at the Governor's Advisory Committee, and was currently being reviewed by two overseas researchers and scientists. The coral reef management coordinator was developing a monitoring tools handbook which included site descriptions and charts. The coordinator and chief biologist completed the final proposal for the 2005 monitoring plan. In April, the coordinator presented a summary of the American Samoa Coral Reef Management Plan at the director's briefing and gave a presentation to marine science college students at the American Samoa Community College.

Regarding other issues, the Ocean Symposium was held and 20 off-island participants, including the Undersecretary of the Department of Commerce, were in attendance. An Ocean Festival was held which was sponsored by the American Samoa Office of the Sanctuary. The IRS Section 936 update had significance to local fisheries and the economy, and the congressman and government leaders were trying to work it out with Congress. NOAA sponsored a series of educational workshops for the local communities in March on various topics including the environment, MPAs, enforcement and coral reefs. Tulafono encouraged that type of assistance from NOAA and NMFS for trainings. He also recognized the support that was provided by the enforcement office from the State of Hawaii, and extended his appreciation to Chairman Peter Young and his colleagues for assisting with the training of law enforcement officers.

McCoy reported that the offshore fisheries had recently picked up and all the boats were out fishing. The prices at the canneries were fairly stable, however, he did not believe they were keeping up with fuel increases and expenses on boats. The inshore fishery within the 50-mile closure was still slow.

Morioka called for questions.

Duenas asked if there were established MPAs in American Samoa, and if so, were they under the Coral Reef Initiative?

Tulafono answered that they do have established MPAs, it is a program they have under their Department which is funded partly by the Federal Aid Assistance and also the Interjurisdictional Fisheries Act (IFA) funds.

Duenas asked if there was funding for enforcement of the MPAs?

Tulafono replied no, they were still utilizing their agency enforcement officers to enforce the MPA regulations.

B. Guam

Morioka asked Duenas and Loerzel to provide the Guam report.

Loerzel reported that approximately 103,000 pounds of primarily mahimahi was harvested by trolling and only 10,000 pounds of bottomfish was harvested because of rough waters. The catches of lobster, octopus and reef fish were good during April and May.

Regarding enforcement, a new local law that established a permit system within the MPAs was passed and was being implemented. When the rules were put in place they would have to go through the resource agencies rather than the traditional land use zoning agency. A new program for conservation reserve officers was passed which allowed volunteers to get a stipend.

Regarding MPAs, there were numerous grants given out through Coral Reef Initiative monies and also Coastal Zone Management to do tracking. They would like to find out if there are fish coming from the preserves out into the open areas to see if it is doing anything for the fishermen, or if it is just creating a closed off area that is its own entity. They are also looking at some ecosystem questions with seagrass monitoring and community-based marine conservation projects, and looking at a regional network as well as a Guam-based network of MPAs.

Regarding Ecosystem and Habitat, two of the FADs were offline but being worked on.

Regarding ESA issues, two juvenile hawksbill turtles were brought into the Division of Aquatic and Wildlife Resources (DAWR) which were rehabilitated and released. There was also a report of an expired green sea turtle. There had been no arrests of poachers.

Regarding coral reefs, the reef check monitoring will occur in the fall of 2005. New faculty at the University of Guam marine lab will be researching coral diseases, which had never been looked at in any detail on Guam.

Regarding other issues, the fishing derby was scheduled for the middle of June which will include a spearfishing tournament for the first time as well as the regular derby. The date was moved up due to complaints about rough water last year. Some educational

initiatives will occur including the Fishermen's Festival and other summer programs to get more families involved.

Duenas added the Coastal Zone Management Program finally approved the request for the Fishermen's Co-op to operate a waste oil recovery program and also set up an environmentally-friendly boat washdown area to deal with all the environmental and unclean water issues. He also reported the Safe Boating Month with the USCG and Auxiliary Program proved to be very successful with about 40 boats being inspected on a voluntary basis at the marina.

Morioka asked Duenas to elaborate on the DAWR citation system designed to assist the existing penalty system.

Duenas replied that when the MPAs were created, a citation system was not established. Because the penalties were not in place, the court system on Guam threw out a lot of cases and many of the arrests were a waste of effort.

Mc Coy asked how much of a problem waste oil was on Guam.

Duenas replied they find 10 or 15 gallons a week by dumpsters and used batteries by boaters and other individuals that use the marina as a dumping site. Guam does not produce enough to recycle. Both boaters and private individuals will be able to dispose of the used oil for a small disposal fee, then the Co-op will work with one of the companies supplying used oil to the power plant. The Coastal Zone Management program had invested about \$77,000 into the project.

Morioka asked for questions from Council members. Hearing none, he called on Francis Oishi to present the Hawaii report.

C. Hawaii

Oishi mentioned he would be summarizing the report, and more details could be found in document 4.C.1.

Regarding bottomfish fisheries, he reported that data continued to be evaluated and obtained. Mapping was filling in the gaps in bottomfish GIS. A new data-sharing agreement would allow access to additional Kauai data. Dr. Christopher Kelley is scheduled to do a complete mapping of Oahu and Ni'ihau June 2nd - 11th. He reported the bottomfish GIS database developed by Dr. Kelley incorporated data from the DLNR bottomfish project, high resolution, multibeam scans of the ocean bottom, side-scan sonar, fishing surveys, and submersible and ROV observations had been incorporated into the ARC GIS database for the Main Hawaiian Islands (MHI). The multibeam data contained backscatter information which made differentiation between hard bottom and sediments possible. DLNR will be losing the aquatic biologist who had been working on evaluating this data along with Dr. Kelley which will halt progress until they find a suitable replacement.

Regarding FADs, between February and May there was a lot of activity. DLNR scheduled ten cruises to replace missing FADs and also for maintenance and recovery purposes.

Regarding the Hawaii Marine Recreational Fishing Survey (HMRFS) program, a total of 2,245 angler intercepts were completed from October 2004 - April 2005. All data were processed and delivered to NMFS Statistics and Economics Division. A new hire for the Island of Hawaii who would focus on surveys in the Honokahau small-boat harbor area was expected to facilitate an increase in angler intercept quota for the entire island.

Regarding artificial reefs, in March 2005 Hawaii Division of Aquatic Resources (HDAR) staff and consultants from Haseko, a private development company, conducted another set of surveys off of Ewa, Oahu. The surveys would hopefully define a potential 50 to 100 acre artificial reef site to be located between 50 and 100 feet of water.

Regarding stock enhancement for moi, work continued on spawning, larval rearing, tagging, release and monitoring. A total of 10,204 were released from the 2004 spawning and culture cycle.

Regarding the ulua tagging project, as of May 11, 2005, there were a total of 1,479 volunteer anglers. They had collectively tagged 19,217 fish with 2,718 recoveries, which is about a 14 percent recovery rate. Movement patterns were not as erratic as in 2004.

Regarding the internet commercial marine licensing system, the web portal project to develop an online commercial fishing license system for fishermen and businesses resumed last month. HDAR met with the project developer to review system requirements to enable the public to purchase and renew commercial fisheries licenses and permits via the internet. After the public online licensing system is implemented, HDAR anticipates it will continue with the web portal project to add the submission of fisheries report information online. Commercial fishers will be able to use the internet to prepare, complete and submit their fishing reports online and receive confirmation for their report submission. Although every statistical unit staff member was cross-trained to cover all of the duties and responsibilities of the unit, a five to six month backlog of unprocessed fishing reports occurred due to the position vacancies that occurred in HDAR. They requested technical support from WPacFIN to evaluate the fishing and fish dealer reporting systems and to integrate the two databases to obtain ex-vessel landing information by fisheries. For fisheries management reporting purposes, the statistical unit requires the landing value information by fishery to compile summary landing trend reports.

As for State aquatic invasive species management, the Hawaii Invasive Species Council had allocated funding to develop an Aquatic Invasive Species Response Team. The team had been developed and staff had been hired. The core project will be to assist the University of Hawaii (UH) and the Nature Conservancy with alien algae removal in Kaneohe Bay.

Regarding MPAs, the Board of Land and Natural Resources approved the final rules at the Land Board meeting on May 13th, 2005. These rules create the Northwestern

Hawaiian Island (NWHI) Marine Refuge, requiring an entry permit for access and close all State waters to extractive uses. The rules now must be approved by the State's Attorney General, and then will go to the Governor for final approval. He added that there was additional material in the Council binder, 4.C.2 and subsequent to that which details the specifics of the State's administrative rule plan.

Regarding the U.S. Coral Reef Task Force (USCRTF), a meeting was held in Washington, D.C, in March 2005. Under the President's budget, the Council on Environmental Quality announced that the Administration was supporting additional funding for the implementation of local action strategies developed for each jurisdiction. The Hawaii Coral Reef Fisheries Local Action Strategy was in its final stages and would be finalized after one more round of agency and public comment.

Morioka called for questions.

Martin asked for an update on the \$5.5 million for disaster relief.

Oishi asked if Earl Miyamoto, the project coordinator, could provide an update at some point during the meeting since it was not on the agenda.

Morioka agreed. He then asked Peter Young about the implementation of the entry permit to the NWHI.

Young replied it would take a while to get cleared through the Attorney General's Office, then it goes to the Governor for final signature. He anticipated it would be sometime later this summer.

Morioka asked how many of the 23,158 comments received came from the State of Hawaii?

Young replied he did not have the breakdown, but that there were many comments from within the State of Hawaii and many from other states around the country.

Morioka asked to be provided with the breakdown.

Young replied the staff was looking into it.

Morioka asked for further questions, hearing none, asked the Hawaii delegation for further updates.

Martin reported that catch rates were up and down in the longline fishery, which was normal, and the swordfish fishery was still active as the effort limitation in certificates was not yet reached. They were somewhat over halfway in the turtle takes, which, according to Dr. Boggs and others, was in the range that they projected.

Farm reported he heard that there were fairly good catches of mahi and ono in the Main Hawaiian Islands (MHI). Many fishermen in Hawaii wait to gear up until Memorial Day as they anticipate that is when the ahi come. Kauai usually signals the approach, and

in the last two days off Kauai there were approximately 30 yellowfin tuna caught. He then asked Duenas if the Guam spearfishing derby was open to teams from Hawaii.

Duenas replied it was a small in-house derby.

Morioka reported that he had reports that false killer whales had been sighted off the Waianae Coast and the Kona Coast.

Morioka asked Richard Seman and Ben Sablan to provide the CNMI report.

D. Commonwealth of the Northern Mariana Islands

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

Regarding the submerged lands case, the Ninth Circuit Court agreed with Judge Munson's ruling, however, the court failed to address issues of internal waters just as Munson consistently failed to address these issues. Therefore the CNMI Government decided to challenge the latest decision within the 45-day appeal period. Unlike before, the entire 18 judges of the Ninth Appellate Court would rehear the case. If the rehearing favored the U.S. Government, then CNMI would appeal the decision to the U.S. Supreme Court. He added that there was more detailed information in 4.D.2.

Regarding enforcement, since the signing of the joint enforcement agreement between NOAA and CNMI in January the NOAA Enforcement Program had been actively trying to get money to them. CNMI was trying to complete its financial profile in order for the money to be transmitted, and they were ready to transmit the money. In addition, there were arrests made since March for: 1) illegal fishing at the Bird Island Sanctuary; 2) fishing with gillnets; and 3) two cases involving turtle catch. Three of the cases had gone through administrative hearings.

The first mahimahi tournament since 1989 was held in April on Saipan and over 60 boats were involved. The overall winner captured first place in three categories: 1) the biggest fish; 2) total weight, and; 3) total number of species.

With regards to boating access, he noted the announcement to solicit bid proposals for the Rota West Harbor Marina had been awarded. A purchase order was issued for the rental of heavy equipment to remove over 30,000 cubic yards of sand at the Sugar Dock Boat Ramp, which was the result of the two typhoons that occurred last year. Construction was ongoing for the installation of potable water, electricity and a sewer system at the newly completed transient dock at the Smiling Cove Marina.

A company from Spain inquired last month about using Saipan as a transshipment point in marketing its tuna, swordfish and sharks to other areas around the world. The Commonwealth Ports Authority, which was contacted by the company, had requested additional information from the company to assist them in their business endeavor.

Sablan added that the Department of Commerce of the Commonwealth had inquired about permits and direction on how to inform an investor from New Zealand to come and harvest minerals in the EEZ.

Morioka asked Peter Young if the State of Hawaii had been approached for mineral mining permits, or anything of that nature.

Young replied not that he knew of.

Morioka called for additional updates from Hawaii delegates or questions from the Council, hearing none, called on Bill Robinson to provide the first agency report.

V. REPORTS FROM FISHERY AGENCIES AND ORGANIZATIONS

A. National Marine Fisheries Service

1. Pacific Islands Regional Office

Robinson reported the Final Environmental Impact Statement (FEIS) for the Bottomfish and Seamount Groundfish Fishery Management Plan (FMP) was almost complete and ready to be transmitted to NOAA for publication of a Notice of Availability (NOA) in the Federal Register. PIRO and Council staff reached an agreement to narrow the focus of that EIS. The additional bottomfish actions, one in Guam, one in CNMI and two in the NWHI, would be handled with individual environmental assessments (EAs) when they go forward for implementation.

The FEIS for the Pelagics FMP for Seabird Interaction Avoidance Methods and Squid Management was finalized and the NOA was published in the Federal Register on May 6th.

The final rule for the FMP amendment to the American Samoa longline limited entry program was published on May 24th, 2005, with an effective date of August 1st for the limited entry permit program and December 1st for the other measures such as VMS and observer notification.

A proposed rule for additional seabird mitigation measures under the Pelagics FMP was transmitted to National Marine Fisheries Service (NMFS) Headquarters on May 25th, publication expected around June 13th, and the target date for final implementation was the end of August 2005.

He reported they were conducting a final review of a regulatory amendment on additional sea turtle measures including draft regulations, and hoped to get final comments back to the Council staff by the end of the week.

They were reviewing a preliminary draft of an amendment to the Pelagics FMP for squid.

On March 9th, NMFS Headquarters cleared an issues advisory providing notice for the forthcoming comprehensive FMP amendments for bottomfish and seamount groundfish, crustaceans, and precious corals pertaining to the Mariana Islands and Pacific Remote Island Areas (PRIAs). They are also nearing completion of an update to the Draft Amendment 9 to the Bottomfish and Seamount Groundfish FMP that would establish the closed area around Guam to large bottomfish vessels. In 2005 they had processed a total of 131 Hawaii longline limited access permits, 34 Western Pacific general longline permits and 8 NWHI bottomfish limited access permits.

Regarding NEPA, Council staff, Science Center and PIRO staff attended a 3-day training on project management May 3rd through 5th.

Regarding international issues, the 17th annual consultation among the parties of the South Pacific Tuna Treaty took place March 21st - 23rd in Nuku'alofa, Tonga. Due to the declining numbers of U.S. purse seine vessels operating in the Western and Central Pacific Ocean (WCPO), this was particularly important because the purse seine fleet indicated they would be unable to make the 3 million dollar payment required for licensing by the FFA countries this year. They negotiated a revision to the fee schedule that allowed the purse seine fleet to defer some of their payments to a time when there might be greater participation in the fishery. The Pacific Island countries agreed to cap the amount that any single vessel had to pay. Out of 40 potential licenses under the treaty there were approximately 15 purse seine vessels. Since the number of vessels had declined, the per-vessel share of the three million dollar fee went up to a point where it was becoming prohibitive for the fleet. A second issue that was resolved for the U.S. purse seine industry was opening more areas in the far west on May 1st, particularly the areas around the Solomon Islands. Finally, the U.S. offered to host the next consultation in Hawaii in 2006 which had not been hosted by the U.S. in 17 years.

The Inter-American Tropical Tuna Convention (IATTC) Stock Assessment meeting convened in San Diego and approximately 30 scientists and representatives from the Asian Distant Water Fishing Nations attended, as well as some Latin American countries and the European Union. A key factor affecting the 2004 assessments was the incorporation of new age and growth data for bigeye and yellowfin tuna. The IATTC staff provided an analysis indicating that the biomass for bigeye tuna at the end of 2004 was estimated to be 14 percent higher than if no restrictions had been implemented. The IATTC staff also presented information on a Pacific-wide assessment being completed by the IATTC and the Secretariat of the Pacific Community Oceanic Fisheries Program (SPC OFP) staff using the MultiFAN CL model that assumes a single bigeye population with limited movement between ocean sub-areas. The results indicated that the Pacific-wide bigeye biomass trend appeared to be the same as in previous assessments. Both spawning biomasses had declined since 2000, suggesting that recent biomass estimates were below the average maximum sustainable yield (MSY) levels and the current management measures would not support average MSY fishing levels. In terms of regional analysis, the data suggested that the declines in biomass of bigeye in the east had been much more severe than in the west.

Robinson reported that he attended the General Advisory Committee to the U.S. section of the IATTC with Roy Morioka and Charles Karnella on May 12th. The Advisory Committee discussed a number of proposed U.S. resolutions developed by the Committee for consideration by the U.S. Commissioners, including conservation of sharks and sea turtles, conservation of tuna species and the application of trade measures. The proposals for the shark and sea turtle conservation were nearly identical to those in effect in the Pacific Islands Region (PIR). The trade measures included reporting on import/export data on tuna and tuna-like species.

He reported that Roy Morioka presented a proposal from the Council to exempt any nation's fleet from the longline quota if that fleet was responsible for harvesting less than one percent or 500 metric tons, establishing a quota of approximately 250 tons, or if there was a quota exempting bycatch in the shallow-set fishery of bigeye. He commented that it was well received by the General Advisory Committee and also in a subsequent U.S. section meeting.

The Fifth Interim Scientific Committee (ISC) meeting was convened in Tokyo on March 28th through 30th. Dr. Gary Sakagawa of the Southwest Science Center was elected chair for the next three years and Dr. Koh from Korea was designated vice-chair. North Pacific albacore was the focus of deliberations at that meeting, and most of the information came from the results of the 19th North Pacific Albacore Workshop. Other issues and decisions included the ISC absorbing the North Pacific Albacore Working Group and its associated database, the development of a draft memorandum of understanding (MOU) regarding the nature of the relationship between ISC and the Western and Central Pacific Fisheries Commission (WCPFC) and its Northern Committee. A determination was made not to establish a permanent Secretariat at that time. It was agreed to change the name to the International Scientific Committee.

Regarding protected resources, he reported they are in formal consultation under Section 7 for the Hawaii-based pelagic deep-set tuna longline fishery. The new Marine Mammal Branch was preparing a negligible impact analysis under the Marine Mammal Protection Act (MMPA) evaluating the impacts of U.S. commercial fishing operations on marine mammal populations. He said it was something they had needed to get done for a long time so incidental take statements could be prepared under Biological Opinions (BiOps). Also, in accordance with a recommendation from the Council's Marine Mammal Advisory Committee (MMAC), they will participate in the NMFS Southeast Region Take Reduction Team meetings whose first meeting will be held in June to address pilot whale interactions with the Atlantic longline fishery. They hope that there will be research and recommendations that will help them look at the false killer whale issue in Hawaii.

The State of Hawaii applied for an incidental take permit pursuant to Section 10 of the Endangered Species Act (ESA) to address interactions between protected species and nearshore fisheries in the Hawaiian Islands. An EIS is currently being developed. On March 30th they received a preliminary Draft EIS (DEIS) from the contractor. During the month of April it underwent review and comment. Public review of that DEIS was

scheduled to be sometime in July, with public meetings and public comments occurring in the summer and fall.

Regarding habitat, many activities were involved with the grounding of the M/V *CAPE FLATTERY* near Barbers Point. They worked cooperatively with the State of Hawaii and USFWS. During the restoration and assessment work after the vessel was finally freed a lot of work was done to re-cement broken coral heads. Despite all the time and effort put into the restoration there was more damage than divers were able to restore.

Regarding the observer program, there had been a number of training classes involved with the swordfish fishery. Observer coverage in the deep-set tuna fishery dropped down to 16.9 percent, below their target of 20 percent, but they had been maintaining 100 percent for the shallow-set longline fishery. As soon as effort eases in that fishery they will be redeploying effort and trying to get the coverage rate back up to 20 percent or higher in the deep-set fishery. They had also been assisting the SPC and the Forum Fisheries Agency (FFA) with training their observers.

Simonds asked what the federal government annually pays under the South Pacific Tuna Treaty?

Robinson replied the industry payment is \$3 million under the Treaty, and the Department of State provides \$18 million in economic assistance to the 16 nations.

Simonds asked what would happen to this aid if there were fewer purse seiners fishing?

Robinson said he could not speak for the Department of State, but the general tone was that at some point there is a question if the benefits received from the treaty are greater than the costs.

Simonds said it is a good treaty because it is multilateral, but it had always bothered them about the aid for access and suggested that longliners might be included.

Martin asked if there were any formal obligations by the State Department to make up the shortfall?

Robinson replied what was finally agreed to was that the cap was only good if the number of participating purse seiners was below 23. If the number goes above 23, then not only is the \$3 million paid, but the deferred amount from when the number of vessels was below 23 starts to be paid back. When the treaty is renegotiated in ten years, any deferred amount not yet paid back would be forgiven.

Palawski asked if the EISs that pertain to the PRIAs include language about relation to other applicable laws similar to the language in the Coral Reef FMP.

Robinson said he would find out.

Farm asked if there had been a recent evaluation of the area around Barbers Point since the M/V *CAPE FLATTERY* grounding.

Robinson said he suspected there had been, and he would talk to the Habitat staff.

Duenas asked how long the turn-around time would be for the Guam amendment.

Robinson replied it would happen within the next couple of months.

Martin asked what happens in American Samoa until the rules become effective in August.

Robinson replied they were working on completing the compliance guide which would be provided to all the potential applicants. It will outline how to go about applying for a permit and registering a permit to a vessel. The vessel monitoring system (VMS) and observer requirements would be dealt with later.

Feder added that the limited access permits must be in people's possession when the action goes into place on December 1, 2005.

Morioka called for further questions, hearing none, called on Dr. Sam Pooley to give the report from the Pacific Islands Fisheries Science Center (PIFSC).

2. Pacific Islands Fisheries Science Center

Pooley mentioned that more details about PIFSC activities could be found in document 5.A.2.A., he would just review some highlights.

He reported the Ecosystems Science Workshop, which was jointly organized with the Council, was a great success. It was an excellent lead-in to the Center's review of ecosystem approaches.

The turtle bycatch workshop jointly organized with the Council was the kind of forum for the exchange of information that they want to do in terms of outreach with other fishing countries. It made possible a better evaluation of techniques through a range of operating conditions which would hopefully lead to better techniques.

They took the five division chiefs from the Center and a couple of people from each division over to the Hawaii Institute of Marine Biology to share information with them and find out what they were doing. It was very useful for looking at areas of collaboration, and they would make parallel efforts with other agencies and offices.

He attended the Annual Lake Arrowhead Tuna Conference which focused on where the fish are and the tagging of fish. It had a good turnout by people from Hawaii,

both PIFSC, Pelagic Fisheries Research Program (PFRP) and others but unfortunately none of their Japanese colleagues were there.

Three National Academy of Science reviews were forthcoming that would be of interest to the Council; 1) a review of NOAA ecosystem science; 2) a study on open ocean aquaculture, mariculture; 3) a study on seafood safety with the National Institute of Health which focuses primarily on mercury in seafood.

The North Pacific Marine Science Organization (PISCES) will meet in Russia and also in Hawaii next April focusing on climate change.

He reported the R/V *OSCAR ELTON SETTE* was currently researching billfish larvae and eggs off the Big Island and had collected some for rearing. The annual NWHI lobster stock assessment was scheduled for the beginning of June.

Morioka asked what was in the paper Frank Parrish published regarding the foraging of juvenile monk seals at French Frigate Shoals.

Pooley reported they instrumented about eight juvenile monk seals ages one to three to see their movement profiles using critter cams, and discovered that they go down to between 60 and 100 meters or up to surface. What was interesting about the paper was they also collected samples from the habitat, which generally tended to be sandy bottoms. Flounder, little flatfish, were found in the planktonic stage. He reported that Parrish is in the Ecosystem Division which has looked at how oceanographic influences affect fisheries and protected species. The pre-assumption was that because they are settling out at the planktonic stage, the regime shifts in the NWHI could have a big impact on the availability of food for juveniles. The failure of juvenile monk seals to thrive was generally perceived to be the primary reason that the population at French Frigate Shoals has suffered.

Farm asked about the size of the flounders.

Pooley said they were very small.

Martin asked about activities associated with haulouts of monk seals and pups in the MHI.

Chris Yates, head of the PIRO Marine Mammal Branch, replied the summer had been very slow for strandings, just a striped dolphin and a sperm whale that had stranded in American Samoa. He said they were making some significant progress on improving their response to monk seal issues in the MHI. The Marine Mammal Response Coordinator position recently closed, and he/she would be primarily responsible for coordinating the stranding network and coordinating NMFS leadership and NMFS response to monk seal haulout issues. Particularly, they will deal with pupping on popular beaches and issues related to monk seals that become acclimated to people.

Martin asked for an update at the next Council meeting.

Pooley also said he would follow up on Morioka's earlier question about mining off the Big Island.

Morioka asked if there was a timeline developed or a task team assigned for outlining a list of archipelago-specific indicators for the Western Pacific Region (WPR), as it was a goal identified for the Ecosystem Science and Management Workshop.

Pooley replied one of the issues that did come up was the issue of indicators and quantitative approaches to evaluating the health of an ecosystem. The expert participants suggested that it was not useful terminology, but should look at indicators in terms of a suite of looking at what was going on. The parallel organization to PISCES in the Atlantic, ICES, recently put out a book on ecosystem indicators. To apply them they must be put into an ecosystem modeling approach to know what the indicator is.

Duenas asked if the R/V *SETTE* was scheduled to come to the Marianas in October?

Pooley replied yes, September or October.

Duenas asked if they were going to do a follow-up to its original plan, or if they were going to address the Council's requests for certain studies such as the shark issue.

Pooley replied the cruise scheduled for the Marianas Archipelago was under the Coral Reef Conservation Program and had a rigid protocol of sampling so that it could integrate its results into NOAA's Ocean Observing System. Their preference would be to get cooperative research going again and use fishing vessels for some of the activities.

Duenas said he thought they were going to do some research that the Council had requested in the past, he did not know there were other missions.

Pooley promised to follow up and get back to him.

Simonds said the Council would also follow up, since he was talking about suggestions the Council had made over the years.

Morioka called for other questions, hearing none, called on Allen Tom to provide the report for the National Marine Sanctuary Program.

B. National Marine Sanctuary Program

Tom explained his presentation would be done in three parts: 1) a discussion on the Fagatele Bay National Marine Sanctuary; 2) an update on the NWHI Coral Reef Ecosystem Reserve/ proposed National Marine Sanctuary; and 3) an update on the R/V *HII'ALAKAI* currently in the NWHI.

He began by stating the Fagatele Bay National Marine Sanctuary is the smallest marine sanctuary. It just held its first Sanctuary Advisory Council meeting and the second would be held next month. He said the advisory council meetings were important because they create an avenue for the public to have input into the management of the sanctuary. They were going through a management plan review since the plan was over 20 years old. There was a fishing seat/Council representative sitting on the council. Normally, the review would only take one year to do if there were no major controversies, and he did not expect any in American Samoa.

A resolution to help American Samoa create a marine laboratory came out of the Ocean Symposium, and he felt the territory was open to any ideas or suggestions on how to move that proposal forward.

He then discussed a project conducted by David Matilla from the Humpback Whale Sanctuary. Matilla went down to American Samoa and worked with the Department of Marine and Wildlife Resources (DMWR) to survey Fagatele Bay and the Island of Tutuila in the summertime. He had 51 sightings and identified the whale flukes with the southern hemisphere catalogues, and did some genetic tagging. For the first time they saw feeding and a mother with a newborn calf. There were other species sighted including a false killer whale, and according to Matilla it was not rare to see that species there.

Regarding the NWHI Coral Reef Ecosystem Reserve, they hoped to have the DEIS completed by mid-summer, go through NOAA, then be out for public review by the end of 2005 or the beginning of 2006. After that they would collect all the comments and have the FEIS out between early fall and the end of 2006. He said their plan was to have a final decision on the Sanctuary by the end of 2006 and they were currently on schedule. The fisheries discussions they had been having would be inputted into the DEIS this summer.

The DEIS itself would be broken down into various components, including the introduction, the management framework and various action plans that had been raised as issues within the proposed Sanctuary. He said a lot of it was based on other DEISs and FEISs that the Sanctuary Program had done. The introduction would address environmental and Native Hawaiian issues facing the area, maritime heritage, jurisdictional authorities, and the Executive Order. The management framework would lay out what the proposed management regime would look like. He commented that the action plans addressed various issues, and he would print out a copy for the Council so they did not have to review it at that time. He then outlined various operating plans, which would include 1) native Hawaiian culture; 2) maritime heritage; 3) marine debris; and 4) vessel hazards. There would also be a discussion on zoning and enforcement, a fishing section, a discussion about interagency coordination, education, the various management plans, and ship time operations if there are ships up there. The fishery action plan was currently going through discussions with NMFS.

Tom reported they were doing multibeam mapping up in the NWHI and they had either relocated or had found a new maritime heritage wreck. In addition transects for coral disease work were being laid out.

Simonds commented that the Sanctuary will be in place seven or eight years from the beginning of the process, and asked if anybody was concerned that there was such a rush to have this Reserve and a Sanctuary?

Tom said sanctuary designations take a long time, they have to report to Congress in the fall as to what has taken so long. He said they had actually had things reviewed very quickly at Headquarters, but in real-time it was a long time.

Simonds said it was a concern they voiced to the Admiral about a year ago, because it was leaving the fishermen in limbo about whether or not they should continue to fish or fix their boats. She expressed that it was not fair for something to go on so long, unless it was deliberately occurring so that the fishermen would leave.

Feder asked Tom if he would like to make any comment about the legislation introduced by Congressman Case that would establish a National Marine Refuge in the NWHI administered by the National Ocean Service (NOS)?

Tom said no, NOAA was re-examining the bill and he preferred to make no comment. He then said it basically designates the sanctuary for them, and is something that had been done on other sites.

Feder clarified that the other ones were not called a National Marine Refuge.

Tom said some things were definitely different since this one would be called a refuge. He offered to leave copies of the bill with the Council if they wanted to look at it. He then clarified that they were still going on as scheduled in the designation process.

Simonds mentioned that he had some comments in the newspapers about how this would affect the NWHI in terms of fishing, and she had called his office to ask why they did not have the Park Service do it if they wanted to make a refuge. The Department of Interior establishes refuges.

Palawski agreed that they do, but they are done either by an act of Congress, an act of the President or an act of the Secretary of Interior.

Simonds said exactly, instead of adding a refuge to the sanctuary, because it looks like he wants to change the agency. To change an agency is pretty difficult to do, it is almost like a mini organic act.

Tom said he was not familiar with his choice of terminology, but he did know that Admiral Lautenbacher met with Congressman Case last week and the Admiral said the terminology "refuge" might cause some problems.

Simonds said he should have just said sanctuary or refuge and Interior.

Ebisui asked Feder to clarify the general distinctions between reserve, sanctuary and refuge.

Feder said the terms that had been chosen were somewhat arbitrary. The National Refuge System under Fish and Wildlife Service and National Marine Sanctuary under Commerce were under different legislation. The term Coral Reef Ecosystem Reserve appeared in President Clinton's Executive Orders and it had never been defined or set in a statute.

Morioka asked Tom if he was familiar with the Cordell Expedition 2005 to Kure Atoll?

Tom said no.

Morioka said the group was seeking corporate sponsors to sponsor an activity to go to Kure Island. They had 40,000 radio amateurs, 10,000 students, 1,000 professional working scientists and administrators, 10,000 conservation-motivated individuals, and 10,000 individuals in the Pacific Basin, particularly in Hawaii to, among other things, set up a ham radio site and count ants. He pointed out that there is a pristine area with many efforts to stop fishermen from going up there, and asked if was contrary to what they were trying to accomplish.

Tom said if they were going to go on land it would be a matter with the State.

Morioka said they were talking about sponsoring boats, and asked how they would get there and would they need permits, and access.

Tom replied they would have to get permits from both the State and the Reserve, and to his knowledge they did not have that.

Morioka said he would provide Tom with their information, and asked Palawski if he knew anything about it.

Palawski replied he knew that there was a hearing before a subcommittee about access to national wildlife refuges, and one of the groups was ham radio operators seeking access to national wildlife refuges to do their trade. He said it is not compatible with their mission of wildlife first, but they certainly were an active voice and were lobbying their constituency to gain access to remote locations.

Morioka called for further comments or questions, hearing none, called on Don Palawski to provide the Department of Interior report.

C. Department of the Interior

1. U.S. Fish and Wildlife Service

Palawski began by updating the Council Members from American Samoa on the project to remove ship wreckage from Rose Atoll. He said they ran into contracting and logistical problems, but were planning to undertake removal in late June and go back in August to continue to monitor the recovery of the reef. The project would be headed up by Dr. James Maragos. He said he hoped they would be able to do that in conjunction with the American Samoa DMRW and also conduct some other work there such as monitoring for turtles and conducting fish surveys. They had been working on the removal of this shipwreck since 1993.

He said the USFWS had a refuge planning process which was associated with the National Wildlife Refuge System Improvement Act of 1997. It required the USFWS to develop refuge management plans for all 545 refuges around the country. They are just starting to undertake that effort in the 19 refuges in the Pacific Islands. They were in the pre-planning stage, starting to arrange meetings with constituents, other agencies and stakeholders to inform them of this process. He said it would take many years to complete all 19. The first one would be Howland Island followed by Jarvis, Baker, Kingman, Rose and Palmyra. It follows a NEPA process, which includes a preplanning stage, scoping and either EAs or EISs. The key point was that it would guide the USFWS in its daily activities in managing the refuge so that they had a plan, that everyone knew what the plan was, and they could do the annual planning work based on these plans.

Sablan asked how he could get information to share with investors from New Zealand who were interested in looking into the possibility of mining some minerals in the CNMI EEZ?

Palawski replied he should first go to the Department of Interior Office of Insular Affairs, and then to the Department of Interior Office of Mining that has an office in California. He offered to find out the contact information.

Sablan asked if he could discuss it with the representative from Interior on Saipan.

Palawski said yes.

Morioka asked Palawski to check the situation with the Big Island also.

Palawski said he would.

Morioka asked Palawski to clarify where the 19 National Wildlife Refuges in the Pacific are.

Palawski said the Hawaiian Islands National Wildlife Refuge is the oldest. It was established in 1909 and extends from Nihoa to Pearl and Hermes Reef and all of the islands in between. On the island of Oahu there are individual refuges administered out of Haleiwa from the Oahu Refuge Complex. James Campbell is a wetlands in Kahuku. Pearl Harbor is a wetland refuge, there is a unit out in Barbers Point for endangered species, and then Oahu Forest. They are very different habitat types all administered out of Haleiwa. Guam Refuge is its own separate entity managed out in Guam. On each island they have a refuge manager that manages a complex.

Morioka asked if the authority was terrestrial and marine?

Palawski said yes.

Duenas asked if there could be an expansion of the refuges.

Palawski said if there was a proposal to expand the refuge then the plan would cover a land acquisition component. On Kauai there was a proposal to acquire a little more land at Kilauea Point Refuge.

Haleck asked for an update on the condition of the wreckage at Rose Atoll.

Palawski said there were about 40 tons of materials left, including the engine block, the screw and some very large plates that were in the reef grooves on the reef slope. They were hoping to use the Hawaii Undersea Research Laboratory (HURL) vessel to do a submersible dive so they could be more sure what was there.

Martin asked for an update on what kind of activities were happening on Palmyra and Midway.

Palawski replied there was a cruise ship headed to Midway that was sponsoring historical tours of the Pacific, since it was the 60th anniversary of the end of World War II. He said it was very restrictive, the people on the ship come off in small groups and are only there for four hours. They were in the process of looking at a visitor's feasibility study to look at how to have public uses at Midway in the future. At Palmyra they were continuing to coordinate with the Nature Conservancy. They have constructed some facilities so that research institutions might send researchers there to do work both on the terrestrial and the marine environment. There were a number of institutions very interested in doing research there, such as Scripps Institute of Oceanography and Stanford. On Johnston Island, the Air Force still had administrative jurisdiction so USFWS had no personnel there. About every two years they work with NOAA to do a cruise around Baker, Howland and Jarvis Island which was scheduled for next year.

Martin said it is wonderful that people can visit some of those islands, but it is unfortunate that fishers are not included in that group. More people will be visiting the NWHI and Palmyra than since the war, but it is selective access and fisheries are not welcome.

Morioka agreed.

Palawski said that is one of the reasons the USFWS thinks it is so important to go through the comprehensive conservation planning process for the refuges. The refuge system has a very specific mission guided by the Refuge Improvement Act and it is very important for the public to understand what their mission is and what the rules for undertaking activities within a refuge are. Because they have not done the best job informing the public, there are misperceptions as to how the areas are managed for wildlife.

McCoy asked if they removed all the incineration devices from Johnston.

Palawski said yes, but there was still contamination from a plutonium landfill.

McCoy asked if it was an EPA-approved landfill.

Palawski said it was constructed with EPA oversight.

Morioka asked how many people would be aboard the cruise ship going to Midway.

Palawski said he did not know, somewhere between 400 and 800 people, but promised to find out.

Morioka asked if the hulls were cleaned and prepared so that it could enter the NWHI Coral Reef Reserve and not be a threat regarding transmission of invasive species.

Palawski said not that he was aware of, but the cruise ship does not enter the harbor.

Morioka said private fishing vessels going up there to do lobster experiments must scrub their hulls, and what works for one should work for the other.

Duenas asked if Wake Island was under their jurisdiction or the military.

Palawski said it was still under military control.

Morioka called for further comments or questions, hearing none, called on Judson Feder to provide the NOAA General Counsel report.

D. NOAA General Counsel

Feder said he would briefly summarize his report, document 5.D. in the Council briefing book. He reviewed four pending cases that dealt directly with Western Pacific fisheries management, and two additional cases that he thought might be of interest to the

Council. He clarified that none of these cases were new, he had reported on all of them in the past.

The Hui Malama case concerned categorization of the Hawaii longline fishery under Section 118 of the Marine Mammal Protection Act. This section deals with categorization of commercial fisheries in the United States with respect to the number and type of interactions with marine mammals. NMFS had originally categorized the fishery as Category III, infrequent interactions. After this case was filed, they re-categorized the fishery as a Category I fishery. NMFS won the case at the District Court level, then the environmental plaintiffs appealed to the Ninth Circuit. The Government's answer was due in June. He mentioned that he thought the case was moot because the decision to categorize the fishery as a Category III fishery had been overtaken by the decision to re-categorize the fishery as Category 1, but the case was still pending before the Court.

The Turtle Island Restoration Network case alleged that NMFS management of the Hawaii longline fishery violated the ESA, the Migratory Bird Treaty Act and the National Environmental Policy Act (NEPA). The Government won at the District Court level on a technicality on procedural grounds, the plaintiffs failed to challenge the underlying regulations within the 30 days required under the Magnuson Act to challenge Magnuson Act regulations. This case was appealed by environmental plaintiffs to the Ninth Circuit in San Francisco. Judge Ezra at the District Court level denied the plaintiff's motion to enjoin operation of the fishery pending appeal. The Ninth Circuit had not scheduled anything, in terms of briefing or oral argument on the plaintiff's appeal.

The Trans World Marine case was a challenge to a decision by PIRO to deny an application for economic assistance under the Direct Economic Assistance Program. It is administered by NMFS to compensate Hawaii-based longline fishermen who lost access to the fishery during the litigation against the fishery, which began in about 1999. NMFS denied this particular applicant because they were not able to demonstrate that the vessel fished in the fishery during the application period. NMFS won the case at the District Court level. The case then appealed to the Ninth Circuit. Briefing had been completed. He said he does not anticipate that the Ninth Circuit would even schedule oral argument, it would probably decide the case on the written briefs alone.

In the case of the Government of CNMI against the United States asserting sovereignty jurisdiction over submerged islands seaward from 12 nautical miles as measured from an archipelagic baseline, the Government won this case at the District Court level. CNMI then appealed, and the Ninth Circuit affirmed the District Court's ruling which upheld the position of the United States. On April 15th CNMI petitioned the Ninth Circuit for a rehearing, so he said there would probably be a panel of nine judges on the Ninth Circuit that would rehear the claims of CNMI. The Ninth Circuit had not responded to that petition by CNMI.

One of the two cases of interest to the Council is the Earth Island Institute case in the Northern District of California regarding a decision by NMFS that the Eastern Tropical Pacific purse seine fishery was not having a significant adverse impact on depleted dolphin

stocks. That decision derived the standard used for the labeling of tuna products harvested by purse seines in the Eastern Tropical Pacific Ocean, and had an impact on the operations of the U.S. purse seine fleet in the Eastern Pacific. It could have an effect on the ongoing efficacy and ongoing operations of the International Dolphin Conservation Program. The Government lost this case, the District Court ordered the Agency to change the labeling standard back. As a result, the industry and governments of particularly Mexico and Venezuela were not too pleased with the United States and expressed some displeasure at the International Dolphin Conservation Program itself. The Government had filed a Notice of Appeal to the Ninth Circuit and there was a briefing scheduled. It was unclear whether the United States would actually proceed with that appeal.

The second case, *UFO Chuting of Hawaii v. Young*, involved two local Hawaii companies that challenged the State of Hawaii parasailing regulations issued to conserve humpback whales. This case concerned the preemption of state authorities to regulate marine mammals. The District Court in Hawaii overturned the State regulation and determined that Section 109 of the Marine Mammal Protection Act preempted the ability of states to pass laws or pass regulations to conserve marine mammals. In response to this, Congress enacted a new law that carved out an exemption for the State of Hawaii alone to regulate local vessels in order to conserve humpback whales. The plaintiffs challenged that federal law on the basis that it would violate separation of powers and that it might appear that Congress was trying to interfere in the affairs of the judicial branch, trying to overturn a specific court case. NOAA and the Federal Government intervened in this case in March in support of the State of Hawaii, supporting the constitutionality of the new federal law that specifically gave the State of Hawaii the authority to regulate vessels to conserve humpback whales. Judge Mollway in Hawaii agreed with the State and agreed with NOAA that the new law was valid, constitutional, and that the State may now regulate operations like these parasailing operations off Maui.

Morioka read an excerpt from Feder's report regarding the CNMI case and asked for clarification as to whether CNMI could continue to enforce local laws after the February ruling came out affirming the District Court's ruling, or if the stipulation was removed.

Feder said he would have to go back and look at the stipulation, but he believed that the stipulation went away. However, under the Magnuson Act, any state could continue to regulate vessels registered in that state in the EEZ or in federal waters to the extent that those regulations do not conflict with the regulations under the Magnuson Act. It had always been their position that CNMI had authority to regulate its own vessels in the EEZ.

Seman clarified that even when the Ninth Circuit made a decision, it was still in effect because the decision does not make it final.

Morioka asked Judson to check on it and report back to the Council.

Feder agreed.

Morioka asked for further questions, hearing none, asked Paul Dalzell to give the State Department's report for Bill Gibbons-Fly.

E. Department of State

Paul Dalzell, Council staff, read the State Department report in Bill Gibbons-Fly's absence. He said Gibbons-Fly would try to attend a Council meeting at least once a year, and would probably attend the January meeting.

The 26th Meeting of the Food and Agriculture Organization's Committee on Fisheries (COFI) was held March 7th - 11th in Rome. A one-day fisheries ministerial meeting on March 12th followed the COFI meeting. COFI dealt with major global fisheries and marine conservation issues including the implementation of the Code of Conduct for Responsible Fisheries and related instruments such as: 1) management of fishing capacity; 2) reduction of illegal, unreported and unregulated (IUU) fishing; 3) fisheries bycatch issues, including incidental take of sea turtles and seabirds; 4) improvement and standardization of fisheries status and trends; 5) reporting; 6) the effects of subsidies in fisheries management; 7) impact to the recent tsunami on fishing communities in Southeast Asia; 8) issues related to fish and seafood products, trade, including eco-labeling and CITES cooperation; 9) aquaculture; 10) deep-sea fisheries; 11) sharks; and 12) other issues. The COFI meeting and the following ministerial meeting advanced several significant U.S. objectives, in particular with respect to: 1) addressing the effects of fishing on the marine environment; 2) strengthening international efforts to control IUU fishing; and 3) making international fisheries management organizations more accountable.

Regarding U.S./FFA consultations under the South Pacific Tuna Treaty, it is an annual consultation that takes place as a result of the treaty between the U.S. and the independent nations of the South Pacific which had been in place for about 18 years. The 17th Annual Consultation under the treaty was held in Nuku'alofa, Tonga in mid March. The U.S. and FFA representatives discussed a number of important issues related to the operation and implementation of the treaty. One of the positive results of the meeting was an agreement among the parties to open additional waters under the jurisdiction of the Solomon Islands to U.S. vessels fishing under the treaty. The U.S. will host the 2006 Consultation in Honolulu. This will be the first time in the life of the treaty the U.S. has hosted a consultation and that will give Council members an opportunity to attend that meeting.

Regarding the Conference on the Governance of High Seas Fisheries and the UN Fish Stock Agreements, Canada hosted the conference in St. Johns, Newfoundland. Representatives of 49 states, the European Union (EU) and Taiwan attended the Conference along with the representatives from academia, industry and environmental organizations. The Conference began with a one-day ministerial roundtable that adopted a declaration to set the stage for subsequent workshops and discussions. The ministerial declaration contained strong language on combating IUU fishing, enhancing flag-state responsibility, addressing overcapacity in world fleets, mitigation bycatch, assisting developing countries, strengthening regional fisheries management organizations and

examining possible gaps in the international fisheries governance regimes. The Prime Minister of Canada's remarks were horrendously misquoted by one environmental organization to suggest that he supported a ban on longline fishing, which was erroneous.

The Asia Pacific Economic Cooperation (APEC) Fisheries Working Group met in Phuket, Thailand in mid May. A major focus of both this meeting and the Marine Resource Working group was to resolve scheduling and substantive uncertainties regarding a September 2005 APEC Oceans Ministerial Meeting in Bali, Indonesia and to do advanced planning for that meeting. In separate meetings, the two working groups carried out their respective work programs and discussed the Ministerial Meeting. U.S. objectives were incorporated in a concept paper developed to show potential ministerial-level participants what they could expect to achieve at the meeting and to facilitate interagency coordination within each of the 21 APEC economies. The plans for the Ministerial Meeting were coordinated and approved in a joint meeting of the two groups on May 20th.

Regarding upcoming meetings, the Fourth Informal Consultation on States Parties to the U.N. Fish Stocks Agreement (UNFSA) will take place May 31st - June 3rd at U.N. Headquarters in New York. Among other issues, the meeting will discuss preparations for the 2006 UNFSA Review Conference. The U.N. Informal Consultative Process (ICP) on Oceans and Law of the Sea will take place on June 6th – 10th at U.N. Headquarters in New York. The focus is this year's ICP will be sustainable fisheries. Costa Rica, supported by Slovakia and Sweden, had suggested an agenda item proposing a moratorium on longline fishing in the Pacific Ocean.

The 73rd meeting of the IATTC will take place in mid June in Lanzarote, Canary Islands.

Morioka called for questions or comments, hearing none, announced there would be a 15 minute break.

Morioka reconvened the meeting and called on Ray Tulafono to report on Enforcement and VMS issues.

VI. ENFORCEMENT/VMS ISSUES

A. United States Coast Guard Report

Tulafono gave the chair to CMDR Wilson to provide the United States Coast Guard (USCG) report. Wilson said he would summarize the activities that occurred between February 14th - April 30th.

- Five suspected foreign fishing vessels encroachments occurred in the Guam EEZ. They deployed a C-130 and a surface asset to these incursions and patrolled the area, unfortunately nothing was found but a number of foreign fishing vessels were fishing within about ten nautical miles of the EEZ.

- C-130s were deployed to patrol the EEZs around the Main Hawaiian Islands, Kingman, and Palmyra, but no foreign fishing vessel incursions were detected. The Coast Guard Cutter *POLAR STAR* patrolled the Kingman/Palmyra EEZ coming back up from operations in Antarctica, but no incursions were detected.
- The *GALVESTON ISLAND* participated in Operation Bigeye, which is a surveillance operation conducted in coordination with FSM, Republic of Palau, and the Republic of Marshall Islands, patrolling on the Guam side of the border between Guam and the Federated States of Micronesia. Australia and New Zealand were also there. They found five foreign vessels that either had their VMS turned off or were not keeping their logs properly.
- In the MHI, they had two 110-foot patrol boats conducting enforcement of the domestic fleet south of the MHI. No significant violations were detected. They continued active surface and aerial patrols of the Hawaiian Island Humpback Whale National Marine Sanctuary.
- In the high seas driftnetting, they received their first report from a U.S. fisherman of illegal activity in the far reaches of the Northern Pacific. They are working very closely with Canada, Russia, Japan, China and Korea to combat IUU fishing this summer.
- They have had a number of ongoing studies both internally with the District, and ongoing with the Commander of the Pacific Area, about resources in the AOR, which includes American Samoa, Guam and the MHI. In the MHI they are getting additional small boats. This fall the Coast Guard Cutter *AHI*, an 87-foot patrol boat, will be coming to the MHI. Their intention is to take one of the other 110 ft vessels and to move that to Guam.

Tulafono called for questions.

Morioka asked what the major noncompliance issue was regarding commercial fishing vessel safety previously.

Wilson replied nothing stuck out, but this time there were absolutely no violations at all.

Duenas asked if the five foreign vessels within ten nautical miles of Guam were fishing or just traveling?

Wilson replied they were fishing.

Duenas said that if they were setting longlines, and their longlines were 30 to 50 miles long, there might be some infraction. He said there was a report of one fishing company that makes three-to-five-day trips, and wondered if it was one of these vessels.

Wilson said he did not have the names of the vessels, but that the vessels were out there for a period of two days.

Duenas asked if Wilson could get the information on the vessels' names or numbers.

Wilson said yes.

Sablan asked why the *TENSHOU II* was boarded by the USCG near Anatahan.

Wilson replied he did not know, but he would check and find out.

Tulafono called for additional questions, hearing none, called on Mark Cline to report on Agenda Item 6.B, NOAA Office of Law Enforcement.

B. NOAA Office of Law Enforcement

Cline announced Assistant Special Agent In Charge John Reghi would be transferring to Headquarters in Silver Spring.

- During the last quarter they had approximately 71 investigations, 57 percent were ESA and Sanctuary cases regarding approach regulations and harassment of the humpback whales in Maui.
- They had 22 Magnuson Act violations stemming from seabird and sea turtle mitigation measures including discarding bait, logbook violations and observer harassment.
- Several marine mammal cases were initiated, most for illegal sale of marine mammal parts.
- There was one shark finning case in American Samoa.
- They are also assisting the management plan of the NWHI Sanctuary Designation.
- They are planning to move into the Regional Office in July or August.
- In addition to losing Reghi they also lost Bob Harman, the VMS manager, who is now working with PIRO. They are in the process of hiring people and hope to get a new agent in Guam, American Samoa, and one in Honolulu to replace an agent who will soon be retiring. They hope to get a new enforcement tech and administrative assistant.

Martin asked about the harassment, intimidation and interference of observers that was in his report.

Cline replied almost all those cases are fixed as soon as they talk to the captains. In the last quarter they had three cases, of these, only one of them was going forward. The other two were solved on the boat.

Martin commented that the enforcement personnel on the docks do a good job of working with the industry and communicating when someone does not understand an issue.

Morioka said it is always a concern when dealing with compliance issues and someone has to be on a boat with the crew.

Cline said every now and then an observer causes problems, and he needs to know about that too and try to correct it.

Tulafono extended his sincere appreciation and gratitude to Reghi for his work, especially in American Samoa, Guam and Saipan. He then called on Feder to report on agenda Item 6.C, Status of Violations, for Paul Ortiz.

C. Status of Violations

Feder referred the Council members to document 6.C.1., and apologized that Paul Ortiz was unable to attend. Feder reported on a single case that was settled involving violation of the Shark Finning Prohibition Act, a prohibition in the Magnuson Act. The Respondent was charged with 30 counts of shark fins without the corresponding carcasses. The case settled for \$1800, the full amount of the penalty.

Sablan said there is a fisherman in Saipan that catches sharks and uses the carcass for bait for deep-water shrimp. He wants to bring the fins to the island, and Sablan asked how to explain that under federal law that is not allowed?

Feder said to explain to him the regulations prohibit him from disposing of too much carcass.

Sablan said he was not disposing, he was using it commercially.

Feder said the prohibition is against possession, so even if he used the carcass in an appropriate way, did not target the sharks for their fins and everything was used, the prohibition is quite strict.

Seman asked what if he removes the flesh and keeps the skin?

Feder replied the act refers to “without the corresponding carcass”. The regulation goes on to specify that the fins cannot constitute more than five percent of the total weight of the fins plus the carcass. The regulations could be changed within the confines of the statute itself, and he said if someone had an idea for revising the regulations NMFS would entertain that suggestion.

Tulafono called for additional comments or suggestions, hearing none, moved to the next agenda item.

D. Public Comment

There were no public comments.

F. Council Discussion and Action

There was no further Council discussion.

Morioka announced the meeting was adjourned for the day.

Morioka reconvened the meeting at 8:00a.m., Wednesday, June 1, 2005.

VII. PROTECTED SPECIES

A. Olive Ridley Sea Turtle Biological Opinion

Brandee Gerke, PIRO, provided an update on events that had occurred since the last Council meeting on the Endangered Species Act (ESA) Section 7 consultation for the Hawaii-based pelagic deep-set longline fishery:

- In March PIRO and PIFSC staff met to discuss the analytical approach that would be used to come to a jeopardy determination in the 2005 biological opinion.
- On May 5th they had a steering meeting to go over the analytical approach with the Hawaii Longline Association (HLA), the Council, PIRO and PIFSC.
- On May 13th PIRO held a call with members from various conservation organizations such as Oceana, the Ocean Conservancy, the Center for Biological Diversity, Earthjustice and Turtle Island Restoration Network, among others. The purpose of the call was to go over the analytical approach, let them know why a consultation was re-initiated, and give them an opportunity to provide input. Unless they submit information their access to the process will be complete as of that meeting.
- Also on May 13th, PIRO and PIFSC staff met to discuss how to determine the exposure of individual turtles to the fishery. Those analyses are ongoing.
- A presentation was made to the SSC regarding the analytical approach regarding the consultation.
- A meeting with HLA and members of the Council, PIRO and PIFSC was held to discuss preliminary results of the exposure analysis.
- The Protected Resources Division and the Sustainable Fisheries Division agreed to extend the consultation timeline by a period of 35 days because they did not

have results from the exposure analysis. They wanted to provide the opportunity for HLA or Sustainable Fisheries to frontload their action if necessary. Based on the preliminary results from the exposure analysis, they had not identified any concerns that HLA or Sustainable Fisheries would need to be aware of.

- According to the new schedule, formal consultation will be concluded on June 21st.
- Through the distribution of a final biological opinion, they will release a Draft Biological Opinion (BiOp) to Sustainable Fisheries and HLA by June 16th and will still have five days in that formal consultation period. If any concerns are identified at that point, formal consultation could be extended. They will receive comments on that draft and get another draft out by July 12th. The formal consultation could be extended before June 21st, but if not, the expected deadline for the final BiOp would be August 5th.

Morioka asked Robinson if NOAA Fisheries changed their opinion about Regional Fishery Management Councils becoming applicants, and mentioned it was still a concern of his.

Robinson said not that he was aware of.

Morioka called for comments or questions, hearing none, called on Paul Dalzell to report on Agenda Item 7.B.

B. Marine Mammal Advisory Committee

Dalzell explained the Council put together a Marine Mammal Advisory Committee (MMAC) because of the elevation of the Hawaii longline fishery from Category III to Category I in the MMPA. He said most of the fisheries in the WPR are classified as Category III but the Hawaii fishery was elevated to Category 1 based on interactions with false killer whales. The false killer whales around Hawaii were designated as a strategic stock based on genetic data suggesting that they are a distinct subpopulation segment reproductively isolated from false killer whales elsewhere in the Pacific. The number of false killer whales around Hawaii, estimated from NMFS line transect surveys, was about 268 animals. Despite the annual low level of interactions with false killer whales, NMFS determined that it was too high for this small population to support. The MMAC was convened to advise the Council on what measures might be adopted to minimize further interactions between false killer whales and longline vessels.

Dalzell then pointed out that only the interactions that take place inside the EEZ are counted for the purposes of determining the level of interaction rates, the MMPA does not extend to the high seas. Several interactions occurred around Palmyra, and he said the MMAC discussed whether that stock is related to the Hawaii stock or whether it is another distinct subpopulation.

He reported the people serving on the MMAC include: 1) Robin Baird, a researcher who looks at populations of nearshore cetaceans in the Hawaiian Islands; 2) Jeff McPherson, an Australian biologist who is working directly on the mitigation of depredation (stealing of fish off the line) by false killer whales and short-finned pilot whales in the Australian fishery; 3) Marilyn Dalheim with the NOAA National Marine Mammal Laboratory who has worked on depredation on bottom longlines in the Alaskan fishery from sperm whales and killer whales; 4) Tamra Faris who is in charge of Protected Resources at PIRO; 5) Chris Yates; 6) Dave Johnson, the new cetacean biologist at the Honolulu Lab; 7) Russell Ito, PIFSC, who brings fishery information and fishery knowledge to the fishery; 8) Karin Forney, a cetacean biologist that does the determinations of levels of interactions at the Southwest Fisheries Science Center; 9) Paul Nachtigall, a researcher on echolocation in cetaceans from Hawaii Institute of Marine Biology; 10) Irene Kinan, Council staff, and 11) himself.

They held a two-day meeting in mid May, which included agenda items such as: 1) looking at observer data records for marine mammals given by PIRO; 2) the research plan that PIFSC and PIRO plan to extend on addressing Category 1 issues with the Hawaii longline fishery; 3) the statistical aspects of estimating fleet-wide interactions between marine mammals and Hawaii-based longline vessels; 4) estimates in abundance of marine mammals in surveys from the line transects with the inshore surveys conducted by Robin Baird; 5) studies of odontocete populations around the MHI; 6) stock structure, genetics and the genetic isolation of this population; 7) stock assessment reports for marine mammals in the WPR; 8) opportunistic information on false killer whales from the SPLASH program; 9) the potential for finding out more about the recreational fishery interactions with marine mammals; 10) directed research on depredation on toothed whales on longlines from the U.S. and Australia; 11) behavioral aspects of toothed whale depredation on longlines; 12) a report from a contractor, Eric Gilman, who is conducting a project looking at fleet communication strategies to avoid protected species interactions.

He then read the recommendations developed at the meeting:

- The MMAC supports the continuation of studies by the Southwest Fisheries Science Center, PIFSC, and the SPLASH Program to obtain information on the abundance, distribution and stock structure of false killer whales and other cetaceans in the US EEZs in the Western Pacific;
- The MMAC recommends that fishery interactions between the Hawaii longline fishery and false killer whales, as well as other cetaceans, be fully assessed by the Southwest Fisheries Science Center, PIFSC and PIRO. Studies should focus on spatial and temporal patterns, gear and target species associations and characteristics of the depredation events during longline soaks;
- The MMAC recommends that the magnitude and nature of fishery interactions between cetaceans and Hawaii nearshore fisheries be assessed by HDAR, PIFSC and PIRO;

- The MMAC recommends that baseline studies on the foraging ecology of false killer whales be conducted. Specific studies should address cetacean sensory ecology and diving behavior, oceanographic features and trophic relationships. Further, studies should include characterizing the behavior of false killer whales and other cetaceans around longlines;
- The MMAC encourages PIRO to work collaboratively with PIFSC to address cetacean data and sampling needs through the observer programs and the stranding program;
- The MMAC recommends that the Council continue to encourage the HLA to ask its members to facilitate the collection of biological samples from cetaceans by onboard observers, and communicate to its members the significance of data derived from sampling collection;
- The MMAC encourages the study of live false killer whales and other cetaceans currently housed in research laboratories. Research should be aimed at increasing understanding of cetacean morphology and sensory systems, issues that are relevant to management concerns to reduce and/or eliminate fishery interactions between cetaceans and longline fisheries;
- The MMAC recommends that one or more MMAC members participate in the Take Reduction Team for the Atlantic longline fishery;
- The MMAC recognizes the critical need for the inclusion of one or more fishermen on the Committee;
- The MMAC recommends that efforts to implement mitigation strategies for false killer whales and other cetaceans with the Hawaii longline fisheries should include relevant information from existing studies of fisheries in other areas. This could include information from strandings, observer programs and other workshops on this issue;
- The MMAC recommends that an accomplishment report of the above recommendations be written and verbally presented to the Pacific Scientific Review Group when it meets in November 2005.

Morioka asked if there was a recommendation to create a Take Reduction Team (TRT).

Dalzell replied they had great support from PIRO in developing the MMAC, and that is the first step towards that process.

Robinson said that due to resource concerns, they do not have any immediate plans to put together a TRT but intend to fully participate and support the activities of the

MMAC. They also plan to participate in the TRT for the Atlantic longline fishery and its interactions with pilot whales. He reported they obtained marine mammal money this year and are supporting PIFSC in doing stock structure work and work on nearshore fisheries interactions with false killer whales this year.

Morioka asked if there were presentations done on deterrent devices?

Dalzell said yes, McPherson was doing tests in Australia and had approached HLA to do tests in Hawaii.

Martin said the industry has a great interest in reducing interactions with false killer whales for more than one reason, and are in the process of developing a methodology where they can do some tests. The actual interactions are somewhat rare except for coming up with hooks that do not have any fish on them. He asked about the recommendation regarding industry collecting samples, and said the industry would be supportive of continuing to collect biological samples, but it is extremely rare.

Faris said the intent was to biopsy skin samples that could be done outside the vessel.

Morioka called for questions or comments, hearing none, moved on to Agenda Item 7.C, Report on the Turtle Advisory Committee.

B. Report on Turtle Advisory Committee

Kinan reported that the Turtle Advisory Committee (TAC) convened in March in conjunction with a loggerhead workshop that was held at the same time. She said both the SSC and the Pelagics Plan Team endorsed the recommendations, and she would be presenting them to the Council to get their endorsement.

The second TAC meeting reviewed the progress of the five sea turtle conservation measures. They have three nesting beach projects and two foraging ground projects. The best way to view those foraging ground projects are as massive education and outreach initiatives to help local communities make the best choices about harvest and fishery practices. They reviewed the status of other programmatic components including recommendations from past workshops and other ideas they had with regards to endowment funding and anthropological studies. They also reviewed the Regional Sea Turtle Research and Tagging Research Databases (TREDS) and provided comments regarding direction for future Council movements.

The TAC was happy with the progress of the nesting beach management projects. They provided suggestions for methods to strengthen their conservation actions, and provided specific recommendations to assist programs better define objectives and help identify the needs to quantify success in the future. Overall, all five conservation projects succeeded in implementing their particular conservation goals.

Kinan reported there were many recommendations that came forth, mostly directed to each individual project to help them with their goals, but she reviewed a number of overarching recommendations:

- 1) continue the Council's five conservation projects;
- 2) expand nesting beach projects in PNG and the Solomon Islands, both very significant leatherback nesting beaches;
- 3) provide technical on-the-ground assistance to nesting beach projects to strengthen research methodology, recording and help with the experiments to quantify hatch success;
- 4) incorporate social studies in foraging grounds to assist in quantifying success of these programs and reducing poaching;
- 5) contract an anthropologist to help understand the social impact of conservation activities in PNG;
- 6) continue the progress in the Turtle Research Database System;
- 7) continue investigating options, opportunities and develop a business plan to implement endowment funding for turtle conservation;
- 8) deploy satellite telemetry in the South Pacific to understand some of the movement patterns of south Pacific loggerhead turtles;
- 9) promote collaboration between nations and pelagic longline fisheries of the U.S., Australia and Peru;
- 10) work with officials in New Caledonia to rear about 30 local loggerheads for one to two years to be released in pelagic waters with small satellite tags;
- 11) increase education and outreach;
- 12) continue efforts to promote and transfer best practice fisheries technology to the international longline fleets of the Pacific.

She also reported there was a recommendation that came out of IFF2 for the creation of a website called Sustainable Fisheries Alliance which the TAC did not support, and there were recommendations from the May 2004 Hawksbill Workshop that needed to be ironed out which were fixed. The TAC decided to contract Nic Pilcher to assist the Kamiali project with research methodology and reporting. He had just returned from Kamiali and had some very good reporting to provide. He was also going to help SPC and SPREP with the TREDIS database.

Colin Limpus presented a pilot study that he undertook in New Caledonia regarding the southern loggerhead population where he identified about 60 nesting turtles and many beach impacts threatening this nesting population. One of the major questions is how are animals migrating across the Pacific. Based on genetic data, scientists know south Pacific loggerheads are ending up in Peru in the Peruvian longline fleet, but they do not know how they are getting there. The TAC thus recommended future satellite telemetry studies to investigate this question.

Duenas said he had talked to her in the past about nurseries, and asked if there was any way to also establish them. Also, he asked if there was any thought given to moving them to a remote site where no people live.

Kinan said there has been no discussion of that. Establishing nurseries has been discussed extensively in the sea turtle community as a whole, but the problem exists in that it is not quite clear if a hatchery-raised turtle when released will act the same as a wild turtle since it was not habituated to any nesting beach.

Martin asked what turtle activities were occurring in Costa Rica that the U.S. was supporting?

Kinan said the Council does not have any projects in Costa Rica. Yonat Swimmer does collaborative work in Costa Rica, but PIFSC also does not provide them with any money. PIFSC does, however, put observers on their vessels to be certain of the information that is collected.

Morioka then called on Dr. Craig Severance to read the SSC recommendations although it was not an agenda item.

Severance said the SSC applauds the progress of the Council's Sea Turtle Conservation Program, endorses all of the recommendations of the Turtle Advisory Committee and also endorses all of the recommendations of the Marine Mammal Advisory Committee.

D. Public Comment

Morioka asked for public comment. There was none.

E. Council Discussion and Action

Farm motioned that the Council endorse the Turtle Advisory Committee recommendations as recommended by the SSC.

The motion was moved and seconded.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

Farm made another motion to adopt the Marine Mammal Advisory Committee recommendations as recommended by the SSC.

McCoy seconded the motion.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

VIII. PRECIOUS CORALS FISHERIES

A. Black Coral Management

1. State of Hawaii Black Coral Research

Farm called on Dr. Frank Parrish to give the report.

Parrish reported that Dr. Rick Grigg stepped down as chairman of the precious corals plan team, and he (Frank Parrish) would now serve as chair.

Parrish then presented Tony Montgomery's work as Montgomery could not be in attendance. The study evaluated black coral, specifically repeating what was done in previous years by Grigg. He began by showing slides of the Au'au Channel where most of the fishery occurs. He said Grigg started the assessment in 1975, did it again in 1998 and again in 2001. Most of the surveys were done by scuba divers measuring the sizes of the corals and counting what they saw. In 2001 Grigg used a submarine which gave him more time but a lower resolution, so it was not as accurate as what the divers could do.

He reported that Montgomery analyzed the population structure by doing an age frequency distribution then a reduction analysis on that distribution.

He mentioned that if it is for the State and they are within the grandfather clause they can start harvesting at 36 inches. If they are a new fisherman that comes into the federal fishery they have to start at 48 inches.

He reported there were several questions that needed to be answered, including: Have there been changes in the population size structure? Are there differences in the post-harvest population structure (post-harvest is greater than 14 years)? Are there differences in the pre-harvest structure? Before the fishermen get out there, are there changes in recruitment? Has recruitment in younger age classes diminished? To answer these questions Montgomery took all the data and he put in it at the same scale as what the submarine surveys were.

In 2001 Grigg noted that there was a reduction in recruitment. However, when doing the measurements a lot of the resolution was lost, therefore, Montgomery only looked at 1975, 1998 and 2004, he did not look at the 2001 data.

Parrish then showed a table which broke down the black corals into categories: 1) under nine years of age; 2) 14 to 19 years of age; and 3) over 19 years of age. He said at 14 they were getting an increase in the area where the harvest was occurring which looked good, except the percent under nine years of age was dropping. The most mature colonies dropped, which was to be expected because of fishing. Parrish made an analogy to burning two ends of the candle, normally they look at a fishery in the center of a candle and worry about the end that is burning and how much it is burning back to where the fishery is. In this situation, they should be looking for burning at both ends, which means that it is going to close in on the area where they can fish.

Parrish noted that there was a minor change to 1998, but between 1998 and 2004 there was a large change, much bigger than before. People initially thought it might be

Carijoa, however, it was all in shallow waters where the fishermen were fishing. Grigg, Parrish, and Montgomery all agree that there is very little *Carijoa* there.

He then discussed the pre-harvest where they do not do any harvesting at all. He noted recruitment was basically the same in 1975 and 1998, but 2004 was much lower than it should have been. They were not getting recruitment so nothing was replenishing which was the concern. The State went out and looked at it and saw a similar decline.

He concluded by answering the questions posed at the beginning of the presentation:

- 1) Have there been changes in the population structure? Yes, the mortality rate has increased from 1975 to 2004.
- 2) Are there differences in post-harvest population structure greater than 14 years? Yes, larger, older age classes have diminished from the population. Three separate analyses support this conclusion, which was not surprising since there is a fishery.
- 3) Are there differences in pre-harvest population structure, less than 14 years? Yes, the current age structure for age classes under 14 seem to be different from historical age structures, 1975 and 1998. The majority of the change has occurred since the 1998 survey.
- 4) Has recruitment in younger age classes diminished? Yes, based on the change in the Instantaneous Rate of Mortality and the number of colonies measured per minute of dive time, it was clear there were fewer colonies recruiting into younger age classes. The timing of a recruitment slowdown coincides between the HDAR 2004 survey and Grigg's 2001 survey. Grigg caught the beginning of it.

Oishi asked about the regression analysis for pre-harvest size structure. He said he was not clear about the conclusion, which stated that there was no recruitment, but the regression analysis showed a flat rate of mortality.

Parrish said it was just a way of representing the data that they had. As far as what the conclusions were, they cannot assume that they were going to get a steady recruitment in the fishery. Assuming that they did, the question was why they had such a great sample size of coral trees but no small ones. He said it does pose a very interesting question, why is it that they are not seeing more babies when they had people actually out there looking for them? Previously, the surveys were just doing size structure on the corals and were not focused on trying to specifically find baby coral trees. As far as what the conclusions were, he said he did not know, it just meant they need to be suspicious.

Morioka said most of the work was done in the Au'Au Channel area, and asked if similar work been done on other known beds such as the Makapuu Bed or the Keahole bed.

Parrish replied Grigg did some strong initial comparisons on the Makapuu Bed, but nothing like this.

Morioka said given that information, there had been discussion among Council members regarding treating this as localized overfishing or perhaps overfished condition. He asked what the steady state for the rest of the resource was. He said some feel that the resource is still abundant because it had not been exploited, so fishing effort could be displaced and moved off. He said they had a situation of a localized depletion and were considering action on the localized situation because that was where the fishing occurs. He asked Parrish for his assessment as to how best the Council should approach the analysis that had been done and how to apply it on a fishery-wide basis.

Parrish replied he did not have an answer as to why they were not seeing the recruitment. There were some suspects such as *Carijoa*. They used to count on the deeper colonies, the ones outside of the reach of the fishery, to supply the recruitment as a de facto reserve. In 2001 he found the largest trees were predisposed to being colonized by *Carijoa*. There was complete coverage, loss of the tree, loss of the reproductive potential of close to 70 percent cover. Now there is cover on the bottom, irrespective of the coral, which is creating a possible ecological shift. He said there is going to be potential damage that does not get introduced at that local area anymore. It could very well be that the damaged ones are not available for recruitment. That may be one of the contributing factors of not getting more baby trees coming in. It might explain why *Carijoa* exploded across the channel between 1998 and 2004. Right now they are not seeing *Carijoa* moving into shallower waters because of light constraints. That means that the area that the fishermen are operating in may be relatively safe from infestation. But it redefines the fishery, it is no longer a fishery with a de facto reserve in deep water. It could be a combination of *Carijoa* and the fact that they harvested large trees in the shallower depths.

McCoy asked if they had ever used tangle nets to harvest the coral, as he had heard from Grigg that when the coral breaks off as it is being harvested it actually has the potential to regrow.

Oishi said tangle nets were not used in the black coral fishery, they were used for the deeper-water corals, the pinks and the reds.

Parrish said during surveys they had seen coral trees that look like they had been broken off and had corals growing out of there.

Duenas asked if there had been analysis done on water temperature, sedimentation, etc that occurred in this area?

Parrish said last year NMFS deployed flow meters and put out recorders and settling plates to see if they could start getting at recruitment issues. They had some instruments in place, but no long time series.

Duenas asked if there was another area that was more pristine they could do a temperature study or a sedimentation comparison to this area, since shallow water corals are very sensitive to temperature and sunlight.

Parrish replied that was a good idea.

Morioka asked when the summary of data would be available to the Council on the studies done in other areas in the State of Hawaii.

Oishi replied he knew that the datasets were small and would not take much effort to conduct the analysis, however Montgomery had other assignments in addition to his black coral work.

Morioka said maybe it would behoove the Council to help the State accelerate finalization and analysis of the data so that the Council could get a better picture of what was occurring.

Farm said a method of harvest might be a consideration, and asked if they normally harvest and take out well into the bed of the tree, or do they cut it above so there is a stump left?

Parrish said the divers go down with a hatchet and they slam in right next to the carbonate where the tree is attached to the bottom. They actually get the whole stump, and then it will have the carbonate underneath.

Grigg said the question about temperature was a good one, however, black coral does not have any of the tiny plants that live in normal corals that build reefs. Therefore temperature does not affect the black coral until about 320 feet. Light does not either. They do have current measurements that go back through the years. They take the base in Maui because it is calcium carbonate and it cracks quite readily, whereas on Hawaii and Kauai the black coral occurs more often on lava which is soft. It is actually quite easy to saw it. On Maui, there are multiple branches so they just got in the habit of chopping the base.

Farm asked Grigg if the marketability or the quality of the black coral in the Au'Au Channel was different from the Kauai beds?

Grigg replied the Maui coral was better because it did not have as much overgrowth of associated organisms that foul it. Kauai does not have the water clarity and the coral is quite close to shore. On Maui, it is out in the open channel and pure oceanic water flows through the channel without the concentration of larvae of other organisms.

Farm said it makes a difference, there might be some reason for the harvesting to be concentrated in the Au'Au Channel.

Bob Taylor, CEO of Maui Divers of Hawaii, said it had been over 20 years since they bought coral from any divers off Kauai. It is important to them to sell it as a Hawaiian product, the quality of the black coral from Hawaii is vastly superior to other black coral for making jewelry. It accounts for about 20 percent of their sales, or approximately \$15 million dollars a year. He said they use 1,000 pounds of black coral a month compared to 15 years or 20 years ago when they averaged three or four hundred pounds a month. It would be very detrimental to their business if there was any kind of moratorium placed on the harvest of the coral. They employ over 600 people.

2. Management Options (Initial Action)

Josh Demello, Council staff, outlined the range of alternatives for management:

Alternative 1: No action. Keep the exemption allowing harvest of Hawaii black corals with minimum base diameter of $\frac{3}{4}$ inch or a minimum height of 36 inches by persons who reported harvests within the State of Hawaii within five years prior to April 17th, 2002. The minimum size for a nonexempt fisherman is 48 inches height and one-inch diameter.

Alternative 2: remove the minimum based diameter and measure by height only, 36 inches for exempt fishermen and 48 inches for nonexempt.

Alternative 3: eliminate the height and harvest at $\frac{3}{4}$ inch for exempt fishermen and one-inch for nonexempt.

Alternative 4: remove the exemption so everyone would harvest at 48 inches minimum height, or one-inch base diameter.

Alternative 5: remove the exemption and the minimum base diameter so everyone would be harvesting at 48 inches.

Alternative 6: remove the height and the exemption so everyone would harvest at one-inch base diameter. Use the current measures, side setting, underwater setting chute or a tori line if fishing north of 23⁰ N.

Alternative 7: put a time limit on a moratorium, opening dependent upon scientific findings.

Morioka asked how long the stockpiles of black coral would last.

Oishi said he was not aware of any figures that the jewelers, the manufacturers or the divers themselves had.

Morioka said that information would be important when they were making their decision regarding a moratorium.

Morioka asked how much of the harvest of black coral in the Au'au Channel occurs in federal waters and how much of it occurs in State waters.

DeMello said that was an uncertain point. The State claims jurisdiction over black coral resources in archipelagic waters. According to the Precious Corals FMP, a permit is needed to harvest precious corals in federal waters. According to NMFS, no permits had been issued for precious corals in federal waters. It depends on the Council's view of ownership of that sliver of ocean between Lanai and Maui.

Martin asked what the current level of effort was, and also who and how many qualified individuals are under the exemption?

DeMello said they do not know how much is caught per year because of the low number of reported, but he estimated it was 3,000 pounds a year. He reported there were four divers with two active, and since only two report they could not look at the data.

Martin asked how many people qualify for the exemption?

DeMello said all of the divers.

Oishi reported there were between five and seven for the State of Hawaii, with two actively harvesting.

Duenas asked if the State keeps a record of all the harvests?

Oishi said yes, but because the number of fishermen is below three, the data is not aggregated and, therefore, not reported.

Duenas asked if they could figure out an average over a five-year period.

Oishi said he would have to go back and get the information from the database.

B. Advisory Panel Report

Jennifer Bauer reported that the Subsistence Panel deferred to the Council.

- The Ecosystems and Habitat Advisory Panel supports the moratorium on black coral harvest in the federal waters at the Au'au Channel and further research on the effect of *Carijoa* on black coral stocks and habitat in the area;
- The Commercial Panel supports allowing the current fishery to continue, but recommends disallowing issuance of new permits;
- The Recreational Panel supports the continuation of this fishery but change the depth from where they harvest it.

Morioka asked if the Recreational Panel dictated what depth they would be considering?

DeMello said no, they wanted to move the fishery to a different depth but they never clarified what depth.

Farm asked if there was an indication that they should go shallower or deeper?

Bauer said they were discussing both.

C. Plan Team Recommendations

Parrish read the Plan Team recommendations:

- the Plan Team recommends the Council remove the exemption allowing harvest of black corals with a minimum base diameter of $\frac{3}{4}$ inch or a minimum height of 36 inches by persons who reported harvest to the State of Hawaii within five years prior to April 17th, 2002;
- the Plan Team recommends the Council adopt a 48-inch height requirement for minimum harvest of black coral colonies.

D. SSC Recommendations

Severance directed the Council members to document 8.D.

- The SSC recommends and supports an additional Option 7, that a moratorium be placed on the harvest of black coral in federal waters during which research will be conducted. If it can be shown that recruitment recovery has not occurred, the moratorium will remain in place;
- The SSC recommends that if recruitment recovers and the moratorium ends, harvest limitations be established based on the science-based sustainable harvest plan;
- The SSC recommends that the Council voice its concerns to the State of Hawaii about the apparent decline of black coral and recommends that the State of Hawaii adopt a similar management approach and continue to collaborate on research with NMFS. Types of research that would support consideration of the moratorium and harvest limits include: 1) surveys to determine the size composition by depth and habitat zones; 2) reproductive biology of black coral; 3) the impacts of *Carijoa riisei* and other factors on recruitment, and; 4) stock assessment models being able to evaluate the probable impacts on recruitment of alternative minimum harvest size.

Morioka said the State was planning to revisit the stock in three to five years, and asked if the SSC's analysis was flexible to reflect whenever that research occurred, rather than waiting five years?

Severance replied he could not speak for the SSC as a whole, but that if the research progressed rapidly enough, and that changed the circumstances, certainly that could happen.

E. Standing Committee recommendations

There were no standing committee recommendations.

F. Public Hearing

Dr. Rick Grigg spoke first. He began by circulating a handout and read one paragraph from it that he said showed that the State of Hawaii had clear jurisdiction over the waters lying between the Main Islands of the Hawaiian Archipelago, well beyond three miles from the coastline of each island.

He began by indicating where the black coral beds were. He said there was one black coral bed around Kauai within State waters which was no longer harvested as most of the divers are too old. The bed in the Au'Au Channel supplies 100 percent of the coral now used by the industry. There was another bed at South Point which was not harvested because it is about 250 feet, and there are no black coral divers on the Big Island.

He then showed a map of the Au'Au Channel and indicated where the federal and state waters were. He said the federal claim is a strip that would run through the middle of the bed. Most of the effort over the years had been in State waters. He said that if the Council raises the limit to four feet, which is what the planning team recommended, it would basically eliminate the State waters as a potential place for harvesting since there are no legal colonies in State waters off Maui or Lanai. Off Hawaii and Kauai there are legal colonies, but there is no diving there. If the moratorium on the Au'Au Channel was implemented, the fishery would have to shift to Kauai or the Big Island. The Big Island is too deep, and Kauai had not been surveyed.

He then showed data, and said Montgomery's was more detailed but his goes back to 1975. He said it was possible there was a slight fallout in recruitment, but he stressed it was slight. Also, over the years, the larger colonies were being fished out of the population so the population was being squeezed from both a reduction in recruitment and fishing.

Grigg said he was in favor of the plan team recommendation to increase from three to four feet and to do away with the minimum diameter size, but not in favor of the SSC five year moratorium. He said he thought the Council should also urge the State to follow suit. He was opposed to the moratorium because he did not believe it was warranted by the data, it was overly restrictive because there is only a hint that that

recruitment has been diminished, and it would kill the fishery. All the divers were over 50, no training would take place for five years so there would not be a fishery once it opened up again. That would negatively impact the industry which produces over \$20 million in sales and about 150 jobs.

Once they run out of their stockpile, and high quality black coral jewelry was no longer on the market, the product would be devalued by virtue of the fact it would be a foreign black coral coming in from the Philippines through Taiwan.

Regarding jurisdiction, he said the Attorney General might think the federal government was trying to manage State waters. When Maui Divers was harvesting six miles off Makapuu in the 1970's they were required to get a State permit and report their data to the State. He said to his knowledge the federal government does not issue permits.

Alvin Katekaru said they had not had any applications, and that there were numerous discussions with fishermen so the fishermen were aware of the regulations and the grandfathered requirement. They made it consistent so there was no discrepancy, the State had the same identical minimum size requirements as the federal requirements. They tried to facilitate that type of approach with the current situation, except for the grandfathering requirement when there was an understanding on the part of the State that they would grandfather the five to seven individuals.

Grigg said they are at a standstill regarding jurisdiction, and summarized that he was opposed to Option 7 for three reasons: 1) it is not warranted by the data; 2) it is overly restrictive, and 3) it would kill the fishery and seriously impact the industry. He said he was in favor of the SSC recommendations for continued research.

Ebisui said based on the opinion that Grigg read, wouldn't the State be claiming the waters between Maui and Lanai, and would that not eliminate that so-called federal sliver?

Grigg said yes.

Ebisui asked if everything was occurring within State waters?

Grigg replied if that is so, correct.

Ebisui said so whether there is a moratorium or not really does not affect that particular harvest area.

Grigg said under those conditions, no.

Ebisui said there are no federal permits issued presently, correct?

Grigg said correct.

Robinson asked for Grigg's assessment of the effectiveness of protecting black coral and conservation, as well as the impacts on the industry of the difference between having 48 inches in federal waters and 36 inches in State waters versus a uniform 48 inches in the entire area.

Grigg replied the 48-inch size limit was needed for consistency as well as the fact that it would give the black coral five more years to reproduce. It would be harvested at age 19 instead of age 13, and they reproduce at age 12 or so. In 1988 they recommended 14 to the State and to the Council. The Council accepted that, but the State granted a waiver which still stands. If it had been at 48 all these years the stocks would be in better shape. The fishery had been managed well by the Council and the State for 48 years, this is the first time there has been any hint that more restrictive actions are needed. A consistent four foot size limit is more restrictive, and is a first step to continue the conservation of the resource.

Robinson asked if he would agree that from a regulatory standpoint uniform regulations in state and federal areas would be the most desirable?

Grigg said absolutely.

The Council members then thanked Grigg for his years of passionate service that he had provided to the Council.

Robin Lee spoke next. He said he had been diving coral for over 30 years and had always practiced select harvesting. He and the other divers swim through thousands of trees before they select the bigger trees to take. Normally they are in the four-foot range or bigger. They usually leave the little ones alone unless somebody wants a gift which would be a three-footer. They gauge the harvesting not as much on the height, but more the thickness of the branch, the stem and harvest when it is about an inch or bigger. They have seen a lot of regrowth. They take the bigger trees and let the babies grow, then 10, 15, 20 years later there is the same amount of coral. He said they have been doing this for years and years and the beds seem to be quite healthy.

Regarding *Carijoa*, they rarely see that in the areas they dive. It is usually deep or under crevices in the dark corners. Also, he had seen *Carijoa* growing alongside black coral, and both the *Carijoa* and the black coral were doing OK. In their last sale to Maui Divers they detected only a handful of *Carijoa* in the whole load.

He then told a story about how he thought he had found a new bed, but actually he had found it years before. He said it illustrated how they go from mount to mount or ledge to ledge, in a gigantic circle re-harvesting beds they had been to before. He said they also leave very large trees they call welded trees because they seem welded in.

He concluded by saying they would like to see the coral continue and has always tried to preserve the beds.

Calvin Wada, a black coral diver, spoke next and said he wanted to go on record opposing the five-year moratorium. In his opinion the State was doing a sufficient job managing the black coral.

Morioka asked about the 48-inch height limit?

Wada said they look at the size of the diameter of the trunk.

Duenas asked if he would share data with the Council.

Wada replied yes.

Duenas asked Mr. Lee the same question, and Lee replied yes.

Sablan asked Wada and Lee if they had any information on stockpiles of black coral on Maui?

Lee said there was only a couple hundred pounds stockpiled.

Robin Lee's son then testified that he had been diving for black coral for about five years. He said the height was not the real factor in the age of the tree, sometimes trees are very tiny but very thick and old. In some areas of the reef the trees are tiny, in other areas the reefs are just much healthier and grow a lot taller. He said he does not think *Carijoa* is destroying the reefs. In areas where the reef is healthy *Carijoa* is minimal. He concluded by saying he was not in favor of the ban, he would prefer to see more studies conducted to find out how the trees grow.

Sablan asked how many licensed divers were presently harvesting black coral on Maui?

Lee replied three.

Henry Asam, a black coral diver, testified he averaged over 100 dives a year and had been diving with Lee for the last seven or eight years. He said every time they dive they see acres and acres of coral and are very selective about what they harvest. He said he is the oldest diver at 63, and just him, Lee, and Wada dive actively. They have only 24 minutes of bottom time since the dives occur between 220 - 240 feet. The divers have only 16 -20 minutes to get down from the boat and back up to decompression.

Duenas asked if he was willing to share that information with scientists on a firsthand basis?

Asam replied yes.

Mitchell Major testified that he had been diving for black coral since 1977 and continued to dive on an intermittent basis with Lee and the others. He said there are two full-time divers and two part-time divers, and he was one of the part-time divers. The Council and the black coral divers both want the health of the black coral reef to continue and also want to balance the needs of the black coral industry, a 35 million dollar industry per year.

He said in the last 10 -15 years they have good records of almost 1,000 dive sites between them. They wrote down comments on the sites, for example: babies only, lots of tiger sharks, good place to get coral, etc. They have very accurate GPS readings for the last 10 years.

He then showed a topographic map of the black coral grounds between Lahaina and Lanai to remind the Council where the black coral grows. The entire area covered about 7.5 square miles. He said it was very difficult when diving at 250 feet to find much time to go further than this area. Last year they averaged between 110 and 180 pounds per diver per year per square mile.

He said they have tried to find out if there is a decrease in the biomass, and if it is significant, do they need to stop the diving or modify what they are harvesting. He identified two causes: 1) overharvesting; and 2) *Carijoa riisei*.

Regarding overharvesting, he said it was important to identify if there was an increased demand. According to statistics from Maui Divers, the demand may be increasing, but the actual coral they are using to fill that demand has gone down or remained the same. That implies they are using better techniques and coral more efficiently than in the past.

Maui Divers indicated there was very little *Carijoa riisei* on the coral they use for processing. Numerous scientific studies have shown *Carijoa* is basically phototactic as is black coral. It will try to eat and kill anything it can, and black coral is one of those species that it can survive on. He said it has been around for a long time. They found it in Maalaea Wharf at a depth of about 15 to 30 feet underneath rocks in the dark. They have not seen a lot of it in 100 feet or so.

He then pointed out that the area where Dr. Grigg conducted his studies was in an area about 1 to 1.5 mile area, and said the other areas where black coral is found are very different topography, current and biological environments. He questioned whether they could make a direct correlation between what happened in the area that was studied to all the other areas where black coral is found in terms of recruitment and coral density.

He said the *Carijoa riisei* is in the channel and has not killed all the black coral there. It has not even been seen very often by Maui divers. He asked why there was an apparent decrease in coral mass, and if the coral mass was currently able to support the maximum sustainable yield? He said there was an earlier paper that showed a

substantially greater amount of black coral to be harvested than what was being harvested currently. They are harvesting less than half of what was recommended in the past.

He then outlined possible solutions: 1) changing the grandfather clause to one inch instead of $\frac{3}{4}$; 2) 36 inches versus 48 inches. He said if they are going to decrease the amount of coral that they can harvest and increase the size it will economically impact the divers, consequently the price of coral and the coral jewelry would go up. If they are going to change the grandfather clause, the height needs to be discussed. A temporary ban or a permanent ban would have a severe economic impact. He said if there was to be a ban on black coral diving it should occur when the scientists prove the black coral is spawning. That would increase the amount of recruitment for the baby plants.

Another point he brought up was that many times they have found a piece of black coral stuck into the sand and more coral growing off of it, yet there is no evidence that it had a hold on hard rock. He said this implies that a piece broke off, settled down, somehow attached itself to the bottom and started growing. He said they would be happy to begin a replanting program, taking one large piece of black coral, chopping it into 250 - 500 pieces and manually replanting it. It would have value for the future, and would offset the loss of recruitment by *Carijoa*. How it would be done would depend on funding.

Morioka asked if he was a commercial diver.

Major replied he was a physician who put himself through medical school by diving for black coral in 1977. He said he still dives several times a year and has a boat in Lahaina.

Morioka asked if he would object to the Council having access to his data.

Major said not at all, it would be readily available.

Morioka clarified that he would have no problem going to one inch diameter, but would have a problem with the 36 to 48?

Major replied the real crux of the question of age would be based upon how thick the base is.

Sablan asked if he was comfortable with the scientific data with regards to the black coral population?

Major replied it was easy to criticize, but the scientists do the best they can with what they have at the time. There was always need for more data, but the data that Grigg had needed to be seriously considered. He would like to see more of a correlation between the *Carijoa* and the natural biomass of the reef to see if *Carijoa* is causing a decrease in recruitment and a decrease in the amount of the total biomass. He said Grigg was doing just a few dives but Lee and Asam both dive about 100 to 150 times per year,

Wada does between 50 – 75, and he does about 30 - 40. The dives they do have not changed over the last few years, and the amount of coral that they have taken had not changed in the last few years. So the question remained why they were losing apparent biomass. He said it was not because of the divers. He said his high priority would be to start a replanting program and asked Grigg if the coral would grow.

Grigg said yes.

Major then offered to take anyone out diving with them to see the black coral.

Sablan asked how many licensed divers actively worked the Au'Au Channel.

Major said he was a NAUI instructor and he did not know the status of the other divers except they all had state fishing licenses.

Sablan asked if he was presently harvesting black coral.

Major said yes, he had a state license.

Kelii Mawae testified next. He said he came from Molokai and had been diving for black coral since the '60s. Once in a while he still goes, but mostly he fishes for aku and ahi and has the training program on Molokai for aku. He said he knows fishing for black coral is risky and appreciated the divers.

Morioka asked Feder for the federal interpretation of the contiguous waters of the State of Hawaii.

Feder said it had been the position of the federal government that the outer boundary of the State of Hawaii extends only three nautical miles from the coastline of the State. It is borne out by a court decision of the Ninth Court of Appeals in 1965 entitled *Island Airlines v. Civil Aeronautics*. That case was directly on point concerning the outer boundary of the State of Hawaii concerning the regulation of Aloha and Hawaiian Airlines. In consideration of a Supreme Court decision that had been rendered not long before this decision was issued, the Ninth Circuit affirmed the District Court ruling that the outer boundary of the State of Hawaii extends only three nautical miles from the coastline. It was his understanding that this was an issue of conflict between the State and the Federal Government for many decades.

Martin said from a catch-and-effort position they are operating in a void of information, and he appreciated the fact that the industry said they would share that information. He also encouraged the industry to share any other alternatives they might have.

Loerzel asked Parrish or Grigg how they arrived at the height as the measurement.

Parrish said in the past they had been measuring the height largely because it was possible. About two years ago he gave a presentation where they were looking at height size relative to maximum base size. They had the divers go down and measure the height and the absolute maximum base size and came up with a rough correspondence. The problem was they had an either/or situation, harvesting height or base. There was a very small percentage of coral that was excluded from harvest. Since the monitoring had always been based on height, it would be difficult if they started to allow the divers to harvest according to the base. They could take height measurements from a sub, from a diver, etc. and could measure a larger number of trees than when using calipers on a base.

Grigg said the coral trees at the base spread out, and they originally thought about a diameter of one inch above the base but that is very equivocal because of the way it was shaped. It is very hard for the scientists as well as the divers to measure. They had 30 years of height data and three years of diameter data. He also said there are big people little people, and the same thing applies to coral. There are little trees and there are big trees, fast growers and slow growers. Sometimes there is a stunted tree that does not get bigger because it is in an area with no current. When you regulate a population you have to go by averages and what is practical, and it is cumbersome to use diameter. They have studied the typical average colony that is found most often in the optimal areas where the bottom current is strong, in the middle of the channel.

He said it is very important to keep in mind why they want to go to four feet. It gives the coral about seven years to reproduce on average. There is variability but it is their best estimate.

Duenas asked the divers if they would object to filling out the application for a federal permit so they don't have to deal with the Office of Law Enforcement.

Oishi provided background on how the State selected its minimum size for harvest. He said there are concentric rings that enable the coral to get bigger in size, similar to a terrestrial tree. This was also used as a basis for age determination. In his work, age by the number of rings was also equated to what was sexually mature in a tree. That corresponded to basically a $\frac{3}{4}$ inch diameter base with a three-foot high tree that was about 15 years old. The diver's main interest is the thickness of the trunk, because that equates to higher poundage and greater value. The question before the Council was, if they allow selection of a minimum size by trunk size are they ensuring that what was harvested was sexually mature. If immature trees were being harvested, then they are killing the fishery.

Morioka asked how many years will the tree have been sexually productive at 15 years?

Oishi replied sexual maturity in the cells begins at age 10.

Grigg corrected him and said it was about 12.

Oishi said they felt fairly comfortable that when they were establishing a minimum size of ¾ inch they were giving the species about 2.5 – 5 years worth of spawning reproduction.

Asam said what was not taken into consideration was that when coral is picked fresh it is very pliable and cannot be damaged. You cannot even break a pencil-size piece off of it. When it dries and is kept in storage it becomes like a pretzel. If the Council were to go with height, they should pick something closer to six feet because by the time they get it down to the store it will only be three feet because of how much it had been damaged in the interim time. It deteriorates and destroys itself.

Major commented the majority of the divers do not go entirely by what the diameter is, and was not suggesting that trees with a one-inch diameter should be able to be harvested. He suggested that the Council consider allowing trees to be harvested that are less than three feet but have 1 ½ – 1 ¾ inch diameter. Part of the regulations might be that if it is less than four feet it has to meet certain criteria.

Duenas asked if it was better to get a tree that was over four feet or below four feet?

Lee replied that some plants that are over four - six feet tall are sometimes very slim, and they do not harvest those. He felt the proposal to harvest anything over four feet would be wrong, it would be better to take a shorter tree that has a fatter diameter since it is older. He expressed that if they implemented the four foot rule they would kill the industry. The older trees that are under a ledge are fat, short and wide. They have been picking by diameter all these years and they do not pick anything with a small base.

Sablan asked what techniques they use to know which trees are mature.

Lee said if the stem was bigger than a thumb it was market size.

Major replied he grabs the bottom of the base and measures to see if it was as wide as two fingers with gloves on.

G. Council Discussion and Action

Morioka called for a break and asked for a matrix of all the information they received from the public comments. When they reconvened, Farm indicated the fishers and scientists agreed with recommendation number four, to remove the exemption and the coral would be either picked at 48 inches or the one-inch base. As such, the Standing Committee recommended:

- In regards to Precious Corals, the Council recommends removing the exemption, allowing fishermen who reported harvest five years prior to 4/17/2002 for all black corals in the federal waters done at a minimum base diameter of one inch or a minimum height of 48 inches;

- recommends the PIFSC, UH, and State of Hawaii black coral researchers look at the relationship between base diameter size and sexual maturity;
- recommends the Council convene a Black Coral Workshop consisting of fishers, scientists, resource managers, enforcement and industry to review the available data, data collection process specifically needed, data such as base and height diameter, criteria for Marine Protected Area in the Au'Au Channel, enforcement and education;
- recommends that the State of Hawaii revise State regulations for the harvest of black coral to make them consistent with the federal regulations.
- encourages and supports funding for future black coral research.

Farm made a motion that the recommendations be approved as a whole.

The motion was seconded.

Morioka called for further discussion from the Council members, hearing none, allowed the fishers to make further comments.

Major commented that there are many times when they dive for black coral and find a significant amount of dead coral.

Robinson emphasized that in order to be effective they need uniform regulations throughout the area, and urged the State of Hawaii to seriously consider adopting uniform regulations throughout the Au'Au Channel.

Oishi said they would give it serious consideration.

Feder clarified that the regulations governing the size limits for black coral apply to live coral only.

Simonds asked Oishi how long it would take for the State to implement uniform regulations.

Oishi speculated it would be about a year, but more if they encountered controversy.

Morioka called for further discussion, hearing none, called for the question. It passed unanimously.

IX. FISHERY RIGHTS OF INDIGENOUS PEOPLES

A. Community Demonstration Project Program AP Recommendations (Action Item)

Sablan called on Charles Ka'ai'ai, Council staff, to present 9.A.

Ka'ai'ai directed the Council members to document 9.A.1 and the booklet which outlined all of the proposals for the Community Demonstration Projects. He stated the Community Demonstration Project Program (CDPP) Advisory Panel recommended five projects for funding: 1) from CNMI, Traditional Fishing Projects for Chamorros and Carolinians in Rota; 2) from Hawaii, the Waianae Aku Boat Project which replicates the project that was approved in Molokai; 3) also from Hawaii, the Heeia Fishpond Revitalization Project which asked for funding to take a training program Statewide through a series of workshops with other fishpond projects; 4) from Guam, the Multi-Purpose Community Vessel to improve management and safety of bottomfishing at Guam's offshore banks which would implement community co-management with the Government of Guam for the seamount area outside of Guam; 5) from American Samoa, the Small-scale Longline Fishery Development for the Manu'a Islands which focused on the village of Olosega.

The CDPP AP recommended that the five projects be funded, however, the total cost of all five projects equaled \$540,352, \$40,352 over the \$500,000 amount that was allowed.

Ka'ai'ai then reviewed the CDPP AP recommendations:

- that those five projects to be funded;
- recognizing the need for more funding for this program, requested that the Council support a recommendation for increased appropriations for the program;
- that the review and ranking of the proposals to be conducted in other island areas and for the advisory panel to visit and review projects that have been funded through this program (the Standing Committee of the Fishery Rights of the Indigenous Peoples Standing Committee made a modification to this adding "if it is feasible, and if the funds are available");
- that the applications be reviewed from the island areas that they came from, and the AP additionally asked that they be random to enhance fairness in the selection. Ka'ai'ai indicated he had talked to the Program Officer and they would do this.

Sablan asked Ka'ai'ai to elaborate on the fifth project for American Samoa.

Ka'ai'ai replied there was a shortfall of \$40,000 dollars in the funds that were available, and said they were still working on where the \$40,000 would come from.

Sablan asked who was discussing it?

Ka'ai'ai replied Simonds was.

Bloom said the only way the fifth project would be funded would be if it came out of the funds they talked about in the Standing Committee. He stressed that the Council should finalize their discussions as soon as possible because the grant applications had to go as a package, and if the discussion was not finalized soon they would not make the Grants Management Division deadline.

Tulafono asked Ka'ai'ai if they had another \$500,000 for 2006?

Ka'ai'ai said that there is no reason to believe that there would not be an appropriation for 2006.

Tulafono asked if he was recommending to the Council to propose another congressional authorization for the CDPP?

Ka'ai'ai said yes.

Bloom said in the Standing Committee they also discussed another way to fund that fifth project. One possibility was to negotiate down the other four grants and their projects to a point where they could fund that fifth project. In reviewing those proposals, however, he said it was not a feasible option since some of the budgets were pushing to the max of the ability to perform the work. The CDPP AP recommended increasing funding on the Rota project because they did not feel that there were adequate funds to perform the program.

Duenas said the numbers for Guam did not match the number on the approved funding. The number matched the in-kind contribution but not the federal share by a difference of about \$35,000.

Ka'ai'ai said it would be a typo, his mistake, and he would make the correction on the memo that transmits it.

Duenas said then they would be \$75,000 short.

B. SPC-Council-FAO Community-Based Management Workshop

Ka'ai'ai said in 2003 the SPC approached the Council and requested assistance with putting together a Community-based Fisheries Management Workshop. The workshop was held in Honolulu from April 4th - 8th and was based on fisheries legislation for the territorial areas. There were 22 countries represented with two representatives

from each country and about 30 support staff. Some of the SPC and FAO countries did not have legislation that allowed the development of community-based management so they brought in attorneys from FAO and SPC to discuss how they could develop the legislation.

They came up with four recommendations, primarily for SPC:

- 1) requested training on the use of the SPC socio-economic manual to be conducted in their island areas to enable countries to develop their own fisheries management plans;
- 2) requested a regional approach be taken in resolving problems faced by countries in the management of their live food fish industries;
- 3) because of differences in cultures, customs and traditions, they felt workshops should be subregional in order to resolve difficulties encountered in the development of community-based fisheries management;
- 4) recommended asking the Council to assist with a second training to enable countries to develop their own fishery management plans.

Sablan called for questions, hearing none, moved to the next agenda item.

C. SSC Recommendations

Severance reported there were no SSC recommendations

D. Standing Committee Recommendations

Ka'ai'ai read the Standing Committee report:

The Fishery Rights of Indigenous Peoples Standing Committee recommends that the Council:

- support funding the five top-ranked projects: 1) Traditional Fishing Practices for Chamorros and Carolinians on Rota; 2) the Waianae Aku Boat Training Project; 3) the Heeia Fishpond Revitalization Project; 4) the Multi-Purpose Community Vessel to Improve Management and Safety of Bottomfishing at Guam's Offshore Banks; 5) Small-Scale Longline Fishery Development for the Manu'a Islands;
- support increased appropriations for this program and increase the number of project proposals that could be funded in each solicitation;
- seek to provide funding for technical and administrative support for this program. Administrative funding is needed to be able to provide the full \$500,000 for

project proposals so administrative costs do not need to be drawn against the appropriations;

- allow the review and ranking of the proposals in the other island areas and time be allocated for the Advisory Panel to visit and view projects that have been funded through this program, provided that funding for this is available and the activity is feasible.

E. Advisory Panel Recommendations

Henry Seseparasara read the recommendations. The subsistence and Indigenous AP recommends the Council:

- seek funding to assist the American Samoa community-based fishery management plan;
- support the implementation of the “*kapukapu*” system in Hawaii as part of the management. As represented in the discussion, *kapukapu* involves area closures, seasonal closures and gear restrictions established in consultation with the local community;
- support the acquisition of additional funds and an increase in the number of funded projects for solicitation under the CDPP Program.

McCoy asked what boundaries the *kapukapu* area would have and if it would include federal as well as state boundaries.

Ka'ai'ai replied the AP did not indicate what specific areas would be included. He said basically the question was how best to involve the communities, and to what extent, when making decisions on closed areas, MPAs, etc. He said there were traditional boundaries and zoning boundaries for the counties, and with this recommendation they would have to go out and be able to characterize those communities and establish those boundaries. It would involve a lot of work and additional research.

Duenas asked that the recommendations be more clear or concrete.

Tulafono said the recommendation regarding the American Samoa community-based program came about because the community-based program used to be funded under SPREP but was not any longer so they were looking at other sources of funding.

F. Public Hearing

There were no public comments.

G. Council Discussion and Action

Duenas asked Robinson if the CDPP money was appropriated specifically for CDPP, and also asked him to clarify what happened to the previous \$800,000 that was withdrawn from the CDPP appropriation.

Robinson replied the original funding was appropriated for the CDPP, but prior to being apportioned down the chain to NOAA there were rescissions taken by the Department of Commerce and NOAA removed the money from the appropriation. In 2005, \$249,000 was carried over from the previous year, plus the \$500,000 for a total of \$749,000. That \$749,000 was available to cover the recommended projects plus the administrative cost from the Council of running the program. The \$749,000 could be allocated in whatever way, but there was no additional money other than the \$749,000.

Duenas asked if the \$800,000 that was taken away was a line item appropriation?

Robinson said it was not NOAA Fisheries rescission it was the Department of Commerce or NOAA.

Bloom said that year there was a large rescission, 42 percent of all carryover money to make up for the war efforts overseas.

Duenas asked if they could cover the \$75,000 shortfall?

Robinson said fortunately they did not have much of a rescission this year, but the only funds available were the funds driven by the Magnuson Act and had been appropriated in 2005 or carried over from 2004. They did not have any extra PIRO funds, and it was his feeling that that was the amount of money they had to work with.

Bloom said in the fiscal year '06, they will have drawn down the entire pot to zero and will start with a clean slate. In FY '06, if there is another appropriation, and in all likelihood there will be, there will only be \$500,000. The discussion needs to start as to what will go to the projects and what will go to administration. If the Council applies for another \$247,000 out of the \$500,000 appropriation it does not leave much for projects. He encouraged discussing how to proceed with the funds along with recommendations for the administrative costs. With regards to \$500,000 in the future appropriations he said they have no way of knowing what rescissions will come in the future. The \$500,000 was actually \$478,000 because NOAA took about \$22,000.

Robinson re-emphasized that they have grant submission deadlines, and as the fiscal year draws to a close after certain dates they will no longer process grant applications. Also, he said he was not aware of any way of getting the \$800,000 back from prior years so it came down to three options: 1) reduce all five projects proportionally and leave the Council's \$247,000 alone; 2) fund all five at the requested level, and simply reduce the Council grant from \$247,000 to roughly \$202,000; 3) fund four and carry over the leftover funds into '06.

Duenas asked if one of the projects could be postponed to the next funding cycle and automatically approved.

Robinson said they would have to re-apply.

Bloom said each competition is independent and there was no guarantee it would get the same ranking.

Martin asked if some of the \$5 million the State of Hawaii received in disaster relief could be used to help fund one of the Hawaii projects such as the longline aku boat project. He said the money had been out of use for too long.

Ka'ai'ai read each recommendation individually:

1) the Subsistence AP recommended that the Council seek funding to assist the American Samoa Community-Based Fishery Management.

The motion was moved and seconded.

Morioka reiterated that the request was to verify whether the project would qualify under CDPP. He called for discussion, hearing none, called for the question. It passed unanimously.

2) the Subsistence and Indigenous Advisory Panel recommends that a kapukapu system be instituted in Hawaii as part of management. As represented in the discussion, kapukapu involves area closures, seasonal closures and gear restrictions established in consultation with the local community.

Martin said he was reluctant to support a recommendation as vague as this without defining what a kapukapu system is.

Morioka agreed, and asked the Council for consensus on returning the matter to the Indigenous Rights Committee for further review and analysis.

The Council agreed.

3) the Recreational Advisory Panel recommends that the Council supports the acquisition of additional funds, and increase the number of funded projects per solicitation under the CDPP project.

The motion was moved and seconded.

Morioka called for further discussion, hearing none, called for the question. It passed unanimously.

4) the Fishery Rights of Indigenous Peoples Standing Committee recommends that the Council support funding the five top-ranked projects.

The motion was moved and seconded.

Morioka called for discussion.

Duenas said he thought withholding any type of project from being approved would not justify the islands they serve.

Seman said it would be good to give extra consideration to islands that did not participate in previous cycles, such as American Samoa. He suggested they come up with a mechanism where each island was guaranteed one seat in each project and then the fifth one will be more competitive.

Duenas amended his motion to switch number four and five on the ranking. He said Guam would be willing to sacrifice since they had not completed their first project yet.

Feder clarified that under the statutory authority that sets up the program the Advisory Panel has a statutory authority in ranking these projects not the Council.

Duenas withdrew his amendment.

Seman asked if under the statute each island area was guaranteed funding for one project.

Feder replied no, the question of allocation among island areas was not dealt with in the statute itself. Under the statute, all grants could go to one island area or another.

Bloom said it is a fair and open competition, but every year they have the ability to discuss with the Council to change the priorities of the particular project.

Ka'ai'ai said in the FR Notice, the Secretary had the discretion to replace one of the top-ranked projects with another project for the reason of equitable distribution of funds.

Morioka called for further discussion, hearing none, called for the question. The motion passed with Robinson abstaining.

5) the Fishery Rights of Indigenous Peoples Standing Committee recommends the Council support increasing appropriations for this program and increase the number of project proposals that can be funded.

The motion was moved and seconded.

Morioka called for discussion.

Duenas asked to amend the motion to clearly specify a definite figure of \$10 million dollars. The amendment did not pass.

Morioka called for the question and it passed unanimously.

6) the Fisheries Rights of Indigenous Peoples Standing Committee recommends that the Council seek to provide funding for technical and administrative support for this program. Administrative funding is needed to be able to provide the full \$500,000 for project proposals so administrative costs do not need to be drawn against the appropriation.

The motion was moved and seconded.

Morioka asked Feder if there were any statutory requirements that prohibit separation of administration burdens from the CDPP project?

Feder said the statute does not deal with that at all.

Bloom agreed.

Morioka called for further discussion, hearing none, called for the question. The motion passed unanimously.

7) the Fishery Rights of Indigenous Peoples Standing Committee recommends that the Council allow the review of ranking of proposals to the other island areas in time to be allocated for the Advisory Panels to visit the projects that have been funded through this program, provided that the funding for this is available and it is feasible.

The motion was moved and seconded.

Morioka asked Ka'ai'ai to clarify what the recommendation intended.

Ka'ai'ai replied the Advisory Panel wanted to be able to have their meetings in the other island areas so they could review projects that may be ongoing under CDPP since it is difficult for them to understand the needs of the other island areas. They also wanted to view the proposals randomly, as opposed to by island areas.

Ebisui asked if the recommendation was to allow AP members to view projects that had already been funded?

Ka'ai'ai said yes.

McCoy asked by the way the law was written, who signs off that the project is complete?

Feder replied the final authority to make the grant rests with the Assistant Administrator of Fisheries, Bill Hogarth. PIRO administers this program.

Robinson asked McCoy if he was asking who makes the decision when a project is finalized.

McCoy said yes.

Bloom said the applicant or the recipient of the award designates their own start date and their own end date in the proposal. Sometimes it switches depending on when that applicant wants it to end. The funding is only good for one year with a one year extension since it is a demonstration project.

Morioka asked Ka'ai'ai to clarify the recommendation and deferred taking action until after the lunch break.

Morioka reconvened the meeting at 2:06 p.m. and called on Ka'ai'ai to read the revised recommendation.

Ka'ai'ai read "the Fishery Rights of Indigenous Peoples Standing Committee recommendation was to allow that the AP to convene a meeting in the jurisdictions of the Council, provided that funds are available.

The motion was moved and seconded.

Morioka called for discussion.

Ebisui said the Council already had that authority.

Morioka said the CDPP AP wanted to have formal Council recognition that it was all right for them to be able to go to these regions.

Morioka called for the question and it passed with Ebisui abstaining.

X. BOTTOMFISH AND SEAMOUNT GROUND FISH

A. Hawaii Bottomfish Overfishing Plan (Initial Action)

Ebisui called on Mark Mitsuyasu, Council staff.

Mitsuyasu said they had previously been talking about the issue with regards to the MHI bottomfish management and problems with data collection. However, because of the new overfishing control rules that were put in place in August 2003 there was now a new twist with regards to overfishing. The Council had received a letter from the Secretary of Commerce notifying them that overfishing was occurring on the Hawaii bottomfish resource and they had one year to develop a management plan and transmit it

to NMFS. He reported they held a meeting in Hilo and a meeting with the SSC on Oahu to start the process of engaging the public.

Mitsuyasu then briefly described the gear used in the fishery and showed a map of the three major zones in Hawaii: the MHI, the Mau Zone (a limited entry fishery) and the Hoomalu Zone (a limited entry fishery). In the MHI the State developed management measures and in the NWHI the federal government developed a fishery management plan. Seventeen permits are allowed in the NWHI and last year there were nine boats operating.

The Bottomfish Plan Team is responsible for monitoring the fishery and have identified onaga and ehu as having low Spawning Potential Ratio (SPR) in the MHI. This resulted in the State's MHI Bottomfish management plan. In 1998 the State created 20 area closures throughout the islands and implemented bag limits for recreational fishermen. The bag limits allowed five fish per day per fisherman to be taken, and were implemented for onaga and ehu only. When the State put the area closures in place, they targeted closing 20 percent of the available bottomfish habitat in the MHI. At that time they projected a ten-year rebuilding plan to get out of the low SPR.

Since the implementation of the State regime, the MSA has required the Council to use new control rules which went into effect in August 2003. The control rules have two components: 1) overfishing, and 2) overfished. An explanation of each were provided.

With regard to the MHI, the stock assessment workshop experts and Council SSC have identified that data gaps from the recreational fishery as a major problem. There is no measure of how large the recreational fishery is and how much fish they are taking. In 1998 when the State implemented their management regime, they began a vessel registration program. There are now over 3500 vessels registered, and of the 3,500, about 40 percent claim to be recreational fishermen.

He reported that Bob Moffitt presented a graph to the plan team showing that from 1998 when the State implemented their management regime to 2003 there had been a decline in effort. They do not know what effect the area closures had since there had not been a complete study. They do know a number of highliners based out of Oahu left the fishery, but not because of the area closures.

Mitsuyasu then reviewed the options. He said the SSC, the Plan Team and the Council previously endorsed Option 5, which would take and use the State's registration database and do a targeted survey to get a better handle on what the recreational component was.

Mitsuyasu reported the bottomfish species tend to spawn year-round with peak spawning during the summer periods. However, summer is when the tuna runs are, so a lot of tuna fishermen who also go bottomfishing would probably choose tuna fishing.

Mitsuyasu then directed the Council to a matrix which outlined additional variations which came from the advisory panels. He clarified that he was looking to set a reasonable range of alternatives which could then be analyzed, not asking the Council to select the final preferred alternative. The final alternative would be selected in March 2006.

B. Plan Team Recommendations

Bob Moffitt reviewed the plan team recommendations:

American Samoa recommendations:

- request the Council coordinate fish identification training workshops for the fishery technicians for all the Western Pacific fishery agencies to improve standardization of monitoring systems and improve data quality;
- request that the Council support the establishment of a centralized fish market in American Samoa;
- request that the Council encourage DAWR to require fishermen and store owners to allow technicians to conduct interviews;
- recommend that the FoxPro data collecting system be modified to allow data entry of scientific names in addition to common names or local names;
- support a data sampling port being established near the boat docks for not only centralized interviews, but to maximize the quantity of interviews.

Guam recommendations:

- recommend that DAWR complete the baseline biological survey of the red-gill emperor;
- ask the Council to send a letter to the Government of Guam requesting that necessary legislative and administrative actions be taken to provide legal authority to the local fishery departments to monitor and collect information from all fishing sectors;
- support the following changes to the assessment and monitoring of Guam bottomfish resources: 1) a separate landing of BMUS and CPUE for BMUS in shallow-water and deep-water complexes; 2) consider Guam and CNMI bottomfish resources as a single stock, similar to Hawaii.

Hawaii recommendations:

- ask that NMFS provide immediate guidelines on what level of action is required by the Council to properly address the overfishing in Hawaii;
- suggest the Council immediately support options to collect landing and CPUE information from the MHI recreational fishery;
- support a subworking group to meet immediately and develop and assess options for reducing MHI effort in federal EEZ waters;
- ask the Council to request that PIRO establish a fast-track method to vet the bottomfish observer data so this information would become available to PIFSC;
- request that the Council support efforts to provide additional resources to HDAR to improve processing fishing reports as required by State statutes.

CNMI recommendations:

- recommend that the Council send a letter to the government requesting the necessary legislative and administrative actions be taken to provide legal authority to the local fisheries departments to monitor and collect information.

Region-wide recommendations:

- recommend that the Council conduct a sensitivity analysis on the effects of MPAs on fishery-based estimates of fishing mortality and CPUE for potential impacts in relation to overfishing/overfished thresholds;
- request that the Center use the stock assessment funding to establish an ongoing program to collect bottomfish size frequency information in each island area, age at maturity, in support of addressing the Bottomfish Stock Assessment Workshop recommendations;
- recommend the Council, NMFS and State find a contractor to conduct stock assessments on bottomfish resources in the WPR;
- request the Council to find resources to immediately support the high and medium recommendations from the Bottomfish Stock Assessment Workshop held last year;
- recommend that the Council support a SEDAR-type stock assessment that includes the Council and public in the stock assessment review process.

Loerzel asked if the recommendation for communication to the Government of Guam regarding legislative and administrative authority was asking for mandatory reporting, or if there had been sample legislation drawn up?

Moffit replied it would give the Departments authority to mandate that the fishermen provide the information.

C. SSC Recommendations

Severance directed the Council to document 10.C.1 in the Council briefing book then read the recommendations:

- with respect to the MHI bottomfish overfishing plan, the SSC recommends that the proposed targeted survey of MHI bottomfish fishermen be conducted in cooperation with the State of Hawaii as soon as possible. This survey should obtain data on fishing effort and targeting of bottomfish by recreational as well as commercial bottomfish fishermen;
- with respect to options to control effort, the SSC recommends that the Council give most consideration to management Options 2, 3 and 8 listed below:
 - 2) incorporate the State's MHI bottomfish management regime into federal regulations;
 - 3) establish new bottomfish area closure areas in federal waters in the MHI in addition to the current State closures. That includes the possibility of closing federal waters around Penguin Banks to bottomfish fishing or closing federal waters around Middle Bank to bottomfish fishing;
 - 8) establish July through September seasonal closures for targeting and landing of bottomfish for the MHI. The SSC notes that Option 2 could lead to more effective cooperative enforcement as well as research. In addition, Option 3 could be combined with Option 2 to modify existing or create additional closed areas. These areas could include additional parts of Penguin Bank if scientifically based on new habitat data. Option 8 should be fully explored, including the possibility of even longer closure periods. The SSC also notes that the CPUE data for the Mau Zone needs to be restandardized.
- with respect to the Plan Team Report, the SSC concurs with all of the Bottomfish Plan Team recommendations;
- with respect to Guam Recommendation 2 and CNMI Recommendation 1, the SSC further recommends that the Council offer sample legislation and further appropriate assistance to the Governments of Guam and CNMI to support the development of enabling legislation;

- the SSC further recommends that the PIFSC make every effort to acquire the necessary human resource staff to enable the conducting of bottomfish stock assessments in-house.

Wilson asked if option 8 was to protect the spawning fish?

Severance replied since that would be the height of the spawning period it would be partly to protect the spawning stock, partly to reduce effort and partly because they recognize that the bottomfish effort would already be redirected towards tuna and other pelagics during that season.

Wilson asked how long it takes the fish species most at risk to become sexually mature?

Moffitt replied at least three years.

Ebisui clarified that during the committee meetings he had asked the Coast Guard and State enforcement to give a brief presentation on any problems that they might anticipate with respect to each of the different types of management options. They would not be taking any action until after the Fishers Forum scheduled for that evening so the public input could be included in their decisions. He called on Wilson to provide the Coast Guard's input.

Wilson said he spoke with Gary Moniz, and one of the things Moniz thought would be appropriate would be to have a time when all areas were closed. Bag limits should be established everywhere if there are any. Following that would be time or area closures assuming they had geographical coordinates set up. It would require aircraft and/or cutter or boat patrols to enforce these areas. Depending on how many areas there were to enforce it might stretch resources rather thin. They could have a C-130 covering a lot of area, but if they only had one cutter to conduct at-sea enforcement it could be difficult. Gear restrictions would require at-sea enforcement. Regarding limited entry, the way they monitor and patrol the domestic longline fleet would probably be the same except closer to shore.

D. Standing Committee Recommendations

Ebisui directed the Council to the Standing Committee report, item 10.D in the briefing book. He said in the Standing Committee Mitsuyasu gave a presentation on the issues and they also reviewed all of the Plan Team and SSC recommendations with respect to overfishing bottomfish species in the MHI. In addition, there were recommendations from the individual island areas as well as area-wide recommendations. The Committee recommended that they establish a control date at the earliest opportunity, which would then preserve all of the management options for the Council.

E. Advisory Panel Recommendations

Timm Timoney read the advisory panel recommendations:

- the Subsistence Advisory Panel recommends that a statewide seasonal closure for the period of May to September be implemented and that all high-tech equipment including Fish Finders, GPS, and power retrieval systems, so that customary and traditional practices using hand-powered retrieval methods would be allowed;
- they recommends federalizing State MPAs and bag limits to provide cooperative enforcement for closed areas and supported the range of alternatives for collecting bottomfish data;
- the Ecosystems and Habitat Advisory Panel recommends that the Council consider establishing a seasonal closure, prohibiting fishing for bottomfish around the MHI from May to September or a more scientifically-appropriate spawning period;
- they further recommend that the Council work in collaboration with the State to develop a similar management strategy statewide for optimizing enforcement;
- the Commercial Advisory Panel did not support the establishment of the quota options and recommended that a range of options be investigated further. Those include seasonal closures, for example, in May, June, July and/or August. In the MHI they supported intermittent closures, for example three weeks out of a quarter, alternating one week or two weeks;
- they did not support the closure of Penguin Bank;
- the Commercial Panel recommends establishment of a control date;
- the Recreational Panel recommends that the Council put forth a seasonal closure for bottomfish, and that be established from May to September.

Martin said he was surprised the recommendations were consistent related to seasonal closures, and asked if there was any discussion about market disruption and what that would cause?

Timoney replied she personally thought it would be a huge market disruption and that when they lose market share, whether it's MHI or NWHI they do not get it back. If there were big seasonal closures during the summer, the NWHI fishermen would not be able to fill the void of that volume of fish at their present fishing levels. The MHI representatives thought that seasonal closures everywhere was the way to spread the pain equally, including the market.

F. Public Hearing

There were no public comments.

Morioka adjourned the meeting at 3:20 p.m. and announced the Fishers Forum would be held that evening from 6:00p.m. - 9:00p.m.

G. Council Discussion and Action

Morioka reconvened the meeting at 8:00 a.m. and called on Standing Committee Chair Ebisui.

Ebisui clarified that they split the bottomfish parts into two components: 1) data collection, and 2) reducing the effort in the Main Hawaiian Islands. He then called on Mitsuyasu to provide a summary of the recommendations from the various advisory bodies dealing with data collection.

Mitsuyasu directed the Council members to the document he had handed out which consolidated the suite of recommendations and separated them by each island area. He reported the SSC basically supported the plan team recommendations with a few comments.

Ebisui motioned that the recommendations contained in the summary be endorsed by the Council.

The motion was moved and seconded.

Morioka called for discussion.

Seman said they had developed draft legislation in CNMI, but because of the lawsuit with the U.S. Government, the CNMI Department of Land and Natural Resources had the power to enact the fishery provisions. He made a motion to strike the CNMI recommendation as an amendment.

Duenas seconded the motion.

Sablan also endorsed it.

Morioka called for discussion.

Feder said Seman was correct when he said that the stay was still in effect.

Morioka called for the question to strike the CNMI section from the document. It passed unanimously.

Morioka then called for discussion on the motion as a whole.

Duenas said he did not see a need for the Guam recommendation number 2, to direct staff to send a letter to the Government of Guam requesting necessary legislative and administrative action. He motioned to amend the original motion by removing item number 2.

Seman seconded the motion.

Morioka called for discussion, hearing none, called for the question. It passed unanimously.

Morioka called for discussion on the motion as a whole, hearing none, called for the question. It passed unanimously.

Ebisui called on Mitsuyasu to address the second part of the agenda dealing with a range of options to reduce fishing mortality in the MHI bottomfish fishery.

Mitsuyasu reported that he had distributed a matrix of options that was developed initially by the plan team and then subsequently modified by public meetings, the SSC, and the advisory panel. He then created an abbreviated list of a range of alternatives to be further analyzed for Council consideration at a subsequent meeting. He clarified that the initial Council action would be to endorse this range of options that would be further analyzed. He then reviewed the options:

Option 1: no action;

Option 2: establish a control date;

Option 3: limited entry;

Option 4: limited entry with individual catch limits;

Option 5: area closures;

Option 6: seasonal or rotational closures;

- a) a 3 month closure, possibly June, July and August;
- b) a longer duration closure, possibly June to September;
- c) one week on, one week off, or three weeks within a quarter. Another option would be to use a number-based system.

Ebisui said some of the newer options discussed the previous evening at the Fishers Forum were incorporated into the six options. He moved that the full range of options presented on Table 2 of the handout be moved forward for analysis and report back to the Council.

The motion was seconded.

Morioka called for discussion.

Martin asked Young to articulate the State's position, since 80 percent of the area they were talking about were State waters and 20 percent were federal waters.

Young said he recognized that the State and the Council needed to do something with respect to bottomfishing and that they need to work together on plans so the fisheries remain sustainable. He expressed concern with a seasonal closure and its impact on the market and on the fishers, but said all the alternatives were worthy of investigation. He also indicated he would like to see the State's closures incorporated, particularly the closure at Penguin Banks which was in federal waters.

Simonds said it was included in the alternative regarding closing additional areas in federal waters, and that they were looking at expanding the closures already established. She reminded him they would like to see an analysis of how those closures had worked.

Young said they did have data they would like to analyze, but are losing people that would analyze that data.

Simonds said the Council, PIRO and PIFSC made a commitment to assist the State with it.

Young said if the closures prove to be effective, they would need to look at expanding some closed areas if they are going to move away from an overfishing state into a sustainable fishery.

Martin said the State closed portions of the NWHI to some of the fishers, and there may be other federal actions that further reduce the ability for the nine active vessels to fish in the Mau and Hoomalu Zone. He asked where they could go, and speculated they could redirect their effort to the MHI. A control date would complicate the issue even further.

Duenas said perhaps they could work more closely with the communities while developing the plan for the fishery.

Morioka called for further discussion, hearing none, called for the question. It passed unanimously.

Ebisui moved that the Council establish June 2, 2005 as the control date for any future possible management actions.

Duenas seconded the motion.

Feder recommended that the Council also recommend to NMFS that they publish the control date as soon as possible, as there is often an issue with the Department of

Commerce that there should not be a lag time between the control date and publication in the Federal Register.

Ebisui amended the motion to include Feder's suggestion.

Martin asked about implementation and what the criteria was for qualifying at the control date.

Robinson said those were issues that needed to be analyzed through the amendment process and a decision made as to what the ultimate qualifying criteria would be for a limited entry program.

Simonds said she hoped the fishers would think about the notice and that there would be better reporting to the State.

Morioka called for further discussion, hearing none, called for the question. It passed unanimously. He thanked the Council members for their participation at the Fishers Forum the night before, and said that everything the Council was doing regarding data collection would assist them to make better decisions. He then turned the Chair over to vice-chairman McCoy to lead the discussion on pelagic fisheries.

XI. PELAGIC FISHERIES

A. Bigeye Tuna Overfishing Plan (Final Action)

McCoy called on Paul Dalzell.

Dalzell said the bigeye tuna fishery was in an overfishing condition. The bigeye was one stock of fish unlike yellowfin, albacore or skipjack which were subregional stocks. He said they still did not know everything there was to know about the spatial distribution of the species.

He reported that NMFS prepares an annual report on status of fisheries within the Council's geographical area of responsibility and overfishing was evaluated pursuant to their FMP criteria. If overfishing was occurring, the Council must amend the FMP or propose regulations to end overfishing in the fishery. The fishery was defined in the Pelagics FMP as Hawaii-based tuna vessels fishing in the region's EEZ or caught by vessels in the region.

He said there were two main issues; 1) to address Pacific-wide overfishing to ensure sustainability, and 2) address Magnuson requirements to ensure that the Hawaii fishery was not causing overfishing. He then showed a graph which indicated the biomass of the bigeye tuna and the MSY point. He said the biomass should be above the MSY point, and fishing mortality should be below the maximum level of the fishing. With bigeye, there were still plenty of fish but the level of fishing was too high.

In the Pacific both the WCPFC and IATTC have jurisdiction. Both agencies conducted stock assessments and noted that the level of fishing was too high. Pursuant to the Magnuson-Stevens Act the Council must end overfishing within its jurisdiction, however, international cooperation was also necessary to remedy overfishing on a stock-wide basis.

He then outlined the timeline for Council action. He said on December 15th, 2004, NMFS alerted the Council of the need to take remedial action by June 14th, 2005. At the 126th Council meeting they took initial action to develop a draft amendment document, public hearings were held in May and June 2005, and they will take final action at the 127th meeting. If the Council approves the alternatives, Council staff will finish the amendment, send it to NMFS by the end of the year, and the action would be implemented by spring of 2006.

He then outlined the management issues:

International Management:

- formalize the Council's role in international management;
- be proactive in advocating measures to minimize fishing mortality on bigeye in the entire Western Pacific Ocean;
- determine how to establish and administer future quotas for bigeye in the Eastern Pacific.

Domestic Management:

- determine if there are any actions to take for the Hawaii longline fleet;
- determine what to do about the small-boat fisheries.

He said he had also divided the alternatives into two categories: 1) management, and 2) research initiatives.

Management recommendations:

- 1) use science-based measures that consider historical participation and provide for sustained participation by local communities;
- 2) strive for consistent management measures between the IATTC and the WCPFC since fleets fish in both jurisdictions;
- 3) focus on the fisheries with the greatest impacts;
- 4) focus on regions of highest catches and spawning areas;
- 5) reduce surplus capacity;
- 6) restrict the use of purse seine FADs;
- 7) consider exempting fleets that catch less than one percent of the total from some or all measures;
- 8) improve species-specific fishery monitoring;
- 9) establish a standardized vessel registry system for the WCPO.

Research recommendations:

- 1) determine consistent science-based reference points that are appropriate for management use;
- 2) improve stock assessments and understanding of recruitment;
- 3) improve understanding of responses to FADs;
- 4) investigate gear and fishing characteristics of vessels with above-average CPUE;
- 5) collect and define vessel and gear attributes useful for effort standardization for all fleets;
- 6) define total costs of management on governments and participants.

Recommendations on the role of U.S. Councils in international management:

Dalzell clarified this section described a formal protocol on how the Council would operate with respect to meetings of the Regional Fishery Management Organizations (RFMOs).

- 1) Ensure Council representation on U.S. delegations to the RFMOs, including all pre and post-meetings and negotiations;
- 2) the Council and NMFS monitor RFMO meetings, action and relevant fisheries so the Council becomes aware of a need for management action or receives notice from NMFS or the RFMO directly of the need for such action, with supporting documentation;
- 3) the Council reviews information from the RFMO, NMFS and other sources concerning stock assessment, areas of consideration, fishery issues and data supporting determinations and the role of U.S. fisheries in causing or contributing to overfishing;
- 4) NMFS provides formal notice and time frame for Council action with MSFCMA and RFMO frameworks.
- 5) provide information to advisors for review and advice with focus on:
 - definition and condition of the stock or other fishery management units, bycatch and allocation;
 - possible reasons for the situation, including fishery and environmental conditions that may be relevant to the stock condition or other management concern;
 - the relative role of U.S. fisheries in overall stock harvest and management situation;
 - existing conservation and management measures of the RFMO with jurisdiction over the stock involved;
 - possible multilateral measures to end overfishing, rebuild the stock or other management concerns;
 - the Council's advisors, plan team, SSC and other advisors recommend possible domestic and international fishery conservation and management measures including a comparison and evaluation of alternative measures, and distinction between Pacific-wide, regional and local measures' effects

and effectiveness. The Council will make initial decision on how to address the problem.

- 6) develop a draft document;
- 7) make formal recommendations to NMFS and the Department of State on domestic and international actions;
- 8) draft a position paper on how RFMOs should address the problem;
- 9) present the Council's position within the U.S. Delegation to the RFMO.
- 10) get from the RFMO what its action is going to be and the U.S. Government's position under those treaties and the Magnuson Act;
- 11) determine an appropriate regulatory response for domestic fisheries consistent with the agreements of the Magnuson Act;
- 12) take final action;
- 13) forward it to NMFS for implementation;
- 14) NMFS goes through their review process and implements the recommendations.

Dalzell said the Council would amend the FMP to include the language stated above, with possible edits from the Council members, so they would have a mechanism for taking action with respect to the RFMOs.

Potential International management actions to reduce fishing effort on bigeye and on tunas in general:

- 1) limited entry programs, for instance, cap effort and allow fleet attrition to slowly roll back effort over time;
- 2) time/area closures;
- 3) quota allocations;
- 4) gear restrictions, for instance have restrictions on the use of FADs.

Dalzell said there was currently a quota of 150 metric tons for the longline fleet operating in the Eastern Pacific Ocean, which included Hawaii and California vessels. If longlining expanded in California the issue of quota allocation between Hawaii and California would need to be determined. Possibilities included:

- 1) Since Taiwan, Japan, China and Korea catch between 95 and 98 percent of the entire bigeye catch in the Eastern Pacific Ocean, one possibility would be to exempt them since they catch less than one percent of the total catch;
- 2) exempt them because they take less than a specific volume, for example 500 metric tons, which is about one percent of the total bigeye catch in the Eastern Pacific;
- 3) set a flat quota of 250 metric tons, which is slightly higher than the maximum that has been caught by the U.S. fleet in the area;
- 4) cap the bigeye tuna longline catches at 1999 levels since that would ensure a measure of consistency with the Western Pacific. The Multi-Lateral High Level Conference established a resolution to keep fishing efforts at the '99 levels.

Dalzell said whatever they decide, they should include a provision to permit the landing of a small volume of bigeye tuna when quotas were exceeded to minimize waste by longliners not targeting bigeye tuna, and include a provision to incorporate flexibility for nations to administer all measures in accordance with national legislation and sovereignty.

He said international action was required to eliminate Pacific-wide overfishing. He suggested the Council recommend increased participation in international management, further unilateral action would be premature and would not affect stock-wide overfishing. They do not know what will happen with respect to longline fishing from the WCPFC, and they are already subject to the quota in the Eastern Pacific.

He said the small-boat fishery was a very small part of the total bigeye landings in the Pacific, and any measures would have no effect on conservation of bigeye. They do need to know what the volume of the catch is, so they need improved data collection on Hawaii landings to understand the recreational catch of bigeye.

Data collection options for Hawaii small boats:

- 1) no action;
- 2) federal reporting for pelagic fishing;
- 3) have a federal program for the offshore handline fishery;
- 4) federal permits and reporting for recreational boats;
- 5) voluntary reporting for recreational pelagic boats;
- 6) expanding the MRFSS Program;
- 7) assisting the State of Hawaii to improve fishermen and dealer reporting systems and estimates.

He said they now have three datastreams; 1) logbooks; 2) observers, and 3) auction receipts. They know the volume of fish being landed by the longline vessels, but are still uncertain about the recreational catch.

The SSC edited the protocol for the Council's response to international fishery management as follows:

- 1) the Council receives notice of the declaration of overfishing or an overfished condition from NMFS with supporting documentation including stock assessment, area of consideration, fishery and stock data supporting NMFS notice and time frame for Council action;
- 2) the Council refers information to its advisors, with focus on condition of the stock involved, possible reasons for the situation, environmental conditions that may be relevant to the stock condition, relative role of U.S. fisheries in overall stock harvests, existing conservation and management measures of the RFMO with jurisdiction, possible measures to end overfishing, rebuild the stock.
- 3) the Council considers possible domestic fishery management measures;

- 4) the Council considers possible international fishery management measures to be suggested to the RFMO;
- 5) the Council compares and evaluates measures, including distinction between Pacific-wide and regional measures;
- 6) the Council selects initial preferred alternative for corrective action;
- 7) a draft document is distributed;
- 8) the Council takes final action, domestic and international;
- 9) the Council seeks representation on any U.S. delegation to RFMOs;
- 10) the Council drafts a position paper on how overfishing may be ended and/or stocks rebuilt for Pacific HMS. It also makes the point that Council staff should also scrutinize RFMO meeting agendas to identify issues of importance to the Council, not simply those that pertain to overfishing;
- 11) the Council should clearly and forcefully state its position to the U.S. Delegation on every substantial issue;
- 12) the RFMO meets and acts on fishery conservation and management needs.
- 13) the Council is advised on RFMO actions, government positions and requirements under applicable treaties;
- 14) the Council determines appropriate regulatory response for domestic fisheries consistent with agreements and the Magnuson;
- 15) the Council submits recommendations for NMFS implementation;
- 16) NMFS implements approved recommendations as necessary.

The SSC crafted a generic recommendation regarding what management measures the Council might want to recommend across the Pacific for the Western and Central Fisheries Commission as follows:

- 1) the SSC recommends that the U.S. delegation to the Western and Central Pacific Fisheries Commission continue to give the highest priority to examining input controls, such as limits on the number of vessels, limited entry programs, including transferable catch and effort quotas, limits on fishing, effort, time and area closures and prohibition of sets on FAD and floating objects. The SSC notes that work is ongoing on the analysis of the Commission's bigeye tuna management options and looks forward to reviewing the results at future meetings.
- 2) if Option 1 is the preferred alternative, the SSC commented that it should be edited as follows: "Longline fleets that continue to take less than one percent of the total average bigeye tuna catch as reported between 1999 and 2003, because that's the amount of 555 metric tons, in the EPO should be exempted from current quota regulations."
- 3) on the domestic front, the SSC continues to recommend that the Council adopt Alternative 2 as amended by the SSC, to implement the federal permit and reporting program for all Hawaii pelagic fishermen, because it encompasses the whole data issue. The SSC has gone on record in the past as wanting everybody to report, including recreational fishermen. But it noted that this is not going to happen overnight and that incremental steps may be necessary. The SSC notes that Alternative 3, implement a federal permit and reporting program for offshore

He then summarized that there were several things for the Council to make decisions and comments on:

- 1) The overall statements on management and research issues.
- 2) its role in international management, the protocol.
- 3) what the Council would like to see put in place by RFMOs, the WCPFC and the IATTC, to limit fishing effort on bigeye and perhaps on all tunas.
- 4) recommendations for the Eastern Pacific, which is the quota.
- 5) recommendations for small-boat fisheries, primarily a data issue.

Martin said the actions that the Council and NMFS can take most likely will not be able to end overfishing, yet the Magnuson Act required them to develop a plan to end overfishing. He asked if the fishery, as defined, included the areas under Council jurisdiction?

Robinson replied they were setting precedence for addressing overfishing in the Magnuson Act standards. NMFS and the Department of State acknowledged that the Councils and even the U.S. Government has little ability to unilaterally implement domestic management that would have any measurable effect on an overfishing situation on tuna. The Magnuson Act was drafted with domestic fisheries in mind, where the Councils are charged under the Magnuson Act to develop recommendations that will effectively end overfishing. In an attempt to address this issue they developed a strategy paper, which he said was in their briefing book titled "Strategy to End Overfishing of Bigeye Tuna." It attempted to document the position they would take if they ever got sued on this issue, and the fact that they had little ability to effect fishing mortality unilaterally. They must work within the international RFMOs in order to seek regulations that would end overfishing. In addition, it attempted to describe the role of the Councils in this process. To summarize, he said the Councils have three roles:

1) manage the domestic fisheries under the Magnuson Act and National Standard Guidelines;

2) have the responsibility, where appropriate, to develop regulations and recommendations for regulations, to implement decisions that the U.S. Government has agreed to in RFMOs. He said the Western and Central Pacific Treaty is a little different from other highly migratory species treaties in that in other situations a RFMO can make a decision and that decision could be accepted or rejected by a nation. In the case of the Western and Central, they will be bound by decisions. A second role that the Council would have with respect to domestic management would be carrying out, where appropriate, decisions that they are bound to that come out of the Western and Central Pacific Fisheries Commission and IATTC, where the Department of State does have approval.

3) be a member of the U.S. delegation as an advisor to the U.S. Government in developing positions that the U.S. will take in the two RFMOs. He said they were

working on implementing legislation that provides a permanent role on the Advisory Committee to the U.S. Government for the Council.

Simonds added they always have to remind the government that the Council's two tuna longline limited entry programs are the only U.S. tuna longline fisheries in the entire Pacific Ocean.

Robinson said there will be times when the U.S. Government will probably agree or become bound by RFMO decisions, and the U.S. will be compelled to move forward to propose action without going through a full Council process. He said hopefully those would be few and far between, because many of the actions that are likely to come down are actions where the U.S. will have to allocate pain among its different fleets, and that needs to go through the Council process. Even if decisions are made that have to be implemented in a timely manner, he said it was his intent to never propose an action without first consulting the Council. At the last meeting the Council adopted a measure that basically said that the PIRO Regional Administrator would be one of the representatives at the IATTC with respect to the Eastern Tropical Pacific, and he said he takes that responsibility very seriously. He stressed the importance of communication and said he was committed to be in constant communication with the Council and its staff on all relevant issues.

Simonds said it would be a rare occasion where the international arena would require them to do something in less than 23 days, and 23 days is the number of days they had to put a notice in the Federal Register to hold a meeting.

Martin said the Councils should be informed and allowed to participate in meetings around the world that have impacts on the activities within the WPR.

Robinson said Simonds made a good point, and he clarified that when he said the U.S. might propose to take action because of the timeliness issue, he was referring to times there might not be time to go through a full two-meeting, six-month regulatory process. He reiterated in every instance, he intended to consult with the Council.

Simonds said before tuna was a fish in 1990, the Council dealt directly with all of the foreign countries in the international arena. They were doing this 27 years ago, and until tuna became a fish, NMFS and the State Department were not involved in any of her negotiations with Japan, Korea, etc. when developing the billfish plan.

B. Swordfish Season Report

1. Industry Perspective

Martin reported the shallow-set swordfish fishery had been active since November and landings had been good. From the perspective of industry, it was a successful endeavor. The mitigation measures that were developed in the Atlantic and

imposed with the reopening of the shallow-set fishery here had been successfully adopted.

As of May 28th when the new regime of certificates began, the landings for 2005 totaled 1.7 million pounds and resulted in about 4.8 million dollars in ex-vessel revenue through the auction.

As they move forward in the shallow-set fishery, there are people within the industry who requested that the Council consider alternative methods to allocate that effort. The fishery allowed 2,120 sets or fishing days, which turned into about 17 sets per vessel which are freely transferable. He asked the Council to consider changing the methodology with which they allocate that effort. There is now a hard cap on turtles, and industry requested that the hard cap be considered and that the fishery become an open-access fishery. In other words, the fishermen are not issued a certain number of certificates, the fishery just opens and closes when the hard cap is reached. Anybody would have free access into and out of the fishery. There had been some constraint by the industry to enter into the fishery not knowing how the mitigation measures were going to work, both in terms of fish catch and in takes of turtles. There were more boats that would go out now because it had been demonstrated that the fishery could successfully and economically continue.

He also said that many of the deep-set and tuna fishermen had received the benefit of some relief on marketing pressures because some of the effort is targeting swordfish and there are two distinct markets for the two species.

Morioka asked if the industry provided a recommendation regarding their request that the Council review the process.

Martin said yes, industry prefers that Hawaii limited entry permit holders choose to enter and exit the shallow-set fishery at will, using the hard caps on turtles as the limiting factor. If the hard cap on turtles is not reached then the fishery continues.

Morioka asked if he was proposing that the 100 percent observer coverage continue, and they declare what kind of fishing they were going to go before they leave port?

Martin said under the current regime they are required to announce whether they are going deep-set or shallow-set fishing, and they would leave that requirement. When shallow-set fishing is a guarantee they will have an observer, and when deep-set fishing there is a 20 percent observer coverage requirement.

Morioka asked if everyone would stop when the hard cap was reached.

Martin said yes, it would close for the remainder of the calendar year.

McCoy said it was good to hear that the measures work when the Council, NMFS and industry all work together.

2. Swordfish Effort and Landings

Russell Ito, PIFSC, provided the report.

Last year:

- 126 vessels, 1,338 trips, all but six targeted tuna. Very little effort was directed towards swordfish because when the shallow-set fishery was implemented, it was the beginning part of the year when the fishery for swordfish was very active. There was also uncertainty as to how well the techniques were going to work and the ocean conditions during that time of the year.
- 32 million hooks, 17 million on the high seas.
- 142,000 bigeye tuna, which was a record.
- The second largest component was 67,000 mahimahi; 65,000 monchong; 64,000 blue sharks.

Number of Hawaii-based longline vessels during the first quarter of this year: 117 vessels, up 16 vessels from last year's first quarter's report. 92 vessels targeted tunas exclusively, five vessels targeted swordfish exclusively, 20 that switched from tuna and elected to go swordfish fishing in the first quarter of the year.

He reported the vessel activity was incomplete as far as the participation of the swordfish fishery, because the first quarter splits the swordfish fishery in half. It increased from January and decreased through May into June.

Effort: 8.5 million hooks, swordfish and tuna combined, which was a record. 95 percent of the effort was either in the MHI EEZ or outside of the EEZ, very little effort in the NWHI EEZ and U.S.

Number of trips: 415 trips in the first quarter, 372 trips were directed towards tuna and 43 trips targeted swordfish. There was low effort from the restrictions on the shallow-set fishing gear.

Possessions in the first quarter: Bigeye tuna catch = 39,000 fish caught in the first quarter of this year which was a record. About half of it was caught on the high seas.

Bigeye tuna CPUE: 4.7 fish per thousand hooks.

Swordfish catch: 9,000 fish caught in the first quarter, about 90 percent caught on the high seas. The low swordfish catches may be incidental to the tuna target sector of the longline fishery. There were low catches of swordfish with the restrictions and the prohibition from 2000. Prior to this, swordfish catches in the first quarter averaged about 17,000 fish so it was about half of what it was during the peak of the fishery or when the

fishery operated without the new rules and regulations. There were only about 1,000 fish caught in the first quarter of the years in which it was restricted.

In the fourth quarter of last year: 13.3 fish per thousand hooks. It rose to 18.9 fish per thousand hooks in the first quarter. The techniques that they use to target swordfish are comparable to the performance of the catch rates in the fishery prior to restrictions that they operate under now. Swordfish catch rates by tuna targeted trips are about fifty to hundredfold less.

Blue shark catch: 16,500 fish in the first quarter. It was the third largest component of the catch, 64 percent on the high seas. The catch rates of blue sharks were substantially higher when the swordfish target sector operated under the old set of rules. The CPUE under the new techniques were much lower than they were earlier. Tuna-target CPUEs for blue sharks are substantially lower.

Mahimahi catch: 26,000 fish in the first quarter of this year; CPUE: three fish per thousand hooks for tuna-targeted trips.

Pomfret catch: 12,000 in the first quarter, CPUE: 1.5 fish per thousand hooks.

Morioka asked if Ito had an estimate as to how many sets occurred.

Ito replied it is available but they have not summarized it yet. He said they have tables that separate the tuna and the shallow-set swordfish fishery on their website.

Martin asked if the logbook information had been broken out to indicate how many regulatory discards there had been in the deep-set swordfish fishery,

Ito replied it would be a different algorithm the computer programmer would have to write, because the number of fish that they catch on a trip may exceed ten and they may have to discard that excess. In a simplistic way, he said you could look at the deep-set target sector of the fishery and subtract the total number of swordfish caught from the number kept.

McCoy called on Alvin Katekaru to present the next section.

3. Swordfish Certificates and Turtle Interactions to Date

Katekaru began by informing the Council that in 2004 NMFS engaged an economist, Dr. Ted Gross of San Diego State University, to start to evaluate the impact of the shallow-set swordfish fishery and to look at where they could go in the future.

He then updated the Council on the swordfish certificates and turtle interactions. He said the fishery is run with a limit of 2,120 certificates, each representing a set. As of last Friday, they had recorded the number of sets used at 1,064, about 50 percent of the total issued.

Total trips to date: 64

Total number of swordfish vessels that have used certificates: 30. He noted the program had run very smoothly. They invalidated two sets of certificates and reissued them to the fishermen.

Interactions of turtles: Five interactions with leatherback turtles (three hooked, one hooked and entangled, and one unknown); ten interactions with loggerhead turtles (seven hooked, two entangled, one hooked and entangled). They were all released alive.

Martin asked about the interactions with the loggerheads in February.

Katekaru said they had worked with PIFSC to try to figure out if there was a pattern. They suspected it was a combination of both the area and vessel.

Martin said if there was a hot spot, perhaps they could suggest that the vessels move out of the area.

C. Stock Assessment Status and Process

Gerard DiNardo, PIFSC, presented background information on the Pacific Islands Stock Assessment Review Process including why they do the reviews, why they are important, and the type of review processes that had been done in the past.

He said they do the reviews to improve the quality and reliability of stock assessments. They include the constituents and stakeholders so what is being done in the stock assessment becomes transparent. He then said they do the reviews because: 1) it is a NMFS requirement, they want most Science Centers to have a formal review process; and 2) there is now a new federal government mandate that requires stringent review processes in all science in the government pushed through by OMB.

He then outlined some of the existing stock assessment review processes: 1) the STAR process in the Northwest and the Southwest; 2) the SAW process in the Northeast; 3) the SEDAR in the Southeast; 4) the Center for Independent Experts, which is a joint effort between NMFS and the University of Miami that brings in experts from around the world to review assessments; 5) the OMB Peer Review Process, which is a new process that comes out of the Data and Information Quality Act.

He reported he traveled around to look at the different review processes and found that the SEDAR process was the best one, not just the models but also the data that goes into the stock assessment. A lot of the assessment reviews came down to whether or not the data was any good.

He said it was a joint Council and NMFS process that involves NMFS scientists, SSC members, plan team members, AP Chairs, the public and NGOs. It had an expert

panel that reviews the data, assessment models via workshops, and a final workshop. It allowed for the information that came from the various workshops to be submitted to the Council for acceptance of the stock assessment, and the Council committees then develop the management advice.

To make it more appropriate for the Pacific Islands, he proposed a framework that was similar to SEDAR. He said the Council and PIFSC would share the responsibilities. The whole review process would have to be sponsored by the Council because of the FACA requirements. The federal government had a problem with bringing together advisory bodies, but the Magnuson-Stevens Act allowed the Council to do that. The PIFSC senior scientists would oversee the process with assistance from the Council staff and maybe PIRO staff. He said they would be planning for assessments two years into the future and there would be two stock assessment reviews per year. A stock assessment review takes six months from beginning to end. Within those six-month time periods there would be three workshops: 1) a data workshop which would include scientists, data collectors, the fishers, NGOs and Council representatives; 2) an assessment workshop which would include assessment scientists, biologists, NGOs, fishers and Council representatives; 3) an independent peer review where other NMFS scientists from around the country, members from the Center for Independent Excellence, and possibly NGOs would be involved. The workshops would be open to the public. Funding should come from PIFSC, PIRO and the Council. He said he anticipated it would cost around \$500,000 a year.

Regarding the next steps, he said they are in the process of building a white paper that would lay out the structure and provide more details of the process. In the meantime they were thinking about convening a small group to provide recommendations on some general aspects of the process, in particular the roles and responsibilities of PIFSC, PIRO, and the Council. They need to be transparent about who is and is not allowed in the workshops and what the workshop product would be. They also need to look at a list of species and decide what species they want to get involved with over the next few years.

Morioka asked if the \$500,000 was for one or two stock assessments.

DiNardo said two.

Robinson asked what the role of the SSC was in the process.

DiNardo said when the independent peer review process is finished, all the information in the report would be passed on to the Council for adoption of the material. At that point, the SSC would come up with the management advice.

Dalzell said they would use the bottomfish issue as a test case to do a complete assessment of SEDAR. He said the review process is one of the most interesting aspects of the whole exercise in that they not only review the catches and fishing effort, but also the biological data. The estimates of growth, mortality, recruitment, life history parameters, and movement are subject to intensive scrutiny. He said it is important for

everyone to be able to say when they are not sure about something so that the uncertainties in the assessment process are then understood properly and there is an understanding of the strengths and weaknesses of the stock assessment.

From a pelagics standpoint the bigeye assessment would be conducted next. Bottomfish is totally self-contained within the WPR, but bigeye would be done internationally. It could either be done in two assessments, Eastern Pacific and Western, or it could be done jointly. The assessments should be subject to independent peer review, and he suspects that there would be a review of these assessments. He said they need to know how much faith to put into them, particularly since there had been some peculiar behavior over the past few years where one year everything was fine and the next year it was catastrophic.

D. Plan Team Recommendations

Keith Bigelow, the Pelagic Plan Team chairman, said he would summarize the 10 recommendations that the plan team proposed.

For American Samoa:

- the Plan Team reiterates its recommendation that DMWR seek grants to develop infrastructure and processes to utilize bycatch.
- the Plan Team recommends that once the limited entry program is implemented, the Council explore additional options for managing capacity in the American Samoa longline fishery, such as a limit on the maximum number of hooks deployed in the U.S. EEZ around American Samoa.

For Guam and CNMI:

- the Team representatives from Guam and the CNMI recommend that the Council continue to urge the Governments of Guam and the CNMI to draft legislation requiring fish vendors to report their purchases directly from fishermen to their respective fisheries agencies.

For Hawaii:

- the Plan Team recommends there might be an alternative program to the HMRFS survey that looks specifically at the small-boat fishery for sort of a dedicated sampling regime rather than just random digit dialing.
- with respect to the offshore mixed-line tuna fishery, the Plan Team notes the following: the advent of the use of multiple shortlines (longlines less than one nautical mile in length) means that pelagic longline fishing can be conducted which is not subject to federal regulations, such as permits, logbooks, observers, VMS, area closures, turtle mitigation, seabird bycatch mitigation, et cetera. The

Council's intent for the provision for longlines less than one nautical mile in length was not intended to be interpreted in this manner, and was a provision for fishermen employing a kaka line. The team recommends that the Council revisit the definition of longline gear less than one nautical mile in length and consider regulations for this gear, particularly the number of units being deployed by each vessel.

- the Plan Team recommends a two-day workshop between WPacFIN, the State of Hawaii and other interested parties to look at the algorithms and reporting that deals with the mixed-line tuna fishery.
- there was a lack of consensus for the perceived need for federal permitting of the offshore mixed-line fishery and the following aspects should be investigated prior to proposing additional regulations on this fishery:
 - strengthening the existing mechanisms for the State of Hawaii reporting of catch and effort from this fishery;
 - estimating the administrative burden of federally permitting the various fisheries sectors that are catching bigeye tuna and yellowfin.
 - accurately estimating the magnitude of bigeye tuna catches by the nonlongline fishery sectors in Hawaii in relation to the total domestic bigeye catch.

Region-wide recommendations:

- the Plan Team recommends that the Council and WPacFin explore standardized training options for fisheries technical staff on species recognition, especially coral reef and bottomfish species. Such training may result in a certification program for technical staff in completion of a course of instruction.
- because the North Pacific Albacore assessment is done biannually but the outputs cannot be interpreted with regards to the Council's reference points, the Plan Team requests the chair of that group to provide some outputs that can be included in the Council's annual SAFE report.
- the Plan Team supports the previous SSC recommendation that the Council have formal standing in U.S. Delegations to Regional Fisheries Management Organizations, such as WCPFC and IATTC.
- the Plan Team supports the protocol for how the Council will deal with HMS overfishing issues.
- the Plan Team applauds the progress of the Council's Sea Turtle Conservation Program and endorses the Council's Turtle Advisory Council recommendations.

E. SSC Recommendations

Severance read the SSC recommendations.

- The SSC notes the separation of Pacific bigeye into two stocks at the 150 degrees W is an artificial separation made to enable separate stock assessments by the IATTC and WCPFC. A more realistic view is that the bigeye population in the Pacific is a single, spatially heterogeneous population with slow mixing between regions. This viewpoint is supported by the results of genetic and tagging studies. A Pacific-wide stock assessment being conducted incorporates the tagging data and divides the Pacific resources into the eight regions based on the distribution of key fisheries. The model estimates slow mixing among eight defined regions and considerably different impacts of the fisheries in the eight regions. These results suggest that recognizing the spatial heterogeneity of bigeye and implementing management actions different in different regions would be more appropriate than managing on the basis of a single pan-Pacific stock. However, the eight fishery-based regions being employed in this assessment do not coincide with National or Regional Fishery Management Organization areas of jurisdiction.
- The SSC recommends that the U.S. Delegation to the Western and Central Pacific Fisheries Commission continue to give the highest priority to examining input controls, such as limits on the number of vessels, limited entry programs, including transferable catch and effort quotas, limits on fishing effort, time and/or area closures and prohibition of sets on FADs and floating objects. The SSC notes that work is ongoing on the analyses of the Western and Central Pacific Fisheries Commission bigeye tuna management options and looks forward to reviewing the results at future meetings.
- The SSC continues to recommend that the Council adopt Alternative 2 as amended by the SSC, implement a federal permit and reporting program for all pelagic fishermen, (which includes recreational), because it encompasses the complete data issue. The SSC has in the past suggested an incremental approach to implementing Alternative 2 in recognition that some segments of the fishing community and governmental agencies would be concerned by the scope and costs of fully implementing Alternative 2. The SSC notes that Alternative 3, implement a federal permit and reporting program for offshore mixed-line fishermen, Alternative 6, to expand the Hawaii Marine Recreational Fisheries Survey and 8, to assist the State of Hawaii to improve its fishermen and dealer reporting systems, would be among such incremental steps.
- The SSC generally supported all the Plan Team recommendations but modified and edited some of them:
- For America Samoa, the SSC notes that two local groups have received approval for federal grant funds to set up bycatch processing facilities. The SSC notes

apparent significant progress on Recommendation 1 and fully supports Recommendation 2.

- For Guam and CNMI, the SSC recommended that the Council provide sample legislation and support, as appropriate, to the Governments of Guam and CNMI.
- For Hawaii, the Plan Team recommended that the HMRFS Program consider an alternative sampling design for registered recreational, commercial boat fishermen, in addition to the random digit dialing telephone survey. It is envisaged that this would lead to more precise estimates of catch and effort from the HMRFS survey by concentrating on the universe of known recreational boat fishermen. The Random Digit Dialing Telephone Survey also captures shore fishermen. The SSC supports this recommendation with the additional edits.
- With respect to the Cross Seamount, the NOAA weather buoys, the private FADs, and the mixed-line tuna fishery, the Pelagic Plan Team notes the following:
 - the advent of the use of multiple shortlines, longlines less than one nautical mile in length, means that pelagic longline fishing can be conducted, which is not subject to federal regulations, i.e., permits, logbooks, observers, VMS, area closures, turtle bycatch mitigation, seabird bycatch mitigation, et cetera. The Council's intent for the provision for longlines less than one nautical mile in length was not intended to be interpreted in this manner, and was a provision for fishermen employing a kaka line. The Pelagics Plan Team recommends that the Council revisit the definition of longline gear less than one nautical mile in length, and consider regulations for this gear, particularly the number of units that may be deployed by each vessel. The context for that is that some of the offshore handline vessels are deploying short lengths of longline, and near either the seamounts or the weather buoys, and then picking them up again. The SSC then supports that recommendation by the Plan Team.
- there was a lack of consensus for the perceived need for federal permitting of the offshore mixed-line fishery, and the following aspects should be investigated prior to proposing additional regulations on this fishery:
 - strengthening the existing mechanism for the State of Hawaii reporting of catch and effort from this fishery;
 - estimating the administrative burden of federally permitting the various fishery sectors that are catching bigeye and yellowfin tuna. Those would include a federal permit for all pelagic small-boat fishermen, federal permit and reporting for offshore mixed-line fishery, federal permit and reporting for recreational pelagic small-boat fishermen. Then accurately estimating the magnitude of bigeye tuna catches by the nonlongline fishery sectors in Hawaii in relation to the total domestic bigeye tuna catch. The SSC supports the recommendation to the extent that it leads to

- region-wide, the Pelagics Plan Team recommended that the Council and WPacFIN explore standardized training options for fisheries technical staff on species recognition, especially coral reef and bottomfish species. Such training may result in a certification program for technical staff in completion of a course of instruction. The SSC supports that recommendation.
- internationally, the Pelagics Plan Team recommended that the Council ask both the Chair of the International Scientific Committee and the Chair of the North Pacific Albacore Working Group North Pacific albacore stock assessment results be presented in the context of the Western Pacific Council's reference points for stock status determination. The Council's annual SAFE report requires outputs from stock assessments on the ratios of current biomass and biomass at MSY and current fishing mortality and fishing mortality at MSY. The SSC supports that recommendation.
- the Pelagics Plan Team supported the previous SSC recommendation about the Council having formal standing. The SSC supports the Plan Team's support for the SSC recommendation.
- the Pelagics Plan Team recommends that the Council's Pelagics FMP be amended to include the following protocol on how the Council will address the problem of overfishing on Pacific Highly Migratory Fish Stocks.
- the SSC supports the Plan Team's Turtle Advisory Committee's endorsement of the Sea Turtle Conservation Program, which has been progressing nicely.

F. Standing Committee Recommendations

McCoy reported in the Standing Committee:

- Bill Robinson summarized the bigeye overfishing issue;
- Dalzell reviewed the draft amendment to the FMP;
- The recommendations for the Council's role and the recommendations to the WCPO and for the Eastern Pacific Ocean organizations were reviewed;
- There was a wide range of discussion on the contents of the Council's amendment document;
- There was some discussion of the IATTC quota of U.S. longline vessels, which amounted to 150 metric tons;

- Robinson made several suggestions for improving the Council document for BET management and acknowledges the IATTC measures will not recover stocks.
- There was discussion on reference points and how the U.S. would respond.

The Standing Committee recommend that this be brought in front of the Council as a whole.

Update on Disaster Relief

Morioka then called on Earl Miyamoto to report on Disaster Relief. Miyamoto said since the last Council meeting the ESC had met and been established. They approved the list of individuals for the Technical Working Group and he said he was in the process of pulling that team together, they had not met yet. The first order of business for them was to publish an RFP to go out to the industry requesting proposals for some of the funding. That is the industry's project fees, about \$1.6 million dollars. At that point he said they also had the research fees they had been working with JIMAR, Tom Schroeder, and his staff, to attempt to get a contract to let them to do the research fees through the University. They have had a setback on that, as of the day before Schroeder had met with the Chancellor to get the final approval primarily on what it would cost to go through JIMAR. Initially money that would go to JIMAR totaled about \$3 million dollars. They may revisit that in light of the bottomfish issue that came up. Since the letter has been issued, it now becomes a federal issue.

Martin expressed his continued frustration. He said the money was given to the State two years ago or more and had not yet been provided. The longer they wait the more federal regulations impact the fishers. He said the fund was being diluted and that was not the intent of Congress when they issued the money.

G. Advisory Panel Recommendations

James Borja read the recommendations regarding Pelagic fisheries.

- Regarding the bigeye tuna overfishing, the Subsistence Advisory Panel supports the Pelagics Plan Team recommendations for American Samoa, Guam and CNMI, deferred the Hawaii recommendations to the full Council, and also supports the SSC's recommendations for pelagic data collection.
- the Ecosystems and Habitat Advisory Panel deferred action on this item.
- the Commercial Advisory Panel supports the SSC recommendation regarding data collection, federal permits and reporting.
- the Recreational Panel recommends that the Council support efforts to improve data collection from recreational vessels.

- the Subsistence Advisory Panel recommends VMS for American Samoa longline fisheries.
- the Commercial Advisory Panel:
 - supports the 25 to 50 mile seasonal longline closure for Hawaii;
 - recommends the Council explore additional options to resolve gear conflicts between small and longline fisheries;
 - recommends the Council support a five-mile closure for longline fishery around any FADs around the island of American Samoa;
 - recommends there be an investigation of the shark problem and its abundance on Guam and the CNMI;
- the Recreational Panel:
 - recommends that the Council support its continuation of a 25-mile closure, which is October through January, reduction of the 50-mile longline closed area from the southern tip of Maui along the Windward Coast of the Island of Hawaii around the top of the southern tip of the Big Island;
 - recommends federal assistance in determining and rectifying increasing problems of shark depredation on fishermen's catch;
 - recommends that enforcement be improved to prevent foreign vessels from fishing within the U.S. EEZ around Guam;
 - recommends that the Council support a five-mile closure for a longline fishery around any FADs around the Islands of American Samoa;
 - recommends federal assistance provide a patrol boat to interdict longliners and purse seiners from fishing in the EEZ and/or install radar systems.

For CNMI:

- recommends federal assistance in design, construction and deployment of FADs around the CNMI.
- recommends the Coast Guard or other federal agencies deploy and monitor lighted channel markers throughout the CNMI.

Regarding international fishing quotas, the Recreational Panel recommends that any fishery sectors without proper catch history should be factored into any future allocation decisions from international fishery management.

Martin asked what the rationale was for the removal of the 25 and 50-mile area closure.

Borja replied it resulted from gear conflicts with the smaller boats and the longline fisheries.

H. Public Hearing

There were no public comments.

I. Council Discussion and Action

Dalzell read the recommendations:

- 1) the Council reiterates its recommendation that DMWR seek grants to develop infrastructure and process to utilize bycatch.

Tulafono said since two local groups received grants for bycatch processing facilities he did not see any need for that recommendation.

The recommendation was omitted.

- 2) the Council recommends that once the limited entry program is implemented, additional options be explored for managing capacity in the American Samoa longline fishery, such as a limit on the maximum number of hooks deployed in the U.S. EEZ around American Samoa.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

- 3) the Council continues to urge the Government of CNMI to draft legislation requiring fish vendors to report their purchases directly from fishermen to their respective fisheries agencies.

The recommendation was omitted.

- 4) the Council recommends that the HMRFS Program consider an alternative sampling design for registered recreational boat fishermen, in addition to the rapid digit dialing telephone surveys.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

- 5) with respect to the Cross Seamount, NOAA weather buoys, private FADs, and mixed-line tuna fishery, the Council notes the following:
 - The advent of the use of multiple shortlines (longlines less than one nautical mile in length) means that pelagic longline fishing can be conducted which is not subject to federal regulations; permits, logbooks, observers, VMS, area closures, turtle bycatch mitigation, seabird bycatch mitigation, et cetera. The Council's intent for the

provision for longlines less than one nautical mile in length was not intended to be interpreted in this manner, and was a provision for fishermen employing a kaka line. The Council recommends that the definition of longline gear less than one nautical mile in length be revisited and consider regulations for this gear, particularly the number of units that may be deployed by each vessel.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

- the second part of 5 noted that while there had been great improvement on the reporting of bigeye tuna, catches through the State of Hawaii's fishermen and dealer report systems, there were concerns that the volume of reported landings did not match the perceived volumes of fish landed by troll and handline/mixed-line fisheries in Hawaii. The Council recommends that WPacFIN and DAR convene two workshops; the first to review the catch and effort reporting systems and algorithms for expansion of bigeye tuna and yellowfin tuna landings, and the second to review the results of any changes in the application of these modified algorithms in estimating the bigeye tuna and yellowfin tuna landings in the troll and handline/mixed-line fisheries in Hawaii.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

- the third part of 5 noted that the Council understands there was a lack of consensus from the Plan Team and SSC for the perceived need for federal permitting of the offshore mixed-line fishery and the following aspects should be investigated prior to proposing additional regulations on this fishery:
 - Strengthening the existing mechanisms for the State of Hawaii reporting of catch and effort from this fishery;
 - estimating the administrative burden of federally permitting the various fisheries sectors that are catching bigeye tuna and yellowfin tuna. This includes permits for all pelagic small-boat fishermen, federal permit and reporting for offshore mixed-line fishery, federal permit and reporting for recreational pelagic small-boat fishermen;
 - accurately estimating the magnitude of bigeye tuna catches by the nonlongline fisheries sectors in Hawaii in relation to the total domestic bigeye tuna catch;

Young said the State does not have on its schedule any permitting or licensing of the marine recreational fishing. There was an enforcement and reporting challenge that if there was a federal license and not a state license, a lot of fish would be reported to be

caught in state waters. He said the need is for data, not a permit, and encouraged an alternative way to get data rather than a federal permit. He said the State would not support this. They agree there is a need for data collection and would seek alternative ways of getting that data, rather than establishing a federal fishing license for recreational fishers.

Dalzell said it is a step on the way and the reason for the recommendation was to see what it would take in terms of infrastructure and manpower and financial resources.

Young asked what the consequences would be if State did not have a corresponding permit? He said it would be better to expend energy on figuring out how to get more meaningful data from the recreational fishermen.

Robinson said the recommendation is an evaluation of the administrative cost of implementing it, but any evaluation of whether to implement a permit or not had to take into account the points that Young brought up.

Morioka asked Young if he would amend that motion to incorporate State considerations?

Young said he would rather not go down the path of permitting.

Morioka asked if the maker of the motion wanted to withdraw his motion.

Duenas said yes.

- 6) the Council recommends that WPacFIN explore standardized training options for fisheries technical staff on species recognition, especially coral reef and bottomfish species. Such training may result in a certification program for technical staff in completion of a course of instruction.

The recommendation was amended to include pelagic species.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

- 7) Request the ISC and the North Pacific Albacore Stock Assessment Working Group that they output their results specifically so that they could get the biomass ratio and the fishing mortality ratio.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Dalzell clarified the next recommendations would be done separately as part of the bigeye issue.

- 8) the Council applauds the progress of the Council's Sea Turtle Conservation Program and endorses the Council's Sea Turtle Advisory Committee recommendations.

Morioka asked for a motion to modify the recommendation to include a letter from the Council to the TAC expressing their appreciation.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

- 9) recommendation 9 was omitted because the current limited entry program requires that VMS for large longliners was already required as part of Amendment 11.

- 10) Dalzell noted there were conflicting recommendations from the Commercial AP and the Recreational AP regarding seasonal area closures around Hawaii.

Martin said the reason for the recommendation was related to gear conflict, and he would not support modifying the area closure system.

Dalzell asked if the Council wanted Council staff to explore the information they had.

Morioka said Council staff should further investigate the situation and clearly define what the issue is then bring it to the Council as a whole at a later time to address. He said as it stood it was too ambiguous. He asked for consensus and had no objections from the other Council members.

Farm suggested following up with the advisors that made the recommendation so they understood what action was being taken.

Martin suggested deleting the word "discontinuation."

- 11) direct staff to investigate the possibility of a five-mile closure for the longline fishery around FADs around American Samoa.

Wilson said to be enforceable it could only be dealing with charted FADs.

Tulafono asked to include Exclusive Economic Zone.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

12) Recommendation # 12 was not supported by the Council members.

13) Recommendation # 13 was not supported by the Council members.

14) provide a patrol boat to interdict longliners and/or purse seiners from fishing in the EEZ waters, or install radar systems to detect foreign fishing vessels fishing in the American Samoa EEZ.

Wilson said it was his understanding that American Samoa had a federal grant to procure a patrol boat, but whether or not they could actually patrol the EEZ with it remained to be seen. From a resource standpoint, he said they were addressing the issue of resources throughout the District and it would be premature to provide anything to American Samoa. Regarding the radar systems, he did not think there was anything that could be put high enough to be able to detect foreign fishing vessel encroachments 200 nautical miles out.

Tulafono asked who was funding the patrol boat.

Wilson replied there was a Homeland Security Grant in the amount of a little over two million dollars to provide patrol boats for American Samoa.

The Council members did not support recommendation # 14.

15) recommends federal assistance for the design, construction and deployment of FADs around CNMI.

Seman said that was not necessary, it is a long term program within DLNR.

The Council members did not support recommendation # 15.

16) recommends that the Coast Guard or other federal agency deploy and monitor lighted channel markers throughout the CNMI.

Wilson said this was not something that should come before the Council, but he would be happy to tell somebody how to apply to have them put in.

The Council members did not support recommendation # 16.

17) recommends that sectors without a proper catch history should be factored into future allocation decisions for quotas implemented through international fishery organizations.

Robinson asked if they were limiting it to quotas that might be developed through international regimes, and suggested making it more general so it could include potential quotas for bottomfish which is a domestic regime.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Dalzell then reviewed the general international management research recommendations. He clarified they were not alternatives, they were principles and measures they thought were important to incorporate in the document.

Martin moved that the Council accept the recommendations as a whole.

The motion was seconded.

Robinson said he had some suggested supplementation to those, and listed three:

- 1) promote pan-Pacific stock assessments that provide region-specific information;
- 2) promote the establishment of an application of MSY-based reference points and associated control rules;
- 3) with respect to preventions and ending of overfishing, to the extent practicable, the U.S. will seek RFMO decisions that are consistent with National Standard 1 of the Magnuson Act and its guidelines as codified in 50 CFR, Part 600, Subpart D.

Simonds asked if the Science Committee was looking at other ways other than MSY-based reference points. She said no one likes it but they use it because they have not discussed nationally how to change the way they do business. If there was a change, she wanted to make sure they left room for a change. The best method may not end up being MSY.

Robinson said in the absence of reference points being universally adopted, they would promote MSY-based.

Robinson rephrased recommendation #2 to say “in the absence of internationally adopted reference points.”

Duenas seconded the amendment.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Morioka called for the vote on the original motion for #1. It passed unanimously.

Dalzell then outlined the protocol for the Council's role in international management. He said the SSC became focused mainly on overfishing and focused on the WCPFC and IATTC, whereas this protocol as written is broader and could include other international fishery organizations, as well.

Duenas moved and Tulafono seconded the motion.

Simonds said they needed to keep the first paragraph because other RFMOs do not include the Councils formally.

Feder said asked if it was literally that the Council was ensuring its own representation, or was it a message to the State Department or NOAA?

Simonds said they were ensuring their representation by telling whoever is going to be in charge of the U.S. Delegation that they should be included formally on U.S. Delegations.

Feder suggested directing it to the Department of State, since they control U.S. Delegations in international organizations.

Simonds said fine.

Duenas and Tulafono had no objections.

Morioka clarified the new recommendation included the wording "the U.S. ensures Councils' representation on U.S. Delegations."

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Dalzell said they developed a matrix for the Western and Central Pacific Ocean recommendations regarding limited entry and quotas as input and output controls. In terms of limiting effort, their ultimate target should be to limit to FMSY but right now they are not sure what this is so it would be the long-term goal. The short-term goal would be try to go back to the 1999 MHLC Meeting, where effort was supposed to be capped at the levels that were being deployed at that time. Quotas should be divvied out on a country level rather than a fleet level and the countries may wish to transfer those quotas within a country between its own fleet.

Oishi asked if they would prefer country level quotas as opposed to fleet level? In Hawaii, they know what the longline quota is, but not what the PFAD is with respect to the bigeye. He said if they did it by fleet and did not know what these were yet, when you did know you could raise that quota?

Simonds said the country level would be better because they are not going to find out about the catch and effort of all of the small fleets. The government should decide

what the quota should be for the U.S. that would include recreational and small-boat fishing.

Dalzell said there should be consideration for developing Pacific Island fisheries, and the limited entry would establish a control date of today for purse seiners, and in Guam, NMI and the PRIAS for longliners. It would not preclude any new entry, but it would simply establish a control date.

Martin said the trend recently has been for U.S. purse seiners to re-flag or be sold off. In many cases they have a catch primarily of skipjack, but their incidental catch of bigeye was quite significant. As the fleet transitions into foreign flags, he asked if there was some level of assurance that they could have that the U.S. keeps that catch history?

Robinson said he touched on a very controversial subject. There had been vessels sold to other nations and re-flagged, and the owners who sold them argued that they could not sell unless the catch history of the boat went with it. He said there was a strong feeling that the catch history of those vessels belongs to U.S. and should not be transferred to the flagged state. In a single case, Dr. Hogarth did approve the catch history going with the vessel.

Martin said he wanted the Council to convey in the strongest words possible the importance of this issue. Their fisheries were relatively small, but it was ultimately important to the future of the U.S. fisheries in the Pacific.

Morioka said the staff is so advised, and will draft a letter for the Chairman's signature to forward with regard to that to the Secretary.

Robinson said he was not sure #2 made a whole lot of sense. He said a control date precedes the establishment of a limited system, and a limited entry system usually relies on prior participation in a fishery. He said he was not aware of any purse seine fishing within the U.S. EEZ so there would be no prior participation in their EEZ.

Dalzell clarified they sometimes purse seine in the PRIAs, particularly during El Nino when everything shifts to the east.

Feder followed up on the discussion about U.S. purse seine vessels taking their capacity and re-flagging to one of the states. He clarified that if the vessel was on the international IATTC register at the time that it transfers the flag that capacity would transfer with the vessel. It is the general policy of NMFS, that if NMFS receives word that a vessel is being removed from U.S. documentation, NOAA will inform the IATTC to remove that vessel from the vessel registry so that it can change flag but the capacity would not transfer with the vessel. Since that one incident there had been instances of purse seine vessels changing flag and not getting the capacity to go to them. There is no comparable system yet with the Western and Central Pacific Fisheries Commission, and the system there may or may not be the same.

Morioka asked if there was a motion to support the recommendation. It was moved and seconded.

Morioka called additional discussion.

Martin asked about the MSY reference points.

Hamilton said the Council's recommendation on reference points was, in the absence of international reference points they would rely on MSY and where there are international reference points they would share those. She said they could generalize this just to say, effort to eliminate overfishing.

Morioka asked if everyone was comfortable with this motion as amended.

Hearing no further discussion he called for the question. It passed unanimously.

Dalzell reviewed the next recommendation regarding FADs. He said the recommendation would not prohibit them and they would not register and limit time/area closures with FADs because they do not have the information for that, but they should register in preparation for limiting the number of FADs to be deployed.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Dalzell said it was still questionable whether there are suitable time/area closures for bigeye conservation, and that the Council staff suggested continuing with research and eliminating recommendation #3.

Regarding #4 pertaining to the Eastern Pacific, Dalzell indicated that they would like to have more of a say in terms of the quota. He said it is not likely that the fleet would grow to any size or its operational characteristics change so drastically there would be a major increase in bigeye landings from the Eastern Pacific. He said there were four possibilities:

- 1) One percent would be the easiest so they would not have to do real-time recording of data. If over time the catch went up they would then become subject to quota restrictions;
- 2) 500 metric tons where the catch would be recorded, but it would not be real-time recording;
- 3) Selected a quota of 250 metric tons rather than the current 150 metric tons;
- 4) go back to 1999, about 230 metric tons.

He said the SSC commented that if Option 1 was the preferred alternative, it should be edited as follows: "Longline fleets that continue to take less than one percent

of the total average of the catch, as reported between 1999 and 2003 -- and that tonnage is 555 metric tons -- should be exempted from current closure regulations.”

Robinson said there was some concern about the one percent, and the 500 tons as a flat threshold might be preferable.

Martin asked if there was U.S. effort in the 1999 to 2003 fishery in the Eastern Pacific by U.S. purse seiners that are no longer active in the fishery.

David Itano said yes, some boats operated during that time in the Eastern Pacific, and they operated quite a bit on the FADs so there is a catch history of U.S. purse seiners in that region. He also said in 1999 the purse seine catch of bigeye was a record high. It had to do with the use of FADs, and the U.S. purse seine use of drifting FADs peaked in 1999 then came back considerably. He suggested averaging the purse seine and longline catch over five years. He did not think the U.S. boats are as active now.

Dalzell said that was how the recommendation came to be worded, they found that if they took the five year average it came to 555. The one percent and the 500 are almost the same thing.

Robinson reiterated that over the long term the 500 was the better threshold than the percentage, because the percentage would be a moving target and it would change depending on what the total catch was. He then asked if the Council wanted to weigh in on what ought to be done in the Eastern Tropical Pacific to reduce overfishing on bigeye overall. The conclusion of the IATTC staff was that the current level of restrictions in the Eastern Pacific, while helpful, was insufficient to end overfishing and rebuild the stock and further restrictions were necessary. The focus of those restrictions most likely ought to be FAD-based surface fisheries and the large-scale longline fisheries.

Martin said it brings up the subject of vessel size. The IATTC recognizes large-scale vessels as over 24 meters, and 30 percent of the vessels operating in the Hawaii fishery are less than 24 meters in overall length. He reminded everyone that they were talking about U.S. longline fisheries as a whole, which included Hawaii and California.

Simonds asked how they picked the 500 figure.

Robinson said it was close to the five-year average and also close to one percent, based on the most recent year's catch.

Martin said industry would choose Recommendation 2, as articulated by the Regional Administrator.

McCoy seconded the motion.

Simonds said they should include the explanation that 500 was chosen because it is a five-year average.

Martin moved to amend his motion to include two provisions: 1) one would not apply if they do not have a quota, just simply have 550 metric tons; 2) include a provision to incorporate flexibility to administer all measures in accordance with national legislation and sovereignty, which was put in for purse seiners but not for longliners.

Robinson clarified that the preferred alternative was one percent of a five-year average.

Martin said right.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Dalzell said for #5, they did not envisage any measures for the longline fisheries, the regulations would be coming down from the WCPFC. He noted that they have limited entry fisheries and a large expanse of ocean where no fishing is allowed except by US vessels.

Simonds said that information would be included in the amendment so that other countries understand what is in place now.

Dalzell said the next recommendation was for small-boat fisheries. He put up a matrix and explained the different options to the Council members. He said in response to Young's earlier comments, they felt having a federal permit that applied to recreational boats would be somewhat ineffective because they can only require them to report their catches from EEZ waters. If there was not a corresponding State recreational permit everyone would report the catch was from State waters.

Hamilton explained that with control dates, if the fishermen did not have proven participation prior to this date, they might not get in. Since recreational boats do not have catch reports there is no way they could prove prior participation. They could make control dates for the offshore handline fishery. Voluntary reporting would be a viable alternative for recreational vessels.

Dalzell said when they looked at the level of the catches from the offshore handline fishery they actually declined massively over time.

Morioka clarified there were two options under federal permits and reporting: 1) offshore pelagic handline only; 2) all commercial pelagic boats.

Hamilton said yes.

Itano said if the Council was going to try to blame overfishing of bigeye on large fleets and nonreporting and underreporting, the Council had better fix its own nonreporting and underreporting issues in Hawaii. He urged some sort of Council action

rather than deferring action. He said perhaps federal reporting is not the way to go because of the huge burden of administration, but it might be too late to look at other options. A federal presence on the dock makes a tremendous difference.

Dalzell then read a letter from Will Lacey, a fisherman from Kailua-Kona who had held a Hawaii CML since 1975. The letter described his view on the fisheries off the Big Island and provided the following recommendations:

- clearly identify what is considered juvenile bigeye;
- limit bycatch of juvenile bigeye by initiating individual vessel quotas or sale of juvenile; i.e., amount of pounds per year;
- initiate bag limits of juveniles for recreational fishermen, i.e., ten fish per angler per day.
- any consideration of limited entry to the seamount and weather buoy fishery should be shelved at this time. The scuttlebutt on the docks is that the very same persons that participated in the wholesale slaughter of juvenile bigeyes are the first in line for limited entry to that fishery. It seems unfair to take something that is and should be part of the public domain and sequester it for the enrichment of a few. Can you imagine telling the public that if you visited Yellowstone National Park, you are welcome to come again. But if you have never been there before, you'll never be able to go there.

Robinson said on the one hand he agreed with Dave Itano that they need to account for the catch and eliminate the doubts about any nonreporting. On the other hand, it was difficult to vote in favor of a motion that he had no idea how much would cost to implement.

Oishi asked if the segment of those commercial categories that are reporting would have to report twice.

Morioka replied the details would be sorted out later, but that they should take action now.

Martin said longline boats used to have to dual report CMLs in the federal reporting system as well and that was worked out through the Council.

Farm motioned for federal permit reporting for commercial pelagic boats and establishing the control date and voluntary reporting for the recreational pelagic.

Martin seconded the motion.

Robinson asked if they were talking about a mandatory logbook or something more costly.

Morioka replied PIRO and Council staff could work that out, and also the State would need to be included. Basically they would like to start getting the data.

Hamilton asked what was more costly than federal logbooks?

Robinson replied dock-side interviews, etc.

Hamilton clarified it meant federal logbooks.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Martin indicated he had a motion for consideration in regards to the industry report on the swordfish fishery. He motioned that the Council directs staff to work with PIRO to analyze the need for costs and impacts of current and potential methods for allocating effort in the Hawaii-based longline swordfish fishery. The analysis should include options to simplify the distribution of effort meeting the goals of the FMP and relevant BiOp, e.g., do away with the distribution of certificates and instead allow access by all Hawaii limited entry permit holders until the turtle hard caps are reached for each calendar year.

Morioka called for discussion.

Robinson said if the Council adopted it he would be more than willing to work to do that.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

XII. ECOSYSTEMS AND HABITAT

A. MPA Policy Objectives and Goals (Action Item)

Morioka called on the Ecosystem Standing Committee Chair, Richard Seman.

Seman called on Tony Beeching to give the presentation.

Beeching said they would be voting on the final document and said he would describe document 12.A.1. that was in their briefing book.

He said at the last Council meeting the Council saw and approved a framework for an approach looking at MPAs. Since then, the MPA Working Group, the Coral Reef Ecosystem Plan Team, Standing Committee and the SSC had commented on it.

He then outlined the document: introduction; overview; a flow chart which described the MPA process; goals and objectives; criteria for establishing Council-supported MPAs; criteria for monitoring and criteria for evaluating; communicating results to managers; reporting document; acronyms and abbreviations defined; glossary

of terms; bibliography; marine protected area policy; maps of Council-supported MPAs listed by FMP; and de facto MPAs. He said he was having difficulty receiving information from other organizations because their position was that if a protected area is not for conservation purposes, then it is not an MPA. He disagreed, and said if an area is functionally protected, then that is also an MPA. Also, he indicated from the Council perspective, they are not just interested in what happens within MPAs but also outside of the MPAs. Clearly understanding the de facto MPAs will help them understand how much area fishermen have to fish in, so he requested that members of the Council go back to their own respective agencies and ask their staff to submit information to him on what they consider to be de facto MPAs.

He said recommendations that were made by the other advisory panels include filling out more information in the introduction including the background, the context and the Council's interest in MPAs, more about the U.S. federal scheme of MPAs and Marine Managed Areas, more information on the regulatory process including the costs involved, and more information on economic criteria. Lastly, for the reporting matrix a lot of the information was the result of an educated guess, and they were asked to make it clear where there was paperwork that supports information within that matrix. He said they would cite documents that give that information.

Duenas said on Guam they have high sedimentation, PCB, a lot of tourist traffic and no corals, and that makes a perfect MPA.

B. Fishery Ecosystem Plans

1. Strategic Level Alternatives for Marianas FEP

Seman called on Paul Bartram to provide the report. Bartram reported the Council was in a transition process from fishery management plans to fishery ecosystem plans and that he and several other contractors were working on a pilot project in the Marianas, including CNMI and Guam, to test certain approaches to making this transition. He noted everything that they were doing was already allowed under the Magnuson Act.

He said under a fishery ecosystem plan, there would be the following differences:

- a bigger range of managed resources;
- a larger range of resource users;
- indicators that integrate multiple factors into things that look more like indicators of ecosystem health;
- partnerships from the mountain to the sea.

Regarding community participation, in CNMI and Guam a lot of people were working on this pilot project at the scale of community-based initiatives. They have a mayor system in both Guam and CNMI which is a good place to start a focal point for partnering.

He then reviewed four alternatives for the management unit species (MUS):

- no action, where all the MUS of the FMP related to demersal fisheries (bottomfish, precious corals, coral reef, crustaceans) were lumped into the management resources for the fishery ecosystem plan whether they occur in the archipelago or not;
- take the resources that occur in the Mariana Archipelago;
- start adding species that are not targets but are known to be associated either through the food web or through habitat;
- take that, plus other macro-organisms that are believed to be associated where the evidence is weaker.

He said you must think about everything, but there was a downside of defining MUS. The transition of the fishery ecosystem plans are still stuck, for the time being, with the old way. Under the old way, if there is a management unit species there has to be an annual stock assessment, but there is no way to do a stock assessments on plankton or bacteria. It is one of these things that will be worked out as this transition goes nationwide and gets more sophisticated.

At the October Council meeting he said there would be a complete FEP draft available for Council action and alternatives presented for a fishery management experiment. The boating community of Guam would be providing a range of alternatives for the Council to consider in terms of managing the offshore banks of Guam. They want to get serious about moving to place-based management and go bank by bank. He said there also would be the first definitions of some ecosystem indicators presented by the contractor, and reports from all of the community initiatives that are underway.

Sablan requested the Council spend one day in Saipan before or after the Guam meeting in October.

Seman said Bartram should go to Saipan before the October Council meeting to give a briefing.

2. Fishery Ecosystem Plan Workshop

Jarad Makaiau, Council staff, reported that in April they convened an Ecosystem Science and Planning Management Workshop. The goals of the workshop were to bring together scientists from the WPR and also other locations around the Pacific, Australia, England, and the United States to help identify scientific needs with respect to ecosystem-based management for fisheries considering three key elements: 1) data; 2) models, and 3) ecosystem indicators. They brought together a Steering Committee to develop some of the tasks they hoped to achieve at the workshop. They did a data review of the kinds of information they collect, both fishery-dependent and fishery-independent data and looked at the kind of requirements they might need for ecosystem-based management, what kind of indicators they should be looking at, and what kind of models

should they be developing. He said some of these were lofty goals given the limited time they had to convene the workshop.

He then showed a table which outlined the process they went through in trying to extract the information from the various scientists they invited.

- Part one had three days of presentations on data, models and indicators, from both local scientists and from other parts of the world on how they have been developing ecosystem-based fisheries management;
- Part two spent a day and a half on separating the workshop participants so they would focus on key questions with respect to those three components; 1) data, 2) models and 3) indicators. The goal of this break-out session was to focus on these key questions and the key short-term research needs to further progress ecosystem management in this respect, and also to identify the long-term changes that need to be done with respect to how to collect information, develop models and fine-tune the indicators they should be looking at.
- On the last day, the breakout groups came together and reported what they focused on as the key recommendations in both the short term and the long term.

He reported the workshop report was not yet complete but would be completed by the end of July or August.

He then provided a general summary of the findings and suggestions that the participants made:

- In general, ecosystem-based approaches to fishery management is a given. They expect that at some time in the near future the Magnuson Act will be re-authorized to incorporate a broader ecosystem-based management approach, in addition to the things they already do with bycatch, protected species, and so forth.
- They expect that ecosystem-based management will be place-based. There were a number of workshops across the United States talking about how to define ecosystem boundaries. It is one of the things they are still trying to get a handle on, because ecosystems can be defined on a variety of large scales such as Large Marine Ecosystems, to very specific components or areas.
- Indicators need to be developed locally for that specific location. For example, a Pacific-wide indicator could be identified, such as sea surface temperatures for the entire area, biomass productivity on a Pacific-wide scale, but at the same time, fine-tuned indicators also need to be developed for a particular region with the experts from the island areas.
- Regarding data, the findings were similar to the Coral Reef Stock Assessment Workshop that was held. A lot of data is collected in the Pacific by a variety of organizations, government agencies, institutions and universities, but none of them have been integrated together to look at what sort of the breadth of research

information available and how it could be applied to ecosystem-based management.

He then reviewed the models, and said it was something that they wrestled with. One of the key things that the people who had been running ecosystem models for other parts of the world had determined was that the models that you develop are only as good as the data that you feed into them. At the same time, there needed to be some specific policy and management guidelines to help decide what the goals of ecosystem management would be. Without those policy and management directives the models cannot be built at this point in time. They need to come up with these policies first of what they are trying to achieve with ecosystem management. Working with the local experts to identify indicators on a very area-specific basis was suggested.

The next step will be to hold another workshop based on the social science issues, and possibly a separate workshop on policy.

C. Shark Viewing Impacts on North Shore Community

Beeching said he would be discussing shark viewing from cages, and that they had already reviewed the issue at several Council meetings.

He said they organized a meeting that was attended by about 75 people and had a lot of media attention. There was a tremendous sense of polarization of views between those who were vociferously opposed to shark viewing and those who supported shark viewing.

One of the community concerns was an increase in the number of sharks in the area. A response to that was that the sharks were already in the area, crab fishermen had been chumming the area for decades and shark protection actions may have led to the increase. It was also said that there were an increased risk of shark attack for surfers, paddlers, fishermen and ocean users. One of the responses to that was that Galapagos and sandbar sharks seen routinely at the shark viewing operators rarely attack humans. Tiger sharks are seen only occasionally. There was also a concern that there is an economic loss to fishermen, they have to replace gear and catch that is lost to sharks.

Another issue was the question of unmarked buoys. It costs the fishermen cash and time to replace props, they lose time because it takes longer to navigate to the fishing ground, and it could lead to increasing fuel costs if they have to go further away from the shark viewing operations. They said the shark cages were left out overnight, but the shark operator said that was never the case.

One of the areas they agreed on was there are more sharks inshore in recent years, and the increase of shark had been more apparent in the last four years when one of the shark operators had been working commercially. There was also agreement that any object permanently or semi-permanently anchored in the sea should have some sort of

reference that identifies the owner so that should liability be proven, and any further shark operations should not be permitted until the current issues are resolved.

Another issue involved effects on essential fish habitat. The public thought if there was a minor effect currently, it could become a major effect if a lot more operators begin that operate under a different regime, perhaps put more chum in the water.

The operators indicated they were willing to work with the fishermen to solve whatever problems may exist.

He then provided possible factors why there might be more sharks in nearshore waters.

- fishermen are discarding bait and cleaning catch and there are a lot of fishermen out there;
- mariculture. In Hawaii, there are some large cage operations that act as very large FADs, plus the food is coming through from the operations which attract fish, including sharks.
- increases in tiger sharks in the MHI. There are more green turtles and they are a major prey item for tiger sharks so maybe there are more tiger sharks coming in.
- if there are apex predators in the NWHI there could be spillover to the MHI;
- culling of sharks. There was a major culling in the 1960s, and there had been unofficial culling whenever someone was killed. One of the major predators of small sharks and medium-sized sharks is large sharks, so it could lead to an increase in the small sharks.

He then outlined some questions they do not know the answers to, including: do the shark viewing operations cause the sharks to become accustomed to humans which leads to increased risk of shark attacks? Do shark viewing operations lead to aggregations of sharks where there would not otherwise be? Does it affect their normal behavior? Are these sharks coming to the surface that would normally be on the bottom? He said these points are confounded because when talking about normal shark behavior, a shark is an effective predator and will seek out food. If there is food at the surface, it will come to the surface to find it. Is the perceived increase in shark numbers due to the shark viewing operations? Is the increase of sharks only around the North Shore area around Haleiwa, or could it be on the rest of Oahu, or all the MHI? Where do sharks go when the shark viewing is not on site?

He said there has have been no recent surveys of sharks in nearshore waters, so to try to get a picture of whether or not they have increased over the last four years he asked Dave Hamm to provide catch data. He said the lifeguards also might have some information, but the lifeguard sightings depend on whether or not they are reporting habits that change over time. He asked where the viewed sharks go when the shark viewers aren't on site, and said everyone had their own view on that. Some people say they stay there, others say they go and chase fishing boats, others say they come into shore and follow the boats into the harbor. One way to find out is by tagging them.

He then reviewed a matrix of alternatives:

Option 1: no action. He said the disadvantage of that is that it does nothing to resolve the issues.

Option 2: research to verify that the number of sharks have increased around Haleiwa, and if they have increased more in Haleiwa than elsewhere in the MHI. If the increase is the same overall, then it is difficult to apportion blame to activity around Haleiwa. If there is an increase in the Haleiwa area, then it needs to be investigated further. He said looking at the movement of these sharks when the viewing boats leave the area is the key to answering most of the questions. The only problem identified by the SSC was that there were no controls. The cost of the project as outlined by Kim Holland was about \$48,000 a year over a two-year period to tag sixteen sharks in total, eight for each year. They would have to double or triple that to get a large number of controls. He said there was also a question of timeliness. You would get some results after one year, and if the first four sharks that he tagged headed straight to the harbor or another boat, that would give an indication of how the sharks are behaving. For conclusive evidence, Holland suggested a longer time period and more sharks.

Option 3: make recommendations to the State to establish a moratorium on granting business licenses for further shark viewing operations to allow time for research, and/or put limitations and restrictions on the operations. If the operations had a significant effect on EFH they would not want to see a proliferation of these businesses. The downside would be that it would not stop the two current operations if you thought they were really causing a hazard. The State could establish operational procedures for shark viewing, for example minimize the amount of chum that goes into the water or specify the type of material (no mammal products, blood or guts, only hard pieces). Also, the State should require an EA for any activity that could potentially impact the marine environment.

Option 4: require that any permanent or semi-permanent buoy has an owner identifier and is clearly visible by reflectors or lights if left overnight.

Option 5: the Council acts directly in supporting and facilitating some change, for example establish a moratorium, support operating procedures, support the requirement for buoys to be marked and identified.

Option 6: the Council supports and facilitates a ban on shark viewing in federal waters.

Ebisui said the during the testimony one operator said there should be no more than one gallon, but another one referred to two to three buckets, and his impression was that they were talking about five-gallon buckets which amounted to much more than one gallon. He also commented that the operators said that they were not doing anything new, because historically the crab trappers had done the same thing and aggregated the sharks. However, a critical distinction between the two operations was that no trapper

traps the same place day after day after day, year after year. Essentially the two shark operations had established permanent feeding stations with regular daily feeding which had attracted and held a substantial number of sharks.

In the course of the meeting it was acknowledged by the operators that many of the sharks that visit the tour operation show signs of being hooked and were trailing lines, people that had been on the tours say the same thing well and Ben Wong's video shot a few years prior. The interaction had brought the sharks in close interaction with the fishermen and he disagreed with Beeching when he said culling was not occurring.

Ebisui said one of the speakers at the Haleiwa meeting succinctly captured the essence of the issue. The speaker said when you go to national parks on the mainland the feeding of the wild bears was strongly discouraged, and the same should be applied here. With respect to some of the options that were discussed, Ebisui said he would have a problem advocating for a moratorium against other operators. By doing so they would be granting an exclusive to the two operators currently operating. He did not feel scientific research would hurt, but that there were certain instances where common sense should dictate what should or should not occur, and he would not want to see scientific endeavors impede the Council in taking action with respect to the shark viewing operations.

Beeching replied that on the Shark Task Force there were three people: Kim Holland, John Naughton and Randy Honebrink. Honebrink was violently opposed to the shark viewing operation, but subsequently he went out on the tour and came back with a different opinion. During a conference call they all agreed a moratorium was essential. This is a good time to stop it before there are too many and before they begin on neighbor islands. Regarding research, they all agreed that research was the way to go and in their opinion the operations had minimal impact. The Council usually follows the best available science but at the moment there was none available. He said it would be prudent to try to find out precisely what was happening with the sharks.

Ebisui replied the fact they said there should not be any more shark tour operations allowed implies there are risks associated with these operations. Also, Honebrink works for the State, and the State had banned the shark tour operations from State waters. He said he should come down and engage in fishing and water activities in Haleiwa and experience the change from what it was before.

Farm reiterated that in Haleiwa there is a community of fishermen that have been living there a very long time. There had been changes in the marine resources and their fishing technologies, but also there was a change because of this type of operation. It is not the fishermen's nature to be controversial, and although they were quiet at the meeting Farm said he could tell the fishermen were concerned. It would be hard to convince the older fishermen that it was caused because they stopped shark finning. He said doing research would be good, but the Council needed to give more responsiveness to the community other than they would be looking for more data and that maybe they would hear from the Council in another year or two.

Morioka asked if the fishers and the shark operators had met.

Seman opened the floor to public comments.

Jimmy Hall, one of the shark operators, said the vast majority state-wide felt that they were bringing the sharks to the beach, endangering surfers, paddlers, divers and wrecking the livelihood of the local fishermen. That bothered him because he knows he is not endangering anybody or he would not be doing it. He said it is not endangering anybody, but is perhaps teaching a shark that usually lives on the bottom to come to the surface at one particular place and eat from one particular boat. He said the fishermen had been fishing there for generations, and in the last four years they were seeing more sharks which did not seem to be a coincidence. He reported he had been meeting with the local fishermen since the meeting. Everyone he talked to said the shark operators were not to blame, trap fishermen had been out there. For the most part, except for Ebisui, all the fishermen he talked to were nighttime bottomfish fishermen and they all were supportive. He said they were making it a little bit harder on the fishermen, but they are accepting it. He said he had not spoken to Vernon Lau who was one of the most vociferous ones. He said the Council or State rules do not matter to him if he cannot get along with the others in the harbor, not just be tolerated but accepted. If they cannot be accepted he will just walk away.

McCoy asked if he leaves his cage in the water.

Hall replied he takes the cage out on the first trip and leaves it there in between trips.

McCoy asked if there was a particular reason they chose that spot?

Hall replied it was closest to the harbor and three miles out from the nearest point of land.

McCoy asked if there were sharks there in their initial investigation.

Hall said there were some, but it took them a while to get used to their boat. They knew the sharks were there, and did not know if it would work on the other islands. The first time he swam with these sharks was nearly 20 years ago when he used to go out with the crab fishermen and look at them.

McCoy asked if the sharks were damaging the propellers?

Ebisui said no, they had anchored markers where they operate which are not lit at night and have no reflective material. The fishermen said that he went through some propellers because he was hitting gear that was deployed and unmarked, unlit with no reflective tape.

Wilson said he could not recite chapter and verse the Aids to Navigation or how they are supposed to be lit, but he did remember talking to the Section Chief and believed that either Hall or Pavsek should have been in touch with him about that issue.

Hall said the Section Chief said that it was okay to do in between trips there, as long as it was well marked, and said they have a giant flag on it. The problem was that there is a crab fishery out there, and that's what Vernon Lau was alluding to. He said he felt badly because they seem to have brought some heat down on the two fishermen that crab fish and have been doing so for decades. He said there is crab gear there, and the shark operations have one small buoy with one with a flag on it. They are just outside of the crab fishing grounds which have close to 100. He said it was accepted that it was a trapping ground and people should watch out for the crab traps. At the meeting a lot of questions came out about the shark operations and also the crab operations.

McCoy said he strongly believed the Council needed to look at the issue and collect more scientific information.

Ebisui asked if Hall goes out in the morning and chums before he takes any passengers out.

Hall said no, he does not go out without passengers unless he does not have any for the day.

Ebisui asked if it had been his experience that the sharks sometimes will be there waiting before he chums.

Hall said it depends on the time of year, sometimes it takes two minutes and sometimes they do not come at all. They are not waiting for them but they are definitely not far away because they come quite quickly.

Ebisui said it had been his experience that when they come flying in, about 1.5 – 2 miles from the head buoy, as soon as they cut throttle he sees them coming from the bottom. He is up on the bridge and can see right into the water. They are not chumming, they just slowed down to clear the lines, so he felt they were conditioned to associate engine noise with potential food.

Hall agreed and said when they come in they are coming in very fast. When they leave they come in at 17 knots or so, and they often see spinner dolphins. When they stop they do not see any sharks, they do not seem to be following his boat. He said if they follow a boat in it would be his. He said obviously if they are teaching sharks to come to every single boat out there that is not a good thing. If the community wants him to leave he will, but that has not been his feeling when talking with all the fishermen.

Farm said he appreciated his sincerity and willingness to help, in contrast to the other operator, and so did the fishermen that he spoke to. He asked if the other operator

was chumming in advance, because there was a report an advance scout was dumping chum.

Ebisui said Hall operates to the northeast of the head buoy and Joe operates to the southwest of the head buoy. Joe is the one that they used to see going out with two five-gallon buckets before he takes any charters out.

Hall said he did not know when that was, but they operate in a similar fashion now. The bait buckets they use are around three-and-a-half gallon buckets and have scrap fish from the fish market. They use anywhere from less than one bucket to three buckets in the course of a day. They fill it full of water and then pour the water out, and that makes it last a lot longer.

Itano said he works closely with Holland, and felt that limiting the operations to the present ones is not so much condoning the operation or saying that limiting it is stopping something that is bad, as it is a precautionary measure to keep things at a current level until they understand what is going on. He said he had a great deal of respect for Ebisui and Farm, and the fishermen were making some very serious allegations that seem to point to abnormal behavior, but until there is research done it will always remain anecdotal information. He said he was not just promoting research because that is what he does, but until there is real information they should limit things to what they are. There is already another person interested in doing an operation like this, and then the Council would have to grandfather them in and would have a problem of reduction of a situation that they allowed to get out of hand. Since the Council does not want an endless study, it should recommend some research, but put some sort of goal orientation on it if they want results. If the Council wants a good study with controls and a good scientific design, they are going to have to identify funding.

Oishi said Beeching alluded to the fact that the State was getting ready to spend \$20,000 for a shark monitoring study, but he clarified that a bill was introduced to appropriate \$25,000 to study shark movement on the Leeward Coast. The intent was to gauge shark movement and behavior relative to an offshore aquaculture operation located off of Ewa. They heard testimony from both sides, and the people who were supporting the appropriation said the operation was attracting more sharks, but the owner of the operation maintained that there were no more sharks than normal. After talking to the scientists, he found out that if they want a bona fide study they will need \$50,000 to conduct a proper study over two years. The reason it is expensive is that they would tag these sharks with transmitters and then do live tracking to see what their movements are over a 24 - 48-hour period.

Loerzel asked if the Council could team up with the State to do one of the projects.

Oishi said there is a State law prohibiting feeding of sharks in State waters. From that standpoint that is the law they have to enforce. Also, during their testimony to the legislature they said \$25,000 was not enough to answer their questions. The \$25,000

would pay for tagging a shark, putting a transmitter on it, and then putting listening boats in and around the aquaculture cage to monitor the frequency of how often the shark stayed around that cage. With respect to the bill, it passed the legislature and is in the Governor's Office for signature.

Morioka asked if the State had contemplated moratoriums on the number of shark activities, and asked how they were licensed.

Oishi said they are not licensed, if someone is running a commercial operation out of a State small-boat harbor then they have to have a commercial permit from the State Boating Division. It is a permit to use the harbor, not to conduct the shark viewing operations. Nobody else regulates shark viewing operations.

D. 2004 Plan Team Recommendations

Makaiau said the Coral Reef Ecosystems Plan Team met at the beginning of mid May, primarily to discuss continuing development of the first Coral Reef Ecosystem FMP Annual Report. They also discussed the Marianas Archipelago FEP Pilot Project and the Ecosystem Management Workshop.

With respect to the FEP Pilot Program, the Plan Team felt that it was imperative for the Council through its contracted work to ensure that collaboration of this project would go on. They suggested the Council coordinate with all appropriate agencies in both Guam and the Northern Marianas to foster partnerships from the mountain to the sea, recognizing that the Council only regulates fishing activities in the EEZ.

E. SSC Recommendations

Seman called on Severance to provide the SSC recommendations.

Severance directed the Council members to document 12.E in the Council briefing books and proceeded to read the recommendations:

- with respect to the MPA criteria and objectives draft document, the SSC encourages the MPA Working Group to think about the role of federalizing State MPAs as an example of a cooperative option. In the Standing Committee, the term federalized raised a little bit of concern from some of the regional representatives, so that recommendation really needs to be clarified that it was focused on the State of Hawaii.
- the SSC noted that more information on economic impacts and benefits of MPAs should be included in the socio-economic sections of the document. The SSC suggested an additional section be added to the draft MPA objectives and criteria document, which addresses the potential regulatory implications and expected funding needs. The SSC suggested that the purpose, need and context of the document be expanded within the introduction to the document.

- with respect to the report on the Ecosystem Science and Management Planning Workshop, the SSC noted that ecosystem-based fisheries management does not eliminate the imperative to monitor stocks of target species, and that single-species stock assessments are a critical component of ecosystem management.
- with respect to the Mariana FEP Pilot Project, the SSC noted that defining communities is not always a straightforward task. Like ecosystems, communities can be thought of at different scales. For the purpose of defining a community with which to work on ecosystem-based fishery management plans, a community could be a village or town, a group of villages, a region, or even an entire island or country. Regardless of which scale is identified as appropriate for a given situation, place-based definitions of community using existing political or geographic boundaries may not be adequate for some purposes. The SSC further notes that once a community is defined, there remains the issue of who represents the community. It is critical to be familiar enough with the community to identify the full range of stakeholders with whom to work on fishery management plans. The SSC recommends that one goal of the upcoming Social Ecosystem Workshop be to explore the issue of defining communities and develop guidelines or principles that would help the Council implement its community-based ecosystem management programs in the Western Pacific.
- regarding alternatives for the Mariana FEP, the SSC suggests that a composite of Alternatives 2 and 3 may be appropriate and encouraged planners to avoid including too many tangential species as Management Unit Species. The SSC notes that consideration to include any Management Unit Species within this management scheme should be flexible and issue-driven rather than prescribed by an all inclusive species list. The gist of those two recommendations comes from the experience of the Coral Reef Fishery Management Plan. There, the working group had difficulty with various categorizations of species and a large number of species to be included.

F. Advisory Panel Recommendations

Jennifer Bauer read the AP recommendations.

- the Ecosystem and Habitat and Subsistence Advisory Panel supports the SSC recommendations regarding Fishery Ecosystem Plans;
- the Ecosystem and Habitat Advisory Panel supports the efforts of the Council to initiate implementation of ecosystem-based approaches to fisheries management to involve communities in the development of a fishery ecosystem plan for the Mariana Archipelago;
- regarding fishery ecosystems, the Commercial Advisory Panel did not have any additional recommendations on Fishery Ecosystem Plans;

- regarding MPAs, the Recreational Panel recommends that science-based social and biological assessments be conducted before and after establishing MPAs.

G. Standing Committee Recommendations

Seman directed the Council members to document 12.G. in their briefing book, and read the recommendations.

- the Ecosystem and Habitat Standing Committee supports the SSC and Coral Reef Plan Team's suggested revision to the draft MPA document and recommends Council staff finalize the document by the October 2005 Council meeting;
- the Ecosystem and Habitat Standing Committee encourages the Council to consider the inclusion of a federal role of enforcement in State of Hawaii established MPAs in federal waters as an example of a cooperative management option;
- the Ecosystem and Habitat Standing Committee recommends Council explore Alternative 2 to combine MUS of the five FMPs that occur in the Mariana Archipelago FEP and consider adding a framework measure that would allow the adjustment of the MUS list.

H. Public Hearing

There were no public comments.

I. Council Discussion and Action

Makaiau said the document titled, Evaluation Matrix of Recommendations Related to Ecosystems and Habitat did not have any substantive regulatory decisions to be made, however, it did encompass a number of different issues. The primary issues presented included:

- 1) the Draft MPA Objectives and Criteria Document and a positive/negative evaluation of what the recommendation would do;
- 2) the MPA objectives;
- 3) the Marianas Pilot Project;
- 4) the FEP management unit species designation issue;
- 5) the Ecosystem Workshop recommendations.

Seman moved to endorse the Coral Reef Plan Team and SSC recommended revisions to the Draft MPA Objectives and Criteria Document, and direct staff to do so by October 2005.

Tulafono seconded the motion.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Seman moved that the Council direct staff to provide for Council review at the October 2005 meeting a Draft FEP for the Mariana Archipelago with particular emphasis on the definition of community and the role and involvement of communities in this pilot project.

Sablan seconded the motion.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Seman moved that the Council direct staff to further develop and analyze the draft options to designate Management Unit Species to be managed under the Mariana FEP Pilot project.

Sablan seconded the motion.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Seman moved that the Council recommend convening a second ecosystem workshop focusing on social science. He further recommended that a task of the workshop be developed of guidelines or principles that will help the Council implement its community-based ecosystem management programs in the Western Pacific.

Sablan seconded the motion.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

Ebisui motioned that with respect to the shark tour operations, the Council would direct staff to further refine and evaluate management options relating to the shark tour operation.

Farm seconded the motion.

McCoy asked if the options would include the research into the foraging of these animals?

Ebisui said yes.

Farm suggested getting the point across that the Council would like to have timely results.

McCoy said maybe such research could benefit other users such as surfers.

Oishi said the State established a Shark Task Force to investigate each time there was a shark incident. The Task Force was officially disbanded but in an unofficial sense, these individuals continue to be consulted. Each attack is handled on a case-by-case basis. Sometimes there is nothing done, in other cases there are efforts by local fishermen to go out and try to catch the shark.

Beeching clarified that it was not \$50,000 for the study, it was \$50,000 per year, \$100,000 for two years.

Farm said perhaps they could get it down to a 6 month study that cost \$25,000.

Simonds said the manager of the PFRP Program at the University of Hawaii indicated they had funds to do this project. She asked the State about their \$25,000.

Oishi clarified it was a legislative appropriation for the Leeward Coast.

Simonds said they did ask for 50K.

Morioka asked if everyone accepted the friendly amendment to the motion, hearing no objections, called for the question. It passed unanimously.

XIII. PROGRAM PLANNING AND BUDGET

A. Hawaii Data Collection and Reporting Options

Morioka called on Loerzel to take the chair.

DeMello said this initiative might be a moot point after all the previous recommendations, and that the only options left were to have pelagics work with the HMFERS and federal permits; do a target survey for bottomfish; and have a workshop to discuss data regarding black coral.

B. Update on Legislation

Simonds said Ka'ai'ai put the document together. She then discussed its contents.

- In Guam they added a section that created a civilian volunteer conservation officer reserve for Department of Agriculture in the suppression of Fish and Wildlife crimes, preservation of law and order and to assist in civil emergencies;
- For the State of Hawaii, legislation included no net fishing in Kahului Harbor, Miloli'i as a Fishery Management Area, and that they could develop a community

fishery management plan. Also, the State could hire a private contractor to tag and monitor sharks in Pearl Harbor;

- In national legislation, a bill was introduced to amend the Aquaculture Act of 1980 to prohibit permits for aquaculture facilities until requirements for such permits were enacted into law. Daniel Inouye also introduced a bill for marine debris and removal.

C. Magnuson Act Reauthorization

Simonds directed the Council members to a document that provided the position of the Regional Council Chairs on the Reauthorization of the Magnuson-Stevens Act. She said they had seen many of them, especially the appendices, over the last four or five years and had voted on many of them already. As a result of the Chairman's Meeting the previous year they saw those legislative pieces having to do with FACA. Should Congress change the Act to include some kind of language or requirement for ecosystem approach to fisheries management? The Council Chairs said there is already language in the Magnuson Act and they should not be too specific or open themselves to lawsuits.

The two new things had to do with amending the National Marine Sanctuaries Act and looking at MSA and NEPA. The Council was not asking to be exempted from NEPA, but that many of the elements they have to follow are already consistent with NEPA. They were trying to include whatever is missing from NEPA in the Magnuson Act. Regarding Sanctuaries, the Councils believe that if and when fisheries are allowed in sanctuaries, the regulations and the amendments leading up to them should be under the Magnuson Act, with the Council and NMFS be in charge. She mentioned that Ebisui had a great presentation at the Managing U.S. Fisheries Conference on the conflict of the two acts where he indicated you cannot have two statutes and two groups or agencies in charge of fisheries.

Status of FMP Amendments

Hamilton said document 13.1 was handed out in the Council members' supplemental documents that afternoon. The cover memo talked about the Council's recommendation at the last meeting, for Council and PIRO staff to work together to develop and implement a formal protocol for the development, review and transmittal of management recommendations. After some difficulty they were able to meet on March 26th to begin discussion. At that meeting they decided that each office would assign several staff to a working group. The first meeting was scheduled for the week of June 20th.

She then provided an update on each amendment action:

- The Council members received a copy of the final FMP document transmitted to PIRO on April 19th. On May 9th, PIRO stated they were reviewing the package and would let the Council know if further changes were desired. The Council was

confused based on the communication since they thought that was the final package, however, PIRO said they were reviewing it and would let the Council know. The only change since they last reviewed it was that they received the concurrence memo. She said they were hoping to hear from them soon since it had been quite a while already.

- regarding squid measures there were no changes since the last meeting.
- regarding seabird side-setting, the Council transmitted the document to PIRO on April 25th. The Council heard from them that they had revised the FR Notice that was sent to the Council for comments on May 25th, and the Council had to get comments back by the next day. It was a short timeline, but overall, the substance seemed fine.
- regarding e-logs, there were no changes since the last meeting.
- regarding shark viewing measures there were no changes since the last meeting.
- regarding bigeye overfishing, the Council had a series of meetings with PIRO and public meetings to discuss this issue. Most recently the Council received the white paper from PIRO and had asked PIRO to clarify the NEPA requirements because it had to be implemented quickly. On the May 27th PIRO informed the Council that if they go with federal permits and reporting it would require an EA. The international aspects would get a categorical exemption because they are nonregulatory.
- the Council was still waiting for a timeline for the document review process but they did not get that in time to present it at the meeting. She said she had been told PIRO was working on that.
- regarding bottomfish, PIRO asked for the document to be updated because so much time had passed. They had hired a contractor. Regarding the Mau Zone new entry and NWHI use or lose, she said previously PIRO had said they would send the Council comments once the bottomfish EIS was complete, however, it was determined that the analysis in the draft bottomfish EIS was incomplete. There was an agreement that the NEPA coverage of those measures would not be approved through the bottomfish EIS, and therefore, Council staff should update and retransmit the document with their associated EAs. That was true of Mau Zone entry and NWHI use or lose. The Council would be working quickly to get those back again to be processed.
- regarding the CNMI bottomfish measures amendment, the Council was contracting someone to finalize the bottomfish document.
- the Council had now taken action on precious corals.

- regarding the mega-refugia for precious corals, in a conference call with NMFS and NOAA and Council staff it was agreed that this action would be analyzed in the NEPA document that would be prepared for each of the Ecosystem FEPs, likely to be in 2006.
- regarding cross-FMP issues, there was the PRIA amendment where all the areas would be brought into all the FMPs. The analysis in the Draft EIS was determined to not be as thorough as it could, so Council staff will pull that out, put an EA into the amendment document and retransmit it to PIRO for processing.
- regarding the NWHI, the recommendations were transmitted to NOS on April 14th.
- regarding the FEP amendment, the Programmatic EIS was scoped and final action was anticipated for the 128th Council Meeting because they will have a Draft EIS at that time and public comments will have been received. The Council Members will be able to review the analysis as well as the public comments before making their final decision on FEPs.

D. Advisory Panel Recommendations

Morioka indicated the recommendations were included in their Council binder under document 13.D.

E. Public Comment

There were no comments from the public.

F. Council Discussion and Action

Morioka asked if there was any remaining action that the Council needed to take.

Mitsuyasu replied they had all been covered and there were no action items before the Council at that time.

XIV. ADMINISTRATIVE MATTERS

A. Financial Reports

Simonds reported that the Regional Administrator told the Council on Monday that the NOAA Grants Office had approved their first time ever multi-year five year grant that included not just Administration, but also turtles, CDP, and was supposed to include coral reef but did not. Other Councils were complaining about why Councils that receive Coral Reef money go through another process with NOS. The Financial and Administrative Report listed the grants that the Council had in place at this time. She

said throughout the Council meeting they had heard about the programs for each of those, including coral reef, turtles, CDP and everything is going well except they could use more funds for CDP in the next round.

She also reported they participated in the second year of the government's process for appropriations called PPBES. This year they just added five percent to the budget since the mission was the same and the program was the same. She said if the Congress ever gives the Council all the money for PPBES they would be in great shape, they asked for approximately 27 million dollars for five years.

B. Administrative Reports

No administrative report was given.

C. Meetings and Workshops

Simonds reported they had the list of meetings and workshops in their binders. She then reviewed some of the meetings the Council would be attending:

- Morioka, Duenas, McCoy and Simonds would be attending the NOAA Fish Fry and some others would already be there for other meetings including MAFAC. A full week of ocean-related activities would be occurring, many of them sponsored by the National Marine Sanctuary Foundation including a dinner honoring Senator Inouye. While there they will discuss the regulations for the NWHI;
- the Honu Festival;
- the IATTC meeting for one weekend only;
- the National Marine Educator Association Conference;
- the Responsible Tuna Fishers Conference and IFF3, held in Yokahama;
- the WCP Scientific Committee which Dalzell will be attending as the chairman of the Ecosystem Committee along with scientists from PIRO and PIFSC;
- the data workshop;
- the Longline Bycatch Workshop in Malaysia;
- The SSC meeting the week of October 4th and the Council meeting hopefully in Guam;
- the International Billfish Symposium in Santa Catalina Island in California;
- the Second Meeting of the Honolulu Convention Commission in December;
- the Pelagic Fisheries Research Program review sometime in December;
- the Coral Reef Task Force meeting in Palau.

D. Advisory Group Changes

Morioka reported they received a letter from the State of Hawaii requesting changes to the Pelagics, Coral Reef and Bottomfish Plan Teams, although the Bottomfish Plan Team recommendation had been negated by the fact that the gentleman had moved to PIRO. Also, they had a recommendation from PIRO for plan team assignments and

rearrangement of PIRO members. He asked for a Council member's recommendation to approve the changes.

The motion was moved and seconded.

Morioka called for additional discussion, hearing none, called for the question. It passed unanimously.

E. Standing Committee Recommendations

There were no further standing committee recommendations.

F. Public Comment

There were no comments from the public.

G. Council Discussion and Action

There was no further Council action.

XV. OTHER BUSINESS

Morioka asked the Nominations Committee if they had selected an interim chair and vice-chair to fill out the term, as he and vice-chair Frank Farm would be leaving the Council on August 10th.

Duenas said the nomination panel met and proposed Frank McCoy as chairman; Sean Martin as vice-chair from Hawaii; Richard Seman as vice-chair from CNMI; Ray Tulafono as vice-chair from American Samoa; and Manuel Duenas as vice-chair from Guam.

Morioka called for nominations from the floor. There were none.

Duenas moved that the Council accept the persons identified by the nomination panel.

Ebisui seconded the motion.

Farm moved that the nominations be closed.

Duenas seconded the motion.

Morioka called for the question and it passed unanimously.

Ebisui read a resolution recognizing the distinguished services of Frank Farm Jr:

The Western Pacific Regional Fishery Management Council was established by Congress under the Magnuson Fishery Conservation and Management Act in 1976. The Council was established not only to monitor, develop and regulate the use of the oceans in the three to two hundred mile Exclusive Economic Zone off U.S. coastlines, but to place responsibility for these waters squarely on people with a vested interest in their own backyard. The Western Pacific Regional Fishery Management Council oversees the Exclusive Economic Zone around American Samoa, the Commonwealth of the Northern Mariana Islands, Guam and Hawaii;

Whereas, Mr. Farm was appointed by the Honorable Mickey Kantor, the U.S. Secretary of Commerce, to be a member of the Western Pacific Regional Fishery Management Council representing the State of Hawaii in July 1996 and has continued to be an active member since then;

Whereas Mr. Farm has brought a lifetime of experience as a diver, fisherman and community leader to the county; and

Whereas, Mr. Farm has served as an advisor, vice-chair of the Advisory Panel, chairman of the Advisory Panel, member of the Council, vice-chair of the Council and Council Chair; and

Whereas, Mr. Farm was available often on short notice to sign checks to the Council, for which its staff is eternally grateful; and

Whereas, Mr. Farm is a local dive legend, a 2003 Free Diving and Spearfishing Waddle Fame Inductee, and organization force in Hawaii's competitive dive community; and

Whereas, Mr. Farm is President of Ali'i Holo Kai Spearfishing Club and has given a voice to Hawaii's divers and spearfishermen through the Council process; and

Whereas, Mr. Farm is a member, president, past president and vice-president of the Hawaii Council of diving clubs, winning diver of the year awards in 1975 and 1984; and

Whereas, Mr. Farm assisted in research and development of recommendations to improve emergency in-water decompression for decompression sickness, a technique recognized as unique to Hawaii divers; and

Whereas, Mr. Farm was a key in establishing the Hyperbaric Treatment Center and is currently the director of the John A. Burns School of Medicine Hyperbaric Treatment Center; and

Whereas, Mr. Farm has a U.S. Coast Guard Ocean Operator's license, 100-ton master, and as president of Ocean Marine Services, Inc., deployed the first state-wide main Hawaiian islands fish aggregating device; and

Whereas, Mr. Farm brought a lifetime of service and broad spectrum of experience with the ocean in the areas of research, health, commerce, conservation, fisheries and fishing in public and private sectors in his service to the Council; and

Whereas, the members of the Council and the Council family have come to know and respect him and his deep, booming voice and his presence will be missed.

Therefore, be it resolved the Western Pacific Regional Fishery Management Council expresses its heartfelt gratitude to Mr. Farm for his contributions and dedication to the goals and the missions of the Western Pacific Regional Fishery Management Council during his three terms as the Council member from Hawaii.

Be it further resolved, that on this day, Thursday, June 2nd, 2005 in Honolulu, Hawaii, the Western Pacific Regional Fishery Management Council recognizes and thanks Mr. Frank Farm for his years of service and bids him a fond farewell, god speed, adios, aloha, si yuus maase, and tofa soifua fa'afetai.

Signed, Kitty Simonds, Executive Director, Western Pacific Regional Fishery Management Council.

Farm said thanked the Council and said he appreciated being associated with everyone. He said as far as he was concerned there were only good people on the Council and he had enjoyed his time immensely. He said the WPR is a growing region and their job is very complex with all the international issues and partnerships, but nobody takes a negative attitude and everyone does the best job they can. He especially thanked the staff and said they were the backbone of the organization who all work continuously and tirelessly.

Martin then read a resolution recognizing the distinguished services of Mr. Roy Morioka.

The Western Pacific Regional Fishery Management Council was established by Congress under the Magnuson-Stevens Fishery Conservation and Management Act of 1976. The Council was established to not only monitor, develop and regulate the use of the oceans in the three to two hundred mile Exclusive Economic Zone of the U.S. coastline, but to place responsibility for those waters squarely on the people with a vested interest in their own backyard. The Western Pacific Regional Fishery Management Council oversees the Exclusive Economic Zone around American Samoa, the Commonwealth of the Northern Mariana Islands, Guam and Hawaii.

Whereas, Roy Morioka was born and raised here on the Island of Oahu and has been an avid spearfisherman, recreational angler and a life-long steward of the sea;

Whereas, Roy Morioka has played a key role in the management of the federally-managed fisheries in Hawaii and the Western Pacific Region, beginning with his initial appointment to the Council in 1986, his reappointment in 1996, and his eventual ascension to Council chairman in 2002;

Whereas, Roy Morioka's integrity, fishing knowledge and concern for sportsmanship and conservation have been long recognized by his peers, including the International Game Fish Association, where he serves as the Hawaiian Islands representative-at-large;

Whereas, Roy Morioka's technological ingenuity and business savvy propelled him into the senior management level in the telecommunications industry where he single-handedly established the telecommunication system throughout the Commonwealth of the Northern Mariana Islands;

Whereas, Roy Morioka has never shirked his responsibility as the Council chairmanship, navigating with insight and wisdom in some of the most difficult years in the Council's recent history, including the closure of almost every fishery in the Western Pacific Region;

Whereas, Roy Morioka has effectively chaired this Council with exemplary skills in communication, leadership and diplomacy skills he has developed over years of sharing fishing tales and fellow fishermen;

Whereas, the late Richard Shiroma always said, "Roy has always been one lucky brada when it comes to fishing," -- not giving any credit to Roy's fishing skills;

Whereas, Roy Morioka swears by his Castmaster and never leaves home without it;

Whereas, Roy Morioka tirelessly combs the Council staff in search of fishing partners because his wife won't let him go fishing alone;

Whereas, Roy Morioka finally understands firsthand the impacts of technology on making not-so-good fishermen, okay fishermen;

Whereas, Roy Morioka's commitment to gaining an in-depth understanding of fisheries management issues is unparalleled, as evidenced by his attendance at every single plan team meeting, SSC meeting, advisory panel meeting and his dedication to actually reading every single piece of paper given to him in his Council briefing book;

Whereas, Roy Morioka is a vegetarian, but regularly feeds the Council staff cookies, malasadas, manapua, and thus, helping them maintain their high energy level and incredible physiques;

Whereas, Roy Morioka has always been a great supporter of the Council process, transparency and its democratic and inclusive approach to dealing with the fishery management issues.

Therefore, be it resolved, the Western Pacific Regional Fishery Management Council expresses its heartfelt gratitude to you, Roy Morioka, for your tireless work in support of the Council.

Be it further resolved, the Council wishes you a fond farewell, god speed, adios, aloha, si yuus masse, tofa soifua fa'afetai on this second day of June 2005 in Honolulu, State of Hawaii.

Signed, Executive Director, Kitty Simonds.

Morioka said Uncle Frank covered everything that he wanted to say, but it had truly been an honor and a privilege to serve with the Council on such a significant piece of legislation that allows participants in an activity to be a part of the decision-making process. He said he knew a lot of people take potshots at it and say it is stacked and overloaded, but he felt it was a key piece of legislation that truly allows participants to make a difference in how their lives are affected.

He thanked the State of Hawaii for nominating him, the Department of Commerce for its confidence in him, and USFWS and NMFS for their faith in him and for appointing him for nine years. To the Council members who were staying on, he wished them the best. He said there were turbulent waters to be navigated, but he knew they would do well under the leadership and guidance of the executive director. He said a lot of people take potshots at Kitty but undeservedly so. She has had a passion for the Council process and the Western Pacific Regional Fishery Management Council for 27 years. She wears the Council on her sleeve, in her heart, and in her mind and does not sleep without thinking about it. He said the Council needs to support her to continue to carry on the tradition. It has been a Council that has led the way in terms of many things. He said he would always remember getting tuna included as a fish through Kitty's tireless efforts. And through Kitty's tireless efforts, PIRO and PIFSC became realities.

He said he was so glad to be a big part of the process and the honor was tremendous. He said they had some trying times and long days, but the Council hung in and made things happen. He said he loved and would miss everyone, and will still be around.

The meeting adjourned at 5:30 pm.